

same fees and allowances provided in this section for witnesses in other district courts of the United States.

1956—Act Aug. 1, 1956, substituted “, or before any person authorized to take his deposition pursuant to any rule or order” for “or person taking his deposition pursuant to any order”, increased the payments for mileage from 7 to 8 cents per mile and subsistence allowance from \$5 to \$8 per day, and authorized the computation of mileage on the basis of a uniform table of distances adopted by the Attorney General.

1954—Act Sept. 3, 1954, struck out language which had restricted section’s applicability to those depositions taken pursuant to order of the court.

1951—Act Oct. 31, 1951, substituted “residences” for “residence” in that part of second sentence which precedes first proviso.

1949—Act May 24, 1949, inserted last par.

Act May 10, 1949, increased witnesses’ fees from \$2 to \$4 per day, mileage allowance from 5 cents to 7 cents a mile, subsistence allowance from \$3 to \$5 per day, and inserted provisos.

#### CHANGE OF NAME

“United States Magistrate Judge” substituted for “United States Magistrate” in subsec. (a)(1) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of Title 8, Aliens and Nationality.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-417, §2(d), Oct. 14, 1992, 106 Stat. 2138, provided that: “The amendments made by this section [amending this section] shall be effective on and after the date of the enactment of this act [Oct. 14, 1992] and shall apply to any witness who testified before such date and has not received any fee or allowance under section 1821 of title 28, United States Code, relating to such testimony.”

#### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-535, §2, Oct. 27, 1978, 92 Stat. 2034, provided that: “The amendments made by this Act [amending this section] shall take effect on October 1, 1978, or on the date of enactment [Oct. 27, 1978], whichever occurs later.”

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-274 effective 270 days after Mar. 27, 1968, except as to cases in which an indictment has been returned or a petit jury empaneled prior to such effective date, see section 104 of Pub. L. 90-274, set out as a note under section 1861 of this title.

#### PAYMENT OF FACT WITNESS FEE TO INCARCERATED PERSON PROHIBITED

Pub. L. 102-395, title I, §108, Oct. 6, 1992, 106 Stat. 1841, provided that: “Notwithstanding 28 U.S.C. 1821, no funds appropriated to the Department of Justice in fiscal year 1993 or any prior fiscal year, or any other funds available from the Treasury of the United States, shall be obligated or expended to pay a fact witness fee to a person who is incarcerated testifying as a fact witness in a court of the United States, as defined in 28 U.S.C. 1821(a)(2).”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 102-140, title I, §110, Oct. 28, 1991, 105 Stat. 795.

Pub. L. 102-27, title II, §102, Apr. 10, 1991, 105 Stat. 136.

### § 1822. Competency of interested persons; share of penalties payable

Any person interested in a share of any fine, penalty or forfeiture incurred under any Act of

Congress, may be examined as a witness in any proceeding for the recovery of such fine, penalty or forfeiture by any party thereto. Such examination shall not deprive the witness of his share.

(June 25, 1948, ch. 646, 62 Stat. 950.)

#### HISTORICAL AND REVISION NOTES

Based on section 644 of title 18, U.S.C., 1940 ed., Criminal Code and Criminal Procedure, R.S. §5295.

Changes were made in phraseology.

### [§ 1823. Repealed. Pub. L. 91-563, §5(a), Dec. 19, 1970, 84 Stat. 1478]

Section, acts June 25, 1948, ch. 646, 62 Stat. 950; May 24, 1949, ch. 139, §95, 63 Stat. 103; Oct. 5, 1949, ch. 601, 63 Stat. 704; July 7, 1952, ch. 581, 66 Stat. 439; July 28, 1955, ch. 424, §3, 69 Stat. 394, related to payment of witnesses fees to officers and employees of the United States. See sections 5515, 5537, 5751, and 6322 of Title 5, Government Organization and Employees.

### § 1824. Mileage fees under summons as both witness and juror

No constructive or double mileage fees shall be allowed by reason of any person being summoned both as a witness and a juror.

(June 25, 1948, ch. 646, 62 Stat. 951.)

#### HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §602 (May 27, 1908, ch. 200, §1, 35 Stat. 377).

Words “or as a witness in two or more cases pending in the same court and triable at the same term thereof” were omitted as covered by section 1821 of this title.

Changes were made in phraseology.

### § 1825. Payment of fees

(a) In any case in which the United States or an officer or agency of the United States is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States attorney or assistant United States attorney, and in the proceedings before a United States magistrate judge, on the certificate of such magistrate judge, except that any fees of defense witnesses, other than experts, appearing pursuant to subpoenas issued upon approval of the court, shall be paid by the United States marshal for the district—

(1) on the certificate of a Federal public defender or assistant Federal public defender, in a criminal case in which the defendant is represented by such Federal public defender or assistant Federal public defender, and

(2) on the certificate of the clerk of the court upon the affidavit of such witnesses’ attendance given by other counsel appointed pursuant to section 3006A of title 18, in a criminal case in which a defendant is represented by such other counsel.

(b) In proceedings in forma pauperis for a writ of habeas corpus, and in proceedings in forma pauperis under section 2255 of this title, the United States marshal for the district shall pay, on the certificate of the district judge, all fees of witnesses for the party authorized to proceed in forma pauperis, except that any fees of witnesses for such party, other than experts, ap-