



# House of Representatives

General Assembly

**File No. 440**

February Session, 2012

Substitute House Bill No. 5331

*House of Representatives, April 16, 2012*

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING THE UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2013*) Sections 1 to 6, inclusive,  
2 of this act, may be cited as the "Uniform Interstate Depositions and  
3 Discovery Act".

4 Sec. 2. (NEW) (*Effective January 1, 2013*) As used in this section and  
5 sections 3 to 6, inclusive, of this act:

6 (1) "Foreign jurisdiction" means a state other than the state of  
7 Connecticut;

8 (2) "Foreign subpoena" means a subpoena issued under authority of  
9 a court of record of a foreign jurisdiction;

10 (3) "Person" means an individual, corporation, business trust, estate,  
11 trust, partnership, limited liability company, association, joint venture,  
12 public corporation, government or governmental subdivision, agency

13 or instrumentality or any other legal or commercial entity;

14 (4) "State" means a state of the United States, the District of  
15 Columbia, Puerto Rico, the United States Virgin Islands, or any  
16 territory or insular possession subject to the jurisdiction of the United  
17 States; and

18 (5) "Subpoena" means a document, however denominated, issued  
19 under authority of a court of record requiring a person to: (A) Attend  
20 and give testimony at a deposition; (B) produce and permit inspection  
21 and copying of designated books, documents, records, electronically  
22 stored information or tangible things in the possession, custody or  
23 control of the person; or (C) permit inspection of premises under the  
24 control of the person.

25 Sec. 3. (NEW) (*Effective January 1, 2013*) (a) To request issuance of a  
26 subpoena under this section, a party shall submit a foreign subpoena  
27 to a clerk of a court in the judicial or probate district, as the case may  
28 be, in which discovery is sought to be conducted in this state. A  
29 request for the issuance of a subpoena under this section does not  
30 constitute an appearance in the courts of this state.

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

35 (c) A subpoena issued under subsection (b) of this section shall: (1)  
36 Incorporate the terms used in the foreign subpoena; and (2) contain or  
37 be accompanied by the names, addresses and telephone numbers of all  
38 counsel of record in the proceeding to which the subpoena relates and  
39 of any party not represented by counsel.

40 (d) A subpoena issued by a clerk of a court pursuant to this section  
41 shall comply with the requirements of section 52-148e of the general  
42 statutes.

43 Sec. 4. (NEW) (*Effective January 1, 2013*) The provisions of sections

44 52-148a to 52-152, inclusive, of the general statutes and sections 52-156  
45 to 52-158, inclusive, of the general statutes shall apply to subpoenas  
46 issued under section 3 of this act.

47 Sec. 5. (NEW) (Effective January 1, 2013) An application to the court  
48 for a protective order or to enforce, quash or modify a subpoena issued  
49 by a clerk of a court, under section 3 of this act, shall comply with the  
50 rules of court and the general statutes of this state and shall be  
51 submitted to the court in the judicial or probate district, as the case  
52 may be, in which discovery is to be conducted in this state.

53 Sec. 6. (NEW) (Effective January 1, 2013) In applying and construing  
54 the provisions of the Uniform Interstate Depositions and Discovery  
55 Act, consideration shall be given to the need to promote uniformity of  
56 the law with respect to its subject matter among the states that enact  
57 such uniform provisions.

58 Sec. 7. Section 52-155 of the general statutes is repealed. (Effective  
59 January 1, 2013)

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 1, 2013	New section
Sec. 2	January 1, 2013	New section
Sec. 3	January 1, 2013	New section
Sec. 4	January 1, 2013	New section
Sec. 5	January 1, 2013	New section
Sec. 6	January 1, 2013	New section
Sec. 7	January 1, 2013	Repealer section

**Statement of Legislative Commissioners:**

In section 3(a), the phrase "of a court" was added after "clerk" for consistency of reference throughout the section. In section 3(d) "comply with the requirements of" was substituted for "be in compliance with" for clarity.

**JUD** Joint Favorable Subst.-LCO

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The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill makes changes regarding the subpoena process and does not result in a fiscal impact.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis**

**sHB 5331**

**AN ACT CONCERNING THE UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT.**

**SUMMARY:**

This bill enacts the Uniform Interstate Depositions and Discovery Act, which provides a process for a Connecticut court or probate court clerk to (1) receive a subpoena from another U.S. jurisdiction and (2) issue a Connecticut subpoena for discovery in the state. Generally, discovery is the process parties use to obtain information about a case, such as taking depositions, before a trial.

The bill eliminates the authority of judges, justices of the peace, notaries public, and Superior Court commissioners (Connecticut licensed attorneys) to receive a request from another jurisdiction and issue a subpoena to take testimony in Connecticut. It also eliminates a provision that an officer taking a witness' deposition believe that the witness was duly summoned and all fees paid before the witness can be compelled to appear.

EFFECTIVE DATE: January 1, 2013

**FOREIGN SUBPOENAS**

The bill applies to subpoenas from any U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and any U.S. territory or insular possession.

Under the bill, a subpoena is a document that requires a "person" to do certain things. A "person" is an individual, business entity, estate, government entity, public corporation, or other legal or commercial entity. The subpoena must be issued under a court's authority and require a person to (1) attend and give testimony at a deposition; (2)

produce and permit inspection and copying of designated books, document, records, electronic information, or tangible things the person possesses or has control or custody over; or (3) permit inspection of premises under the person's control.

### **ISSUING CONNECTICUT SUBPOENAS**

The bill requires a party to submit a foreign subpoena to the court or probate court clerk in the district where discovery is sought. The bill requires the clerk to follow court procedures and promptly issue a subpoena to serve on the person who is the subject of the subpoena from the other jurisdiction.

The bill requires the subpoena to (1) include the terms used in the other jurisdiction's subpoena and (2) contain or be accompanied by the names, addresses, and phone numbers of all counsel of record and unrepresented parties in the other jurisdiction's proceeding.

The laws that generally apply to subpoenas and depositions in Connecticut also apply under the bill, including imprisoning someone who refuses to appear and testify.

Applications for a protective order or to enforce, quash, or modify a subpoena under the bill must (1) comply with statutes and court rules and (2) be submitted to the court in the district where discovery is to be conducted.

The bill specifies that a request for a subpoena under its provisions is not an appearance for jurisdictional purposes.

### **PROMOTING UNIFORMITY**

The bill requires consideration of the need to promote uniformity among states enacting this uniform act when applying and construing its provisions.

### **COMMITTEE ACTION**

Judiciary Committee

Joint Favorable

Yea 42 Nay 0 (03/26/2012)