ENGROSSED SENATE
BILL NO. 1314 By: Crain and Shortey of the Senate

and

Jordan of the House

[depositions - attorney to provide counsel - effective date]

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

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

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

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

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

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

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

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

3. Pursuant to a letter rogatory.

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

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

subsequent to the objection, the objecting attorney may seek sanctions against the offending attorney.

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

Passed the Senate the 28th day of February, 2012.

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Presiding Officer of the Senate

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

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Presiding Officer of the House of Representatives