

CHAPTER 819

UNIFORM ACT TO SECURE WITNESSES
FROM WITHOUT THE STATE

[P]
Rendition of prisoners as witnesses;
see chapter 819A

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819.1 Witnesses required to testify in another state.

A person residing or physically present within this state may be required to attend as a witness in a criminal action pending or grand jury investigation commenced in another state if compliance with the following criteria is accomplished:

1. The laws of such other state require or command persons residing or physically present within that state to attend and testify in this state.

2. A judge of a court of record in the other state certifies under the seal of such court that there is a criminal action pending in such court or that a grand jury investigation has commenced; that a person residing or physically present within this state is a material witness in such action or grand jury investigation; and that the person's presence will be required for a number of days which shall be specified in such certification.

3. The certification described in subsection 2 of this section shall have been presented to any judge of the district court of the county in which the prospective witness is found.

4. The judge described in subsection 3 of this section shall make an order directing the witness to appear at a specific time and place for the hearing. If at the hearing the judge determines that the witness is material and necessary, either for the prosecution or defense in a criminal action, or for a grand jury investigation, and that it will not cause undue hardship to the witness to be compelled to attend and testify in such proceedings and that the provisions of subsections 2 and 3 of this section are complied with, the judge shall make an order, with a copy of the certificate attached, directing the witness to attend and testify in the court where the action is pending or the place where such grand jury has commenced at the time and place specified in the certificate.

[S13, §5499-b; C24, 27, 31, 35, 39, §13893; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §781.14; C79, 81, §819.1]

819.2 Witnesses from another state required to testify in this state.

If a person, in any state whose law makes provision for commanding persons within that state to attend and testify in criminal actions pending or grand jury investigations commenced in this state, is a material witness in a district court action pending or a grand jury investigation commenced in this state, a judge of such court shall, in order to obtain the presence of such witness, issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required.

[S13, §5499-d; C24, 27, 31, 35, 39, §13895; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §781.16; C79, 81, §819.2]

819.3 Fees and enforcement of order.

A witness named in an order described in section 819.2 is entitled to ten cents per mile for each mile traveled by the most direct route to and from the proceedings the witness is required to attend, and is also entitled to ten dollars per day for each day spent in such travel or in attending the proceedings as a witness.

If such witness fails without good cause to attend and testify as directed by such order the

witness shall forfeit the right to receive mileage and per diem, and shall be guilty of contempt of court for which the witness may be punished accordingly.

[S13, §5499-e; C24, 27, 31, 35, 39, §13896; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §781.17; C79, 81, §819.3]

83 Acts, ch 123, §203, 209

819.4 Exemptions — arrest — service of process.

If a person comes into this state in obedience to an order directing the person to attend and testify in this state, the person shall not while in this state pursuant to such order be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before the person's entrance into this state under the order.

If a person passes through this state while going to another state in obedience to an order to attend and testify in that state or while returning therefrom, the person shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before the person's entrance into this state pursuant to the order to testify.

[S13, §5499-e; C24, 27, 31, 35, 39, §13896; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §781.17; C79, 81, §819.4]

819.5 Definition of state.

The word "state" shall include any state or territory of the United States and the District of Columbia.

[C79, 81, §819.5]