

**Chapter 21**  
**Uniform Act to Secure the Attendance of Witnesses**  
**from Without a State in Criminal Proceedings**

**77-21-1 Short title -- Construction.**

This chapter may be cited as the "Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings." It shall be interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

Enacted by Chapter 15, 1980 General Session

**77-21-2 Procedure to secure attendance in another state.**

If a judge of a court of record in any state, which by its laws has made provisions 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 the prosecution or grand jury investigation and that his presence will be required for a specified number of days, upon presentation of the certificate to any judge of a court of record within this state in the county in which the person is found, the judge shall fix a time and place for a hearing and 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 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 him protection from arrest and the service of civil and criminal process, he 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 shall be prima facie evidence of all the facts stated therein.

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

If the witness who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of 20 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$30 for each day 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.

Enacted by Chapter 15, 1980 General Session

**77-21-3 Procedure to secure attendance of witness from without 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 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 assure his attendance in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

If the witness is summoned to attend and testify in this state he shall be tendered such sum as may be required by the laws of the state in which the witness is found, not exceeding the sum of 20 cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$30 for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of 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 the 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.

Enacted by Chapter 15, 1980 General Session

**77-21-4 Fees.**

Whenever a judge of a court of record of this state issues a certificate under the provisions of this chapter to obtain the attendance of a witness for the prosecution from without the state in a criminal prosecution or grand jury investigation commenced or about to commence he shall designate therein a suitable peace officer of this state to present the certificate to the proper officer or tribunal of the state wherein the witness is found and to tender to the witness his per diem and mileage fees.

The officer shall exhibit the certificate to the county auditor of the county in which the criminal proceeding is pending and the auditor shall draw his warrant upon the county treasurer in favor of the officer in the amount to be tendered the witness. The officer shall be liable upon his official bond for the proper disposition of the money received.

In all cases in which the officer is required to travel in order to present the certificate and tender fees, his actual and necessary traveling expenses shall be paid out of the fund from which witnesses for the prosecution in the criminal proceeding are paid.

Enacted by Chapter 15, 1980 General Session

**77-21-5 Witnesses not subject to arrest or 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.

Enacted by Chapter 15, 1980 General Session