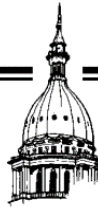




Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 707 (as enacted)
Sponsor: Senator Tonya Schuitmaker
Senate Committee: Judiciary
House Committee: Judiciary

Date Completed: 8-20-13

PUBLIC ACT 362 of 2012**CONTENT**

The bill added Chapter 22, the "Uniform Interstate Depositions and Discovery Act", to the Revised Judicature Act (RJA). Chapter 22 does the following:

- **Allows a party to submit a foreign subpoena to a circuit court clerk in Michigan, and request that court to issue a subpoena in this State.**
- **Establishes requirements for the issuance and enforcement of a subpoena under Chapter 22, including compliance with Michigan Court Rules and statutes.**

The bill also amended Chapter 18 (Process and Arrests) of the RJA to delete provisions allowing a Michigan court to order a person domiciled or found within this State to give testimony or to produce documents or other things for use in a proceeding outside of Michigan.

The bill took effect on April 1, 2013, and Chapter 22 applies to requests for discovery in actions pending on that date.

Uniform Interstate Depositions & Discovery Act

To request issuance of a subpoena under Chapter 22, a party must submit a foreign subpoena to the clerk of the circuit court in the county in which discovery is sought to be conducted in Michigan. The clerk, in accordance with the court's procedures, promptly must issue a subpoena for service upon the person to whom the foreign subpoena is directed. A request for the

issuance of a subpoena under Chapter 22 does not constitute an appearance in Michigan courts.

(The bill defines "foreign subpoena" as a subpoena issued under authority of a court of a state other than Michigan. "State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, a federally recognized Indian tribe, or any territory or insular possession subject to the jurisdiction of the United States.)

A subpoena under Chapter 22 must do both of the following:

- Incorporate the terms used in the foreign subpoena.
- 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.

A subpoena issued by a circuit court clerk under Chapter 22 must be served in compliance with Michigan Court Rules. Michigan Court Rules and statutes applicable to compliance with subpoenas and requests for the production of documents and things or entry on land apply to subpoenas issued under Chapter 22.

A motion for a protective order or an order to enforce, quash, or modify a subpoena issued under Chapter 22 must comply with Michigan Court Rules and be submitted to

the circuit court in the county in which discovery is to be conducted.

In the application and construction of Chapter 22, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact the Uniform Interstate Depositions and Discovery Act.

Process & Arrests

Previously, under Chapter 18 of the RJA, any Michigan court of record could order a person who lived or was found within this State to give his or her testimony or statement or to produce documents or other things for use in a proceeding in a tribunal outside of Michigan. The order could be made upon the application of any interested person or in response to a letter rogatory and could prescribe the practice and procedure for taking the testimony or statement or producing the documents or other things. The order had to be issued upon petition to a court of record in the county in which the deponent resided or was employed or transacted business in person or was found for a subpoena to compel the giving of testimony. The court could hear and act upon the petition with or without notice. The order could direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court who had the power to administer any necessary oath.

The bill deleted those provisions.

MCL 600.1852 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill will have an indeterminate, but likely negligible, fiscal impact on State and local government. To the extent that the bill increases the administrative workload of various courts, local jurisdictions may incur additional costs.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.