

MAINE STATE LEGISLATURE

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CHAPTER 205

WITNESSES

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SUBCHAPTER I

GENERAL PROVISIONS

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§ 1311. Recognizance of witnesses

When an indictment has been returned into court, any Justice of the Superior Court may order the material witnesses against the respondent or respondents named in the indictment to recognize with sufficient sureties to appear and testify at the trial of said indictment in said court. If any one of said witnesses refuse or fail to recognize, he may be committed to prison and held until discharged by law, and such justice may issue capias to bring such witness before the court to give his recognizance or upon failure or refusal so to recognize to be committed.

R.S.1954, c. 148, § 18.

§ 1312. Prosecutor may summon witnesses; no fees to state witnesses

The prosecuting officer has the same power as the clerk of the court to issue summonses for witnesses in criminal cases. No costs shall be taxed for witnesses before the grand jury in a case where no bill is found nor in complaints against towns for

defect of road, unless they recognized so to attend or were summoned by order of the grand jury or prosecuting officer; nor is it necessary to tender fees to witnesses summoned in behalf of the State.

R.S.1954, c. 148, § 19.

§ 1313. Punishment of state witness for nonattendance

Whoever, having been summoned as a witness in behalf of the State before any court or grand jury without reasonable cause fails to appear at the time and place designated in the summons, if he is not punished therefor as for contempt, shall be punished, on indictment, by a fine of not more than \$100 or by imprisonment for less than one year.

R.S.1954, c. 148, § 20.

§ 1314. No witness fees until 2nd or 3rd day in continued cases

No fees in criminal cases continued after the first term shall be allowed to witnesses on the part of the State until the 2nd day of the term in Hancock, Oxford, Franklin, Piscataquis and Aroostook; nor until the 3rd day in any other county, unless they were summoned at an earlier day. In all criminal cases, previous to the determination thereof, the court may allow such costs for justices, officers, aids, jurors and witnesses, as are provided by law, to be paid from the county treasury; but no court or judge shall allow any charge for aid or other expenses of the officer in serving a warrant, except his stated fees for service and travel unless, on his examination upon oath or on other evidence, they find such additional charges reasonable.

R.S.1954, c. 148, § 21.

§ 1315. Self-incrimination; failure to testify; husband or wife as witness

In all criminal trials, the accused shall, at his own request but not otherwise, be a competent witness. He shall not be compelled to testify on cross-examination to facts that would convict, or furnish evidence to convict him of any other crime than that for which he is on trial. The fact that he does not testify in his own behalf shall not be taken as evidence of his guilt. The husband or wife of the accused is a competent witness.

R.S.1954, c. 148, § 22.

§ 1316. Depositions

On application of the defendant in a criminal case, the court may grant a commission to take the depositions of material witnesses living out of the State, upon interrogatories in the same manner, with the same effect and subject to exceptions, as in civil causes. The prosecuting officer may join in such commission and name therein any material witness to be examined on the part of the State. If, at the trial, the defendant does not use the depositions so taken for him, those taken for the State shall not be used. Upon like application by the defendant in a criminal case, a like commission may issue to take the deposition of a material witness living in the State; but the prosecuting officer shall not name therein any material witness to be examined on the part of the State.

R.S.1954, c. 148, § 23.

§ 1317. List of witnesses

The Attorney General, county attorney or foreman of the grand jury shall swear or affirm, in presence of the jury, all witnesses who are to testify before them, and a list thereof, stating the cases in which they testify, shall be returned into the court by the foreman before the jury is discharged and filed and entered on record by the clerk. The clerk shall not make such list public until the criminal cases at such terms have been tried or otherwise disposed of.

R.S.1954, c. 148, § 5.

SUBCHAPTER II

SUMMONS BY JUDGE; COSTS AND FEES

Sec.

1361. Summons to witnesses.

1362. Costs and fees for complainants.

1363. Limitation of costs and fees in criminal cases.

§ 1361. Summons to witnesses

Any judge named in Title 4, section 169, when a warrant is issued by him, may cause such witnesses only as he is satisfied can testify to material facts to be summoned to attend the trial, by inserting their names in the warrant or otherwise. When the case is appealed or the person is required to appear before a high-

er tribunal, he may order such witnesses only to recognize for their appearance where the case is to be tried or examined. He may issue summonses for witnesses in criminal cases to appear before any judicial tribunal, at the request of the Attorney General, a county attorney or the party accused, and he shall express in the summons at whose request they are summoned. When summoned for the accused, the witnesses are not required to attend without payment or tender of their legal fees.

R.S.1954, c. 146, § 20; 1963, c. 402, § 247.

§ 1362. Costs and fees for complainants

No costs shall be allowed by such judge to complainants in any capacity; but this shall not prevent the allowance of their fees as officers to police officers and constables or for their municipalities when such police officers or constables are paid a salary or are paid upon a per diem basis by such municipalities and such officers or constables complain under authority of their municipalities or it is made their duty to do so. No witness shall be allowed in a criminal case for more than one travel, or for travel and attendance in more than one case at the same time before any judicial tribunal.

R.S.1954, c. 146, § 21; 1963, c. 340, § 3.

§ 1363. Limitation of costs and fees in criminal cases

No complainant or witness shall be allowed fees, travel and attendance in a criminal case for more than one complaint on any one day when there are other complaints against the same respondent arising out of the same transaction before any judicial tribunal.

1963, c. 340, § 4.

SUBCHAPTER III

OUT-OF-STATE WITNESSES

Sec.

- 1411. Short title.
- 1412. Definitions.
- 1413. Summons to testify in another state.
- 1414. Summons to testify in this State.
- 1415. Exemption from arrest and service of process.

§ 1411. Short title

This subchapter may be cited as "Uniform Act to Secure the Attendance of Witnesses from without a State in Criminal Proceedings."

R.S.1954, c. 148, § 28.

§ 1412. Definitions

As used in this subchapter, the following words shall have the following meanings:

1. **State.** "State" shall include any territory of the United States and District of Columbia.

2. **Summons.** "Summons" shall include a subpoena, order or other notice requiring the appearance of a witness.

3. **Witness.** "Witness" shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding.

R.S.1954, c. 148, § 24.

§ 1413. Summons to testify in another state

If a judge of a court of record in any state, which by its laws has made provision for commanding persons within that state to attend and testify in this State, certifies under the seal of such court that there is a criminal prosecution pending in such court or that a grand jury investigation has commenced or is about to commence, that a person being within this State is a material witness in such prosecution or grand jury investigation and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing and shall make an order directing the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, and of any other state through which the witness may be required to pass by ordinary course of travel, will give to him protection from arrest and the service of civil and criminal process, he shall issue a sum-

mons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending or where a grand jury investigation has commenced or is about to commence at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing. The judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability, may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

If the witness, who is summoned as provided, after being paid or tendered by some properly authorized person the sum of 10¢ a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$5 for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

R.S.1954, c. 148, § 25.

§ 1414. Summons to testify in this State

If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions or grand jury investigations commenced or about to commence in this State, is a material witness in a prosecution pending in a court of record in this State or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this State to assure his attendance in this State. This certificate shall be presented to a judge of a court of record within whose territorial jurisdiction the witness is found.

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If the witness is summoned to attend and testify in this State, he shall be tendered the sum of 10¢ a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$15 for each day that he is required to travel and attend as a witness. In addition, such witness, upon submission of proper vouchers to the court, may be allowed reasonable allowance for meals and lodging at the discretion of the presiding justice. A witness who has appeared in accordance with the summons shall not be required to remain within this State a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this State, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this State.

R.S.1954, c. 148, § 26; 1963, c. 183.

§ 1415. Exemption from arrest and service of process

If a person comes into this State in obedience to a summons directing him to attend and testify in this State he shall not while in this State pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the summons.

If a person passes through this State while going to another state in obedience to a summons to attend and testify in that state or while returning therefrom, he 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 his entrance into this State under the summons.

R.S.1954, c. 148, § 27.