

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

SENATE BILL No. 59

(By Mr. Mathews)



PASSED March 9 1935

In Effect from Passage

65

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Senate Bill No. 59

(By MR. MATHEWS)

[Passed March 9, 1935; in effect from passage.]

AN ACT to provide for procuring attendance of persons resident or domiciled outside this state as witnesses in criminal proceedings pending or about to be instituted in courts of record in this state, and to provide for the attendance of persons resident or domiciled in this state as witnesses in criminal proceedings in courts of record in other states; to provide for compensating such persons so attending as witnesses in this state, and to provide certain immunities for persons coming into or passing through this state as such witnesses.

Be it enacted by the Legislature of West Virginia:

Section 1. If a judge of a court of record in any state,

2 which by its laws has made provision for commanding persons
3 within that state to attend and testify in criminal prosecutions
4 in this state, certifies under the seal of such court that there
5 is a criminal prosecution pending in such court, that a person
6 being within this state is a material witness in such prosecu-
7 tion, and that his presence will be required for a specified
8 number of days, upon presentation of such certificate to any
9 judge of a court of record in the county in which such person
10 is found, such judge shall fix a time and place for a hearing
11 and shall notify the witness of such time and place.

12 If at the hearing the judge determines that the witness is
13 material and necessary, that it will not cause undue hardship
14 to the witness to be compelled to attend and testify in the prose-
15 cution in the other state, that the witness will not be compelled
16 to travel more than one thousand miles to reach the place of
17 trial by the ordinary traveled route, and that the laws of the
18 state in which the prosecution is pending, and of any other
19 state through which the witness may be required to pass by
20 ordinary course of travel, will give to him protection from
21 arrest and the service of civil and criminal process, he shall
22 issue a summons, with a copy of the certificate attached, direct-

23 ing the witness to attend and testify in the court where the
24 prosecution is pending, at a time and place specified in the
25 summons.

26 If the witness, who is summoned as above provided, after
27 being paid or tendered, by some properly authorized person,
28 the sum of ten cents a mile for each mile by the ordinary trav-
29 eled route to and from the court where the prosecution is pend-
30 ing, and five dollars for each day that he is required to travel
31 and attend as a witness, fails without good cause to attend and
32 testify as directed in the summons, he shall be punished in the
33 manner provided for the punishment of any witness who dis-
34 obeys a summons issued from a court of record in this state.

Sec. 2. If a person in any state, which by its laws has made
2 provision for commanding persons within its borders to attend
3 and testify in criminal prosecutions in this state, is a material
4 witness in a prosecution pending or about to be instituted in
5 a court of record in this state, a judge of such court may issue
6 a certificate under the seal of the court stating these facts and
7 specifying the number of days the witness will be required.
8 This certificate shall be presented to a judge of a court of
9 record in the county in which the witness is found.

10 If the witness is summoned to attend and testify in the
11 criminal prosecution in this state he shall be tendered the sum
12 of ten cents a mile for each mile by the ordinary traveled route
13 to and from the court where the prosecution is pending, and
14 five dollars for each day that he is required to travel and at-
15 tend as a witness. A witness who has appeared in accordance
16 with the provisions of the summons shall not be required to
17 remain within this state a longer period of time than the period
18 mentioned in the certificate.

Sec. 3. If a person comes into this state in obedience to a
2 summons directing him to attend and testify in a criminal
3 prosecution in this state he shall not, while in this state pur-
4 suant to such summons, be subject to arrest or the service of
5 process, civil or criminal, in connection with matters which
6 arose before his entrance into this state under the summons.

7 If a person passes through this state while going to another
8 state in obedience to a summons to attend and testify in a
9 criminal prosecution in that state or while returning therefrom,
10 he shall not while so passing through this state be subject to
11 arrest or the service of process, civil or criminal, in connection

12 with matters which arose before his entrance into this state
13 under the summons.

Sec. 4. This act shall be so interpreted and construed as to
2 effectuate its general purpose to make uniform the law of the
3 states which enact it.

Sec. 5. This act may be cited as “Uniform Act to secure
2 the attendance of witnesses from without the state in criminal
3 cases.”

Sec. 6. All acts or parts of acts inconsistent with this act
2 are hereby repealed.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Clinton L. Howard

Chairman Senate Committee

Arnold M. Vickers

Chairman House Committee

Originated in the.....

Takes effect.....

..... passage.

Charles M. ...

Clerk of the Senate

W. S. Hance

Clerk of the House of Delegates

Chas. E. Hays

President of the Senate

John P. ...

Speaker House of Delegates

The within.....this the.....

day of....., 1935.

Governor

Filed in the office of the Secretary of State
of West Virginia.

MAR 15 1935

Wm. S. O'BRIEN,
Secretary of State

I certify that the foregoing act, having been presented to the Governor for his approval, and not having been returned by him to the House of the Legislature in which it originated within the time prescribed by the constitution of the state, has become a law without his approval.

This the 15th day of March,

1935.....


" SECRETARY OF STATE