

Article 44.

Securing Attendance of Prisoners as Witnesses.

§ 15A-821. Securing attendance of prisoner in this State as witness in proceeding outside the State.

(a) If a judge of a court of general jurisdiction in any other state, which by its laws has made provision for commanding a prisoner within that state to attend and testify in this State, certifies under the seal of that court that there is a criminal prosecution pending in the court or that a grand jury investigation has commenced, and that a person confined in an institution under the control of the Division of Prisons of the Department of Adult Correction of North Carolina, other than a person confined as criminally insane, is a material witness in the prosecution or investigation and that his presence is required for a specified number of days, upon presentment of the certificate to a superior court judge in the superior court district or set of districts as defined in G.S. 7A-41.1 where the person is confined, upon notice to the Attorney General, the judge must fix a time and place for a hearing and order the person having custody of the prisoner to produce him at the hearing.

(b) If at the hearing the judge determines that the prisoner is a material and necessary witness in the requesting state, the judge must order that the prisoner attend in the court where the prosecution or investigation is pending, upon such terms and conditions as the judge prescribes, including among other things, provision for the return of the prisoner at the conclusion of his testimony, proper safeguard for his custody, and proper financial reimbursement or other payment, including payment in advance, by the demanding jurisdiction for all expenses incurred in the production and return of the prisoner.

(c) The Attorney General may, as agent for the State of North Carolina, enter into such agreements with the demanding jurisdiction as necessary to ensure proper compliance with the order of the court. (1973, c. 1286, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 62; 2011-145, s. 19.1(h); 2012-83, s. 27; 2017-186, s. 2(bbb); 2021-180, s. 19C.9(p).)

§ 15A-822. Securing attendance of prisoner outside the State as witness in proceeding in the State.

(a) When

- (1) A criminal action or proceeding is pending in a court of this State, and
- (2) There is reasonable cause to believe that a person confined in a correctional institution or prison of another state, other than a person confined as mentally ill, possesses information material to such criminal action or proceeding, and
- (3) The attendance of the person as a witness in such proceeding is desired by a party thereto, and
- (4) The state in which such person is confined possesses a statute equivalent to G.S. 15A-821, the court in which such proceeding is pending may issue a certificate under the seal of the court, certifying all such facts and certifying that the attendance of the person as a witness in such court is required for a specified number of days.

(b) The certificate may be issued upon application of either the State or a defendant setting forth the facts specified in subsection (a).

(c) Upon issuing such a certificate, the court may cause it to be delivered to a court of such other state which is authorized to initiate or undertake action for the delivery of such prisoners to this State as witnesses. (1973, c. 1286, s. 1.)

§ 15A-823. Securing attendance of prisoner in federal institution as witness in proceeding in the State.

(a) When

- (1) A criminal proceeding is pending in a court of this State; and
- (2) There is reasonable cause to believe that a person confined in a federal prison or other federal custody, either within or outside this State, possesses information material to such criminal proceeding; and
- (3) His attendance as a witness in such action or proceeding is desired by a party thereto, the court may issue a certificate, known as a writ of habeas corpus ad testificandum, addressed to the Attorney General of the United States certifying all such facts and requesting the Attorney General of the United States to cause the attendance of such person as a witness in such court for a specified number of days under custody of a federal public servant.

(b) The certificate may be issued upon application of either the State or a defendant, setting forth the facts specified in subsection (a).

(c) Upon issuing the certificate, the court may cause it to be delivered to the Attorney General of the United States or to his representative authorized to entertain the request. (1973, c. 1286, s. 1.)