

HOUSE BILL No. 2334

By Committee on Judiciary

2-14

1 AN ACT concerning civil actions; relating to the rules of civil procedure;
2 depositions; disqualification; amending K.S.A. 2018 Supp. 60-228 and
3 repealing the existing section.

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

6 Section 1. K.S.A. 2018 Supp. 60-228 is hereby amended to read as
7 follows: 60-228. (a) *Within the United States.* (1) *Inside this state.*
8 Depositions in this state must be taken before:

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

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

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

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

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

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

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

26 (A) Under an applicable treaty or convention;

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

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

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

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

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

36 (B) without a showing that taking the deposition in another manner is

1 impracticable or inconvenient.

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

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

13 (c) *Disqualification.* (1) A deposition must not be taken before a
14 person who is:

15 (A) *A party to the action;*

16 (B) ~~a person who is any party's relative, employee or attorney, who is~~
17 ~~related to or employed by any party's attorney or;~~

18 (C) ~~who is financially interested in the action or its outcome; or~~

19 (D) *a relative, employee or attorney of someone with a financial*
20 *interest in the action or its outcome.*

21 (2) *A deposition taken by a person described in paragraph (1) shall*
22 *be void.*

23 (3) *For the purposes of this section, "employee" includes a person*
24 *who has a contractual relationship with a person or entity interested in the*
25 *outcome of the litigation, including anyone who may ultimately be*
26 *responsible for payment to provide reporting or other court services, and a*
27 *person who is employed part-time or full-time under contract or otherwise*
28 *by a person who has a contractual relationship with a party to provide*
29 *reporting or other court services.*

30 Sec. 2. K.S.A. 2018 Supp. 60-228 is hereby repealed.

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