

CHAPTER 205

WITNESSES

SUBCHAPTER 1

GENERAL PROVISIONS

§1311. Recognizance of witnesses

(REPEALED)

SECTION HISTORY

PL 1965, c. 356, §49 (RP).

§1312. No fees to state witnesses

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 were admitted to bail so to attend or were subpoenaed by order of the grand jury or at the request of the prosecuting officer; nor is it necessary to tender fees to witnesses subpoenaed in behalf of the State. [PL 1965, c. 356, §50 (AMD).]

SECTION HISTORY

PL 1965, c. 356, §50 (AMD).

§1313. Punishment of state witness for nonattendance

A person who, having been subpoenaed as a witness on behalf of the State before any court or grand jury, without reasonable cause fails to appear at the time and place designated in the subpoena, if the person is not punished therefor as for contempt, is guilty of a Class E crime. [RR 2023, c. 2, Pt. D, §55 (COR).]

SECTION HISTORY

PL 1965, c. 356, §51 (AMD). PL 1979, c. 663, §105 (AMD). RR 2023, c. 2, Pt. D, §55 (COR).

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

Fees in criminal cases continued after the first term are not 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 the witnesses were summoned at an earlier day. In all criminal cases, previous to the determination thereof, the court may allow the costs for justices, officers, aids, jurors and witnesses, as are provided by law, to be paid from the county treasury; but a court or judge may not allow any charge for aid or other expenses of the officer in serving a warrant, except the officer's stated fees for service and travel unless, on the officer's examination upon oath or on other evidence, the court or judge finds the additional charges reasonable. [RR 2023, c. 2, Pt. D, §56 (COR).]

SECTION HISTORY

RR 2023, c. 2, Pt. D, §56 (COR).

§1314-A. Compelling evidence in criminal or juvenile proceedings; immunity

In any criminal proceeding before a court or grand jury, or in any juvenile proceeding before a court, if a person refuses to answer questions or produce evidence of any kind on the ground that the person may be incriminated thereby, and if the attorney for the State, in writing and with the written

approval of the Attorney General or, in the event the prosecution is being conducted by the office of the district attorney, the written approval of either the Attorney General or the district attorney for that district, requests the court to order that person to answer the questions or produce the evidence, and the court after notice to the witness and hearing orders, unless the court finds to do so would be clearly contrary to the public interest, that person shall comply with the order. After complying, and if, but for this section, that person would have had the right to withhold the answers given or the evidence produced by that person, that person may not be prosecuted or subjected to penalty, forfeiture or adjudication for or on account of any transaction, matter or thing concerning which, in accordance with the order, that person gave answer or produced evidence. Failure to answer questions or produce evidence as ordered by the court following notice and hearing constitutes contempt of court. The person may nevertheless be prosecuted or subjected to penalty, forfeiture or adjudication for any perjury, false swearing or contempt committed in answering, or failing to answer, or in producing or failing to produce evidence, in accordance with the order. [PL 2003, c. 162, §1 (AMD).]

SECTION HISTORY

PL 1967, c. 526 (NEW). PL 1985, c. 386, §1 (AMD). PL 2003, c. 162, §1 (AMD).

§1315. Self-incrimination; failure to testify; spouse as witness

In all criminal trials, the accused shall, at the accused's own request but not otherwise, be a competent witness. The accused may not be compelled to testify on cross-examination to facts that would convict or furnish evidence to convict the accused of any other crime than that for which the accused is on trial. The fact that the accused does not testify on the accused's own behalf may not be taken as evidence of the accused's guilt. The spouse of the accused is a competent witness except in regard to marital communications. [RR 2023, c. 2, Pt. D, §57 (COR).]

SECTION HISTORY

PL 1969, c. 333 (AMD). RR 2023, c. 2, Pt. D, §57 (COR).

§1316. Depositions

(REPEALED)

SECTION HISTORY

PL 1965, c. 356, §52 (RP).

§1317. List of witnesses

The Attorney General, district attorney or foreperson 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, must be returned into the court by the foreperson before the jury is discharged and filed and entered on record by the clerk. The clerk may not make such list public until the criminal cases at such terms have been tried or otherwise disposed of. [PL 2003, c. 299, §3 (AMD).]

SECTION HISTORY

PL 1973, c. 567, §20 (AMD). PL 2003, c. 299, §3 (AMD).

§1318. Prosecuting attorneys

For purposes of this chapter, the term "prosecuting attorney" means: [PL 1979, c. 663, §106 (AMD).]

1. Attorney General. "Attorney General" where a criminal prosecution is brought by the Attorney General; and
[PL 1975, c. 775, §1 (NEW).]

2. District Attorney. "District Attorney" where a criminal prosecution is brought by a District Attorney.

[PL 1975, c. 775, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 775, §1 (NEW). PL 1979, c. 663, §106 (AMD).

§1319. Authorization of payments by a prosecuting attorney

For purposes of this chapter, when a prosecuting attorney is permitted to authorize payment of fees or expenses incurred on behalf of the State in a criminal prosecution, payment of those fees and expenses must be made by the proper authorities to the persons, municipalities or agencies to whom the payment is authorized upon certification to those authorities by the prosecuting attorney or the prosecuting attorney's designee that the payment is reasonable and necessary to the prosecution of a given criminal case. Payment may be made from the Extradition and Prosecution Expenses Account established in section 224-A. [PL 2013, c. 566, §4 (AMD).]

SECTION HISTORY

PL 1975, c. 775, §1 (NEW). PL 2013, c. 566, §4 (AMD).

§1320. Authorization of payment of witness fees of state witnesses in criminal prosecutions

In all criminal prosecutions in the Superior Court, payment of witness fees for state witnesses, fees and expenses payable on account of the services of police officers as witnesses and as complainants and fees and expenses payable on account of the services of police officers in serving criminal process must be made upon authorization by the prosecuting attorney or the prosecuting attorney's designee. The amount of the fees and expenses must be determined in accordance with these statutes. [RR 2023, c. 2, Pt. D, §58 (COR).]

1. Payments. Payments made under this section must be made first from the Extradition and Prosecution Expenses Account established in section 224-A and, if there are insufficient funds in that account, next from the county treasury upon authorization of the prosecuting attorney, unless otherwise expressly directed by law. Payments from the county treasury must be made from the sums set aside in the county budget for the payments on account of Superior Court criminal proceedings. [PL 2013, c. 566, §5 (AMD).]

2. Expenditures. In fixing the amount of direct expenditures by the counties in calendar year 1975 for the support of the Superior Court pursuant to Title 4, section 118, the Treasurer of State may not consider sums expended in criminal prosecutions in the Superior Court on account of witness fees for state witnesses, fees and expenses payable on account of the services of police officers as witnesses and as complainants and fees and expenses payable on account of the services of police officers in serving criminal process. [RR 2023, c. 2, Pt. D, §58 (COR).]

SECTION HISTORY

PL 1975, c. 775, §1 (NEW). PL 1977, c. 63 (AMD). PL 2013, c. 566, §5 (AMD). RR 2023, c. 2, Pt. D, §58 (COR).

§1321. Child witnesses in certain sex crime cases

1. Testimony of a child outside the presence of the defendant. Upon motion by the State prior to trial and with reasonable notice to the defendant, a court may allow a child who is 14 years of age or younger to testify outside the presence of the defendant pursuant to this section in a criminal proceeding concerning a crime under Title 17-A, chapter 11 or 12 in which the child is the alleged victim. [PL 2021, c. 395, §1 (NEW).]

2. Requirements for direct testimony outside the presence of the defendant. Direct testimony of a child outside the presence of the defendant under subsection 1 must meet the following requirements:

A. The testimony must be conducted by way of 2-way closed-circuit television or other audiovisual electronic means; [PL 2021, c. 395, §1 (NEW).]

B. The testimony must occur at a recognized children's advocacy center with only a victim or witness advocate present in the room in which the child is testifying; [PL 2021, c. 395, §1 (NEW).]

C. The opportunity for real-time cross-examination of the child must be provided to the defendant's attorney after the child's direct testimony; and [PL 2021, c. 395, §1 (NEW).]

D. The defendant must be able to observe the testimony of the child while the child is testifying and must be able to communicate with the defendant's attorney while the child is testifying. [PL 2021, c. 395, §1 (NEW).]
[PL 2021, c. 395, §1 (NEW).]

3. Exception. This section does not apply if the defendant is an attorney pro se or if the positive identification of the defendant is required.
[PL 2021, c. 395, §1 (NEW).]

SECTION HISTORY

PL 2021, c. 395, §1 (NEW).

SUBCHAPTER 2

COSTS AND FEES

§1361. Summons to witnesses

(REPEALED)

SECTION HISTORY

PL 1965, c. 356, §53 (RP).

§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.

§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.

SUBCHAPTER 3

OUT-OF-STATE WITNESSES

§1411. Short title

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

§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.

§1413. Summons to testify in another state

If a judge of a court of record in any state that by its laws has made provision for commanding persons within that state to attend and testify in this State certifies under the seal of the court that there is a criminal prosecution pending in the 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 that prosecution or grand jury investigation and that the person's presence will be required for a specified number of days, upon presentation of the certificate to any judge of a court of record in the county in which the person is, the 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. [RR 2023, c. 2, Pt. D, §59 (COR).]

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 the witness protection from arrest and the service of civil and criminal process, the judge shall issue a summons, 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 is prima facie evidence of all the facts stated therein. [RR 2023, c. 2, Pt. D, §59 (COR).]

If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure the witness's attendance in the requesting state, the judge may, in lieu of notification of the hearing, direct that the witness be forthwith brought before the judge for the hearing. The judge at the hearing being satisfied of the desirability of the custody and delivery, for which determination the certificate is prima facie proof of the desirability, may, in lieu of issuing subpoena or summons, order that the witness be forthwith taken into custody and delivered to an officer of the requesting state. [RR 2023, c. 2, Pt. D, §59 (COR).]

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 the witness is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, the witness must 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. [RR 2023, c. 2, Pt. D, §59 (COR).]

SECTION HISTORY

RR 2023, c. 2, Pt. D, §59 (COR).

§1414. Summons to testify in this State

If a person in any state that 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 that has commenced or is about to commence, a judge of the 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. The certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this State to ensure the witness's attendance in this State. This certificate must be presented to a judge of a court of record within whose territorial jurisdiction the witness is found. [RR 2023, c. 2, Pt. D, §60 (COR).]

If the witness is summoned to attend and testify in this State, the witness must 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 the witness is required to travel and attend as a witness. In addition, the 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 may 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 the witness, after coming into this State, fails without good cause to attend and testify as directed in the summons, the witness must 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. [RR 2023, c. 2, Pt. D, §60 (COR).]

SECTION HISTORY

RR 2023, c. 2, Pt. D, §60 (COR).

§1415. Exemption from arrest and service of process

If a person comes into this State in obedience to a summons directing the person to attend and testify in this State, the person may not while in this State pursuant to the summons be subject to arrest or the service of process, civil or criminal, in connection with matters that arose before the person's entrance into this State under the summons. [RR 2023, c. 2, Pt. D, §61 (COR).]

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 from that state, the person may not while so passing through this State be subject to arrest or the service of process, civil or criminal, in connection with matters that arose before the person's entrance into this State under the summons. [RR 2023, c. 2, Pt. D, §61 (COR).]

SECTION HISTORY

RR 2023, c. 2, Pt. D, §61 (COR).

SUBCHAPTER 4

PRISONERS AS WITNESSES

§1461. Definitions

As used in this subchapter: [PL 1967, c. 317 (NEW).]

1. Penal institutions. "Penal institutions" includes a jail, prison, penitentiary, house of correction or other place of penal detention.
[PL 1967, c. 317 (NEW).]

2. State. "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory of the United States.
[PL 1967, c. 317 (NEW).]

3. Witness. "Witness" means a person who is confined in a penal institution in any state and whose testimony is desired in another state in any criminal proceeding or investigation by a grand jury or in any criminal action before a court.

[PL 1967, c. 317 (NEW).]

SECTION HISTORY

PL 1967, c. 317 (NEW).

§1462. Summons to testify in another state

A judge of the state court of record in another state that by its laws has made provision for commanding persons confined in penal institutions within that state to attend and testify in this State may certify that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, that a person who is confined in a penal institution in this State may be a material witness in the proceeding, investigation or action and that the person's presence will be required during a specified time. Upon presentation of the certificate to any judge having jurisdiction over the person confined, and upon notice to the Attorney General, the judge in this State shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that the prisoner be produced before the judge at the hearing. [RR 2023, c. 2, Pt. D, §62 (COR).]

SECTION HISTORY

PL 1967, c. 317 (NEW). RR 2023, c. 2, Pt. D, §62 (COR).

§1463. Court order

If at the hearing the judge determines that the witness may be material and necessary, that the witness's attending and testifying are not adverse to the interests of this State or to the health or legal rights of the witness, that the laws of the state in which the witness is requested to testify will give the witness protection from arrest and the service of civil and criminal process because of any act committed prior to the witness's arrival in the state under the order and that as a practical matter the possibility is negligible that the witness may be subject to arrest or to the service of civil or criminal process in any state through which the witness will be required to pass, the judge shall issue an order, with a copy of the certificate attached, directing the witness to attend and testify, directing the person having custody of the witness to produce the witness, in the court where the criminal action is pending or where the grand jury investigation is pending, at a time and place specified in the order, and prescribing such conditions as the judge determines. [RR 2023, c. 2, Pt. D, §63 (COR).]

SECTION HISTORY

PL 1967, c. 317 (NEW). RR 2023, c. 2, Pt. D, §63 (COR).

§1464. Terms and conditions

The order to the witness and to the person having custody of the witness must provide for the return of the witness at the conclusion of the witness's testimony, proper safeguards on the witness's custody and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness and may prescribe such other conditions as the judge thinks proper or necessary. The order may not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed. [RR 2023, c. 2, Pt. D, §64 (COR).]

SECTION HISTORY

PL 1967, c. 317 (NEW). RR 2023, c. 2, Pt. D, §64 (COR).

§1465. Exceptions

This subchapter does not apply to any person in this State confined as mentally ill. [PL 1967, c. 317 (NEW).]

SECTION HISTORY

PL 1967, c. 317 (NEW).

§1466. Summon to testify in this State

If a person confined in a penal institution in any other state may be a material witness in a criminal action pending in a court of record or in a grand jury investigation in this State, a judge of the court may certify that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, that a person who is confined in a penal institution in the other state may be a material witness in the proceeding, investigation or action and that the person's presence will be required during a specified time. The certificate must be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined, and a notice must be given to the attorney general of the state in which the prisoner is confined. [RR 2023, c. 2, Pt. D, §65 (COR).]

SECTION HISTORY

PL 1967, c. 317 (NEW). RR 2023, c. 2, Pt. D, §65 (COR).

§1467. Compliance

The judge of the court in this State may enter an order directing compliance with the terms and conditions prescribed by the judge of the state in which the witness is confined. [PL 1967, c. 317 (NEW).]

SECTION HISTORY

PL 1967, c. 317 (NEW).

§1468. 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 State or another state, the witness is not while in this State pursuant to the order subject to arrest or the service of process, civil or criminal, because of any act committed prior to the witness's arrival in this State under the order. [RR 2023, c. 2, Pt. D, §66 (COR).]

SECTION HISTORY

PL 1967, c. 317 (NEW). RR 2023, c. 2, Pt. D, §66 (COR).

§1469. Uniformity of interpretation

This subchapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it. [PL 1967, c. 317 (NEW).]

SECTION HISTORY

PL 1967, c. 317 (NEW).

§1470. Short title

This subchapter may be cited as the "Uniform Rendition of Prisoners as Witnesses in Criminal Proceedings Act." [PL 1967, c. 317 (NEW).]

SECTION HISTORY

PL 1967, c. 317 (NEW).

§1471. Severability clause

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the subchapter which can be given effect without the invalid provision or application, and to this end the provisions of this subchapter are severable. [PL 1967, c. 317 (NEW).]

SECTION HISTORY

PL 1967, c. 317 (NEW).

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