

CIVIL PRACTICE AND REMEDIES CODE  
TITLE 2. TRIAL, JUDGMENT, AND APPEAL  
SUBTITLE B. TRIAL MATTERS  
CHAPTER 22. WITNESSES

SUBCHAPTER A. WITNESSES

Sec. 22.001. WITNESS FEES. (a) Except as provided by Section 22.002, a witness is entitled to 10 dollars for each day the witness attends court. This fee includes the entitlement for travel and the witness is not entitled to any reimbursement for mileage traveled.

(b) The party who summons the witness shall pay that witness's fee for one day, as provided by this section, at the time the subpoena is served on the witness.

(c) The witness fee must be taxed in the bill of costs as other costs.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 103, Sec. 1, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 449, Sec. 16, eff. Sept. 1, 1993.

Sec. 22.002. DISTANCE FOR SUBPOENAS. A witness who is represented to reside 150 miles or less from a county in which a suit is pending or who may be found within that distance at the time of trial on the suit may be subpoenaed in the suit.

Added by Acts 1993, 73rd Leg., ch. 103, Sec. 1, eff. Jan. 1, 1994.

Sec. 22.003. FEES FOR WITNESSES SUMMONED BY A STATE AGENCY.

(a) In this section:

(1) "Commercial lodging establishment" means a motel, hotel, inn, apartment, or similar entity that offers lodging to the public in exchange for compensation.

(2) "Commercial transportation company" means an entity that offers transportation of people or goods to the public in exchange for compensation.

(b) A witness summoned by a state agency is entitled to receive from the agency:

(1) one dollar for each day the witness attends court;

(2) mileage at the rate provided by law for state employees if the witness uses the witness's personally owned or leased motor vehicle to attend court;

(3) reimbursement of the witness's transportation expenses if the witness does not use the witness's personally owned or leased motor vehicle to attend court; and

(4) reimbursement of the witness's meal and lodging expenses while attending court if the court is at least 25 miles from the witness's place of residence.

(c) A state agency may directly pay a commercial transportation company for the transportation expenses and a commercial lodging establishment for the lodging expenses of a witness if this section otherwise requires the agency to reimburse the witness for those expenses.

(d) A state agency may not pay a commercial transportation company or a commercial lodging establishment or reimburse a witness for transportation, meal, or lodging expenses under this section at a rate that exceeds the maximum rates provided by law for state employees.

(e) After receiving the witness's affidavit, the court clerk shall issue a certificate showing the fees incurred under this section.

(f) The witness fees must be taxed in the bill of costs as other costs.

Added by Acts 1993, 73rd Leg., ch. 449, Sec. 17, eff. Sept. 1, 1993.  
Renumbered from Civil Practice & Remedies Code Sec. 22.002 by Acts 1995, 74th Leg., ch. 76, Sec. 17.01(2), eff. Sept. 1, 1995.

Sec. 22.004. FEE FOR PRODUCTION OR CERTIFICATION OF DOCUMENTS. (a) A custodian of a record who receives a request for production or certification of a record under a subpoena, a request for production, or other instrument issued under the authority of a tribunal that compels production or certification of a record is entitled to \$1 for production or certification of the record. If more than one record is produced or certified, the custodian of the records is entitled to only one fee under this section.

(b) A custodian of a record who produces or certifies a record under Subsection (a), but who is not required to appear in court, is not entitled to a witness fee under Section 22.001.

(c) The party who requests production or certification of a record shall pay the fee required for the record, as provided by this section, at the time the subpoena, request, or other instrument is served.

(d) The fee required by this section must be taxed in the bill of costs as other costs.

(e) The fee required by this section is in addition to any other fee imposed by law for the production or certification of a record.

Added by Acts 1995, 74th Leg., ch. 452, Sec. 1, eff. June 9, 1995.

#### SUBCHAPTER B. PRIVILEGES

Sec. 22.011. PRIVILEGE FROM ARREST. (a) A witness is privileged from arrest while attending, going to, and returning from court.

(b) The privilege provided by this section extends for a period computed by allowing one day of travel for each 150 miles of the distance from the courthouse to the witness's residence.

(c) This section does not apply to an arrest for a felony, treason, or breach of the peace.

Acts 1985, 69th Leg., ch. 959, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1993, 73rd Leg., ch. 103, Sec. 1, eff. Jan. 1, 1994.

#### SUBCHAPTER C. JOURNALIST'S QUALIFIED TESTIMONIAL PRIVILEGE IN CIVIL PROCEEDINGS

Sec. 22.021. DEFINITIONS. In this subchapter:

(1) "Communication service provider" means a person or the parent, subsidiary, division, or affiliate of a person who transmits information chosen by a customer by electronic means, including:

(A) a telecommunications carrier, as defined by Section 3, Communications Act of 1934 (47 U.S.C. Section 153);

(B) a provider of information service, as defined by Section 3, Communications Act of 1934 (47 U.S.C. Section 153);

(C) a provider of interactive computer service, as defined by Section 230, Communications Act of 1934 (47 U.S.C. Section 230); and

(D) an information content provider, as defined by Section 230, Communications Act of 1934 (47 U.S.C. Section 230).

(2) "Journalist" means a person, including a parent, subsidiary, division, or affiliate of a person, who for a substantial portion of the person's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information that is disseminated by a news medium or communication service provider and includes:

(A) a person who supervises or assists in gathering, preparing, and disseminating the news or information; or

(B) notwithstanding the foregoing, a person who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person obtained or prepared the requested information, or a person who at the time the person obtained or prepared the requested information:

(i) is earning a significant portion of the person's livelihood by obtaining or preparing information for dissemination by a news medium or communication service provider; or

(ii) was serving as an agent, assistant, employee, or supervisor of a news medium or communication service provider.

(3) "News medium" means a newspaper, magazine or periodical, book publisher, news agency, wire service, radio or television station or network, cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

- (A) print;
- (B) television;
- (C) radio;
- (D) photographic;
- (E) mechanical;
- (F) electronic; and
- (G) other means, known or unknown, that are accessible to the public.

(4) "Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant, including a proceeding under Rule 202, Texas Rules of Civil Procedure.

(5) "Public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed the person's duties:

- (A) an officer, employee, or agent of government;
- (B) a juror;
- (C) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;
- (D) an attorney or notary public when participating in the performance of a governmental function; or
- (E) a person who is performing a governmental function under a claim of right, although the person is not legally qualified to do so.

Added by Acts 2009, 81st Leg., R.S., Ch. 29 (H.B. 670), Sec. 1, eff. May 13, 2009.

Sec. 22.022. PURPOSE. The purpose of this subchapter is to increase the free flow of information and preserve a free and active press and, at the same time, protect the right of the public to effective law enforcement and the fair administration of justice.

Added by Acts 2009, 81st Leg., R.S., Ch. 29 (H.B. 670), Sec. 1, eff. May 13, 2009.

Sec. 22.023. PRIVILEGE. (a) Except as otherwise provided

by this subchapter, a judicial, legislative, administrative, or other body with the authority to issue a subpoena or other compulsory process may not compel a journalist to testify regarding or to produce or disclose in an official proceeding:

(1) any confidential or nonconfidential information, document, or item obtained or prepared while acting as a journalist; or

(2) the source of any information, document, or item described by Subdivision (1).

(b) A subpoena or other compulsory process may not compel the parent, subsidiary, division, or affiliate of a communication service provider or news medium to disclose the information, documents, or items or the source of any information, documents, or items that are privileged from disclosure under Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 29 (H.B. 670), Sec. 1, eff. May 13, 2009.

Sec. 22.024. LIMITED DISCLOSURE GENERALLY. After notice and an opportunity to be heard, a court may compel a journalist, a journalist's employer, or a person with an independent contract with a journalist to testify regarding or to produce or disclose any information, document, or item or the source of any information, document, or item obtained while acting as a journalist, if the person seeking the information, document, or item or the source of any information, document, or item makes a clear and specific showing that:

(1) all reasonable efforts have been exhausted to obtain the information from alternative sources;

(2) the subpoena is not overbroad, unreasonable, or oppressive and, when appropriate, will be limited to the verification of published information and the surrounding circumstances relating to the accuracy of the published information;

(3) reasonable and timely notice was given of the demand for the information, document, or item;

(4) in this instance, the interest of the party subpoenaing the information outweighs the public interest in

gathering and dissemination of news, including the concerns of the journalist;

(5) the subpoena or compulsory process is not being used to obtain peripheral, nonessential, or speculative information; and

(6) the information, document, or item is relevant and material to the proper administration of the official proceeding for which the testimony, production, or disclosure is sought and is essential to the maintenance of a claim or defense of the person seeking the testimony, production, or disclosure.

Added by Acts 2009, 81st Leg., R.S., Ch. 29 (H.B. 670), Sec. 1, eff. May 13, 2009.

Sec. 22.025. NOTICE. An order to compel testimony, production, or disclosure to which a journalist has asserted a privilege under this subchapter may be issued only after timely notice to the journalist, the journalist's employer, or a person who has an independent contract with the journalist and a hearing. The order must include clear and specific findings as to the showing made by the person seeking the testimony, production, or disclosure and the clear and specific evidence on which the court relied in issuing the court's order.

Added by Acts 2009, 81st Leg., R.S., Ch. 29 (H.B. 670), Sec. 1, eff. May 13, 2009.

Sec. 22.026. PUBLICATION OF PRIVILEGED INFORMATION. Publication or dissemination by a news medium or communication service provider of information, documents, or items privileged under this subchapter is not a waiver of the journalist's privilege.

Added by Acts 2009, 81st Leg., R.S., Ch. 29 (H.B. 670), Sec. 1, eff. May 13, 2009.

Sec. 22.027. NEWS MEDIA RECORDINGS. Extrinsic evidence of the authenticity of evidence as a condition precedent to the admissibility of the evidence in a civil proceeding is not required with respect to a recording that purports to be a broadcast by a

radio or television station that holds a license issued by the Federal Communications Commission at the time of the recording. The court may take judicial notice of the recording license as provided by Rule 201, Texas Rules of Evidence.

Added by Acts 2009, 81st Leg., R.S., Ch. 29 (H.B. [670](#)), Sec. 1, eff. May 13, 2009.