



SPONSOR: Sen. Blevins & Rep. George

DELAWARE STATE SENATE
145th GENERAL ASSEMBLY

SENATE BILL NO. 260

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE DELAWARE UNIFORM
INTERSTATE DEPOSITIONS AND DISCOVERY ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 43, Title 10 by deleting § 4311 in its entirety and by substituting in lieu thereof a new
2 § 4311 to read as follows:

3 “§ 4311. Delaware Uniform Interstate Depositions and Discovery Act.

4 (a) Short Title. This section may be cited as the Delaware Uniform Interstate Depositions and Discovery Act.

5 (b) Definitions. In this section:

6 (1) ‘Foreign jurisdiction’ means a state other than Delaware.

7 (2) ‘Foreign subpoena’ means a subpoena issued under authority of a court of record of a foreign jurisdiction.

8 (3) ‘Person’ means an individual, corporation, business trust, estate, trust, partnership, limited liability company,
9 association, joint venture, public corporation, government, or governmental subdivision, agency or instrumentality, or any
10 other legal or commercial entity.

11 (4) ‘State’ means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin
12 Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United
13 States.

14 (5) ‘Subpoena’ means a document, however denominated, issued under authority of court of record requiring a
15 person to:

16 (A) attend and give testimony at a deposition;

17 (B) produce and permit inspection and copying of designated books, documents, records, electronically
18 stored information, or tangible things in the possession, custody, or control of the person; or

19 (C) permit inspection of premises under the control of the person.

20 (c) Issuance of a Subpoena.

(1) To request issuance of a subpoena under this section, a party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state. A request for the issuance of a subpoena under this act does not constitute an appearance in the courts of this state.

(2) When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(3) A subpoena issued under § 4311(c)(2) must:

(A) incorporate the terms used in the foreign subpoena; and

(B) 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 counsel.

(d) Service of Subpoena. A subpoena issued by a clerk of court under § 4311(c) must be served in compliance with Title 10 and applicable court rules of this state for service of subpoena.

(e) Deposition, Production, and Inspection. Title 10 and applicable court rules of this state applicable to compliance with subpoenas to attend and give testimony, produce designated books, documents, records, electronically stored information, or tangible things, or permit inspection of premises apply to subpoenas issued pursuant to § 4311(c) of this Title.

(f) Application to Court. An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under § 4311(c) must comply with the rules or statutes of this state and be submitted to the court in the county in which discovery is to be conducted.

(g) Uniformity of Application and Construction. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(h) Application to Pending Actions. This section applies to requests for discovery in cases pending on the effective date of this section.

(i) Effective Date. This section takes effect upon enactment."

SYNOPSIS

This Bill adopts the Uniform Interstate Depositions and Discovery Act ("UIDDA"), promulgated by the Uniform Law Commission in 2007. The goal of UIDDA is to simplify and standardize the current patchwork of procedures across the various states for deposing witnesses for purposes of out-of-state litigation. Uniform procedures have become necessary as the amount of litigation involving individuals and documents located outside of the trial state has increased.

This Bill advances this goal by creating an efficient and inexpensive clerical procedure by which Delaware courts will issue subpoenas for depositions and for the production of discoverable materials located in Delaware when presented with a subpoena issued under the authority of an out-of-state court. Litigants can present a clerk of the Delaware court, in the county where the discoverable materials are sought, with a subpoena issued by a court in the trial state. Once the clerk receives the foreign subpoena, the clerk will issue a subpoena for service upon the person or entity on which the original subpoena is directed. The terms of the issued subpoena must incorporate the same terms as the original subpoena and contain the contact information for all counsel of record and any party not represented by counsel.

This Bill creates a process that requires minimal judicial oversight and eliminates the need for obtaining a

commission or local counsel in the discovery state, obtaining letters rogatory, or the filing of a miscellaneous action during the discovery phase of litigation. Discovery authorized by the subpoena must comply with other applicable Delaware law and court rules. Furthermore, motions to quash, enforce, or modify a subpoena issued pursuant to this bill shall be brought in a Delaware Court and governed by Delaware law and court rules.

Author: Senator Blevins