



Ohio Revised Code

Section 2317.06 Proving testimony of absent witness.

Effective: August 7, 2007

Legislation: House Bill 53 - 127th General Assembly

(A) If a party or witness, after testifying orally, dies, is beyond the jurisdiction of the court, cannot be found after diligent search, is unable to testify because of any physical or mental infirmity, or has been summoned but appears to have been kept away by the adverse party and if the evidence of the party or witness has been taken down by an official stenographer, the evidence so taken may be read in evidence by either party on the further trial of the case and shall be prima-facie evidence of what the deceased party or witness testified to orally on the former trial. If the evidence has not been taken by an official stenographer, it may be proved by witnesses who were present at the former trial, having knowledge of the testimony. All testimony so offered shall be open to all objections that might be taken if the witness was personally present.

(B)(1) If it is necessary in a civil action before the court to procure the testimony of a person who is imprisoned in a workhouse, juvenile detention facility, jail, or state correctional institution within this state, or who is in the custody of the department of youth services, the court shall require that the person's testimony be taken by deposition pursuant to the Civil Rules at the place of the person's confinement, unless the court determines that the interests of justice demand that the person be brought before the court for the presentation of the person's testimony.

(2) If the court determines that the interests of justice demand that a person specified in division (B)(1) of this section be brought before the court for the presentation of the person's testimony, the court shall order the person to be brought before it under the procedures set forth in division (B) or (C) of section 2945.47 of the Revised Code.

(C) When a person's deposition is taken pursuant to division (B)(1) of this section, the person shall remain in the custody of the officer who is in charge of the person, and the officer shall provide reasonable facilities for the taking of the deposition.

(D) The person requesting the testimony of the person whose deposition is taken pursuant to division (B)(1) of this section shall pay the expense of taking the deposition, except that the court



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may tax the expense as court costs in appropriate cases.