

THE CODE OF CRIMINAL PROCEDURE (EXCERPT)
Act 175 of 1927

767.92 Attendance in another state; hearing; summons; custody; fee.

Sec. 92. (1) A judge of a court of record in a state which by law has provided for commanding persons within that state to attend and testify in this state may certify under seal of his court that for purposes of a criminal prosecution in his court or a grand jury investigation in his state, a person in this state is required as a material witness for a specified number of days.

(2) Upon presentation of a certificate issued pursuant to subsection (1) to a judge of a court of record in a county where such witness is found, the judge shall fix a time and place for a hearing and make an order directing the witness to appear at the hearing. At such hearing the certificate shall be prima facie evidence of all the facts stated therein.

(3) 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 criminal prosecution is pending or a grand jury is investigating if he determines at the hearing that:

(a) The witness is material and necessary to the prosecution or investigation.

(b) The attendance and testifying in the prosecution or investigation will not cause undue hardship to the witness.

(c) The laws of the state where the prosecution or investigation is being held and the laws of any other state through which the witness may be required to pass by ordinary course of travel protect the witness from arrest and service of civil or criminal process.

(4) If a 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 direct that the witness be forthwith brought before him for a hearing without notice. If the judge at the hearing is satisfied of the desirability of custody and delivery, for which determination the certificate shall be prima facie proof of desirability, he may order that the witness be forthwith taken into custody and delivered to an officer of the requesting state without issuing a summons.

(5) If a witness, who is summoned pursuant to this section and is paid by an authorized person the sum of 10 cents for each mile of the ordinary traveled route to and from the court where such prosecution or investigation is being held and \$5.00 for each day that 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.

History: Add. 1970, Act 232, Imd. Eff. Dec. 3, 1970.