

HOUSE No.

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:
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>1/14/2025</i>

HOUSE No.

[Pin Slip]

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:

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

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

5 Chapter 223B, The Uniform Interstate Depositions and Discovery Act

6 Section 1. Definitions

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

8 (a) “Foreign jurisdiction” means a jurisdiction outside the Commonwealth of
9 Massachusetts.

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

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

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

15 Section 2. Applicability

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

19 Section 3. Procedures for Issuing and Serving Subpoenas

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

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

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

27 (b) When a Person submits a foreign subpoena to a clerk of the court in the
28 Commonwealth, the clerk, in accordance with the court’s procedure, shall promptly issue a
29 subpoena for service on the Person to which the foreign subpoena is directed. When a Person
30 submits a subpoena to a lawyer who is a member in good standing of the bar of the
31 Commonwealth, the lawyer may issue a subpoena for service on the Person to which the foreign
32 subpoena is directed.

33 (c) The petition must include:

34 (1) A copy of the foreign subpoena;

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

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

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

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

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

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

44 Section 4. Enforcement of Subpoenas

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

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

50 Section 5. Service of Subpoenas

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

53 Section 6. Costs

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

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

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

60 Section 7. Privileges and Protections

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

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

66 Section 8. Rules of Court

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

70 Section 9. Severability

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

74 Section 10. Application to pending actions.

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