

CODE OF CRIMINAL PROCEDURE
TITLE 1. CODE OF CRIMINAL PROCEDURE
CHAPTER 24. SUBPOENA AND ATTACHMENT

Art. 24.01. ISSUANCE OF SUBPOENAS. (a) A subpoena may summon one or more persons to appear:

(1) before a court to testify in a criminal action at a specified term of the court or on a specified day; or

(2) on a specified day:

(A) before an examining court;

(B) at a coroner's inquest;

(C) before a grand jury;

(D) at a habeas corpus hearing; or

(E) in any other proceeding in which the person's testimony may be required in accordance with this code.

(b) The person named in the subpoena to summon the person whose appearance is sought must be:

(1) a peace officer; or

(2) a least 18 years old and, at the time the subpoena is issued, not a participant in the proceeding for which the appearance is sought.

(c) A person who is not a peace officer may not be compelled to accept the duty to execute a subpoena, but if he agrees in writing to accept that duty and neglects or refuses to serve or return the subpoena, he may be punished in accordance with Article 2.16 of this code.

(d) A court or clerk issuing a subpoena shall sign the subpoena and indicate on it the date it was issued, but the subpoena need not be under seal.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.
Amended by Acts 1981, 67th Leg., p. 503, ch. 209, Sec. 1, eff. Sept. 1, 1981.

Art. 24.011. SUBPOENAS; CHILD WITNESSES. (a) If a witness is younger than 18 years, the court may issue a subpoena directing a person having custody, care, or control of the child to produce the child in court.

(b) If a person, without legal cause, fails to produce the child in court as directed by a subpoena issued under this article, the court may impose on the person penalties for contempt provided by this chapter. The court may also issue a writ of attachment for the person and the child, in the same manner as other writs of attachment are issued under this chapter.

(b-1) If the defendant or the attorney representing the state requests the issuance of an attachment under this article, other than an attachment for a witness described by Subsection (c), the request must include the applicable affidavit described by Article [24.12](#).

(c) If the witness is in a placement in the custody of the Texas Juvenile Justice Department, a juvenile secure detention facility, or a juvenile secure correctional facility, the court may issue a bench warrant or direct that an attachment issue to require a peace officer or probation officer to secure custody of the person at the placement and produce the person in court. When the person is no longer needed as a witness or the period prescribed by Subsection (d-1) has expired without extension, the court shall order the peace officer or probation officer to return the person to the placement from which the person was released.

(d) The court may order that the person who is the witness be detained in a certified juvenile detention facility if the person is younger than 17 years of age. If the person is at least 17 years of age, the court may order that the person be detained without bond in an appropriate county facility for the detention of adults accused of criminal offenses.

(d-1) A witness younger than 17 years of age held in custody under this article may be placed in a certified juvenile detention facility for a period not to exceed 30 days. The length of placement may be extended in increments of 30 days by the court that issued the original bench warrant. If the placement is not extended, the period under this article expires and the witness may be returned as provided by Subsection (c).

(e) In this article, "secure detention facility" and "secure correctional facility" have the meanings assigned by Section [51.02](#), Family Code.

Acts 1987, 70th Leg., ch. 520, Sec. 1, eff. June 17, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. 1575), Sec. 32, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 1299 (H.B. 2862), Sec. 2, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 292 (S.B. 291), Sec. 2, eff. September 1, 2017.

Art. 24.02. SUBPOENA DUCES TECUM. If a witness have in his possession any instrument of writing or other thing desired as evidence, the subpoena may specify such evidence and direct that the witness bring the same with him and produce it in court.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.03. SUBPOENA AND APPLICATION THEREFOR. (a) Before the clerk or his deputy shall be required or permitted to issue a subpoena in any felony case pending in any district or criminal district court of this State of which he is clerk or deputy, the defendant or his attorney or the State's attorney shall make an application in writing or by electronic means to such clerk for each witness desired. Such application shall state the name of each witness desired, the location and vocation, if known, and that the testimony of said witness is material to the State or to the defense. The application must be filed with the clerk and placed with the papers in the cause or, if the application is filed electronically, placed with any other electronic information linked to the number of the cause. The application must also be made available to both the State and the defendant. Except as provided by Subsection (b), as far as is practical such clerk shall include in one subpoena the names of all witnesses for the State and for defendant, and such process shall show that the witnesses are summoned for the State or for the defendant. When a witness has been served with a subpoena, attached or placed under bail at the instance of either party in a particular case, such execution of process shall inure to the benefit of the opposite party in such case in the event such opposite party desires to use such witness on

the trial of the case, provided that when a witness has once been served with a subpoena, no further subpoena shall be issued for said witness.

(b) If the defendant is a member of a combination as defined by Section 71.01, Penal Code, the clerk shall issue for each witness a subpoena that does not include a list of the names of all other witnesses for the State or the defendant.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 10.01, eff. Sept. 1, 1993; Subsec. (a) amended by Acts 1999, 76th Leg., ch. 580, Sec. 4, eff. Sept. 1, 1999; amended by Acts 1999, 76th Leg., ch. 614, Sec. 2, eff. June 18, 1999.

Art. 24.04. SERVICE AND RETURN OF SUBPOENA. (a) A subpoena is served by:

(1) reading the subpoena in the hearing of the witness;
(2) delivering a copy of the subpoena to the witness;
(3) electronically transmitting a copy of the subpoena, acknowledgment of receipt requested, to the last known electronic address of the witness; or

(4) mailing a copy of the subpoena by certified mail, return receipt requested, to the last known address of the witness unless:

(A) the applicant for the subpoena requests in writing that the subpoena not be served by certified mail; or

(B) the proceeding for which the witness is being subpoenaed is set to begin within seven business days after the date the subpoena would be mailed.

(b) The officer having the subpoena shall make due return thereof, showing the time and manner of service, if served under Subsection (a)(1) or (2) of this article, the acknowledgment of receipt, if served under Subsection (a)(3) of this article, or the return receipt, if served under Subsection (a)(4) of this article. If the subpoena is not served, the officer shall show in his return the cause of his failure to serve it. If receipt of an electronically transmitted subpoena is not acknowledged within a reasonable time or a mailed subpoena is returned undelivered, the officer shall use due diligence to locate and serve the witness. If

the witness could not be found, the officer shall state the diligence he has used to find him, and what information he has as to the whereabouts of the witness.

(c) A subpoena served under Subsection (a)(3) of this article must be accompanied by notice that an acknowledgment of receipt of the subpoena must be made in a manner enabling verification of the person acknowledging receipt.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.
Amended by Acts 1979, 66th Leg., p. 770, ch. 336, Sec. 1, eff. Aug. 27, 1979.

Amended by Acts 1995, 74th Leg., ch. 374, Sec. 1, eff. June 8, 1995;
Acts 1999, 76th Leg., ch. 580, Sec. 5, eff. Sept. 1, 1999.

Art. 24.05. REFUSING TO OBEY. If a witness refuses to obey a subpoena, he may be fined at the discretion of the court, as follows: In a felony case, not exceeding five hundred dollars; in a misdemeanor case, not exceeding one hundred dollars.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.06. WHAT IS DISOBEDIENCE OF A SUBPOENA. It shall be held that a witness refuses to obey a subpoena:

1. If he is not in attendance on the court on the day set apart for taking up the criminal docket or on any day subsequent thereto and before the final disposition or continuance of the particular case in which he is a witness;

2. If he is not in attendance at any other time named in a writ; and

3. If he refuses without legal cause to produce evidence in his possession which he has been summoned to bring with him and produce.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.07. FINE AGAINST WITNESS CONDITIONAL. When a fine is entered against a witness for failure to appear and testify, the judgment shall be conditional; and a citation shall issue to him to show cause, at the term of the court at which said fine is entered, or at the first term thereafter, at the discretion of the judge of

said court, why the same should not be final; provided, citation shall be served upon said witness in the manner and for the length of time prescribed for citations in civil cases.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.08. WITNESS MAY SHOW CAUSE. A witness cited to show cause, as provided in the preceding Article, may do so under oath, in writing or verbally, at any time before judgment final is entered against him; but if he fails to show cause within the time limited for answering in civil actions, a judgment final by default shall be entered against him.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.09. COURT MAY REMIT FINE. It shall be within the discretion of the court to judge of the sufficiency of an excuse rendered by a witness, and upon the hearing the court shall render judgment against the witness for the whole or any part of the fine, or shall remit the fine altogether, as to the court may appear proper and right. Said fine shall be collected as fines in misdemeanor cases.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.10. WHEN WITNESS APPEARS AND TESTIFIES. When a fine has been entered against a witness, but no trial of the cause takes place, and such witness afterward appears and testifies upon the trial thereof, it shall be discretionary with the judge, though no good excuse be rendered, to reduce the fine or remit it altogether; but the witness, in such case, shall, nevertheless, be adjudged to pay all the costs accruing in the proceeding against him by reason of his failure to attend.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.11. REQUISITES OF AN "ATTACHMENT". An "attachment" is a writ issued by a clerk of a court under seal, or by any magistrate, or by the foreman of a grand jury, in any criminal action or proceeding authorized by law, commanding some peace officer to take the body of a witness and bring him before such

court, magistrate or grand jury on a day named, or forthwith, to testify in behalf of the State or of the defendant, as the case may be. It shall be dated and signed officially by the officer issuing it.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.111. HEARING REQUIRED BEFORE ISSUANCE OF CERTAIN WRITS OF ATTACHMENT. (a) This article applies only to an attachment that is requested to be issued under:

(1) Article 24.011, if an affidavit is required under Article 24.011(b-1); or

(2) Article 24.12, 24.14, or 24.22.

(b) Notwithstanding any other law, a writ of attachment to which this article applies may only be issued by the judge of the court in which the witness is to testify if the judge determines, after a hearing, that the issuance of the attachment is in the best interest of justice.

(c) In making a determination under Subsection (b), the judge shall consider the affidavit of the attorney representing the state or the defendant, as applicable, that was submitted with the request for the issuance of the attachment.

(d) The court shall appoint an attorney to represent the witness at the hearing under Subsection (b), including a hearing conducted outside the presence of the witness.

Added by Acts 2017, 85th Leg., R.S., Ch. 292 (S.B. 291), Sec. 3, eff. September 1, 2017.

Art. 24.12. WHEN ATTACHMENT MAY ISSUE. When a witness who resides in the county of the prosecution has been duly served with a subpoena to appear and testify in any criminal action or proceeding fails to so appear, the attorney representing the state or the defendant may request that the court issue an attachment for the witness. The request must be filed with the clerk of the court and must include an affidavit of the attorney representing the state or the defendant, as applicable, stating that the affiant has good reason to believe, and does believe, that the witness is a material witness.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 292 (S.B. 291), Sec. 4, eff. September 1, 2017.

Art. 24.13. ATTACHMENT FOR CONVICT WITNESSES. All persons who have been or may be convicted in this state, and who are confined in an institution operated by the Texas Department of Criminal Justice or any jail in this state, shall be permitted to testify in person in any court for the state and the defendant when the presiding judge finds, after hearing, that the ends of justice require their attendance, and directs that an attachment issue to accomplish the purpose, notwithstanding any other provision of this code. Nothing in this article shall be construed as limiting the power of the courts of this state to issue bench warrants.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.013, eff. September 1, 2009.

Art. 24.131. NOTIFICATION TO DEPARTMENT OF CRIMINAL JUSTICE. If after the Texas Department of Criminal Justice transfers a defendant or inmate to a county under Article 24.13 and before that person is returned to the department the person is released on bail or the charges on which the person was convicted and for which the person was transferred to the department are dismissed, the county shall immediately notify an officer designated by the department of the release on bail or the dismissal.

Added by Acts 2001, 77th Leg., ch. 857, Sec. 1, eff. June 14, 2001.

Art. 24.14. ATTACHMENT FOR RESIDENT WITNESS.
(a) Regardless of whether the witness has disobeyed a subpoena, if a witness who resides in the county of the prosecution may be about to move out of the county, the defendant or the attorney representing the state may request that the court issue an attachment for the witness. The request must be filed with the clerk of the court and must include the applicable affidavit

described by Article 24.12, except that the affidavit must additionally state that the affiant has good reason to believe, and does believe, that the witness is about to move out of the county.

(b) If an attachment is issued under this article in a misdemeanor case, when the witness makes oath that the witness cannot give surety, the officer executing the attachment shall take the witness's personal bond.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 292 (S.B. 291), Sec. 5, eff. September 1, 2017.

Art. 24.15. TO SECURE ATTENDANCE BEFORE GRAND JURY. At any time before the first day of any term of the district court, the clerk, upon application of the State's attorney, shall issue a subpoena for any witness who resides in the county. If at the time such application is made, such attorney files a sworn application that he has good reason to believe and does believe that such witness is about to move out of the county, then said clerk shall issue an attachment for such witness to be and appear before said district court on the first day thereof to testify as a witness before the grand jury. Any witness so summoned, or attached, who shall fail or refuse to obey a subpoena or attachment, shall be punished by the court by a fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.16. APPLICATION FOR OUT-COUNTY WITNESS. Where, in misdemeanor cases in which confinement in jail is a permissible punishment, or in felony cases, a witness resides out of the county in which the prosecution is pending, the State or the defendant shall be entitled, either in term-time or in vacation, to a subpoena to compel the attendance of such witness on application to the proper clerk or magistrate. Such application shall be in the manner and form as provided in Article 24.03. Witnesses in such misdemeanor cases shall be compensated in the same manner as in felony cases. This Article shall not apply to more than one

character witness in a misdemeanor case.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.17. DUTY OF OFFICER RECEIVING SAID SUBPOENA. The officer receiving said subpoena shall execute the same by delivering a copy thereof to each witness therein named. He shall make due return of said subpoena, showing therein the time and manner of executing the same, and if not executed, such return shall show why not executed, the diligence used to find said witness, and such information as the officer has as to the whereabouts of said witness.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.18. SUBPOENA RETURNABLE FORTHWITH. When a subpoena is returnable forthwith, the officer shall immediately serve the witness with a copy of the same; and it shall be the duty of said witness to immediately make his appearance before the court, magistrate or other authority issuing the same. If said witness makes affidavit of his inability from lack of funds to appear in obedience to said subpoena, the officer executing the same shall provide said witness, if said subpoena be issued as provided in Article 24.16, with the necessary funds or means to appear in obedience to said subpoena, taking his receipt therefor, and showing in his return on said subpoena, under oath, the amount furnished to said witness, together with the amount of his fees for executing said subpoena.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.19. CERTIFICATE TO OFFICER. The clerk, magistrate, or foreman of the grand jury issuing said process, immediately upon the return of said subpoena, if issued as provided in Article 24.16, shall issue to such officer a certificate for the amount furnished such witness, together with the amount of his fees for executing the same, showing the amount of each item; which certificate shall be approved by the district judge and recorded by the district clerk in a book kept for that purpose; and said certificate transmitted to the officer executing such subpoena, which amount shall be paid by

the State, as costs are paid in other criminal matters.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.20. SUBPOENA RETURNABLE AT FUTURE DATE. If the subpoena be returnable at some future date, the officer shall have authority to take bail of such witness for his appearance under said subpoena, which bond shall be returned with such subpoena, and shall be made payable to the State of Texas, in the amount in which the witness and his surety, if any, shall be bound and conditioned for the appearance of the witness at the time and before the court, magistrate or grand jury named in said subpoena, and shall be signed by the witness and his sureties. If the witness refuses to give bond, he shall be kept in custody until such time as he starts in obedience to said subpoena, when he shall be, upon affidavit being made, provided with funds necessary to appear in obedience to said subpoena.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.21. STATING BAIL IN SUBPOENA. The court or magistrate issuing said subpoena may direct therein the amount of the bail to be required. The officer may fix the amount if not specified, and in either case, shall require sufficient security, to be approved by himself.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.22. WITNESS FINED AND ATTACHED. (a) If a witness summoned from outside the county refuses to obey a subpoena, the witness shall be fined by the court or magistrate not exceeding five hundred dollars, which fine and judgment shall be final, unless set aside after due notice to show cause why it should not be final, which notice may immediately issue, requiring the defaulting witness to appear at once or at the next term of the court, in the discretion of the magistrate issuing the subpoena, to answer for the default.

(b) At the time a fine is imposed under Subsection (a), on request of the defendant or the attorney representing the state, the court may cause to be issued an attachment for the witness,

directed to the proper county, commanding the officer to whom the attachment is directed to take the witness into custody and have the witness before the court at the time specified in the attachment; in which case the witness shall receive no fees, unless it appears to the court that the disobedience is excusable, when the witness may receive the same pay as if the witness had not been attached.

(c) A request for the issuance of an attachment under Subsection (b) must include the applicable affidavit described by Article 24.12.

(d) The fine when made final and all related costs shall be collected in the same manner as in other criminal cases. The fine and judgment may be set aside in vacation or at the time or any subsequent term of the court for good cause shown, after the witness testifies or has been discharged.

(e) The following words shall be written or printed on the face of a subpoena for an out-of-county witness: "A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases."

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 292 (S.B. 291), Sec. 6, eff. September 1, 2017.

Art. 24.221. AFFIDAVIT REGARDING CONFINEMENT. As soon as practicable after the sheriff takes custody of a witness pursuant to an attachment issued as provided by Article 24.111, the sheriff shall submit an affidavit to the issuing court stating that the sheriff has taken custody of the witness.

Added by Acts 2017, 85th Leg., R.S., Ch. 292 (S.B. 291), Sec. 7, eff. September 1, 2017.

Art. 24.222. HEARING DURING CONFINEMENT OF WITNESS. (a) A witness who has been confined for at least 24 hours pursuant to an attachment issued as provided by Article 24.111 may request a hearing in the issuing court regarding whether the continued confinement of the witness is necessary. The court shall grant the

request and hold the hearing as soon as practicable.

(b) Any subsequent request for a hearing may be granted only if the court determines that holding the hearing is in the best interest of justice.

(c) The attorney appointed for the witness under Article [24.111](#) shall represent the witness at a hearing under this article. Added by Acts 2017, 85th Leg., R.S., Ch. 292 (S.B. [291](#)), Sec. 7, eff. September 1, 2017.

Art. 24.23. WITNESS RELEASED. A witness who is in custody for failing to give bail shall be at once released upon giving bail required.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.24. BAIL FOR WITNESS. Witnesses on behalf of the State or defendant may, at the request of either party, be required to enter into bail in an amount to be fixed by the court to appear and testify in a criminal action; but if it shall appear to the court that any witness is unable to give security upon such bail, he shall be released without security.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.25. PERSONAL BOND OF WITNESS. When it appears to the satisfaction of the court that personal bond of the witness will insure his attendance, no security need be required of him; but no bond without security shall be taken by any officer.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.26. ENFORCING FORFEITURE. The bond of a witness may be enforced against him and his sureties, if any, in the manner pointed out in this Code for enforcing the bond of a defendant in a criminal case.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 24.27. NO SURRENDER AFTER FORFEITURE. The sureties of a witness have no right to discharge themselves by the surrender of the witness after the forfeiture of their bond.

Art. 24.28. UNIFORM ACT TO SECURE ATTENDANCE OF WITNESSES FROM WITHOUT STATE.

Sec. 1. SHORT TITLE. This Act may be cited as the "Uniform Act to Secure the Attendance of Witnesses from Without the State in Criminal Proceedings".

Sec. 2. DEFINITIONS. "Witness" as used in this Act 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.

The word "State" shall include any territory of the United States and the District of Columbia.

The word "summons" shall include a subpoena, order or other notice requiring the appearance of a witness.

Sec. 3. SUMMONING WITNESS IN THIS STATE TO TESTIFY IN ANOTHER STATE. (a) 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.

(b) 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

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.

(c) 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; and 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.

(d) If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the compensation for nonresident witnesses authorized and provided for by Article 35.27 of this Code, 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.

Sec. 4. WITNESS FROM ANOTHER STATE SUMMONED TO TESTIFY IN THIS STATE. (a) 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 in the county in which the witness is found.

(b) If the witness is summoned to attend and testify in this State he shall be tendered the compensation for nonresident witnesses authorized by Article 35.27 of this Code, together with such additional compensation, if any, required by the other State for compliance. 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 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.

Sec. 5. 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.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.
Amended by Acts 1973, 63rd Leg., p. 1285, ch. 477, Sec. 1, eff. Aug. 27, 1973.

Art. 24.29. UNIFORM ACT TO SECURE RENDITION OF PRISONERS IN CRIMINAL PROCEEDINGS

Sec. 1. SHORT TITLE. This article may be cited as the "Uniform Act to Secure Rendition of Prisoners in Criminal Proceedings."

Sec. 2. DEFINITIONS. In this Act:

(1) "Penal institution" means a jail, prison, penitentiary, house of correction, or other place of penal detention.

(2) "State" means a state of the United States, the District

of Columbia, the Commonwealth of Puerto Rico, and any territory of the United States.

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

Sec. 3. SUMMONING WITNESS IN THIS STATE TO TESTIFY IN ANOTHER STATE. (a) A judge of a state court of record in another state, which 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:

(1) there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court;

(2) a person who is confined in a penal institution in this state may be a material witness in the proceeding, investigation, or action; and

(3) his presence will be required during a specified time.

(b) On presentation of the certificate to any judge having jurisdiction over the person confined and on 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 him at the hearing.

Sec. 4. COURT ORDER. (a) A judge may issue a transfer order if at the hearing the judge determines that:

(1) the witness may be material and necessary;

(2) his attending and testifying are not adverse to the interest of this state or to the health or legal rights of the witness;

(3) the laws of the state in which he is requested to testify will give him protection from arrest and the service of civil and criminal process because of any act committed prior to his arrival in the state under the order; and

(4) 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 he will be required to pass.

(b) If a judge issues an order under Subsection (a) of this section, the judge shall attach to the order a copy of a certificate presented under Section 3 of this Act. The order shall:

(1) direct the witness to attend and testify;

(2) except as provided by Subsection (c) of this section, direct the person having custody of the witness to produce him 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

(3) prescribe such conditions as the judge shall determine.

(c) The judge, in lieu of directing the person having custody of the witness to produce him in the requesting jurisdiction's court, may direct and require in his order that:

(1) an officer of the requesting jurisdiction come to the Texas penal institution in which the witness is confined to accept custody of the witness for physical transfer to the requesting jurisdiction;

(2) the requesting jurisdiction provide proper safeguards on his custody while in transit;

(3) the requesting jurisdiction be liable for and pay all expenses incurred in producing and returning the witness, including but not limited to food, lodging, clothing, and medical care; and

(4) the requesting jurisdiction promptly deliver the witness back to the same or another Texas penal institution as specified by the Texas Department of Criminal Justice at the conclusion of his testimony.

Sec. 5. TERMS AND CONDITIONS. An order to a witness and to a person having custody of the witness shall provide for the return of the witness at the conclusion of his testimony, proper safeguards on his custody, and proper financial reimbursement or prepayment by the requesting jurisdiction for all expenses incurred in the production and return of the witness. The order may prescribe any other condition the judge thinks proper or necessary. The judge shall not require prepayment of expenses if the judge directs and requires the requesting jurisdiction to accept custody of the witness at the Texas penal institution in which the witness is

confined and to deliver the witness back to the same or another Texas penal institution at the conclusion of his testimony. An order does not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed.

Sec. 6. EXCEPTIONS. This Act does not apply to a person in this state who is confined as mentally ill or who is under sentence of death.

Sec. 7. PRISONER FROM ANOTHER STATE SUMMONED TO TESTIFY IN THIS STATE. (a) 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:

(1) there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court;

(2) 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

(3) his presence will be required during a specified time.

(b) The judge of the court in this state shall:

(1) present the certificate to a judge of a court of record in the other state having jurisdiction over the prisoner confined; and

(2) give notice that the prisoner's presence will be required to the attorney general of the state in which the prisoner is confined.

Sec. 8. COMPLIANCE. A judge of the court in this state may enter an order directing compliance with the terms and conditions of an order specified in a certificate under Section 3 of this Act and entered by the judge of the state in which the witness is confined.

Sec. 9. EXEMPTION FROM ARREST AND SERVICE OF PROCESS. If a witness from another state comes into or passes through this state under an order directing him to attend and testify in this or another state, while in this state pursuant to the order he is not subject to arrest or the service of civil or criminal process because of any act committed prior to his arrival in this state

under the order.

Sec. 10. UNIFORMITY OF INTERPRETATION. This Act shall be so construed as to effect its general purpose to make uniform the laws of those states which enact it.

Acts 1983, 68th Leg., p. 1068, ch. 240, Sec. 1, eff. Aug. 29, 1983.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 25.014, eff. September 1, 2009.