

SENATE BILL REPORT

HB 2195

As Reported by Senate Committee On:
Judiciary, February 22, 2012

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: Passed House: 1/23/12, 95-0.

Committee Activity: Judiciary: 2/15/12, 2/22/12 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Carrell, Hargrove, Kohl-Welles, Padden, Regala and Roach.

Staff: Juliana Roe (786-7438)

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 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.

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.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 may 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.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is UCC legislation. It creates uniformity between states. It offers a method of discovery that we do not currently have. It would save the courts time and money.

Persons Testifying: PRO: Representative Rivers, prime sponsor.