

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 SENATE BILL 231

By: Brooks

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5
6 AS INTRODUCED

7 An Act relating to depositions in criminal
8 proceedings; amending 22 O.S. 2011, Sections 762,
9 763, 765, and 770, which relate to conditional
10 examinations; authorizing conditional examinations
11 when good cause exists; clarifying language;
12 modifying affidavit statements; authorizing a court
13 to find good cause; modifying conditions for reading
14 deposition into evidence; making gender neutral; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 22 O.S. 2011, Section 762, is
18 amended to read as follows:

19 Section 762. When a material witness in any criminal case is
20 about to leave the state, or is so sick or infirm as to afford
21 reasonable grounds for apprehending that he or she will be unable to
22 attend the trial, or upon a showing that good cause exists, the
23 defendant or the State of Oklahoma may apply for an order that the
24 witness be examined conditionally.

25 SECTION 2. AMENDATORY 22 O.S. 2011, Section 763, is
26 amended to read as follows:

1 Section 763. The application must be made upon affidavit
2 stating:

3 First. The nature of the offense charged.

4 Second. The state of the proceedings in the action.

5 Third. The name and residence of the witness, and that his or
6 her testimony is material to the defense of the action.

7 Fourth. That the witness is about to leave the state; ~~or~~ that
8 the witness is so sick or infirm as to afford reasonable grounds for
9 apprehending that he or she will not be able to attend the trial; ~~or~~
10 ~~or~~ that the magistrate terminated the preliminary hearing pursuant
11 to Section 258 of this title and that the witness refuses to grant
12 an interview to counsel regarding the material issues for trial; or
13 that good cause exists requiring that the witness be examined
14 conditionally.

15 SECTION 3. AMENDATORY 22 O.S. 2011, Section 765, is
16 amended to read as follows:

17 Section 765. If the court ~~or judge~~ is satisfied that the
18 examination of the witness is necessary, or finds that good cause
19 exists, an order must be made that the witness be examined
20 conditionally at a specified time and place, and that a copy of the
21 order be served on counsel for the opposing party within a specified
22 time before that fixed for the examination. If the witness is a
23 child under thirteen (13) years of age or a vulnerable adult as
24 defined in Section 10-103 of Title 43A of the Oklahoma Statutes, the

1 court can allow the witness to testify through an alternative method
2 pursuant to the provisions of the Uniform Child Witness Testimony by
3 Alternative Methods Act or Section 2611.2 of Title 12 of the
4 Oklahoma Statutes.

5 SECTION 4. AMENDATORY 22 O.S. 2011, Section 770, is
6 amended to read as follows:

7 Section 770. The deposition or certified copy thereof may be
8 read in evidence by either party ~~on the~~ at trial upon ~~its appearing~~
9 the appearance that the witness is unable to attend by reason of his
10 or her death, insanity, sickness, ~~or~~ infirmity, or ~~of~~ due to his or
11 her continued absence from the state. A deposition or a certified
12 copy thereof, having been ordered pursuant to Section 765 of this
13 title upon a finding of good cause, may be read in evidence by
14 either party at trial if there has been no change to the conditions
15 upon which the order was issued. Upon reading the depositions in
16 evidence, the same objections may be taken to a question or answer
17 contained therein as if the witness had been examined orally in
18 court.

19 SECTION 5. This act shall become effective November 1, 2021.

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