

Apr. 26, 1926, ch. 183, § 3, 44 Stat. 324; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921; Oct. 13, 1941, ch. 431, § 2, 55 Stat. 736; Dec. 24, 1942, ch. 825, § 1, 56 Stat. 1088).

Section consolidates parts of sections 600c and 608 of title 28, U.S.C., 1940 ed., relating to payment of witnesses. Other provisions of such sections are incorporated in sections 1821 and 1871 of this title.

Provisions in sections 600c and 608 of title 28, U.S.C., 1940 ed., for payment or certification on order of court were omitted as unnecessary and inappropriate on recommendation of the Judicial Conference Committee on Revision of the Judicial Code.

Words in section 608 of title 28, U.S.C., 1940 ed., “to which they appear to be entitled on the certificate of attendance” following the words “all fees” and the concluding phrase “which sum shall be allowed the marshal in the General Accounting Office in his accounts were omitted as unnecessary.”

The second paragraph is new. It conforms to Rule 45(e) of the Federal Rules of Civil Procedure but is inconsistent with Rule 17(d) of the Federal Rules of Criminal Procedure and supersedes that rule as to Federal criminal cases. The Department of Justice suggests that Rule 17(d) is unworkable. To attempt compliance each deputy marshal serving process must carry, on the average, \$500 in cash on trips to serve process.

The marshal must advance the money from his personal funds. The Comptroller General has not been able to set up any procedure to make it feasible to advance fees to Government witnesses.

If a witness is served but fails or refuses to appear, the marshal is out of pocket the money advanced and has no recourse. In the exceptional cases of real necessity, the marshal supplies transportation to an indigent witness under established regulations which protect the disbursement.

Changes were made in phraseology.

#### Editorial Notes

##### AMENDMENTS

2020—Subsecs. (a), (b). Pub. L. 116-260, §220(a), substituted “Attorney General” for “United States marshal for the district” in two places in introductory provisions.

Subsec. (c). Pub. L. 116-260, §220(b), substituted “Attorney General” for “United States marshal”.

1986—Pub. L. 99-651 amended section generally. Prior to amendment, section read as follows:

“In any case wherein the United States or an officer or agency thereof, 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 Commissioner, on the certificate of such commissioner.

“In all proceedings, in forma pauperis, for a writ of habeas corpus or in proceedings under section 2255 of this title, the United States marshal for the district shall pay all fees of witnesses for the party authorized to proceed in forma pauperis, on the certificate of the district judge.

“Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof, or upon service of a subpoena issued on behalf of a party, authorized to proceed in forma pauperis, where the payment thereof is to be made by the United States marshal as authorized in this section.”

1965—Pub. L. 89-162 inserted provisions that, in all proceedings in forma pauperis, for a writ of habeas corpus, or in proceedings under section 2255 of this title, the United States marshal for the district shall pay all fees of witnesses for the party authorized to proceed in forma pauperis on the certificate of the district judge and that fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of a party authorized to proceed in forma pauperis where

the payment thereof is to be made by the United States marshal as authorized in this section.

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

“United States magistrate judge” and “magistrate judge” substituted for “United States magistrate” and “magistrate”, respectively, in subsec. (a) pursuant to section 321 of Pub. L. 101-650, set out as a note under this title.

##### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-651 effective 120 days after Nov. 14, 1986, see section 105 of Pub. L. 99-651, set out as a note under section 3006A of Title 18, Crimes and Criminal Procedure.

#### § 1826. Recalcitrant witnesses

(a) Whenever a witness in any proceeding before or ancillary to any court or grand jury of the United States refuses without just cause shown to comply with an order of the court to testify or provide other information, including any book, paper, document, record, recording or other material, the court, upon such refusal, or when such refusal is duly brought to its attention, may summarily order his confinement at a suitable place until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the life of—

(1) the court proceeding, or

(2) the term of the grand jury, including extensions,

before which such refusal to comply with the court order occurred, but in no event shall such confinement exceed eighteen months.

(b) No person confined pursuant to subsection (a) of this section shall be admitted to bail pending the determination of an appeal taken by him from the order for his confinement if it appears that the appeal is frivolous or taken for delay. Any appeal from an order of confinement under this section shall be disposed of as soon as practicable, but not later than thirty days from the filing of such appeal.

(c) Whoever escapes or attempts to escape from the custody of any facility or from any place in which or to which he is confined pursuant to this section or section 4243 of title 18, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both.

(Added Pub. L. 91-452, title III, §301(a), Oct. 15, 1970, 84 Stat. 932; amended Pub. L. 98-473, title II, §1013, Oct. 12, 1984, 98 Stat. 2142.)

#### Editorial Notes

##### AMENDMENTS

1984—Subsec. (c). Pub. L. 98-473 added subsec. (c).

#### § 1827. Interpreters in courts of the United States

(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.