

KANSAS TRIAL LAWYERS ASSOCIATION



To: Representative Fred Patton

From: Thomas M. Warner, Jr.

Date: February 18, 2019

Re: H.B. 2334, AN ACT concerning civil actions; relating to the rules of civil procedure, depositions; disqualifications; amending K.S.A. 2018 Supp. 60-228 and repealing the existing section.

Mr. Chairman and Members of the House Judiciary Committee,

Thank you for this opportunity to provide testimony in support of H.B. 2334, AN ACT concerning civil actions; relating to the rules of civil procedure; depositions; disqualification; amending K.S.A. 2018 Supp. 60-228 and repealing the existing section.

Briefly, I am an attorney in Wichita, KS. I have been practicing law for going on 35 years. I have a litigation practice which involves the taking of and use of depositions. A deposition is the sworn testimony of a witness in a case. The integrity of the deposition transcript is vital to our judicial process.

For depositions to take place, we need certified court reporters to prepare a record that is trustworthy and is prepared without even the appearance of impropriety. Therefore, I am deeply troubled by court reporters that contract with parties in litigation. When a court reporter enters into a contract with one side of the litigation, this arrangement threatens the impartiality of the of the court reporter and the integrity of the record.

This legislation prohibits those with a financial interest in the proceeding/case from being involved with taking the record.

The American Judges Association has come out in support of legislative and judicial measures that prohibit financial arrangements between court reporters and parties in interest, "court reporters are officers of the court whose impartiality, as with judges, must remain utterly beyond question in order to ensure the enduring confidence and faith from which our judicial system derives its legitimacy."

At least 20 states have enacted legislation, approved rules, or taken other official actions through their state board to limit or ban contracting.

Court reporters are officers of the court. Permitting a party in litigation to have a contractual relationship with an officer of the court in an adversarial process does not square with the principles of impartiality, fairness and the avoidance of even the appearance of impropriety that form the basis for our system of justice. We don't allow a party in litigation to contract with the judge for the same reasons.

Thank you for this opportunity to speak with you today and I ask that you report H.B.2334 for passage.