

§1413. Summons to testify in another state

If a judge of a court of record in any state that by its laws has made provision 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 that prosecution or grand jury investigation and that the person's presence will be required for a specified number of days, upon presentation of the certificate to any judge of a court of record in the county in which the person is, the 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. [RR 2023, c. 2, Pt. D, §59 (COR).]

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 the witness protection from arrest and the service of civil and criminal process, 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 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 is prima facie evidence of all the facts stated therein. [RR 2023, c. 2, Pt. D, §59 (COR).]

If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure the witness's attendance in the requesting state, the judge may, in lieu of notification of the hearing, direct that the witness be forthwith brought before the judge for the hearing. The judge at the hearing being satisfied of the desirability of the custody and delivery, for which determination the certificate is prima facie proof of the desirability, may, in lieu of issuing subpoena or summons, order that the witness be forthwith taken into custody and delivered to an officer of the requesting state. [RR 2023, c. 2, Pt. D, §59 (COR).]

If the witness, who is summoned as provided, after being paid or tendered by some properly authorized person the sum of 10¢ a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and \$5 for each day that the witness is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, the witness must 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. [RR 2023, c. 2, Pt. D, §59 (COR).]

SECTION HISTORY

RR 2023, c. 2, Pt. D, §59 (COR).

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