

**HOUSE . . . . . No. 1450**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Michael S. Day*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to modify the rules for taking depositions outside the Commonwealth and to adopt the uniform interstate depositions and discovery act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michael S. Day</i>	<i>31st Middlesex</i>	<i>1/20/2023</i>

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By Representative Day of Stoneham, a petition (accompanied by bill, House, No. 1450) of Michael S. Day for legislation to modify the rules for taking depositions outside the Commonwealth and to adopt the uniform interstate depositions and discovery act. The Judiciary.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Third General Court  
(2023-2024)**  
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An Act to modify the rules for taking depositions outside the Commonwealth and to adopt the uniform interstate depositions and discovery act.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1: Section 10 of Chapter 223A, Taking Depositions Outside Commonwealth;  
2 Issuance of Commissions or Letters Rogatory is hereby amended by deleting section 10(a)(3)  
3 and Section 10(b) and adding thereto the following section:

4           Section 10(a)(3)

5           UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT

6           Short title.

7           This section may be cited as the "Uniform Interstate Depositions and Discovery Act."

8           Definitions.

9           As used in this chapter:

- 10           (1)    "Foreign jurisdiction" means a state other than the Commonwealth of  
11   Massachusetts
- 12           (2)    "Foreign subpoena" means a subpoena issued under authority of a court of record  
13   of a foreign jurisdiction
- 14           (3)    "Person" means an individual, corporation, business trust, estate, trust,  
15   partnership, limited liability company, association, joint venture, public    corporation,  
16   government, or governmental subdivision, agency or instrumentality, or any other legal or  
17   commercial entity.
- 18           (4)    "State" means a state of the United States, the District of Columbia, Puerto Rico,  
19   the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction  
20   of the United States.
- 21           (5)    "Subpoena" means a document, however denominated, issued under authority of a  
22   court of record requiring a person to:
- 23           (i)    Attend and give testimony at a deposition;
- 24           (ii)   Produce and permit inspection and copying of designated books, documents,  
25   records,
- 26           (iii)   Permit inspection of premises under the control of the person.
- 27           Issuance of subpoena.
- 28           (a)    To request issuance of a subpoena under this section, a party shall submit a  
29   foreign subpoena to:

30 (1) A clerk of the superior court in the county in which discovery is sought  
31 to be conducted in Massachusetts; or

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34 (2) A lawyer who is a member in good standing of the bar of the Commonwealth of  
35 Massachusetts. A request for the issuance of a subpoena under this act does not constitute an  
36 appearance in the courts of Massachusetts.

37 (b) When a party submits a foreign subpoena to a clerk of the superior court in  
38 Massachusetts, the clerk, in accordance with the court's procedure, shall promptly issue a  
39 subpoena for service on the person to which the foreign subpoena is directed. When a party  
40 submits a subpoena to a lawyer who is a member in good standing of the bar of Massachusetts,  
41 the lawyer may issue a subpoena for service on the person to which the foreign subpoena is  
42 directed.

43 (c) A subpoena under subsection (b) of this section shall:

44 (1) Incorporate the terms used in the foreign subpoena;

45 (2) Contain or be accompanied by the names, addresses, telephone numbers, and  
46 email addresses of all counsel of record in the proceeding to which the subpoena relates and of  
47 any party not represented by counsel; and

48 (3) Otherwise be in a form that complies with the laws of this state.

49 Service of subpoena.

50 A subpoena issued under this state shall be served in compliance with the Massachusetts  
51 Rules of Civil Procedure.

52 Deposition, production, and inspection.

53 The Massachusetts Rules of Civil Procedure govern subpoenas issued under this section.

54 Application to court.

55 An application to the court for a protective order or to enforce, quash, or modify a  
56 subpoena issued under this section shall comply with the rules or statutes of Massachusetts and  
57 be submitted to the court in the county in which discovery is to be conducted.

58 Uniformity of application and construction.

59 In applying and construing this uniform act, consideration shall be given to the need to  
60 promote uniformity of the law with respect to its subject matter among states that enact it.

61 Application to pending actions.

62 This section applies to requests for discovery in cases pending on the effective date of  
63 this section.

64 Depositions for use in foreign tribunals.

65 Depositions may be taken in this state to be used in the trial of any cause pending in a  
66 tribunal of any other state, district, territory, or country pursuant to this section.