



Ohio Revised Code

Section 2945.47 Testimony of prisoner.

Effective: March 17, 1998

Legislation: House Bill 293 - 122nd General Assembly

(A)(1) As used in this section, "detention facility" has the same meaning as in section 2921.01 of the Revised Code.

(2) If it is necessary in a criminal proceeding before the court to procure the testimony of a person who is imprisoned in a detention facility or state correctional institution within this state, or who is in the custody of the department of youth services, the court may require that the person's testimony be taken by deposition pursuant to Criminal Rule 15 at the place of the person's confinement, if the person is not a defendant in the case and if the court determines that the interests of justice do not demand that the person be brought before the court for the presentation of the person's testimony. All witnesses for the prosecution shall be brought before the court. The defendant may waive any right to compel the appearance of a person brought before the court pursuant to this division.

(B) Subject to division (C) of this section, if it is necessary in a criminal proceeding before the court to procure the testimony of a person who is imprisoned in a detention facility within this state, the court may order a subpoena to be issued, directed to the keeper of the institution, commanding the keeper to bring the prisoner named in the subpoena before the court.

The keeper, upon receiving the subpoena, shall take the witness before the court at the time and place named in the subpoena, and hold the witness until the witness is discharged by the court. When discharged, the witness shall be returned in the custody of such officer to the place of imprisonment from which the witness was taken, and the officer may command any assistance that the officer considers proper for the transportation of the witness.

(C) If it is necessary in a criminal proceeding before the court to procure the testimony of a person who is imprisoned in a state correctional institution within this state, or who is in the custody of the department of youth services, the court may order a subpoena to be issued directed to the sheriff of the county in which the indictment or grand jury proceeding is pending. When a copy of the subpoena is presented by the sheriff to the warden or superintendent of a state correctional



institution, or to the person in charge of the facility in which a juvenile is confined, the witness shall be delivered at the institution or facility to the sheriff who shall take the witness before the court at the time and place named in the subpoena and hold the witness until the witness is discharged by the court. When discharged, the witness shall be returned in the custody of the sheriff to the place of imprisonment from which the witness was taken.

(D) The court, in the manner provided in Chapter 120. of the Revised Code, shall either assign counsel or designate a public defender to represent a juvenile subpoenaed as a witness under this section. Compensation for assigned counsel shall be made pursuant to section 2941.51 of the Revised Code.

(E) When a person's testimony is taken by deposition pursuant to division (A) of this section, the deposition shall be upon oral examination if either the prosecuting authority or the defendant who is taking the deposition requests that the deposition be upon oral examination, and may be videotaped if either the prosecuting authority or the defendant who is taking the deposition requests that it be recorded by means of videotape.

The person requesting the testimony of the person whose deposition is taken pursuant to division (A) of this section shall pay the expense of taking the deposition, except that the court may tax the expense as court costs in appropriate cases.