HOUSE DOCKET, NO. 3473 FILED ON: 1/17/2025

HOUSE . . . . . No. 1765

The Commonwealth of Massachusetts

PRESENTED BY:

Steven S. Howitt

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 establishing the uniform interstate depositions and discovery act.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Steven S. Howitt	*4th Bristol*	*1/17/2025*

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HOUSE . . . . . No. 1765

By Representative Howitt of Seekonk, a petition (accompanied by bill, House, No. 1765) of Steven S. Howitt for legislation to establish the uniform interstate depositions and discovery act. The Judiciary.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act establishing 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:

SECTION 1. Chapter 223A of the General Laws, as appearing in the 2022 Official Edition, is hereby amended by striking out Section 10 in its entirety.

SECTION 2. The General Laws, as appearing in the 2022 Official Edition, are hereby amended by inserting after Chapter 223A the following chapter:-

Chapter 223B, The Uniform Interstate Depositions and Discovery Act

Section 1. Definitions

As used in this Act, the following terms shall have the meanings indicated:

(a) "Foreign jurisdiction" means a jurisdiction outside the Commonwealth of Massachusetts.

(b) “Foreign subpoena” means a subpoena issued under the authority of a court of a foreign jurisdiction.

(c) “Issuing court” means the court or agency that issued a foreign subpoena.

(d) “Person” includes an individual, corporate entity, trust, business trust, partnership, association, joint venture, governmental entity or any other legal entity or commercial entity.

Section 2. Applicability

This Act applies to discovery and depositions conducted in the Commonwealth of Massachusetts in connection with a proceeding before a court or agency of another state or foreign jurisdiction.

Section 3. Procedures for Issuing and Serving Subpoenas

(a) To request issuance of a subpoena under this section, a Person shall submit a foreign subpoena to:

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

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

(b) When a Person submits a foreign subpoena to a clerk of the court in the Commonwealth , the clerk, in accordance with the court’s procedure, shall promptly issue a subpoena for service on the Person to which the foreign subpoena is directed. When a Person

submits a subpoena to a lawyer who is a member in good standing of the bar of the Commonwealth, the lawyer may issue a subpoena for service on the Person to which the foreign subpoena is directed.

(c) The petition must include:

(1) A copy of the foreign subpoena;

(2) The name and address of the person to whom the subpoena is directed;

(3) A statement that the foreign subpoena is issued in connection with a pending case in a foreign jurisdiction.

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

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

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

(3) Otherwise be in a form that complies with the laws of the Commonwealth.

Section 4. Enforcement of Subpoenas

(a) A foreign subpoena, once domesticated pursuant to Section 3, may be enforced as though it were an order of a Massachusetts court.

(b) The Person to whom the subpoena is directed may file an objection or motion to quash the subpoena with the court where the petition was filed, as specified in Rule 45 of the Massachusetts Rules of Civil Procedure.

Section 5. Service of Subpoenas

Service of a foreign subpoena in the Commonwealth may be made in the same manner as provided by Massachusetts law for subpoenas issued in Massachusetts.

Section 6. Costs

(a) Any Person who is compelled to respond to a foreign subpoena in the Commonwealth is entitled to seek reimbursement for reasonable costs associated with the compliance.

(b) The issuing Person shall bear the costs of the proceeding unless otherwise directed by the court.

(c) Any costs imposed by the Court shall be in accordance with those that are recoverable under Rule 45 of the Massachusetts Rules of Civil Procedure.

Section 7. Privileges and Protections

(a) A Person served with a foreign subpoena in the Commonwealth may assert any applicable privilege or protection under Massachusetts law, including but not limited to privileges against self-incrimination, attorney-client privilege, or work product protection.

(b) The issuing Person is responsible for determining the legal protections afforded under the laws of the foreign jurisdiction where the subpoena was issued.

Section 8. Rules of Court

The Massachusetts Supreme Judicial Court may adopt and promulgate additional rules necessary for the implementation of this Act, including procedures for the issuance, service, and enforcement of foreign subpoenas.

Section 9. Severability

If any provision of this Act or its application to any Person or circumstance is held invalid, the remainder of the Act and the application of its provisions to other Persons or circumstances shall not be affected.

Section 10. Application to pending actions.

This Chapter applies to requests for discovery in cases pending on the date of passage and henceforth.