

# **WRITTEN TESTIMONY IN OPPOSITION TO HOUSE BILL 188**

## *Remote Certification, Cloud-Based Storage, and AI-Assisted Transcription Risks*

Dear Members of the Legislature:

This letter is submitted to formally oppose specific provisions of House Bill 188 that would permit certification of court transcripts by individuals who were not physically present during the proceedings and authorize the use of cloud-based recording systems that may incorporate automated or artificial-intelligence-assisted transcription technologies.

The procedural changes introduced by House Bill 188 introduce crucial risks regarding the protection of the record. In particular, the bill would allow transcripts of judicial proceedings to be certified by individuals who were not present to observe the testimony and would authorize the storage and processing of court recordings through cloud-based systems.

These provisions raise serious concerns regarding the integrity of transcript certification, the protection of confidential and privileged information, and the risks created by automated transcription technologies used in connection with judicial proceedings.

The official court record is the evidentiary foundation upon which appellate review depends. Louisiana courts have consistently recognized that meaningful appellate review requires a complete and reliable record of the proceedings below. *See State v. Ford*, 338 So.2d 107 (La. 1976); *State v. Parker*, 361 So.2d 226 (La. 1978); *State v. Johnson*, 438 So.2d 1091 (La. 1983).

### **Certification of Transcripts Without Personal Presence**

House Bill 188 would permit a court reporter to certify transcripts of proceedings without being physically present during the proceeding.

Certification has traditionally represented that the reporter personally observed the proceedings and produced a true and accurate record of what occurred in the courtroom. A certifying reporter who was not present cannot attest to events that may not be captured in an audio recording, including overlapping speech, gestures affecting testimony, demonstrations involving physical evidence, or statements made away from microphones.

Louisiana courts have repeatedly recognized that deficiencies in the trial record may impair appellate review. *See State v. Bright*, 875 So.2d 37 (La. 2004); *State v. Landry*, 751 So.2d 214 (La. 1999). Allowing certification by individuals who did not personally observe the

proceedings increases the likelihood that disputes will arise concerning the accuracy or completeness of the transcript.

### **Cloud-Based Storage and Confidentiality Risks**

House Bill 188 authorizes the use of cloud-based systems to store recordings of court proceedings.

Judicial proceedings frequently involve highly sensitive information, including sealed testimony, medical records, trade secrets, protected witness identities, and confidential communications between attorneys and their clients. Louisiana law expressly protects attorney-client communications. *See* La. Code Evid. art. 506.

Cloud-based storage may involve third-party vendors, remote servers, and external access points outside the direct supervision of the court. Without clear safeguards governing encryption, vendor access, data retention, and storage location, the confidentiality of court proceedings may be placed at unnecessary risk.

### **Artificial Intelligence and Automated Speech Recognition Risks**

Many modern digital recording systems incorporate automated speech recognition (ASR) or artificial intelligence tools to assist with transcription.

These systems may struggle to accurately capture overlapping speech, accents, rapid testimony, and technical terminology common in courtroom proceedings. Peer-reviewed research has documented disparities in speech-recognition accuracy across speakers. *See* Allison Koenecke, et al., “Racial Disparities in Automated Speech Recognition” (2020). Evaluations conducted by the National Institute of Standards and Technology have also documented variability in speech-recognition accuracy depending on acoustic conditions.

When recordings containing confidential testimony or privileged communications are transmitted through automated transcription platforms, additional concerns arise regarding vendor access, data retention, and exposure of protected information.

### **Risk to the Judicial Process**

Legislation that weakens the safeguards surrounding the official court record does not merely affect court reporters—it exposes judges, litigants, and appellate courts to unnecessary risk when the accuracy or confidentiality of the record is later challenged.

Trial judges rely on a reliable record to ensure proceedings are conducted fairly and that rulings can withstand appellate scrutiny. When the integrity of the record becomes uncertain, disputes may arise not over the merits of the case, but over the reliability of the recording or transcription system itself.

The Louisiana Constitution guarantees due process of law (La. Const. art. I, §2 (1974)) and grants the Louisiana Supreme Court supervisory authority over the administration of justice in all courts (La. Const. art. V, §5 (1974)). Changes affecting the creation and certification of the official court record should therefore be carefully evaluated to ensure they do not undermine the judiciary's ability to preserve the integrity of judicial proceedings.

Courts function properly only when the official record is reliable, complete, and protected from outside interference. Any process that separates certification of the record from firsthand observation of the proceedings risks undermining confidence in the judicial process.

In every courtroom, the integrity of justice is measured by the integrity of its record. The judicial system ultimately depends on a record that is accurate, secure, and beyond question.

Respectfully submitted,