

## PROPOSED HOUSE BILL NO. \_\_\_\_\_

By

AN ACT concerning civil procedure; relating to depositions; amending K.S.A. 2010 Supp. 60-228 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2010 Supp. 60-228 is hereby amended to read as follows: 60-228. (a)

*Within the United States.* (1) *Inside this state.* Depositions in this state must be taken before:

(A) An officer or person authorized to administer oaths by the laws of this state; and

(B) a person who is certified as a certified ~~shorthand~~ <sup>court</sup> reporter by the Kansas supreme court.

(2) *Outside this state.* Outside this state, but within the United States or a territory or insular possession subject to United States jurisdiction, a deposition must be taken before:

(A) An officer authorized to administer oaths by the law in the place of examination; or

(B) a person appointed by the court where the action is pending to administer oaths and take testimony.

(3) *Granting of commission.* A court of this state in which an action is pending may grant a commission to one or more persons to take depositions inside or outside this state. The clerk may issue the commission under the seal of the court.

(b) *In a foreign country.* (1) *In general.* A deposition may be taken in a foreign country:

(A) Under an applicable treaty or convention;

(B) under a letter of request, whether or not captioned a "letter rogatory";

(C) on notice, before a person authorized to administer oaths either by federal law or by the law in the place of examination: or

(D) before a person commissioned by the court to administer any necessary oath and take testimony.

(2) *Issuing a letter of request or a commission.* A letter of request, a commission, or both may be issued:

(A) On appropriate terms after an application and notice of it; and

(B) without a showing that taking the deposition in another manner is impracticable or inconvenient.

(3) *Form of a request, notice or commission.* When a letter of request or any other device is used according to a treaty or convention, it must be captioned in the form prescribed by that treaty or convention. A letter of request may be addressed "To the Appropriate Authority in (name of country)." A deposition notice or a commission must designate by name or descriptive title the person before whom the deposition is to be taken.

(4) *Letter of request; admitting evidence.* Evidence obtained in response to a letter of request need not be excluded merely because it is not a verbatim transcript, because the testimony was not taken under oath or because of any similar departure from the requirements for depositions taken within this state.

(c) *Disqualification.* A deposition must not be taken before a person who is any party's relative, employee or attorney, who is related to or employed by any party's attorney or who is financially interested in the action.

Sec. 2. K.S.A. 2010 Supp. 60-228 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.