§ 680.20 Examination of witnesses on commission; when commission issuable; form and content of application.

1. Upon a pre-trial application of a defendant who has pleaded not guilty to an indictment or other accusatory instrument which charges a crime, the superior court in which such indictment is pending, or a superior court in the county in which such other accusatory instrument is pending, may issue a commission for examination of a designated person as a witness in the action, at a designated place outside this state, if it is satisfied that (a) such person possesses information material to the action which in the interest of justice should be disclosed at the trial, and (b) resides outside the state.

2. The application and moving papers must be in writing and must be subscribed and sworn to by the defendant or his attorney. A copy thereof must be served on the district attorney, with reasonable notice and opportunity to be heard. The moving papers must allege:

(a) The offense or offenses charged; and

(b) The status of the action; and

(c) The name of the prospective witness; and

(d) A statement that such prospective witness resides outside the state, and his address in the jurisdiction in which the examination sought is to occur; and

(e) A statement that he possesses information material to the action which in the interest of justice should be disclosed at the trial, together with a brief summary of the facts supporting such statement.

3. An application for issuance of a commission may request examination pursuant thereto of more than one person residing in the particular jurisdiction. In such case, it must contain allegations specified in subdivision two with respect to each such person, and the court must make separate rulings as to each.