

## 2012 Kansas Statutes

### **60-228. Persons before whom depositions may be taken.** (a) *Within the United States.* (1) *Inside this state.*

Depositions in this state must be taken before:

- (A) An officer or person authorized to administer oaths by the laws of this state; and
- (B) a person who is certified as a certified court reporter by the Kansas supreme court.

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

- (A) An officer authorized to administer oaths by the law in the place of examination; or
  - (B) a person appointed by the court where the action is pending to administer oaths and take testimony.
- (3) *Granting of commission.* A court of this state in which an action is pending may grant a commission to one or more persons to take depositions inside or outside this state. The clerk may issue the commission under the seal of the court.

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

- (A) Under an applicable treaty or convention;
- (B) under a letter of request, whether or not captioned a "letter rogatory";
- (C) on notice, before a person authorized to administer oaths either by federal law or by the law in the place of examination; or

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

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

- (A) On appropriate terms after an application and notice of it; and
- (B) without a showing that taking the deposition in another manner is impracticable or inconvenient.

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

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

(c) *Disqualification.* A deposition must not be taken before a person who is any party's relative, employee or attorney, who is related to or employed by any party's attorney or who is financially interested in the action.

**History:** L. 1963, ch. 303, 60-228; L. 1997, ch. 173, § 12; L. 2000, ch. 175, § 2; L. 2010, ch. 135, § 97; L. 2012, ch. 13, § 1; July 1.