

No. 544, S.]

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CHAPTER 322

AN ACT to create 325.32 of the statutes, relating to the rendition of prisoners as witnesses in criminal proceedings and to make uniform the law relating thereto.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

325.32 of the statutes is created to read:

325.32 EXTRADITION OF PRISONERS AS WITNESSES. (1)  
DEFINITIONS. As used in this section:

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

(b) "Penal institutions" includes a jail, prison, penitentiary, house of correction, or other place of penal detention.

(2) SUMMONING WITNESS IN THIS STATE TO TESTIFY IN ANOTHER STATE. 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 (a) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (b) that a person who is confined in a penal institution in this state may be a material witness in the proceeding, investigation, or action, and (c) that his presence will be required during a specified time. Upon presentation of the certificate to any judge having jurisdiction over the person confined, and upon 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.

(3) COURT ORDER. If at the hearing the judge determines (a) that the witness may be material and necessary, (b) that his attending and testifying are not adverse to the interests of this state or to the health or legal rights of the witness, (c) that 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 (d) that 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, the judge shall issue an order, with a copy of the certificate attached, directing the witness to attend and testify, directing 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 prescribing such conditions as the judge determines.

(4) **TERMS AND CONDITIONS.** The order to the witness and to the 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, and may prescribe such other conditions as the judge thinks proper or necessary. The order shall not become effective until the judge of the state requesting the witness enters an order directing compliance with the conditions prescribed.

(5) **EXCEPTIONS.** This act does not apply to any person in this state confined as insane or mentally ill or as a defective delinquent.

(6) **PRISONER FROM ANOTHER STATE SUMMONED TO TESTIFY IN THIS STATE.** 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 (a) that there is a criminal proceeding or investigation by a grand jury or a criminal action pending in the court, (b) that 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 (c) that his presence will be required during a specified time. The certificate shall be presented to a judge of a court of record in the other state having jurisdiction over the prisoner confined, and a notice shall be given to the attorney general of the state in which the prisoner is confined.

(7) **COMPLIANCE.** The judge of the court in this state may enter an order directing compliance with the terms and conditions prescribed by the judge of the state in which the witness is confined.

(8) **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, he shall not while in this state pursuant to the order be subject to arrest or the service of process, civil or criminal, because of any act committed prior to his arrival in this state under the order.

(9) **UNIFORMITY OF INTERPRETATION.** This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Approved August 14, 1959.