

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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6  
7  
8  
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.  
17 2011, Section 3228, which relates to persons before  
whom depositions may be taken; removing certain  
18 restriction; allowing attorney to provide counsel  
under certain circumstances; authorizing certain  
19 objection; authorizing certain sanctions; and  
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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1 ENGROSSED SENATE  
2 BILL NO. 1314

By: Crain and Shortey of the  
Senate

3 and

4 Jordan of the House

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6 [ depositions - attorney to provide counsel -  
7 effective date ]  
8

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

10 SECTION 3. AMENDATORY 12 O.S. 2011, Section 3228, is  
11 amended to read as follows:

12 Section 3228. A. DEPOSITIONS TAKEN WITHIN OKLAHOMA. Within  
13 this state, depositions shall be taken before an officer authorized  
14 to administer oaths by the laws of the place where the examination  
15 is held, or before a person appointed by the court in which the  
16 action is pending. A person so appointed has power to administer  
17 oaths and take testimony.

18 The term officer as used in Sections 3230 through 3232 of this  
19 title includes a person appointed by the court or designated by the  
20 parties under Section 3229 of this title; except that on and after  
21 January 1, 1990, depositions taken within this state shall only be  
22 taken by an officer who is either a certified shorthand reporter  
23 (CSR) or a licensed shorthand reporter (LSR); provided however, on  
24 and after ~~the effective date of this act~~ March 10, 1992, any person

1 who was taking depositions by the steno-mask method of reporting  
2 within this state prior to January 1, 1990, may continue to take  
3 depositions within this state if the person provides to the State  
4 Board of Examiners of Official Shorthand Reporters or successor  
5 entity of the Board a certification, signed by a judge of the  
6 district court and by an attorney licensed to practice law in this  
7 state, declaring that the person has taken depositions that were  
8 admitted into evidence in any court of this state. The  
9 certification shall be submitted within thirty (30) days of ~~the~~  
10 ~~effective date of this act~~ March 10, 1992, to the State Board of  
11 Examiners of Official Shorthand Reporters or successor entity of the  
12 Board who shall issue ~~said~~ the person a certificate as an acting  
13 court reporter permitting the person to take depositions or other  
14 sworn statements, subpoena witnesses for depositions, issue  
15 affidavits in respect to the regular duties of the person, and  
16 administer oaths and affirmations with authority equal to that of a  
17 notary public.

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19 taken outside of Oklahoma:

20 1. On notice before a person authorized to administer oaths in  
21 the place in which the examination is held, either by the law  
22 thereof or by the law of this state; or  
23  
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1           2. Before a person commissioned by the court, and a person so  
2 commissioned shall have the power by virtue of ~~his~~ that commission  
3 to administer any necessary oath and take testimony; or

4           3. Pursuant to a letter rogatory.

5           A commission or a letter rogatory shall be issued on application  
6 and notice and on terms that are just and appropriate. It is not  
7 requisite to the issuance of a commission or a letter rogatory that  
8 the taking of the deposition in any other manner is impracticable or  
9 inconvenient; and both a commission and a letter rogatory may be  
10 issued in proper cases. A notice or commission may designate the  
11 person before whom the deposition is to be taken either by name or  
12 descriptive title. Evidence obtained in response to a letter  
13 rogatory need not be excluded merely for the reason that it is not a  
14 verbatim transcript or that the testimony was not taken under oath  
15 or for any similar departure from the requirements for depositions  
16 taken within this state.

17           C. DISQUALIFICATIONS FOR INTEREST. No deposition shall be  
18 taken before a person who is a relative or employee ~~or attorney or~~  
19 ~~counsel~~ of any of the parties, ~~or is a relative or employee of such~~  
20 ~~attorney or counsel~~, or is financially interested in the action. A  
21 deponent may have his or her attorney present to counsel and render  
22 advice during the deposition; provided, however, opposing counsel  
23 may object to excessive use of such counsel and advice. If the  
24 deponent's attorney continues to abuse the authority to counsel

