



Ohio Legislative Service Commission

Final Analysis

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S.B. 171

131st General Assembly
(As Passed by the General Assembly)

Sens. Seitz, Eklund, Thomas, Obhof, Bacon, Coley, Burke, Hughes, Lehner, Oelslager, Patton, Schiavoni

Reps. Celebrezze, Dever, Anielski, Craig, Cupp, Green, G. Johnson, Rezabek, Rogers

Effective date: September 14, 2016

ACT SUMMARY

- Enacts the Uniform Interstate Depositions and Discovery Act.
- Requires a party located outside Ohio seeking to depose a person within Ohio to submit a foreign subpoena to a clerk of court in the county in which discovery is sought in order to request issuance of the subpoena.
- Requires the clerk to promptly issue a subpoena for service upon the person to which the foreign subpoena is directed, with certain specified requirements.
- Specifies that the Ohio Rules of Civil Procedure and any statutes relating to service of subpoenas and compliance with subpoenas will apply to subpoenas issued under the act's provisions.
- Specifies that consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact a substantially similar statute or rule in applying and construing the act's provisions.
- Specifies that the act's provisions apply to requests for discovery in cases pending on the act's effective date.

* This version updates the effective date.

CONTENT AND OPERATION

Uniform Interstate Depositions and Discovery Act

The act enacts the Uniform Interstate Depositions and Discovery Act, replacing the Uniform Foreign Depositions Act. Under the act, a party located outside Ohio seeking to depose a person within Ohio must submit a foreign subpoena to a clerk of court in the Ohio county in which discovery is sought in order to request issuance of a subpoena to depose the Ohio party. A request for the issuance of a subpoena under these circumstances does not constitute an appearance in the courts of this state.¹

Definitions of key terms

As used in the act:²

"Foreign jurisdiction" means a state other than Ohio.

"Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.

"Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to attend and give testimony at a deposition; produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or permit inspection of premises under the control of the person.

Issuance of subpoena

When a party submits a foreign subpoena to a clerk of court in Ohio, the clerk, in accordance with that court's procedure, must promptly issue a subpoena for service upon the person to which the foreign subpoena is directed. This subpoena must

¹ R.C. 2319.09(A) and (C)(1).

² R.C. 2319.09(B).



incorporate the terms used in the foreign subpoena and must contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel. Additionally, the subpoena must be served in compliance with any rule of court or statute relating to the service of a subpoena issued in this state.³

Compliance with Ohio Rules of Civil Procedure

The act specifies that the Ohio Rules of Civil Procedure and any statutes relating to service of subpoenas and compliance with subpoenas to attend and give testimony, to produce designated books, documents, records, electronically stored information, or other tangible things, or to allow inspection of premises will apply to subpoenas issued under the act's provisions. Additionally, an application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under the act must comply with the Ohio Rules of Civil Procedure and be submitted to the court in the county in which discovery is to be conducted.⁴

Uniformity of the law

The act specifies that, in applying and construing its provisions, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact a substantially similar statute or rule. It also specifies that the act's provisions apply to requests for discovery in cases pending on the act's effective date.⁵

HISTORY

ACTION	DATE
Introduced	05-26-15
Reported, S. Civil Justice	04-14-16
Passed Senate (33-0)	04-20-16
Reported, H. Judiciary	05-18-16
Passed House (97-0)	05-24-16

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³ R.C. 2319.09(C)(2), (3), and (D).

⁴ R.C. 2319.09(E) and (F).

⁵ R.C. 2319.09(G) and (H).

