

CHAPTER 819A

UNIFORM ACT FOR RENDITION OF PRISONERS AS WITNESSES IN CRIMINAL PROCEEDINGS

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819A.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. “*Criminal proceeding*” means a criminal action which is pending or is before a court in a state. For purposes of this subsection, a criminal action includes, but is not limited to, a prosecution of a complaint, indictment, or information, and an investigation by a grand jury.

2. “*Penal institution*” means a jail, prison, penitentiary, house of correction, or other place of penal detention which is located in a state and includes, but is not limited to, a city or county jail or detention facility, an institution or facility under the control of the department of corrections, the state training school or other facility under the control of the director of the department of human services, and a facility or electronic monitoring program under the control of a judicial district department of correctional services in this state.

3. “*State*” means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory of the United States.

4. “*Witness*” means a person, who is confined in a penal institution in a state, whose testimony is requested in another state in a criminal proceeding.

95 Acts, ch 88, §1

819A.2 Testimony of in-state witness in out-of-state proceeding.

1. A judge of a court of record in another state, which has enacted a law that requires persons confined in penal institutions within that state to appear and testify in this state, may certify to the district court in the county in this state in which the witness is confined, as follows:

a. That a criminal proceeding is pending or before a court in the other state.

b. That a person who is confined in a penal institution in this state may be a material witness in the criminal proceeding.

c. That the person’s appearance and testimony will be required at a specified time or during a specified time period.

2. Upon the filing of the certification, the district court shall set the matter for hearing and shall direct the person having custody of the witness to produce the witness at the hearing. The clerk of the district court shall send copies of the order for hearing, together with a copy of the certification, to the attorney general, the person having custody of the witness, and the witness.

95 Acts, ch 88, §2

819A.3 Order for transfer.

1. At the hearing on the certification, the district court shall determine all of the following issues:

a. That the testimony of the witness may be material and necessary to the criminal proceeding in the other state.

b. That the appearance of and testimony by the witness are not adverse to the interests of this state or the health or legal rights of the witness.

c. That the laws of the other state in which the witness is requested to testify will protect the witness from arrest and the service of civil and criminal process based on any act committed prior to the witness’s arrival in the other state under a transfer order.

d. That the possibility that the witness may be subject to arrest or to service of civil or criminal process in any other state through which the witness will be required to pass is remote.

2. If the district court makes affirmative findings on all of the issues, the district court shall issue an order for transfer, with a copy of the certificate attached, that provides for all of the following orders:

a. An order directing the witness to attend and testify.

b. An order directing the person having custody of the witness to produce the witness in the court in which the criminal proceeding is taking place.

c. An order prescribing such other terms and conditions as the district court may require, including, but not limited to, the terms and conditions provided in section 819A.4.

95 Acts, ch 88, §3

819A.4 Terms and conditions.

1. The order directing the witness to attend and testify and the order directing the person having custody of the witness to produce the witness shall provide for either of the following:

a. The return of the witness at the conclusion of the witness's testimony, proper safeguards on the witness's custody, and that the requesting jurisdiction provide proper financial reimbursement or prepayment of all expenses incurred in the production of the witness.

b. That the person having custody of the witness transfer custody of the witness to an officer of the requesting jurisdiction who comes to the penal institution in which the witness is confined to accept custody of the witness.

2. If the requesting jurisdiction sends an officer from the requesting jurisdiction to accept custody of the witness, the district court shall require that the requesting jurisdiction provide proper safeguards for the witness's custody while in transfer, and pay and be liable for all expenses incurred in producing and returning the witness.

3. The order shall not be effective until an order is entered by the court of the other state that submitted the request for transfer that directs compliance with the terms and conditions required by the district court in this state.

95 Acts, ch 88, §4

819A.5 Exceptions.

This chapter shall not apply to persons confined in a penal institution because of insanity or other mental disorder which prevents the person from appreciating the charge, understanding the proceedings, or assisting effectively in the person's defense.

95 Acts, ch 88, §5

819A.6 Testimony of out-of-state witness in in-state proceeding.

1. If a person confined in a penal institution in any other state may be a material witness in a criminal proceeding in a court of this state, a judicial officer of the district court in this state may certify to a court of record in another state having jurisdiction over the witness as follows:

a. That a criminal proceeding is pending and before a court in this state.

b. That a person who is confined in a penal institution in the other state may be a material witness in the criminal proceeding.

c. That the person's appearance and testimony will be required at a specified time or during a specified time period.

2. The certification shall be filed with the court of record in the other state and notice of the certification shall be given to the attorney general in that state.

95 Acts, ch 88, §6

819A.7 Compliance.

A judicial officer of the district court in this state may enter an order directing compliance with any terms and conditions prescribed by a judicial officer of the other state in which the witness is confined.

95 Acts, ch 88, §7

819A.8 Exemption from arrest and service of process.

If a witness from another state comes into or passes through this state under an order directing the witness to attend and testify in this or another state, the witness shall not be subject to arrest or the service of civil or criminal process during the time that the witness is in this state, if the service of process is based on any act committed prior to the witness's arrival in this state pursuant to a transfer order.

95 Acts, ch 88, §8

819A.9 Uniformity of interpretation.

This chapter shall be construed to effectuate the purpose of making uniform the law of those states which enact a uniform rendition of prisoners as witnesses in criminal proceedings Act.

95 Acts, ch 88, §9

819A.10 Short title.

This chapter may be cited as the "*Uniform Rendition of Prisoners as Witnesses in Criminal Proceedings Act*".

95 Acts, ch 88, §10