

HOUSE BILL REPORT

HB 2195

As Reported by House Committee On:
Judiciary

Title: An act relating to the uniform interstate depositions and discovery act.

Brief Description: Enacting the uniform interstate depositions and discovery act.

Sponsors: Representatives Rivers, Pedersen, Rodne, Goodman and Kelley; by request of Uniform Laws Commission.

Brief History:

Committee Activity:

Judiciary: 1/9/12, 1/12/12 [DP].

Brief Summary of Bill

- Adopts uniform procedures for litigants in proceedings located outside of Washington to obtain subpoenas for depositions and production of discoverable materials located in Washington.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 12 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Shea, Assistant Ranking Minority Member; Chandler, Eddy, Hansen, Kirby, Klippert, Nealey, Orwall, Rivers and Roberts.

Staff: Omeara Harrington (786-7136).

Background:

Parties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action. A court in a foreign state (a state other than Washington) has no power to compel discovery in Washington, and may only do so with a valid subpoena issued from a Washington court. A subpoena is a document issued by a court that requires a person to be somewhere at a certain time, provide testimony, or produce documents or items. In order for a litigant in a foreign action to obtain a subpoena for discovery that is enforceable in Washington, the jurisdiction of the Washington court must be

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invoked. Generally this is accomplished by an attorney licensed in Washington commencing an action in the Washington court with jurisdiction over the person to be deposed or the discoverable property.

Washington Subpoena Procedure.

The general practice for requesting a subpoena in Washington is as follows: A litigant must open a case with the clerk of the Washington court in the jurisdiction in which discovery is sought and pay a filing fee. The litigant must then go before a judge or court commissioner to obtain an order commanding the clerk to issue a subpoena. Upon receipt of the order, the clerk must issue the subpoena.

Uniform Act.

In 2007 the National Conference of Commissioners on Uniform State Laws promulgated the Uniform Interstate Depositions and Discovery Act (Act). The Act creates a uniform mechanism by which litigants can present the clerk of a court located in the state in which discovery is sought with a subpoena issued by a court in the trial state. Once the clerk receives the trial state's subpoena, the clerk will issue a subpoena containing the same relevant information as the subpoena from the trial state for service upon the person or entity to which the subpoena is directed.

Summary of Bill:

The Uniform Interstate Depositions and Discovery Act is adopted. A litigant in a foreign action may present a subpoena issued in the trial state to the clerk of the court in the Washington county in which discovery is sought. The clerk of the Washington court must then issue a Washington subpoena for service upon the person to be deposed or from whom discovery materials are sought. The Washington subpoena must contain all of the relevant terms of the subpoena from the trial state and the contact information for all counsel of record or unrepresented parties. In issuing the subpoena, the Washington court acts in accordance with its own procedure.

Service of the subpoena and discovery procedures must follow the Washington Superior Court Civil Rules. All applications to the court for a protective order or to enforce, quash, or modify a subpoena issued through the above procedure must comply with Washington court rules and applicable statutes.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This is a simple bill that furthers the cause for uniformity.

(Opposed) None.

Persons Testifying: Representative Rivers, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.