

SENATE BILL No. 707

September 28, 2011, Introduced by Senator SCHUITMAKER and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 1852 (MCL 600.1852) and by adding chapter 22.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1852. ~~(1) Any court of record of this state as provided~~
2 ~~in subsection (2)~~ **IN A COUNTY IN WHICH A PERSON RESIDES, IS**
3 **EMPLOYED, TRANSACTS HIS OR HER BUSINESS IN PERSON, OR IS FOUND** may
4 order service upon ~~any THE person who is domiciled or can be found~~
5 ~~within this state~~ of any document issued in connection with a
6 proceeding in a tribunal outside this state. The order may be made
7 upon application of any interested person or in response to a
8 letter rogatory issued by a tribunal outside this state and shall
9 direct the manner of service. Service in connection with a

1 proceeding in a tribunal outside this state may be made within this
2 state without an order of court. Service under this section does
3 not, of itself, require the recognition or enforcement of an order,
4 judgment or decree rendered outside this state.

5 ~~—— (2) Any court of record of this state may order a person who~~
6 ~~is domiciled or is found within this state to give his testimony or~~
7 ~~statement or to produce documents or other things for use in a~~
8 ~~proceeding in a tribunal outside this state. The order may be made~~
9 ~~upon the application of any interested person or in response to a~~
10 ~~letter rogatory and may prescribe the practice and procedure, which~~
11 ~~may be wholly or in part the practice and procedure of the tribunal~~
12 ~~outside this state, for taking the testimony or statement or~~
13 ~~producing the documents or other things. The order shall be issued~~
14 ~~upon petition to a court of record in the county in which the~~
15 ~~deponent resides or is employed or transacts his business in person~~
16 ~~or is found for a subpoena to compel the giving of testimony by~~
17 ~~him. The court may hear and act upon the petition with or without~~
18 ~~notice as the court directs. To the extent that the order does not~~
19 ~~prescribe otherwise, the practice and procedure shall be in~~
20 ~~accordance with that of the court of this state issuing the order.~~
21 ~~The order may direct that the testimony or statement be given, or~~
22 ~~document or other thing produced, before a person appointed by the~~
23 ~~court. The person appointed shall have power to administer any~~
24 ~~necessary oath. A person within this state may voluntarily give his~~
25 ~~testimony or statement or produce documents or other things for use~~
26 ~~in a proceeding before a tribunal outside this state.~~

27 CHAPTER 22.

28 UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT

1 SEC. 2201. THIS CHAPTER MAY BE REFERRED TO AND CITED AS THE
2 "UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT".

3 SEC. 2202. AS USED IN THIS CHAPTER:

4 (A) "FOREIGN JURISDICTION" MEANS A STATE OTHER THAN THIS
5 STATE.

6 (B) "FOREIGN SUBPOENA" MEANS A SUBPOENA ISSUED UNDER AUTHORITY
7 OF A COURT OF RECORD OF A FOREIGN JURISDICTION.

8 (C) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST,
9 ESTATE, TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION,
10 JOINT VENTURE, PUBLIC CORPORATION, GOVERNMENT, OR GOVERNMENTAL
11 SUBDIVISION, AGENCY, OR INSTRUMENTALITY, OR ANY OTHER LEGAL OR
12 COMMERCIAL ENTITY.

13 (D) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT
14 OF COLUMBIA, PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, A
15 FEDERALLY RECOGNIZED INDIAN TRIBE, OR ANY TERRITORY OR INSULAR
16 POSSESSION SUBJECT TO THE JURISDICTION OF THE UNITED STATES.

17 (E) "SUBPOENA" MEANS A DOCUMENT, HOWEVER DENOMINATED, ISSUED
18 UNDER AUTHORITY OF A COURT OF RECORD REQUIRING A PERSON TO DO ANY
19 OF THE FOLLOWING:

20 (i) ATTEND AND GIVE TESTIMONY AT A DEPOSITION.

21 (ii) PRODUCE AND PERMIT INSPECTION AND COPYING OF DESIGNATED
22 BOOKS, DOCUMENTS, RECORDS, ELECTRONICALLY STORED INFORMATION, OR
23 TANGIBLE THINGS IN THE POSSESSION, CUSTODY, OR CONTROL OF THE
24 PERSON.

25 (iii) PERMIT INSPECTION OF PREMISES UNDER THE CONTROL OF THE
26 PERSON.

1 SEC. 2203. (1) TO REQUEST ISSUANCE OF A SUBPOENA UNDER THIS
2 SECTION, A PARTY MUST SUBMIT A FOREIGN SUBPOENA TO THE CLERK OF THE
3 CIRCUIT COURT IN THE COUNTY IN WHICH DISCOVERY IS SOUGHT TO BE
4 CONDUCTED IN THIS STATE. A REQUEST FOR THE ISSUANCE OF A SUBPOENA
5 UNDER THIS CHAPTER DOES NOT CONSTITUTE AN APPEARANCE IN THE COURTS
6 OF THIS STATE.

7 (2) WHEN A PARTY SUBMITS A FOREIGN SUBPOENA TO A CLERK OF THE
8 CIRCUIT COURT IN THIS STATE, THE CLERK, IN ACCORDANCE WITH THE
9 COURT'S PROCEDURES, SHALL PROMPTLY ISSUE A SUBPOENA FOR SERVICE
10 UPON THE PERSON TO WHICH THE FOREIGN SUBPOENA IS DIRECTED.

11 (3) A SUBPOENA UNDER SUBSECTION (2) SHALL DO BOTH OF THE
12 FOLLOWING:

13 (A) INCORPORATE THE TERMS USED IN THE FOREIGN SUBPOENA.

14 (B) CONTAIN OR BE ACCOMPANIED BY THE NAMES, ADDRESSES, AND
15 TELEPHONE NUMBERS OF ALL COUNSEL OF RECORD IN THE PROCEEDING TO
16 WHICH THE SUBPOENA RELATES AND OF ANY PARTY NOT REPRESENTED BY
17 COUNSEL.

18 SEC. 2204. A SUBPOENA ISSUED BY A CLERK OF THE CIRCUIT COURT
19 UNDER SECTION 2203 SHALL BE SERVED IN COMPLIANCE WITH MICHIGAN
20 COURT RULES.

21 SEC. 2205. MICHIGAN COURT RULES AND STATUTES OF THIS STATE
22 APPLICABLE TO COMPLIANCE WITH SUBPOENAS AND REQUESTS FOR THE
23 PRODUCTION OF DOCUMENTS AND THINGS OR ENTRY ON LAND APPLY TO
24 SUBPOENAS ISSUED UNDER SECTION 2203.

25 SEC. 2206. A MOTION FOR A PROTECTIVE ORDER OR AN ORDER TO
26 ENFORCE, QUASH, OR MODIFY A SUBPOENA ISSUED BY A CLERK OF THE
27 CIRCUIT COURT UNDER SECTION 2203 SHALL COMPLY WITH MICHIGAN COURT

1 RULES AND BE SUBMITTED TO THE CIRCUIT COURT IN THE COUNTY IN WHICH
2 DISCOVERY IS TO BE CONDUCTED.

3 SEC. 2207. IN APPLYING AND CONSTRUING THIS CHAPTER,
4 CONSIDERATION SHALL BE GIVEN TO THE NEED TO PROMOTE UNIFORMITY OF
5 THE LAW WITH RESPECT TO ITS SUBJECT MATTER AMONG THE STATES THAT
6 ENACT THE UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT.

7 SEC. 2208. THIS CHAPTER APPLIES TO REQUESTS FOR DISCOVERY IN
8 ACTIONS PENDING ON JULY 1, 2012.

9 SEC. 2209. THIS CHAPTER TAKES EFFECT JULY 1, 2012.

10 Enacting section 1. Section 1851 of the revised judicature act
11 of 1961, 1961 PA 236, MCL 600.1851, as amended by this amendatory
12 act, takes effect July 1, 2012.