

HOUSE BILL No. 2484

By Committee on Judiciary

1-19

1 AN ACT concerning civil procedure; relating to depositions; amending
2 K.S.A. 2011 Supp. 60-228 and repealing the existing section.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. K.S.A. 2011 Supp. 60-228 is hereby amended to read as
6 follows: 60-228. (a) *Within the United States.* (1) *Inside this state.*
7 Depositions in this state must be taken before:

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

10 (B) a person who is certified as a certified court reporter by the
11 Kansas supreme court.

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

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

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

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

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

25 (A) Under an applicable treaty or convention;

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

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

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

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

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

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

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

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

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

16 Sec. 2. K.S.A. 2011 Supp. 60-228 is hereby repealed.

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