

29B.50 Depositions.

At any time after charges have been signed, as provided in section 29B.31 any party may take oral or written depositions unless the military judge or court-martial without a military judge hearing the case, or if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause. If a deposition is to be taken before charges are referred for trial, the authority may designate commissioned officers to represent the prosecution and the defense and may authorize those officers to take the deposition of any witness.

The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

Depositions may be taken before and authenticated by any military or civil officer authorized to administer oaths by the laws of the United States or by the laws of the place where the deposition is taken.

A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence before any court-martial or in any proceeding before a court of inquiry, if any of the following are apparent:

1. That the witness resides or is out of the state of Iowa and the witness' appearance cannot be obtained, unless it appears that the absence of the witness was procured by the party offering the deposition.
2. That the witness by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, or other reasonable cause, is unable to appear and testify in person at the place of trial or hearing.
3. That the party offering the deposition has been unable to procure the attendance of the witness by subpoena or other process and the present whereabouts of the witness is unknown.

[C66, 71, 73, 75, 77, 79, 81, § 29B.50; 82 Acts, ch 1042, § 31]