

78B-1-140 Liability of officer making arrest.

- (1) An officer is not liable for making the arrest in ignorance of the facts creating the exemption, but is liable for any subsequent detention of the witness, if the witness claims the exemption and makes an affidavit stating:
 - (a) he has been served with a subpoena to attend as a witness before a court, officer or other person, specifying the same, the place of attendance and the action or proceeding in which the subpoena was issued;
 - (b) he has not been served by his own procurement, with the intention of avoiding an arrest; and
 - (c) he is at the time going to the place of attendance, returning therefrom, or remaining there in obedience to the subpoena.
- (2) The affidavit may be taken by the officer, and exonerates him from liability for discharging the witness when arrested.

Renumbered and Amended by Chapter 3, 2008 General Session