

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1314

By: Crain and Shortey of the
Senate

3
4 and

Jordan of the House
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9 (depositions - attorney to provide counsel -
10 effective date)
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13 AUTHOR: Add the following House Coauthor: Pittman

14 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert
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16 "An Act relating to depositions; amending 12 O.S.
2011, Section 3228, which relates to persons before
17 whom depositions may be taken; removing certain
restriction; allowing attorney to provide counsel
18 under certain circumstances; authorizing certain
objection; authorizing certain sanctions; and
19 providing an effective date.
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22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 12 O.S. 2011, Section 3228, is
24 amended to read as follows:

1 Section 3228. A. DEPOSITIONS TAKEN WITHIN OKLAHOMA. Within
2 this state, depositions shall be taken before an officer authorized
3 to administer oaths by the laws of the place where the examination
4 is held, or before a person appointed by the court in which the
5 action is pending. A person so appointed has power to administer
6 oaths and take testimony.

7 The term officer as used in Sections 3230 through 3232 of this
8 title includes a person appointed by the court or designated by the
9 parties under Section 3229 of this title; except that on and after
10 January 1, 1990, depositions taken within this state shall only be
11 taken by an officer who is either a certified shorthand reporter
12 (CSR) or a licensed shorthand reporter (LSR); provided however, on
13 and after ~~the effective date of this act~~ March 10, 1992, any person
14 who was taking depositions by the steno-mask method of reporting
15 within this state prior to January 1, 1990, may continue to take
16 depositions within this state if the person provides to the State
17 Board of Examiners of ~~Official~~ Certified Shorthand Reporters or
18 successor entity of the Board a certification, signed by a judge of
19 the district court and by an attorney licensed to practice law in
20 this state, declaring that the person has taken depositions that
21 were admitted into evidence in any court of this state. The
22 certification shall be submitted within thirty (30) days of ~~the~~
23 ~~effective date of this act~~ March 10, 1992, to the State Board of
24 Examiners of ~~Official~~ Certified Shorthand Reporters or successor

1 entity of the Board who shall issue ~~said~~ the person a certificate as
2 an acting court reporter permitting the person to take depositions
3 or other sworn statements, subpoena witnesses for depositions, issue
4 affidavits in respect to the regular duties of the person, and
5 administer oaths and affirmations with authority equal to that of a
6 notary public.

7 B. DEPOSITIONS TAKEN OUTSIDE OF OKLAHOMA. Depositions may be
8 taken outside of Oklahoma:

9 1. On notice before a person authorized to administer oaths in
10 the place in which the examination is held, either by the law
11 thereof or by the law of this state; or

12 2. Before a person commissioned by the court, and a person so
13 commissioned shall have the power by virtue of ~~his~~ that commission
14 to administer any necessary oath and take testimony; or

15 3. Pursuant to a letter rogatory.

16 A commission or a letter rogatory shall be issued on application
17 and notice and on terms that are just and appropriate. It is not
18 requisite to the issuance of a commission or a letter rogatory that
19 the taking of the deposition in any other manner is impracticable or
20 inconvenient; and both a commission and a letter rogatory may be
21 issued in proper cases. A notice or commission may designate the
22 person before whom the deposition is to be taken either by name or
23 descriptive title. Evidence obtained in response to a letter
24 rogatory need not be excluded merely for the reason that it is not a

1 verbatim transcript or that the testimony was not taken under oath
2 or for any similar departure from the requirements for depositions
3 taken within this state.

4 C. DISQUALIFICATIONS FOR INTEREST. No deposition shall be
5 taken before a person who is a relative or employee ~~or attorney or~~
6 ~~counsel~~ of any of the parties, ~~or is a relative or employee of such~~
7 ~~attorney or counsel~~, or is financially interested in the action. A
8 deponent may have his or her attorney present to counsel and render
9 advice during the deposition; provided, however, opposing counsel
10 may object to excessive use of such counsel and advice. If the
11 deponent's attorney continues to abuse the authority to counsel
12 subsequent to the objection, the objecting attorney may seek
13 sanctions against the offending attorney.

14 SECTION 2. This act shall become effective November 1, 2012."

15 Passed the House of Representatives the 2nd day of April, 2012.

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18 Presiding Officer of the House of
19 Representatives

20 Passed the Senate the ____ day of _____, 2012.

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23 Presiding Officer of the Senate

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ENGROSSED SENATE
BILL NO. 1313

By: Crain of the Senate

and

Grau of the House

An Act relating to alternate delivery methods for service; amending 12 O.S. 2011, Section 2004.3, which relates to delivery methods; modifying requirements of persons authorized to accept or refuse certain service; creating certain presumption; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 3. AMENDATORY 12 O.S. 2011, Section 2004.3, is amended to read as follows:

Section 2004.3. A. In lieu of mailing a copy of process or other papers by certified mail, return receipt requested and delivery restricted to the addressee as required or allowed by ~~Title 12 of the Oklahoma Statutes~~ this title, a party or attorney may send the same by commercial courier service, overnight delivery service, or other reliable personal delivery service to the party addressed, in each instance evidenced by a written or electronic receipt signed by the addressee showing to whom delivered, date of delivery, address where delivered, and person or entity effecting delivery. Acceptance or refusal of service by a person who is fifteen (15)

1 years of age or older who resides at the defendant's dwelling house
2 or usual place of abode shall constitute acceptance or refusal by
3 the party addressed. A return receipt signed at a dwelling house or
4 usual place of abode shall be presumed to have been signed by a
5 person who is fifteen (15) years of age or older who resides at that
6 dwelling house or abode.

7 B. In lieu of mailing a copy of papers by ordinary mail as
8 required or allowed by ~~Title 12 of the Oklahoma Statutes~~ this title,
9 a party or attorney may send same by commercial courier service,
10 overnight delivery service, or other reliable personal delivery
11 service to the party addressed.

12 C. When one of the methods described in this section is
13 utilized, all deadlines based upon service shall be calculated in
14 the same manner as if the service had been by mail.

15 D. This section shall not apply to the filing of any document
16 with a court clerk. The filing of documents with a court clerk
17 remains governed by the Oklahoma Statutes and court rules.

18 E. In case of an entity described in division (3) of
19 subparagraph c of paragraph 1 of subsection C of Section 2004 of
20 this title, acceptance or refusal by any officer or by any employee
21 of the registered office or principal place of business who is
22 authorized to or who regularly receives certified mail shall
23 constitute acceptance or refusal by the party addressed. A return
24 receipt signed at such registered office or principal place of

1 business shall be presumed to have been signed by an employee
2 authorized to receive certified mail.

3 SECTION 4. This act shall become effective November 1, 2012.
4 Passed the Senate the 6th day of March, 2012.

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Presiding Officer of the Senate

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8 Passed the House of Representatives the ____ day of _____,
9 2012.

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Presiding Officer of the House
of Representatives

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