



# Ohio Legislative Service Commission

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## Bill Analysis

Jeff Hobday

### **S.B. 171**

131st General Assembly  
(As Reported by H. Judiciary)

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

**Reps.** Celebrezze, Dever

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## **BILL SUMMARY**

- Enacts the Uniform Interstate Depositions and Discovery Act.
- Requires a party located outside of 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 to be conducted 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 provisions of the bill.
- 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 provisions of the bill.
- Specifies that the provisions of the bill apply to requests for discovery in cases pending on the effective date of the bill.

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## **CONTENT AND OPERATION**

### **Uniform Interstate Depositions and Discovery Act**

The bill enacts the Uniform Interstate Depositions and Discovery Act. Under the bill, a party located outside of Ohio seeking to depose a person within Ohio must

submit a foreign subpoena to a clerk of court in the county within Ohio in which discovery is sought to be conducted 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.<sup>1</sup>

### **Definitions of key terms**

As used in the bill:<sup>2</sup>

**"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 United States 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 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

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<sup>1</sup> R.C. 2319.09(A) and (C)(1).

<sup>2</sup> R.C. 2319.09(B).



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.<sup>3</sup>

### **Compliance with Ohio Rules of Civil Procedure**

The bill 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, 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 provisions of the bill. 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 provisions of the bill 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.<sup>4</sup>

### **Uniformity of the law**

The bill 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 provisions of the bill, and that the provisions of the bill apply to requests for discovery in cases pending on the effective date of the bill.<sup>5</sup>

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	05-26-15
Reported, S. Civil Justice	04-14-16
Passed Senate (33-0)	04-20-16
Reported, H. Judiciary	05-18-16

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<sup>3</sup> R.C. 2319.09(C)(2), (3), and (D).

<sup>4</sup> R.C. 2319.09(E) and (F).

<sup>5</sup> R.C. 2319.09(G) and (H).

