NATIONAL CRIME VICTIM LAW INSTITUTE

310 SW 4th Ave., Suite 540, Portland, OR 97204

SURVEY OF SELECT STATE AND FEDERAL MATERIAL WITNESS PROVISIONS

Please note that this chart focuses primarily on select material witness provisions associated with witness attendance or testimony in connection with criminal proceedings where both the proceedings and the witness are located in the same state. Legislation such as the Uniform Act to Secure Attendance in Criminal Proceedings, which addresses inter-jurisdictional subpoenas and testimony, is not included in this chart.

JURISDICTION	STATUTORY PROVISION(S)
Federal	*18 U.S.C. § 3144 (Release or detention of a material witness).* If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of section 3142 of this title. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure. *Fed. R. Crim. P. 46(a),(h) (Release from Custody; Supervising Detention).* (a) Before Trial. The provisions of 18 U.S.C. §§ 3142 and 3144 govern pretrial release. . . . (h) Supervising Detention Pending Trial. (1) In General. To eliminate unnecessary detention, the court must supervise the detention within the district of any defendants awaiting trial and of any persons held as material witnesses. (2) Reports. An attorney for the government must report biweekly to the court, listing each material witness held in custody for more than 10 days pending indictment, arraignment, or trial. For each material witness listed in the report, an attorney for the government must state why the witness should not be released with or without a deposition being taken under Rule 15(a).
Alabama	*Ala. Code § 12-21-182 (Proceedings upon failure of subpoenaed witness to attend and remain.).* (a) Any witness who, after being subpoenaed, fails to attend pursuant to the mandate of the subpoena and remain until his testimony is given or he is discharged forfeits $100.00 to the use of the party summoning him, and the attendance of such witness may be compelled by attachment. (b) A conditional judgment must, on motion of such party, be entered against such witness and a notice issued to him that such judgment will be made absolute unless he appears within 30 days from the date of the service of such notice and renders a good excuse for his default; and, if he fails to appear and render a satisfactory excuse for his default, such judgment may be made absolute or reduced, as the court may direct. (c) Witnesses failing to attend court may make their excuse by affidavit, or viva voce, in open court, which the court must hear at any time, unless engaged in the trial of a case, and, if the excuse is sufficient, release the party from any fine imposed, without the payment of costs. *Ala. Code § 12-21-183 (Execution of warrants for witnesses and other process in adjoining counties.).* The sheriff, his deputy or any person specially deputed by a court of record may execute all warrants of arrest, attachments, subpoenas, etc., for witnesses or any other process issued by a court of record, during trial or within three days before trial, in any adjoining county. The sheriff, the deputy sheriff or person specially deputed may act upon a copy of such warrant, attachment or subpoena, given him over a telephone, by telegraph or by radio by the sheriff or clerk of the court. *Ala. Code § 12-21-247 (Conditional judgment against defaulting witnesses – Entry.).* Any witness who is duly summoned in a criminal case and who fails to appear as commanded shall forfeit $100.00 to the party at whose instance he was summoned, for which a conditional judgment must be entered against him. *Ala. R. Crim. P. 17.5 (Proceedings upon failure of subpoenaed witness to attend and remain.).* Any witness who, after being subpoenaed, fails to appear at the time and the place as required by the subpoena, or who fails to remain until released, may be attached by order of the court.
Alaska	*Alaska Stat. § 12.30.050 (Release of material witnesses).* (a) If the prosecution or defense establishes by affidavit or other evidence that the testimony of a person is material in a criminal proceeding, and that it may be impracticable to secure the presence of the person by subpoena, a judicial officer may order the arrest of the person and consider the release or detention of the person under the provisions of AS 12.30.011.

	(b) A material witness may not be detained because of inability to comply with any condition of release if the testimony of the witness can adequately be secured by deposition, unless further detention is necessary to prevent a failure of justice. (c) Release of a material witness under (a) of this section may be delayed for a reasonable period of time for the deposition of the witness to be taken.
Arizona	*Ariz. Rev. Stat. § 13-4083 (Procedure when witness does not give security).* A. If a witness required to enter into an undertaking to appear to testify either with or without security refuses compliance with the order for that purpose, the magistrate shall commit him to custody until he complies or is legally discharged. B. When it satisfactorily appears by examination on oath of the witness or any other person that the witness is unable to give further security as provided in section 13-4082, the magistrate shall make an order finding such fact and the witness shall be detained pending application for his conditional examination. Within three days from the entry of such order, the witness so detained may be conditionally examined in behalf of the state or the defendant on application made for that purpose. Such examination shall be by question and answer in the presence of the other party, or when a witness for the state is being examined, after notice to the defendant if on bail. The examination shall be conducted in the same manner as the examination of witnesses before a committing magistrate is required to be conducted. At the completion of the examination the witness shall be discharged, and his testimony may be admitted in evidence at the trial under the same conditions and for the same purpose as the testimony of a defendant or witness testifying at a preliminary hearing. C. If no conditional examination is held within the period of three days, the witness so detained shall be forthwith discharged. *Ariz. Rev. Stat. § 13-4085 (Release or detention of material witness; depositions).* A. If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding pursuant to section 13-2319 and if it is shown that it may become impracticable to secure the presence of the person by subpoena because of the immigration status of the person, the court may order the temporary detention of the person and treat the person according to the release provisions under section 13-3967. A material witness may not be detained because of the inability of the witness to comply with any condition of release if the testimony of the witness can be secured adequately by deposition and if further detention of the witness is not necessary to prevent a failure of justice. The release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to this section or the Arizona rules of criminal procedure. B. A material witness may be detained by a law enforcement agency. If the material witness is a juvenile, the material witness may be detained in a juvenile detention facility or a jail pursuant to section 8-305. A witness shall not be detained for more than twenty-four hours unless an affidavit is filed with the court pursuant to subsection A of this section. C. A material witness who is being detained pursuant to subsection A of this section may be kept in a physically separate section or be administratively segregated from any person who is charged with, adjudicated delinquent for or convicted of a criminal offense. D. On the motion of any party or a material witness who has been detained pursuant to subsection A of this section, the court may order the examination of the material witness unless the material witness is the defendant or a person who is excluded by rule 39(b), Arizona rules of criminal procedure, on oral deposition. The deposition shall be noticed and taken pursuant to rule 15.3, Arizona rules of criminal procedure. E. The witness may be detained for a period of up to seven days after entry of the order, except that if at any time during the period of detainment it becomes reasonably feasible to conduct the examination, the examination shall be conducted immediately and the court may order the witness to be released immediately after signing the deposition under oath, waiving the signature or otherwise affirming the factual accuracy of the matters set forth in the deposition. F. A deposition that is taken pursuant to this section may be used at trial and at any pretrial proceeding pursuant to rule 19.3, Arizona rules of criminal procedure.
Arkansas	*Ark. Code Ann. § 16-43-211 (Applicability of Code of Practice in Civil Cases subpoena form, etc.).* The provisions of the Code of Practice in Civil Cases shall apply to and govern summoning and coercing the attendance of witnesses and compelling them to testify in all prosecutions and all criminal or penal actions or proceedings, except that the attendance of witnesses residing in any part of the state

	may be coerced, and it shall never be necessary to tender to the witnesses any compensation for expenses or otherwise before process of contempt shall issue. *Ark. Code Ann. § 16-85-508 (Compelling witness testimony).* (a) If there is a reasonable belief that a material witness in any grand jury investigation may absent himself or herself from the jurisdiction or otherwise avoid service of a subpoena, a judicial officer, as defined in Arkansas Rules of Criminal Procedure 1.6(c), shall impose conditions of release pursuant to Arkansas Rules of Criminal Procedure 9.1-9.5. (b) A warrant of arrest may be issued by the judicial officer on the affidavit or testimony of a prosecuting attorney to secure the presence of the witness at the hearing to provide for his or her release. Other witnesses may be called and examined. (c) No material witness shall be detained because of his or her inability to comply with any condition of release if the testimony of the witness for the proceeding can be adequately secured by deposition and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to law. (d) When the material witness has given his or her testimony, he or she shall be released immediately.
California	*Cal. Civ. Proc. Code § 1219 (Imprisonment to compel performance of acts; exemptions; definitions).* (a) Except as provided in subdivisions (b) and (c), if the contempt consists of the omission to perform an act which is yet in the power of the person to perform, he or she may be imprisoned until he or she has performed it, and in that case the act shall be specified in the warrant of commitment. (b) Notwithstanding any other law, a court shall not imprison or otherwise confine or place in custody the victim of a sexual assault or domestic violence crime for contempt if the contempt consists of refusing to testify concerning that sexual assault or domestic violence crime. Before finding a victim of a domestic violence crime in contempt as described in this section, the court may refer the victim for consultation with a domestic violence counselor. All communications between the victim and the domestic violence counselor that occur as a result of that referral shall remain confidential under Section 1037.2 of the Evidence Code. (c) Notwithstanding any other law, a court shall not imprison, hold in physical confinement, or otherwise confine or place in custody a minor for contempt if the contempt consists of the minor's failure to comply with a court order pursuant to subdivision (b) of Section 601 of, or Section 727 of, the Welfare and Institutions Code, if the minor was adjudged a ward of the court on the ground that he or she is a person described in subdivision (b) of Section 601 of the Welfare and Institutions Code. Upon a finding of contempt of court, the court may issue any other lawful order, as necessary, to secure the minor's attendance at school. (d) As used in this section, the following terms have the following meanings: (1) "Sexual assault" means any act made punishable by Section 261, 262, 264.1, 285, 286, 288, 288a, or 289 of the Penal Code. (2) "Domestic violence" means "domestic violence" as defined in Section 6211 of the Family Code. (3) "Domestic violence counselor" means "domestic violence counselor" as defined in subdivision (a) of Section 1037.1 of the Evidence Code. (4) "Physical confinement" has the same meaning as defined in subdivision (d) of Section 726 of the Welfare and Institutions Code. *Cal. Penal Code § 881 (Material witnesses; commitment on failure to give undertaking or security; custody on bench warrant; written undertaking; hearing).* (a) If a witness, required to enter into an undertaking to appear and testify, either with or without sureties, refuses compliance with the order for that purpose, the magistrate shall commit him or her to prison until he or she complies or is legally discharged. (b) If a witness fails to appear at the preliminary hearing in response to a subpoena, the court may hear evidence, including testimony or an affidavit from the arresting or interviewing officer, and if the court determines on the basis of the evidence that the witness is a material witness, the court shall issue a bench warrant for the arrest of the witness, and upon the appearance of the witness, may commit him or her into custody until the conclusion of the preliminary hearing, or until the defendant enters a plea of nolo contendere, or the witness is otherwise legally discharged. The court may order the witness to enter into a written undertaking to the effect that he or she will appear and testify at the time and place ordered by the court or that he or she will forfeit an amount that the court deems proper.

	(c) Once the material witness has been taken into custody on the bench warrant he or she shall be brought before the magistrate issuing the warrant, if available, within two court days for a hearing to determine if the witness should be released on security of appearance or maintained in custody. (d) A material witness shall remain in custody under this section for no longer than 10 days. (e) If a material witness is being held in custody under this section the prosecution is entitled to have the preliminary hearing proceed, as to this witness only, within 10 days of the arraignment of the defendant. Once this material witness has completed his or her testimony the defendant shall be entitled to a reasonable continuance.
Colorado	*Colo. Rev. Stat. § 16-9-302* (*Summoning witness to testify or produce tangible evidence in another county).* (1) In order to secure the attendance of a material witness who either the prosecution or the defense has reasonable grounds to believe will absent himself from the jurisdiction of the requesting court, a judge of a court of record in any county in this state upon such showing may certify that there is a criminal action pending in such court or that a grand jury investigation has commenced or is about to commence, that a person located within any county or city and county in this state is a material witness in such action or grand jury investigation, and that his presence will be required for a specified number of days. When a court of record in the county in which such person is located receives the certificate, it shall fix a time and place for a hearing and shall make an order directing the witness to appear at the hearing at the time and place specified in the order. (2) If at the hearing held pursuant to subsection (1) of this section the court determines that the witness is material and necessary and that it will not cause undue hardship to the witness to be compelled to attend and testify in the criminal action or grand jury investigation in the requesting county, the court shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the requesting court at the time and place specified in the summons. In any such hearing, the certificate shall be prima facie evidence of all the facts stated therein. (3) If the certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting county to assure his attendance in the requesting county, the receiving court may, in lieu of notification of the hearing, direct that the witness be brought before the court for the hearing. If the court is satisfied at the hearing that the requested custody and delivery is desirable, the court shall order that the witness be taken into custody and delivered to an officer of the requesting county for said hearing, if said hearing is to commence within forty-eight hours of the issuance of the certificate, or for the purpose of the taking of a criminal deposition pursuant to rule 15, Colorado rules of criminal procedure. The certificate shall be prima facie evidence that the requested custody and delivery is desirable. If said witness can post reasonable security, he shall be discharged. (4) If the witness who is summoned pursuant to subsection (2) of this section, after being paid or tendered the appropriate witness fees, fails without good cause to attend and testify or produce evidence as directed in the summons, he shall be subject to any sanctions available to the requesting court.
Connecticut	*Conn. Gen. Stat. § 54-82j (Detention of witnesses. Warrant).* Upon the written complaint of any state's attorney addressed to the clerk of the superior court for the judicial district wherein such state's attorney resides, alleging (1) that a person named therein is or will be a material witness in a criminal proceeding then pending before or returnable to the superior court for such judicial district, and in which proceeding any person is or may be charged with an offense punishable by death or imprisonment for more than one year, and (2) that the state's attorney believes that such witness is likely to disappear from the state, secrete himself or otherwise avoid the service of subpoena upon him, or refuse or fail to appear and attend in and before such superior court as a witness, when desired, the clerk or any assistant clerk of the court shall issue a warrant addressed to any proper officer or indifferent person, for the arrest of the person named as a witness, and directing that such person be forthwith brought before any judge of the superior court for such judicial district, for examination. The person serving the warrant shall bring the person so arrested before the judge for examination as soon as is reasonably possible and hold him subject to the further orders of the judge. The person serving the warrant shall also notify the state's attorney of such arrest and of the time and place of such examination.
Delaware	*Del. Code Ann. tit. 11, § 3506 (Obtaining of testimony under court order; witness immunity).* (a) In any criminal action or in any investigation carried on by the grand jury, if a person refuses to answer any question or to produce evidence of any kind solely on the ground that the person may thereby be incriminated, the Superior Court, upon motion of the Attorney General, may order such person to answer the question or produce the evidence after notice to the witness and a hearing; provided, however, the Court shall not enter such order if the

	Court finds: (1) That such person may be subjected to criminal prosecution relating to the same transaction or occurrence under the laws of the United States or any other state and that any such evidence so compelled could be used against the person in any such prosecution; or (2) Such order would otherwise be clearly contrary to the public interest. Such person, so ordered by the Court, shall comply with the Court order. After complying, such person shall not be prosecuted or subjected to penalty or forfeiture for or on account of any transaction, matter or thing concerning which, in accordance with the order, the person gave answer or produced evidence; provided that, but for this section, such person would have been privileged to withhold the answer given or the evidence produced. In no event, however, shall such person, acting pursuant to such order, be exempt from prosecution or penalty or forfeiture for any perjury, false statement or contempt committed in answering or failing to answer, or in producing or failing to produce evidence in accordance with the order, and any testimony or evidence so given or produced shall not by virtue of this section be rendered inadmissible in evidence upon any criminal action, investigation or proceeding concerning such perjury, false statement or contempt. (b) No statement or other evidence obtained from any person who shall have been compelled to make such statement or produce such evidence by any court of competent jurisdiction of the United States or of any other state pursuant to a claim of privilege and court order under a statute substantially equivalent to subsection (a) of this section shall be admissible in evidence in any criminal prosecution in this State against such person arising out of the same transaction or occurrence *Del. Code Ann. tit. 11, § 5304 (Contempt; issuance of process in aid of jurisdiction)* (a) The Court may punish contempt and may issue all process necessary for the exercise of its criminal jurisdiction, which process may be executed in any part of the State. (b) The Court, in the exercise of its criminal jurisdiction, may issue subpoenas and other warrants into any county in the State for summoning or bringing any person to give evidence in any matter triable before it and may enforce obedience by fine or imprisonment. Such subpoenas and warrants shall be in such form as may be prescribed by the Rules of the Court.
District of Columbia	*D.C. Code § 23-1326* (*Release of material witnesses.).* If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence by subpoena, a judicial officer shall impose conditions of release pursuant to section 23-1321. No material witness shall be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Federal Rules of Criminal Procedure.
Florida	*Fla. Stat. Ann. § 914.001 (Witnesses; subpoenas to run throughout the state; all names to be included in one subpoena).* (1) Subpoenas for witnesses in criminal cases shall run throughout the state and be directed to all of the sheriffs of the state. (2) When possible, the names of all witnesses summoned for, or at the cost of, the state in a criminal case shall be included in one subpoena, and the prosecuting officer shall, when possible, include the names of all such witnesses in one praecipe for such subpoena. *Fla. Stat. Ann. § 914.03 (Attendance of witnesses).* A witness summoned by a grand jury shall remain in attendance until excused by the grand jury. A witness summoned in a criminal case shall remain available for attendance until the case for which he or she was summoned is disposed of or until he or she is excused by the court. A witness who departs without permission of the court shall be in criminal contempt of court. *Fla. Stat. Ann. § 914.04 (Witnesses; person not excused from testifying or producing evidence in certain prosecutions on ground testimony might*

	incriminate him or her; use of testimony given or evidence produced). No person who has been duly served with a subpoena or subpoena duces tecum shall be excused from attending and testifying or producing any book, paper, or other document before any court having felony trial jurisdiction, grand jury, or state attorney upon investigation, proceeding, or trial for a violation of any of the criminal statutes of this state upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of the person may tend to convict him or her of a crime or to subject him or her to a penalty or forfeiture, but no testimony so given or evidence so produced shall be received against the person upon any criminal investigation or proceeding. Such testimony or evidence, however, may be received against the person upon any criminal investigation or proceeding for perjury committed while giving such testimony or producing such evidence or for any perjury subsequently committed.
Georgia	*Ga. Code. Ann. § 24-13-21 (Issuance of subpoenas).* (a) As used in this Code section, the term "subpoena" includes a witness subpoena and a subpoena for the production of evidence. (b) A subpoena shall state the name of the court, the name of the clerk, and the title of the proceeding and shall command each person to whom it is directed to attend and give testimony or produce evidence at a time and place specified by the subpoena. (g) Subpoenas are enforceable as provided in Code Section 24-13-26. (h) If an individual misuses a subpoena, he or she shall be subject to punishment for contempt of court and shall be punished by a fine of not more than $300.00 or not more than 20 days' imprisonment, or both. *Ga. Code. Ann. § 24-13-26 (Enforcement of subpoenas; continuance of proceeding; secondary evidence).* (a) Subpoenas may be enforced by attachment for contempt and by a fine of not more than $300.00 or not more than 20 days' imprisonment, or both. In all proceedings under this Code section, the court shall consider whether under the circumstances of each proceeding the subpoena was served within a reasonable time, but in any event not less than 24 hours prior to the time that appearance thereunder was required. (b) The court may also in appropriate proceedings grant continuance of the proceeding. Where subpoenas were issued in blank, no continuance shall be granted because of failure to respond thereto when the party obtaining such subpoenas fails to present to the clerk the name and address of the witness so subpoenaed at least six hours before appearance is required.
Hawaii	*Haw. Rev. Stat. Ann. § 835-7 (Material witness order; compelling attendance of witness who fails to appear).* If a witness at liberty on bail pursuant to a material witness order cannot be found or notified at the time the witness' appearance as a witness is required, or if after notification the witness fails to appear in such action or proceeding as required, the court may issue a warrant, addressed to a police officer, directing such officer to take such witness into custody anywhere within the State and to bring the witness to the court forthwith.
Idaho	*Idaho Code Ann. § 18-1801 (Criminal contempts).* Every person guilty of any contempt of court, of either of the following kinds, is guilty of a misdemeanor: 1. Disorderly, contemptuous or insolent behavior committed during the sitting of any court of justice, in immediate view and presence of the court and directly tending to interrupt its proceedings or to impair the respect due to its authority. 2. Behavior of the like character committed in the presence of any referee, while actually engaged in any trial or hearing, pursuant to the order of any court, or in the presence of any jury, while actually sitting for the trial of a cause, or upon any inquest or other proceeding authorized by law. 3. Any breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of any court. 4. Wilful disobedience of any process or order lawfully issued by any court. 5. Resistance wilfully offered by any person to the lawful order or process of any court. 6. The contumacious and unlawful refusal of any person to be sworn as a witness; or, when so sworn, the like refusal to answer any material question. *Idaho Code Ann. § 18-113 (Punishment for misdemeanor).*

	(1) Except in cases where a different punishment is prescribed in this code, every offense declared to be a misdemeanor, is punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars ($1,000), or by both. (2) In addition to any other punishment prescribed for misdemeanors in specific statutes of the Idaho Code, the court may also impose a fine of up to one thousand dollars ($1,000). This paragraph shall not apply if the specific misdemeanor statute provides for the imposition of a fine. *Idaho Code Ann. § 19-3004 (Compelling attendance of witness--Subpoena and how issued).* The process by which the attendance of a witness before a court or magistrate is required is a subpoena. It may be signed and issued by: 1. A magistrate before whom an information is laid, for witnesses in the state, either on behalf of the people or of the defendant. 2. The prosecuting attorney, for witnesses in the state in support of the prosecution, or for such other witnesses as the grand jury, upon an investigation pending before them, may direct. 3. The prosecuting attorney, for witnesses in the state in support of an indictment or information, to appear before the court in which it is to be tried. 4. The clerk of the court in which an indictment or information is to be tried; and he must, at any time, upon application of the defendant, and without charge, issue as many blank subpoenas, subscribed by him as clerk, for witnesses in the state or without the state as provided in section 19-3005, as the defendant may require. *Idaho Code Ann. § 19-3010 (Disobedience to subpoena).* Disobedience to a subpoena, or a refusal to be sworn or to testify as a witness, may be punished by the court or magistrate as a contempt. A witness disobeying a subpoena issued on the part of the defendant, unless he show good cause for his nonattendance, is liable to the defendant in the sum of $100, which may be recovered in a civil action.
Illinois	*725 Ill. Comp. Stat. Ann. 5/115-17 (Clerk; issuance of subpoenas).* It is the duty of the clerk of the court to issue subpoenas, either on the part of the people or of the accused, directed to the sheriff or coroner of any county of this State. An attorney admitted to practice in the State of Illinois, as an officer of the court, may also issue subpoenas in a pending action. A witness who is duly subpoenaed who neglects or refuses to attend any court, under the requisitions of the subpoena, shall be proceeded against and punished for contempt of the court. Attachments against witnesses who live in a different county from that where the subpoena is returnable may be served in the same manner as warrants are directed to be served out of the county from which they issue. *725 Ill. Comp. Stat. Ann. 5/115-17a (Subpoenas to crime victims).* In a post conviction proceeding, before the crime victim may be subpoenaed by the defendant, the defendant must first petition the court and give notice to the victim. At the hearing on the petition, the victim shall be given the opportunity to appear and object to the requested subpoena. At the request of the victim, the State's Attorney shall represent the victim in the proceeding. The court shall grant the request for the subpoena only if and to the extent it determines that the subpoena seeks evidence that is material and relevant to the post conviction hearing. For the purposes of this Section, "crime victim" has the meaning ascribed to it in Section 3 of the Rights of Crime Victims and Witnesses Act. *725 Ill. Comp. Stat. Ann. 5/115-17b (Administrative subpoenas).* (a) Definitions. As used in this Section: "Electronic communication services" and "remote computing services" have the same meaning as provided in the Electronic Communications Privacy Act in Chapter 121 (commencing with Section 2701) of Part I of Title 18 of the United States Code Annotated. "Offense involving the sexual exploitation of children" means an offense under Section 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-6.5, 11-6.6, 11-9.1, 11-14.4, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 11-20.1, 11-20.1B, 11-20.3, 11-21, 11-23, 11-25, 11-26, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 or the Criminal Code of 2012 or any attempt to commit any of these offenses when the victim is under 18 years of age. (b) Subpoenas duces tecum. In any criminal investigation of an offense involving the sexual exploitation of children, the Attorney General, or his or her

	designee, or a State's Attorney, or his or her designee, may issue in writing and cause to be served subpoenas duces tecum to providers of electronic communication services or remote computing services requiring the production of records relevant to the investigation. Any such request for records shall not extend beyond requiring the provider to disclose the information specified in 18 U.S.C. 2703(c)(2). Any subpoena duces tecum issued under this Section shall be made returnable to the Chief Judge of the Circuit Court for the Circuit in which the State's Attorney resides, or his or her designee, or for subpoenas issued by the Attorney General, the subpoena shall be made returnable to the Chief Judge of the Circuit Court for the Circuit to which the investigation pertains, or his or her designee, to determine whether the documents are privileged and whether the subpoena is unreasonable or oppressive. (c) Contents of subpoena. A subpoena under this Section shall describe the records or other things required to be produced and prescribe a return date within a reasonable period of time within which the objects or records can be assembled and made available. (c-5) Contemporaneous notice to Chief Judge. Whenever a subpoena is issued under this Section, the Attorney General or his or her designee or the State's Attorney or his or her designee shall be required to provide a copy of the subpoena to the Chief Judge of the county in which the subpoena is returnable. (d) Modifying or quashing subpoena. At any time before the return date specified in the subpoena, the person or entity to whom the subpoena is directed may petition for an order modifying or quashing the subpoena on the grounds that the subpoena is oppressive or unreasonable or that the subpoena seeks privileged documents or records. (e) Ex parte order. An Illinois circuit court for the circuit in which the subpoena is or will be issued, upon application of the Attorney General, or his or her designee, or State's Attorney, or his or her designee, may issue an ex parte order that no person or entity disclose to any other person or entity (other than persons necessary to comply with the subpoena) the existence of such subpoena for a period of up to 90 days. (1) Such order may be issued upon a showing that the things being sought may be relevant to the investigation and there is reason to believe that such disclosure may result in: (A) endangerment to the life or physical safety of any person; (B) flight to avoid prosecution; (C) destruction of or tampering with evidence; (D) intimidation of potential witnesses; or (E) otherwise seriously jeopardizing an investigation or unduly delaying a trial. (2) An order under this Section may be renewed for additional periods of up to 90 days upon a showing that the circumstances described in paragraph (1) of this subsection (e) continue to exist. (f) Enforcement. A witness who is duly subpoenaed who neglects or refuses to comply with the subpoena shall be proceeded against and punished for contempt of the court. A subpoena duces tecum issued under this Section may be enforced pursuant to the Uniform Act to Secure the Attendance of Witnesses from Within or Without a State in Criminal Proceedings. (g) Immunity from civil liability. Notwithstanding any federal, State, or local law, any person, including officers, agents, and employees, receiving a subpoena under this Section, who complies in good faith with the subpoena and thus produces the materials sought, shall not be liable in any court of Illinois to any customer or other person for such production or for nondisclosure of that production to the customer.
Indiana	*Ind. Code Ann. § 34-47-4-1 (Issuance, service, and return of citation).* (a) This section applies to any proceeding in any court of record and of original jurisdiction authorized or empowered by law to: (1) punish for contempts of court; or (2) enforce its orders by contempt proceedings; whether the contempt proceedings are civil or criminal in nature. (b) The court may order a citation issued to the sheriff of any county for service upon the person alleged to be guilty of contempt, or in violation of any order of the court to: (1) appear before the court at the time fixed in the citation; and (2) show cause why the person should not be punished for contempt of court. (c) The citation shall be served by the sheriff to whom it is addressed in the same manner as summons is served in a civil proceeding and due return shall

	be made to the court issuing the citation. *Ind. Code Ann. § 34-47-4-2 (Issuance and service of writ of attachment; return and release of person).* (a) For the purpose of procuring personal jurisdiction over a person who has allegedly violated a court order or who is otherwise in contempt of court, the court may issue a writ of attachment of the body of the person. (b) A writ of attachment issued under subsection (a) shall: (1) be directed to a sheriff or assisting sheriff; and (2) fix an amount of: (A) bail, if the order that the person has allegedly violated does not concern a child support obligation; or (B) escrow, if the order that the person has allegedly violated concerns a child support obligation. (c) A sheriff or assisting sheriff who receives an order under this section shall immediately: (1) serve the writ; and (2) take the person into custody. A sheriff may serve a writ of attachment and take the person into custody in any county. (d) If an assisting sheriff takes a person into custody, the assisting sheriff shall notify the sheriff. The sheriff, after notification, shall immediately return the person to the county in which the writ was issued and take the person before the court that issued the writ. However, the sheriff may release the person: (1) on bail as in criminal matters; or (2) after any person has deposited the amount of escrow in accordance with subsection (e). (e) The escrow shall be: (1) deposited with the clerk of the court; (2) an amount: (A) fixed by the court; and (B) not more than any delinquent child support allegedly owed by the person to another; and (3) subject to a court ordered attachment for satisfaction of delinquent child support and interest under IC 31-16-12-2 and IC 31-14-12-1 (before its repeal). (f) All escrow money collected under this section (or IC 34-4-9-2.1 before its repeal) by the clerk of the court shall be deposited into a single account. The clerk shall: (1) keep an accounting of all money transferred to the escrow account; (2) issue a receipt to any person who transfers money to the clerk under this section; and (3) transfer money from the escrow account only under an order from the court that issued the writ of attachment under subsection (a). *Ind. Code Ann. § 35-37-5-2 (Subpoena; issuance; service; proof of service; fees; contempt of court).* (a) At the request of the state or a defendant, subpoenas for attendance at a hearing or trial shall be issued by the clerk of the court of the county in which the hearing or trial is to be held. A subpoena may be served at any place within the state. When permitted by the laws of the United States, this or another state, or foreign country, the court upon proper application and cause shown may authorize the service of a subpoena outside the state in accordance with such law. (b) Every subpoena shall: (1) be issued by the clerk under the seal of the court; (2) state the name of the court and the title of the action; (3) command each person to whom it is directed to attend and give testimony at a specified time and place; and (4) be signed by the clerk. The clerk shall issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party requesting it or his attorney, who shall fill it in before service.

	(c) A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein. The court, upon motion made at or before the time specified in the subpoena for compliance, may: (1) quash or modify the subpoena if it is unreasonable and oppressive; or (2) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable costs of producing the books, papers, documents, or tangible things. (d) A subpoena may be served by any person. Service of a subpoena upon a person shall be made in the same manner as provided in the Indiana Rules of Trial Procedure. (e) When a subpoena is served by the sheriff or his deputy, his return shall be proof of service. When served by any other person, the service must be shown by affidavit. No fees or costs for the service of a subpoena shall be collected or charged as costs except when service is made by the sheriff or his deputy. (f) Fees need not be first paid or tendered in order to compel the attendance of witnesses in a criminal proceeding. (g) Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed a contempt of: (1) the court from which the subpoena is issued; or (2) the court of the county where the witness was required to appear or act. When duly subpoenaed, the attendance of all witnesses may be enforced by attachment.
Iowa	*Iowa Code Ann. § 665.4 (Punishment).* The punishment for contempt, where not otherwise specifically provided, shall be: 1. In the supreme court or the court of appeals, by a fine not exceeding one thousand dollars or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment. 2. Before district judges, district associate judges, and associate juvenile judges by a fine not exceeding five hundred dollars or imprisonment in a county jail not exceeding six months or by both such fine and imprisonment. 3. Before judicial magistrates, by a fine not exceeding one hundred dollars or imprisonment in a county jail not exceeding thirty days. *Iowa Code Ann. § 804.11 (Arrest of material witness).* 1. When a law enforcement officer has probable cause to believe that a person is a necessary and material witness to a felony and that such person might be unavailable for service of a subpoena, the officer may arrest such person as a material witness with or without an arrest warrant. 2. At the time of the arrest, the law enforcement officer shall inform the person of: a. The officer's identity as a law enforcement officer. b. The reason for the arrest which is that the person is believed to be a material witness to an identified felony and that the person might be unavailable for service of a subpoena. *Iowa Code Ann. § 804.23 (Initial appearance of arrested material witness before magistrate).* The officer shall, without unnecessary delay, take the person arrested pursuant to section 804.11 before the nearest or most accessible magistrate to the place where the arrest occurred. At the appearance before the magistrate, the law enforcement officer shall make a showing to the magistrate, by sworn affidavit, that probable cause exists to believe that a person is a necessary and material witness to a felony and that such person might be unavailable for service of a subpoena. The magistrate may order the person released pursuant to section 811.2. *Iowa Code Ann. § 815.6 (Fees to material witnesses).* Persons confined as material witnesses shall, for each day of confinement, receive such fees as are set by the district court. *Iowa R. Crim. P. 2.15 (Subpoenas).*

	2.15(1) *For witnesses.* A magistrate in a criminal action before the magistrate, and the clerk of court in any criminal action pending therein, shall issue blank subpoenas for witnesses, signed by the magistrate or clerk, with the seal of the court if by the clerk, and deliver as many of them as requested to the defendant or the defendant's attorney or the attorney for the state. 2.15(2) *For production of documents--duces tecum.* A subpoena may contain a clause directing the witness to bring with the witness any book, writing, or other thing under the witness's control which the witness is bound by law to produce as evidence. The court on motion may dismiss or modify the subpoena if compliance would be unreasonable or oppressive. . . . 2.15(5) *Sanctions for refusing to appear or testify.* Disobedience to a subpoena, or refusal to be sworn or to answer as a witness, may be punished by the court or magistrate as a contempt. The attendance of a witness who so fails to appear may be coerced by warrant.
Kansas	*Kan. Stat. Ann. § 22-2805 (Material witness; appearance bond; custody; release, when required; appointed counsel and other services for indigent).* (a) If it appears by affidavit that the testimony of a person is material in any criminal proceeding or in any proceeding under the revised Kansas juvenile justice code, K.S.A. 38-2301 et seq., and amendments thereto, and it is shown that it may become impracticable to secure the witness' presence by subpoena, the court or magistrate may require the witness to give bond in an amount fixed by the court or magistrate, or to comply with other conditions to assure the witness' appearance as a witness. If a person fails to comply with the conditions of release, the court or magistrate may, after hearing, commit the witness to the custody of the sheriff or marshal pending final disposition of the proceeding in which the testimony is needed. A material witness shall not be held in custody more than 30 days unless the court or magistrate, after hearing, determines that there is good cause to hold the witness for an additional period of not more than 30 days. No material witness shall be detained because of inability to comply with any condition of release if the testimony of the witness can be secured for use at trial or in any proceeding under the revised Kansas juvenile justice code, K.S.A. 38-2301 et seq., and amendments thereto by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable time until the deposition of the witness can be taken pursuant to K.S.A. 22-3211, and amendments thereto. (b) The court or magistrate shall appoint counsel to represent a witness committed to custody pursuant to this section when the court or magistrate determines that the witness is financially unable to employ counsel, based on the same standards as used to determine if a defendant is able to employ counsel. Such appointment shall be from the panel for indigents' defense services or as otherwise prescribed under the applicable system for providing legal defense services for indigent persons prescribed by the state board of indigents' defense services for the county or judicial district. In any proceeding under the revised Kansas juvenile justice code, K.S.A. 38-2301 et seq., and amendments thereto, such appointment shall be pursuant to K.S.A. 38-2306, and amendments thereto. The witness may obtain necessary investigative, expert and other services in the manner provided by K.S.A. 22-4508, and amendments thereto. Payment for the counsel and other services shall be made in the manner provided by K.S.A. 22-4507, and amendments thereto. *Kan. Stat. Ann. § 22-3101 (Inquisitions; witnesses).* (1) If the attorney general, an assistant attorney general, the county attorney or the district attorney of any county is informed or has knowledge of any alleged violation of the laws of Kansas, such person may apply to a district judge to conduct an inquisition. An application for an inquisition shall be in writing, verified under oath, setting forth the alleged violation of law. Upon the filing of the application, the judge with whom it is filed, on the written praecipe of such attorney, shall issue a subpoena for the witnesses named in such praecipe commanding them to appear and testify concerning the matters under investigation. Such subpoenas shall be served and returned as subpoenas for witnesses in criminal cases in the district court. . . . (3) Each witness shall be sworn to make true answers to all questions propounded to such witness touching the matters under investigation. The testimony of each witness shall be reduced to writing and signed by the witness. Any person who disobeys a subpoena issued for such appearance or refuses to be sworn as a witness or answer any proper question propounded during the inquisition, may be adjudged in contempt of court and punished by fine and imprisonment. *Kan. Stat. Ann. § 22-3214 (Subpoenas [Criminal Procedure]).* (1) The prosecution and any person charged with a crime shall be entitled to the use of subpoenas and other compulsory process to obtain the attendance

	of witnesses. Except as otherwise provided by law, such subpoenas and other compulsory process shall be issued and served in the same manner and the disobedience thereof punished the same as in civil cases. (2) All courts having criminal jurisdiction shall have the power to compel the attendance of witnesses from any county in the state to testify either for the prosecution or for the defendant and to direct law enforcement officers to serve subpoenas to obtain the attendance of witnesses at all proceedings conducted by the court anytime after the arrest of any person. (3) It shall not be necessary to tender any fee or mileage allowance to any witness when he is served with a subpoena to attend any criminal case and give testimony either on behalf of the prosecution or the defendant. *Kan. Stat. Ann. § 60-245(e) (Subpoenas [Civil Procedure]).* (e) *Contempt.* The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. Punishment for contempt should be in accordance with K.S.A. 20-1204, and amendments thereto. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of subsection (c)(3)(A)(ii).
Kentucky	*Ky. Rev. Stat. Ann. § 432.230 (Contempt of court by witness, juror, officer).* Witnesses, jurors and officers of courts, for disobeying a summons of court, or neglecting to execute or make due return of a subpoena or order of court or other judicial officer, may be punished for contempt. *Ky. Rev. Stat. Ann. § 432.250 (Bond for appearance following contempt charge).* (1) Upon a capias or other original process against a person charged with a contempt, the court awarding it shall direct in what penalty the accused shall give bond, with good surety, for his appearance at the time and place named in the process, which order shall be endorsed on the process. If the bond given is violated, proceedings shall be instituted by the attorney for the Commonwealth to recover the penalty. (2) If the person arrested by virtue of the process fails to give bond as required, the officer making the arrest shall forthwith remove and lodge him in the jail of the county from which the process issued. *Ky. Rev. Stat. Ann. §* 432.270 *(No bail permitted for contempt.)* A person committed to prison for contempt shall not be admitted to bail. *Ky. R. Crim. P. 3.20 (Recognizance of witnesses).* When the defendant has been held to answer the charge the judge shall cause each of the material witnesses on behalf of the Commonwealth and, at the defendant's request, each of such witnesses for the defendant as the defendant may suggest, to enter into a recognizance before the judge to the effect that the witness will attend and testify in the court to which the defendant has been held to answer, or forfeit a sum not less than one hundred dollars ($100) to the Commonwealth of Kentucky. If witnesses for the defendant are recognized, it shall be so stated in the recognizance. *Ky. R. Crim. P. 7.02(7) (Subpoenas).* (7) Failure by any person without adequate excuse to obey a subpoena served upon that person shall be punishable as a contempt of court, provided the appearance of an unmarried infant as specified in the subpoena shall be deemed compliance by the person served on behalf of the infant. Immediate attendance of the witness for the purpose for which the witness was subpoenaed may be compelled by bench warrant issued pursuant to Rule 2.05. A show-cause order may also issue for the purpose of determining whether the witness should be held in contempt. *Ky. R. Crim. P. 7.06 (Indispensable witness).* (1) If it appears by affidavit in any criminal proceeding that the testimony of a person is indispensable and that there are reasonable grounds to believe that it will be impracticable to secure that person's attendance by subpoena, the court may issue an order to any peace officer to bring the witness before the court. A hearing shall then be held without unnecessary delay at which the witness shall be present and represented by counsel unless waived, and the

	court may require the witness to give bail for his or her appearance as a witness. The applicable provisions governing bail shall apply to bail for indispensable witnesses. If the witness fails to give bail, the court may commit him or her to custody pending a final disposition of the proceeding in which the testimony is needed. The court may order the witness's release if he or she has been detained for an unreasonable length of time and may modify at any time the requirement as to bail. (2) If such witness is committed for failure to give bail, the court on written motion of the witness and upon notice to the parties may direct that the witness's deposition be taken. After the deposition has been taken the court shall discharge the witness.
Louisiana	*La. Stat. Ann. § 15:257 (Placing material witness under bond).* Whenever it shall appear, upon motion of the district attorney or upon motion of a defendant supported by his affidavit, that the testimony of any witness is essential to the prosecution or the defense, as the case may be, and it is shown that it may become impracticable to secure the presence of the person by subpoena, a judge, as defined in Article 931 of the Code of Criminal Procedure, shall issue a warrant for the arrest of the witness. The witness shall be arrested and held in the parish jail, or such other suitable place as shall be designated by the court, until he gives an appearance bond as provided for defendants when admitted to bail, or until his testimony shall have been given in the cause or dispensed with. *La. Stat. Ann. § 15:258 (Taking deposition of witness imprisoned in default of bond).* When any witness in any criminal case, imprisoned in default of giving bond for his appearance, shall wish to have his testimony taken and to be enlarged, he shall apply to the judge of the court in which such prosecution is pending to have his testimony taken in writing; and thereupon the judge shall order said testimony to be taken in writing before him in court or in chambers or before any officer authorized by law to administer oaths, after giving forty-eight hours personal notice to the accused and to the district attorney to be present at the time and place of the taking of said testimony; provided, that with the consent of the district attorney and of the accused any and all delays for the taking of said testimony may be waived. If the accused is in jail, the sheriff shall be notified and shall produce the accused at the time and place designated to be confronted with the witness. The testimony when so taken shall be sworn to and signed by the witness if he knows how to write, if not, by his ordinary mark attested by the officer taking the testimony; and the said testimony so certified to shall be without delay returned by the officer taking the same into the court in which said prosecution is pending, together with the said notice and the officer's return of service annexed thereto, and thereupon the said witness shall be discharged from custody. The taking of this testimony shall be without expense to the witness, but shall be taxed as a part of the costs of the prosecution. *La. Code Crim. Proc. Ann. art. 25 (Penalties for contempt).* B. Except as otherwise provided in this Article, a court may punish a person adjudged guilty of contempt of court in connection with a criminal proceeding by a fine of not more than five hundred dollars, or by imprisonment for not more than six months, or both. D. A justice of the peace may punish a person adjudged guilty of a direct contempt of court by a fine of not more than fifty dollars, or imprisonment in the parish jail for not more than twenty-four hours, or both. E. When a contempt of court consists of the omission to perform an act which is yet in the power of the person charged with contempt to perform, he may be imprisoned until he performs it, and in such a case this shall be specified in the court's order. *La. Code Crim. Proc. Ann. art. 439.1 (Witnesses; authority to compel testimony and evidence).* A. In the case of any individual who has been or may be called to testify or provide other information at any proceeding before or ancillary to a grand jury of the state, at any proceeding before a court of this state, or in response to any subpoena by the attorney general or district attorney, the judicial district court of the district in which the proceeding is or may be held shall issue, in accordance with Subsection B of this article, upon the request of the attorney general together with the district attorney for such district, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in Subsection C of this article. B. The attorney general together with the district attorney may request an order under Subsection A of this article when in his judgment

	(1) the testimony or other information from such individual may be necessary to the public interest; and (2) such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self incrimination. C. The witness may not refuse to comply with the order on the basis of his privilege against self incrimination, but no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case, except a prosecution for perjury, giving a false statement or otherwise failing to comply with the order. D. Whoever refuses to comply with an order as hereinabove provided shall be adjudged in contempt of court and punished as provided by law.
Maine	*Me. Rev. Stat. Ann. tit. 15 § 1313 (Punishment of state witness for nonattendance).* Whoever, having been subpoenaed as a witness in behalf of the State before any court or grand jury, without reasonable cause fails to appear at the time and place designated in the subpoena, if he is not punished therefor as for contempt, is guilty of a Class E crime. *Me. Rev. Stat. Ann. tit. 15 § 1104 (Material witness; arrest and bail).* If it appears by affidavit that the testimony of a person is material in any criminal proceeding and if it is shown that it may become impracticable to secure the presence of that person by subpoena, the court may order the arrest of that person and may require that person to give bail for that person's appearance as a witness, utilizing the same standards for release as for a defendant preconviction bailable as of right under subchapter II. Subchapters IV and V also apply. *Me. R. Civ. P. 66 (Contempt Proceedings).* (a) In General. (1) Purpose and Scope. This rule establishes procedures to implement the inherent and statutory powers of the court to impose punitive and remedial sanctions for contempt. This rule shall not apply to the imposition of sanctions specifically authorized by other provisions of these rules or by statute. (2) Definitions. For purposes of this rule: (A) "Contempt" includes but is not limited to: (i) disorderly conduct, insolent behavior, or a breach of peace, noise or other disturbance or action which actually obstructs or hinders the administration of justice or which diminishes the court's authority; or (ii) failure to comply with a lawful judgment, order, writ, subpoena, process, or formal instruction of the court. (B) A punitive sanction is a sanction imposed to punish a completed act of contempt or to terminate any contempt which obstructs the administration of justice or diminishes the court's authority. (C) A remedial sanction is a sanction imposed to coerce the termination of an ongoing contempt or to compensate a party aggrieved by contempt. (D) A summary proceeding is as described in subdivision (b). (E) A plenary proceeding is as described in subdivisions (c) and (d). (F) "Court" means a Judge of the District, Probate or Administrative Court or a Justice of the Superior or Supreme Judicial Court. (3) Designation of Appropriate Proceeding. The court or the moving party must designate the nature of the contempt claimed and the sanctions sought. Where both punitive and remedial sanctions are being sought, the court must use procedures for punitive sanctions. (b) Summary Proceedings. (1) Applicability. A summary proceeding under this subdivision may be used when punitive or remedial sanctions are sought for contempt occurring in the actual presence of the court and seen or heard by the court. (2) Procedure. A contempt may be punished summarily if the court certifies that the court saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court. Before imposition of sanctions the court shall allow the alleged contemnor an opportunity to be heard in defense and mitigation. If the court finds that the alleged contemnor committed the contempt, the court shall issue a written order that directly or by incorporation of the record: (A) specifies the conduct constituting the contempt; (B) certifies that the conduct constituting contempt occurred in the presence of the court and was seen or heard by the court;

	(C) contains the sanction imposed. (3) Punitive Sanctions. The court may impose a punitive sanction that is proportionate to the conduct constituting the contempt. In a summary proceeding the court may impose a punitive sanction that consists of either imprisonment for a definite period not to exceed 30 days or a fine of a specified amount not to exceed $5000 or a combination of imprisonment and fine. (4) Remedial Sanctions. The court may impose remedial sanctions of the kind specified in subdivision (d), paragraph (3) of this rule. (5) Appeal. A person upon whom a punitive or remedial sanction has been imposed in a proceeding brought under this subdivision may seek appellate review as provided by the Maine Rules of Appellate Procedure. (c) Plenary Proceedings for Punitive Sanctions. (1) Applicability. A plenary proceeding under this subdivision must be used when punitive sanctions are sought for contempt occurring outside the presence of the court. A proceeding under this subdivision may be used when punitive sanctions are sought for contempt occurring in the presence of the court and must be used when a punitive sanction in excess of that provided in subdivision (b), paragraph (3) is contemplated. (2) Procedure. A proceeding under this subdivision shall proceed as provided by the Maine Rules of Criminal Procedure for the prosecution of a Class D crime, except as hereinafter provided. (A) Initiation. A proceeding under this subdivision is initiated by the court on its own motion or at the suggestion of a party. (B) Request for Prosecution. The court may request that an attorney for the state prosecute the proceeding. If that request is refused, the court may appoint a disinterested member of the bar to act as prosecutor. (C) Complaint. The prosecuting attorney shall draft a complaint and summons which shall be served upon the alleged contemnor in accordance with the Maine Rules of Criminal Procedure. The complaint shall (i) state the essential facts constituting the contempt and whether remedial as well as punitive sanctions are sought; and (ii) specify the time and place of a hearing. (D) Trial. The date of trial shall allow the alleged contemnor a reasonable time for the preparation of a defense. Trial shall be to the court, except that, if the court concludes that in the event of an adjudication of contempt a punitive sanction of imprisonment of more than 30 days or a serious punitive fine may be imposed, trial shall be to a jury unless waived by the alleged contemnor. (E) Failure to Appear. An alleged contemnor who fails to appear as required may be arrested pursuant to a bench warrant. (3) Punitive Sanctions. The court may impose a punitive sanction that is proportionate to the conduct constituting the contempt. In order to impose a punitive sanction, the court must find beyond a reasonable doubt that (A) the alleged contemnor has intentionally, knowingly or recklessly failed or refused to perform an act required or has done an act prohibited by a court order; and (B) it was within the alleged contemnor's power to perform the act required or refrain from doing the prohibited act. (4) Remedial Sanctions. The court may impose remedial sanctions of the kind specified in subdivision (d), paragraph (3) of this rule. (5) Appeal. A person upon whom a punitive or remedial sanction has been imposed in a proceeding brought under this subdivision may seek appellate review as provided by the Maine Rules of Appellate Procedure. (d) Plenary Proceedings for Remedial Sanctions. (1) Applicability. Unless remedial sanctions are sought in plenary punitive proceedings under subdivision (c) of this rule, a plenary remedial proceeding under this subdivision must be used when remedial sanctions are sought for contempt occurring outside the presence of the court. A proceeding under this subdivision may be used when remedial sanctions are sought for contempt occurring in the presence of the court. (2) Procedure. (A) Initiation. A proceeding under this subdivision, or a request for remedial sanctions in a proceeding under subdivision (b) or (c) of this rule, is initiated by the court on its own motion or at the suggestion of a party. The motion of a party shall be under oath and set forth the facts that give rise to the motion or shall be accompanied by a supporting affidavit setting forth the relevant facts. (B) Notice. The court shall set the matter for hearing on oral testimony, depositions, or affidavits and shall order that a contempt subpoena be served on the alleged contemnor. The subpoena shall set forth the title of the action and the date, time, and place of the hearing and shall allow the alleged contemnor a reasonable time to file an answer and prepare a defense. The subpoena may include an order to request documents requested by the moving party. The subpoena shall contain a warning that failure to obey it may result in arrest and that if the court finds the alleged contemnor to have committed

	contempt, the court may impose sanctions that may include fines and imprisonment, or both. (C) Service. The contempt subpoena shall be served with a copy of the court order or of the motion and any supporting affidavit upon the alleged contemnor. Service upon an individual shall be made in hand by an officer qualified to serve civil process. Service upon a party that is not an individual shall be made by any method by which service of a civil summons may be made. Service shall be completed no less than 10 days prior to the hearing unless a shorter time is ordered by the court. (D) Hearing. All issues of law and fact shall be heard and determined by the court. The alleged contemnor shall have the right to be heard in defense and mitigation. In order to make a finding of contempt, the court must find by clear and convincing evidence that: (i) the alleged contemnor has failed or refused to perform an act required or continues to do an act prohibited by a court order, and (ii) it is within the alleged contemnor's power to perform the act required or cease performance of the act prohibited. (E) Failure to Appear. An alleged contemnor who fails to appear as required may be arrested pursuant to a bench warrant and may be subject to a default judgment. (F) Order. In the event that the court makes a finding of contempt, the court shall issue an order which specifies the sanction to be imposed. (G) Appeal. A person upon whom a remedial sanction has been imposed in a proceeding brought under this subdivision may seek appellate review as provided by the Maine Rules of Appellate Procedure. (3) Remedial Sanctions. The court may impose any of the following sanctions on a person adjudged to be in contempt in a proceeding seeking remedial sanctions. The court may also order such additional relief as has heretofore been deemed appropriate to facilitate enforcement of orders, such as appointment of a master or receiver or requirement of a detailed plan or other appropriate relief. An order containing a remedial sanction shall contain a clear description of the action that is required for the contemnor to purge the contempt. (A) Coercive Imprisonment. A person adjudged to be in contempt may be committed to the county jail until such person performs the affirmative act required by the court's order. (B) Coercive Fine. A person adjudged to be in contempt may be assessed a fine in a specific amount, to be paid: (i) unless such person performs an affirmative act required by the court's order; or (ii) for each day that such person fails to perform such affirmative act or continues to do an act prohibited by the court's order. (C) Compensatory Fine. In addition to, or as an alternative to, sanctions imposed under subparagraph (A) or (B) of this paragraph, if loss or injury to a party in an action or proceeding has been caused by the contempt, the court may enter judgment in favor of the person aggrieved for a sum of money sufficient to indemnify the aggrieved party and to satisfy the costs and disbursements, including reasonable attorney's fees, of the aggrieved party.
Maryland	*Md. Code Ann., Cts. & Jud. Proc. § 9-203 (Witnesses confined to jail).* Appearance before District Court commissioner (a) In any criminal proceeding in which a warrant is issued for the purpose of requiring the attendance of a person as a material witness for the State, the witness must be taken promptly before a District Court commissioner before he is committed to jail. Determination of bond (b) If the commissioner determines, after a hearing, that the person brought before him should be held as a witness for the State, he shall set a reasonable bond for the appearance of the witness in the criminal proceedings when required. Witnesses unable to post bond (c) If the witness is unable to post the bond set by the commissioner he shall be committed to jail until he posts the bond. Witnesses committed to jail (d) Upon the commitment to jail of a witness, the commissioner shall notify immediately the State's Attorney of the county where the witness is being held. The sheriff, warden, or other custodian of the jail in which the witness is held shall also notify immediately the State's Attorney. Release of witness after seven days (e) Unless the State's Attorney makes application in writing prior to the expiration of seven calendar days from the date of commitment of the witness to a judge of the circuit court of the county where the witness is committed for authority to continue to hold the witness, the sheriff, warden, or other custodian of the jail shall immediately upon the expiration of seven days release the witness.

	Petition to hold witness longer than seven days (f) The filing of a petition for authority to continue to hold a witness longer than seven days may be granted by a judge, only upon the conditions and in accordance with the procedure provided by the Maryland Rules. Release of witness from custody (g) The State's Attorney may order the release of the witness from custody at any time before or after the expiration of seven days by placing an endorsement to that effect on the commitment or warrant. Payments to confined witnesses (h) A confined witness shall be paid $10 per day for each day confined in addition to the witness fees payable pursuant to § 9-202. Payment shall be made by the county in which the prosecution of the case is carried on. *Md. Rule 4-267 (Body attachment of material witness).* (a) Without order of court. When a peace officer takes a person into custody as a material witness without an order of court for attachment, the person shall be taken promptly before a judicial officer in the county in which the action is pending or where the witness is taken into custody. If the judicial officer determines, after a hearing, that (1) the testimony of the witness is material in a criminal proceeding, and (2) it may become impracticable to secure the witness' attendance by subpoena, the judicial officer shall set a reasonable bond to ensure the attendance of the witness at the hearing or trial when required. A witness who is unable to post the prescribed bond shall be committed to jail. After seven days a detained witness shall be released unless, prior thereto, the court, after hearing, orders further detention pursuant to an application filed in accordance with this Rule. (b) By order of court. Upon application filed by a party in accordance with this Rule, the court may order the issuance of a body attachment of a witness and require the witness to post a bond in an amount fixed by the court to ensure attendance if the court is satisfied that (1) the testimony of the witness is material in a criminal proceeding, and (2) it may become impracticable to secure the witness' attendance by subpoena. The sheriff or peace officer shall execute a body attachment by taking the witness into custody and forthwith before a judicial officer in the county where the action is pending or where the witness is taken into custody to post bond. A witness who is unable to post the prescribed bond shall be committed to jail. Within three days after the witness is taken into custody, the court shall hold a hearing with respect to any matter contained in the application or to the conditions of release imposed on the witness. (c) Deposition of witness in custody. The court may order that the testimony of a material witness who is in custody be taken by deposition and may release the witness after its completion. (d) Condition of bond. The condition of a bond posted pursuant to this Rule shall be that the witness personally appear as required to give evidence in any court (1) in which charges are pending against a named defendant in a particular criminal action, or (2) in which a charging document may be filed based on the same acts or transactions, or (3) to which the action may be transferred or removed; and that the bond shall continue in effect until discharged by the court having jurisdiction of the action. (e) Content of application. An application for continued detention under section (a) of this Rule or for a body attachment under section (b) of this Rule shall be verified and shall contain the following: (1) The name and present address of the witness; (2) The designation of the action for which the testimony of the witness is required; (3) A summary of the information or testimony of which the moving party believes the witness has knowledge; (4) The materiality of the expected testimony of the witness; (5) The reason for requiring a bond or incarceration to ensure the attendance of the witness.
Massachusetts	*Mass. Gen. Laws Ann. ch. 276, § 45 (Witnesses bound by recognizance).* If the prisoner is admitted to bail or is committed, the court or justice shall bind by recognizance the material witnesses against the prisoner to appear and testify at the next sitting of the court having jurisdiction of the crime and in which the prisoner is held to answer. *Mass. Gen. Laws Ann. ch. 276, § 48 (Recognizance for minor witnesses).*

	If a minor is a material witness, any other person may be allowed to recognize for his appearance; or, in the discretion of the court or justice, he may recognize in a sum not exceeding fifty dollars, which shall be valid and binding in law, notwithstanding his minority. *Mass Gen. Laws Ann. Ch. 276, § 49 (Commitment of witnesses; discharge upon recognizance).* A witness who, when required, refuses to recognize, either with or without sureties, shall, except as provided in the following section, be committed to jail until he complies with such order or is otherwise discharged; but if the court or justice finds that the witness, unless he is the prosecutor or an accomplice, is unable to procure sureties when so ordered, he shall, except in cases of felony, be discharged upon his own recognizance. Upon a complaint or indictment for a felony, against a defendant not in custody, a material witness committed for failure to furnish sureties upon his own recognizance may be held in custody for a reasonable time, pending the pursuit and apprehension of the defendant. *Mass Gen. Laws Ann. Ch. 276, § 51 (Release of committed witnesses; proceedings).* If a witness has been committed because of his inability to furnish sureties for his appearance before the superior court, the jailer shall forthwith give notice to the chief justice of the superior court, who shall direct the district attorney to inquire as to the importance of his testimony and the necessity for detaining him in jail, and the district attorney, if in his opinion the public interest will not suffer by the release of the witness on his own recognizance, shall so report to the chief justice, who may thereupon order the witness to be released upon his own recognizance. *Mass Gen. Laws Ann. Ch. 276, § 52 (Rules regulating treatment of committed witnesses; removal to another county).* The commissioner of correction shall from time to time make such rules relative to the diet, size of cells, amount of liberty and exercise, correspondence, visits and such other matters as he considers necessary regulating the treatment of witnesses held in jail as will secure their clear distinction and separation from other prisoners so far as possible, consistent with their safe custody and the prevention of tampering with their testimony. Said commissioner may, with the approval of the district attorney, remove such witnesses from the jail where they are confined to a jail in another county, and shall, at the request of the district attorney, cause them to be returned to the jail whence they were removed. The proceedings for such removal shall be the same as for the removal of prisoners from one jail or house of correction to another. The cost of support of a witness so removed and of both removals shall be paid by the county whence he is removed. *Mass. R. Crim. P. 17 (Summonses for Witnesses).* (a) Summons. (1) For Attendance of Witness; Form; Issuance. A summons shall be issued by the clerk or any person so authorized by the General Laws. It shall state the name of the court and the title, if any, of the proceeding and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. (2) For Production of Documentary Evidence and of Objects. A summons may also command the person to whom it is directed to produce the books, papers, documents, or other objects designated therein. The court on motion may quash or modify the summons if compliance would be unreasonable or oppressive or if the summons is being used to subvert the provisions of Rule 14. The court may direct that books, papers, documents, or objects designated in the summons be produced before the court within a reasonable time prior to the trial or prior to the time when they are to be offered in evidence and may upon their production permit the books, papers, documents, objects, or portions thereof to be inspected and copied by the parties and their attorneys if authorized by law. (b) Defendants Unable to Pay. At any time upon the written ex parte application of a defendant which shows that the presence of a named witness is necessary to an adequate defense and that the defendant is unable to pay the fees of that witness, the court shall order the issuance of an indigent's summons. The witness so summoned shall be paid in accordance with the provisions of subdivision (c) of this rule. If the court so orders, the costs incurred shall be assessed to the defendant in accordance with the General Laws or the provisions of these rules. (c) Payment of Witnesses. Expenses incurred by a witness summoned on behalf of a defendant determined to be indigent under this rule as well as expenses incurred by a witness summoned on behalf of the Commonwealth, as such expenses are determined in accordance with the General Laws, shall be paid after the witness certifies in a writing filed with the court the amount of his travel and attendance. (d) Service.

	(1) By Whom; Manner. A summons may be served by any person authorized to serve a summons in a civil action or to serve criminal process. A summons shall be served upon a witness by delivering a copy to him personally, by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing to the witness' last known address. (2) Place of Service. (A) Within the Commonwealth. A summons requiring the attendance of a witness at a hearing or a trial may be served at any place within the Commonwealth. (B) Outside the Commonwealth or Abroad. A summons directed to a witness outside the Commonwealth or abroad shall issue and be served in a manner consistent with the General Laws. (3) Return. The person serving a summons pursuant to this rule shall make a return of service to the court. (e) Failure to Appear. If a person served with a summons pursuant to this rule fails to appear at the time and place specified therein and the court determines that such person did receive actual notice to appear, a warrant may issue to bring that person before the court.
Michigan	*Mich. Comp. Laws Ann. § 765.29 (Bail for appearance of witness).* A witness in a criminal case need not give bail for his or her appearance as a witness unless required to do so by the order of a judge of a court of record as provided in section 35 of chapter 7. *Mich. Comp. Laws Ann. § 765.30 (Minor or material witness; recognizance).* If a material witness in a criminal case is a minor, any other person may be allowed to recognize for the appearance of the minor. *Mich. Comp. Laws Ann. § 767.33 (Subpoena of witness for defendant; disobedience; penalty, civil liability)*. Disobedience to any subpoena issued pursuant to the foregoing provisions, shall be punished in the same manner and upon the like proceedings, as provided by law in other cases; and the person guilty of such disobedience shall be liable to the party at whose instance such subpoena issued in the same manner and to the like extent as in cases of subpoenas issued in any civil suit. *Mich. Comp. Laws Ann. § 767.35 (Material witnesses; recognizance; commitment).* When it appears to a court of record that a person is a material witness in a criminal case pending in a court in the county and that there is a danger of the loss of testimony of the witness unless the witness furnishes bail or is committed if he or she fails to furnish bail, the court shall require the witness to be brought before the court. After giving the witness an opportunity to be heard, if it appears that the witness is a material witness and that there is a danger of the loss of his or her testimony unless the witness furnishes bail or is committed, the court may require the witness to enter into a recognizance with a surety in an amount determined by the court for the appearance of the witness at an examination or trial. If the witness fails to recognize, he or she shall be committed to jail by the court, until he or she does recognize or is discharged by order of the court.
Minnesota	*Minn. Stat. Ann. § 629.54 (Witness to recognize).* When a person charged with a criminal offense is admitted to bail or committed by the judge, the judge shall also bind by recognizance any witnesses against the accused whom the judge considers material, to appear and testify at any trial or hearing in which the accused is scheduled to appear. If the judge is satisfied that there is good reason to believe that a witness will not perform the conditions of the witness' recognizance unless other security is given, the judge may order the witness to enter into a recognizance for the witness' appearance, with sureties as the judge considers necessary. Except in case of murder in the first degree, arson where human life is destroyed, and cruel abuse of children, the judge may not commit any witness who offers to recognize, without sureties, for the witness' appearance. *Minn. Stat. Ann. § 629.55 (Committal of witnesses who refuse to recognize).* If a witness is required to recognize, with or without sureties, and refuses to do so, the judge shall commit that witness until the witness complies with the

	order, or is otherwise discharged according to law. During confinement a person held as a witness must receive the compensation the court before whom the case is pending directs, not exceeding regular witness fees in criminal cases as provided in section 357.24. When a minor is a material witness, any other person may recognize for the appearance of the minor as a witness, or the judge may take recognizance of the minor as a witness in a sum of not more than $ 50. The recognizance is valid and binding in law notwithstanding the disability of the minor.
Mississippi	*Miss. Code. Ann. § 9-1-17 (Punishment of contempt).* The Supreme, circuit, chancery and county courts and the Court of Appeals shall have power to fine and imprison any person guilty of contempt of the court while sitting, but the fine shall not exceed One Hundred Dollars ($100.00) for each offense, nor shall the imprisonment continue longer than thirty (30) days. If any witness refuse to be sworn or to give evidence, or if any officer or person refuse to obey or perform any rules, order, or judgment of the court, such court shall have power to fine and imprison such officer or person until he shall give evidence, or until the rule, order, or judgment shall be complied with. At the discretion of the court, any person found in contempt for failure to pay child support and imprisoned therefor may be referred for placement in a state, county or municipal restitution, house arrest or restorative justice center or program, provided such person meets the qualifications prescribed in Section 99-37-19. *Miss Code Ann. § 9-5-85 (Subpoena of witnesses).* The chancery court shall have power to issue a summons for any person, or subpoena for any witness, whose appearance in court may be deemed necessary for any purpose, whether such party or witness reside in the same or any other county. It shall be the duty of the party summoned or subpoenaed, to attend the court according to the command of the process; and if it be necessary or proper to enforce the appearance of the party, the court, on the return of the process executed and failure to appear, may issue an attachment, and may fine the party when brought in for a contempt. If a witness before the court shall refuse to testify, the court may commit such witness for contempt of the court. *Miss. Code Ann. § 13-3-103 (Attachment for failure to appear by witness).* If any person subpoenaed as a witness shall fail to appear and attend as required, an attachment shall be issued by order of the court or other authority before which he was subpoenaed to appear, returnable at such time as the court or authority may appoint. The court or authority shall, on ordering the attachment, direct whether the witness shall enter into bond for his appearance, and in what sum, and whether with or without sureties, which bond the sheriff, or other officer by whom the attachment is executed, is authorized to take, payable to the state. In case the witness shall appear in answer to the attachment, the court may discharge him therefrom, on good cause shown, or may require him to enter into recognizance or bond for his appearance until discharged, to testify in the cause. In case the witness shall not appear, in pursuance of his recognizance or bond, the same proceedings shall be had as upon the forfeiture of a recognizance in a criminal case. *Miss. Code Ann. § 99-9-19 (Attachment -- non-appearing of witness).* If any person subpoenaed as a witness shall fail to appear and attend as required, an attachment shall be issued by order of the court or other authority before which he was subpoenaed to appear, returnable at such time as the court or authority may appoint. The court or authority shall, on ordering the attachment, direct whether the witness shall enter into bond for his appearance, and in what sum, and whether with or without sureties, which bond the sheriff, or other officer by whom the attachment is executed, is authorized to take, payable to the state. In case the witness shall appear in answer to the attachment, the court may discharge him therefrom, on good cause shown, or may require him to enter into recognizance or bond for his appearance until discharged, to testify in the cause. In case the witness shall not appear, in pursuance of his recognizance or bond, the same proceedings shall be had as upon the forfeiture of a recognizance in a criminal case. *Miss. Code Ann. § 99-9-23 (Witness subpoenaed in vacation).* Any district attorney or conservator of the peace may apply to the clerk of the circuit court in vacation for writs of subpoena for any witness to attend

	before the grand jury. It shall be the duty of the clerk to issue all subpoenas thus applied for, and it shall be the duty of all witnesses subpoenaed to attend in obedience to the command of such subpoena. If such witnesses fail to appear, the foreman of the grand jury may apply for and obtain an attachment, as in other cases of defaulting witnesses, and such witnesses shall be liable to all the penalties to which any defaulting witness is subject.
Missouri	*Mo. Ann. Stat. § 491.150 (Attendance, how enforced).* A person summoned as a witness in any cause pending in any court of record, and failing to attend, may be compelled, by writ of attachment against his body, to appear, which may be served in any county in the state, and the sheriff may serve such writ of attachment, when issued by any court of record of his county in term time, in any county adjoining that in which the court is being held. *Mo. Ann. Stat. § 544.420 (Recognizance, when required).* If it appear that a felony has been committed, and that there is probable cause to believe the prisoner guilty thereof, the associate circuit judge shall bind, by recognizance, the prosecutor, and all material witnesses against such prisoner, to appear and testify before the court having cognizance of the offense, on such day as the prosecuting attorney shall designate in writing duly filed with the associate circuit judge at the time, and not to depart such court without leave. *Mo. Ann. Stat. § 544.440 (Commitment of witnesses).* If any witness so required to enter into a recognizance refuse to comply with such order, the associate circuit judge may commit him or her to prison until he or she comply with such order or be otherwise discharged according to law. *Mo. R. Crim. P. 33.12 (Felonies -- Witnesses).* If it appears by affidavit that the testimony of a person is material in any felony case, and if it is shown that it may become impracticable to secure his presence by subpoena, a court within the jurisdiction in which the case is pending and having jurisdiction to try criminal cases shall order the witness taken into custody or held in custody. A court having jurisdiction to try criminal cases in the jurisdiction where the witness is in custody or where the case is pending shall set conditions of release pursuant to Rule 33.01. No material witness shall be detained because of inability to comply with any condition of release if the testimony of such witness can be adequately secured by deposition, and further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable period of time until the deposition of the witness can be taken, in which event the court shall set the time for taking the deposition.
Montana	*Mont. Const. art. 2, § 23 (Detention).* No person shall be imprisoned for the purpose of securing his testimony in any criminal proceeding longer than may be necessary in order to take his deposition. If he can give security for his appearance at the time of trial, he shall be discharged upon giving the same; if he cannot give security, his deposition shall be taken in the manner provided by law, and in the presence of the accused and his counsel, or without their presence, if they shall fail to attend the examination after reasonable notice of the time and place thereof. *Mont. Code Ann. § 46-11-601 (Recognizance by or deposition of witness).* (1) If the defendant is held to answer after a preliminary examination, after the defendant has waived a preliminary examination, after the district court has granted leave to file an information, or after an indictment has been returned, the judge may: (a) require any material witness for the state or defendant to enter into a written undertaking to appear at the trial; and (b) provide for the forfeiture of a sum certain in the event the witness does not appear at the trial. (2) Any witness who refuses to enter into a written undertaking may be remanded to custody but may not be held longer than is necessary to take the witness's deposition. After the deposition is taken, the witness must be immediately discharged. (3) The deposition must be taken in the presence of the prosecutor and the defendant and the defendant's counsel unless either the prosecutor or the

	defendant and the defendant's counsel fail to attend after reasonable notice of the time and place set for taking the deposition.
Nebraska	*Neb. Rev. Stat. Ann. § 29-507 (Felony; witness; release from custody; conditions).* A witness against a person accused of a felony shall be ordered released from custody unless the court determines in the exercise of discretion that such release will not reasonably assure that the witness will appear and testify at the trial as required. When a determination to release the witness from custody is made, the court may impose any of the following conditions of release which will reasonably assure the appearance of the witness for trial or, if no single condition gives that assurance, any combination of the following conditions: (1) Place the witness in the custody of a designated person or organization agreeing to supervise him or her; (2) Place restrictions on the travel, association, or place of abode of the witness during the period of such release; (3) Require, at the option of any witness, either of the following: (a) The execution of an appearance bond in a specified amount and the deposit with the clerk of the court in cash of a sum not to exceed ten percent of the amount of the bond, one hundred percent of such deposit to be returned to the witness upon the performance of the appearance or appearances; or (b) The execution of a bail bond with such surety or sureties as the court shall deem proper or, in lieu of such surety or sureties, at the option of such witness, a cash deposit of the sum so fixed, conditioned upon his or her appearance before the proper court as a witness, and to appear at such times thereafter as may be ordered by the proper court. If the amount of bail is deemed insufficient by the court before whom the offense is pending, such court may order an increase of such bail and the witness must provide the additional undertaking, written or cash, to secure his or her release. All recognizances shall be in writing and be continuous from term to term until final judgment of the court in the case. Each surety on such recognizance shall be required to justify under oath in a sum twice the amount of such recognizance and give the description of real estate owned by him or her of a value, above encumbrance, equal to the amount of such justification, and shall name all other cases pending in which he or she is a surety. No one shall be accepted as surety on recognizance aggregating a sum in excess of his or her equity in his or her real estate, but such recognizance shall not constitute a lien on such real estate until judgment is entered thereon against such surety; or (4) Impose any other condition deemed reasonably necessary to assure appearances as required, including a condition requiring that the witness return to custody after specified hours. *Neb. Rev. Stat. Ann. § 29-508 (Refusal of witness to enter into recognizance or accept conditions; effect).* If any witness required to enter into a recognizance or accept specified conditions for release undersection 29-507 refuses to comply with such order, the court shall, subject to the conditions and procedure provided in section 29-508.01, commit him or her to jail until he or she complies with such order or is otherwise discharged according to law. *Neb. Rev. Stat. Ann. § 29-508.01 (Witness committed to jail; prerequisites; rights; appeal).* Before a witness is committed to jail under subdivision (4) of section 29-507 or 29-508, he or she shall: (1) Receive written notice of the allegations upon which the state relied for its claim of a right to require a recognizance or detention and of the time and place of the hearing on those allegations; (2) Have a hearing before a judge; (3) Have the evidence in support of the state's claim disclosed to him or her at a hearing; (4) Have an opportunity to be heard in person and to present witnesses and documentary evidence; (5) Have, to the extent practicable, the right to confront and cross-examine witnesses; (6) Have the right to counsel; and (7) Be given a written statement by the decisionmaker as to the evidence relied upon and the reasons for the decision made. A decision to commit a person to jail may be appealed and shall be given priority on the appellate court's calendar. *Neb. Rev. Stat. Ann. § 29-508.02 (Witness committed to jail; receive witness fee).* A witness committed to jail under subdivision (4) of section 29-507 or 29-508 shall, in addition to the fee provided under section 33-139, receive an

	amount equal to the amount a witness receives under section 29-1908 for each day held in custody.
Nevada	*Nev. Rev. Stat. Ann. § 178.494 (Bail for witnesses; judicial review of detention or amount of bail).* 1. If it appears by affidavit that the testimony of a person is material in any criminal proceeding and if it is shown that it may become impracticable to secure the person's presence by subpoena, the magistrate may require bail for the person's appearance as a witness, in an amount fixed by the magistrate. If the person fails to give bail the magistrate may: (a) Commit the person to the custody of a peace officer pending final disposition of the proceeding in which the testimony is needed; (b) Order the person's release if the person has been detained for an unreasonable length of time; and (c) Modify at any time the requirement as to bail. 2. Every person detained as a material witness must be brought before a judge or magistrate within 72 hours after the beginning of the detention. The judge or magistrate shall make a determination whether: (a) The amount of bail required to be given by the material witness should be modified; and (b) The detention of the material witness should continue. The judge or magistrate shall set a schedule for the periodic review of whether the amount of bail required should be modified and whether detention should continue. *Nev. Rev. Stat. Ann. § 178.572 (Order of immunity releasing material witness from prosecution or punishment on motion of State).* 1. In any investigation before a grand jury, or any preliminary examination or trial in any court of record, the court on motion of the State may order that any material witness be released from all liability to be prosecuted or punished on account of any testimony or other evidence the witness may be required to produce. 2. Any motion, hearing or order regarding the immunity of a grand jury witness must not be made public before an indictment or presentment is issued in the case.
New Hampshire	*N.H. Rev. Stat. Ann. § 597:6-d (Release or Detention of Material Witness.).* If it appears from an affidavit filed by a party that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a justice of the court in which the defendant will be tried may order the arrest of the person and treat the person in accordance with the provisions of RSA 597:2 [Release of a Defendant Pending Trial]. No material witness may be detained because of inability to comply with any condition of release if the trial testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the trial deposition of the witness may be taken. *N.H. Rev. Stat. Ann. § 642:8 (Bail Jumping).* I. A person is guilty of an offense if, after having been released with or without bail, he: (a) knowingly fails to appear before a court as required by the conditions of his release; or (b) knowingly fails to surrender for service of sentence pursuant to a court order. II. It is an affirmative defense to a prosecution under this section that uncontrollable circumstances prevented the person from appearing or surrendering and that the person did not contribute to the creation of such circumstances in reckless disregard of the requirement that he appear or surrender, and that he appeared or surrendered as soon as such circumstances ceased to exist. III. If the person was released: (a) In connection with a charge of, or while awaiting sentence, surrender for service of sentence, or appeal after conviction for: (1) An offense punishable by death, life imprisonment, or imprisonment of a maximum term of 15 years or more, he shall be fined not more than $10,000 or imprisoned for not more than 15 years, or both;

	(2) An offense punishable by imprisonment for a term of more than one year, but less than 15 years, he shall be fined not more than $5,000 or imprisoned for not more than 7 years, or both; (3) A Class A or Class B misdemeanor, he shall be fined not more than $2,000 or imprisoned for not more than one year, or both; (4) A violation, he shall be fined not more than $1,500; or (b) For appearance as a material witness, he shall be fined not more than $1,000 or imprisoned for not more than one year, or both. IV. A term of imprisonment imposed pursuant to this section shall be consecutive to the sentence of imprisonment for any other offense.
New Jersey	*N.J. Stat. Ann. § 2C:104-1 (Definitions).* a. A material witness is a person who has information material to the prosecution or defense of a crime. b. A material witness order is a court order fixing conditions necessary to secure the appearance of a person who is unlikely to respond to a subpoena and who has information material to the prosecution or defense of a pending indictment, accusation or complaint for a crime or a criminal investigation before a grand jury. *N.J. Stat. Ann. § 2C:104-2 (Application for material witness order).* a. The Attorney General, county prosecutor or defendant in a criminal action may apply to a judge of the Superior Court for an order compelling a person to appear at a material witness hearing, if there is probable cause to believe that: (1) the person has information material to the prosecution or defense of a pending indictment, accusation or complaint for a crime or a criminal investigation before a grand jury and (2) the person is unlikely to respond to a subpoena. The application may be accompanied by an application for an arrest warrant when there is probable cause to believe that the person will not appear at the material witness hearing unless arrested. b. The application shall include a copy of any pending indictment, complaint or accusation and an affidavit containing: (1) the name and address of the person alleged to be a material witness, (2) a summary of the facts believed to be known by the alleged material witness and the relevance to the criminal action or investigation, (3) a summary of the facts supporting the belief that the person possesses information material to the pending criminal action or investigation, and (4) a summary of the facts supporting the claim that the alleged material witness is unlikely to respond to a subpoena. c. If the application requests an arrest warrant, the affidavit shall set forth why immediate arrest is necessary. *N.J. Stat. Ann. § 2C:104-3 (Order to appear).* a. If there is probable cause to believe that a material witness order may issue against the person named in the application, the judge may order the person to appear at a hearing to determine whether the person should be adjudged a material witness. b. The order and a copy of the application shall be served personally upon the alleged material witness at least 48 hours before the hearing, unless the judge adjusts the time period for good cause, and shall advise the person of: (1) the time and place of the hearing; and (2) the right to be represented by an attorney and to have an attorney appointed if the person cannot afford one. *N.J. Stat. Ann. § 2C:104-4 (Arrest with warrant).* a. If there is clear and convincing evidence that the person named in the application will not be available as a witness unless immediately arrested, the judge may issue an arrest warrant. The arrest warrant shall require that the person be brought before the court immediately after arrest. If the arrest does not take place during regular court hours, the person shall be brought to the emergency-duty Superior Court judge. b. The judge shall inform the person of: (1) the reason for arrest; (2) the time and place of the hearing to determine whether the person is a material witness; and (3) the right to an attorney and to have an attorney appointed if the person cannot afford one. c. The judge shall set conditions for release, or if there is clear and convincing evidence that the person will not be available as a witness unless confined,

	the judge may order the person confined until the material witness hearing which shall take place within 48 hours of the arrest. *N.J. Stat. Ann. § 2C:104-5 (Arrest without warrant).* a. A law enforcement officer may arrest an alleged material witness without a warrant only if the arrest occurs prior to the filing of an indictment, accusation or complaint for a crime or the initiation of a criminal investigation before a grand jury, and if the officer has probable cause to believe that: (1) a crime has been committed; (2) the alleged material witness has information material to the prosecution of that crime; (3) the alleged material witness will refuse to cooperate with the officer in the investigation of that crime; and (4) the delay necessary to obtain an arrest warrant or order to appear would result in the unavailability of the alleged material witness. b. Following the warrantless arrest of an alleged material witness, the law enforcement officer shall bring the person immediately before a judge. If court is not in session, the officer shall immediately bring the person before the emergency-duty Superior Court judge. The judge shall determine whether there is probable cause to believe that the person is a material witness of a crime and, if an indictment, accusation or complaint for that crime has not issued or if a grand jury has not commenced a criminal investigation of that crime, the judge shall determine whether there is probable cause to believe that, within 48 hours of the arrest, an indictment, accusation or complaint will issue or a grand jury investigation will commence. The judge then shall proceed as if an application for a warrant has been made under N.J.S. 2C:104-4. *N.J. Stat. Ann. § 2C:104-6 (Material witness hearing).* a. At the material witness hearing, the following rights shall be afforded to the person: (1) the right to be represented by an attorney and to have an attorney appointed if the person cannot afford one; (2) the right to be heard and to present witnesses and evidence; (3) the right to have all of the evidence considered by the court in support of the application; and (4) the right to confront and cross-examine witnesses. b. If the judge finds that there is probable cause to believe that the person is unlikely to respond to a subpoena and has information material to the prosecution or defense of a pending indictment, accusation or complaint for a crime, or a criminal investigation before a grand jury, the judge shall determine that the person is a material witness and may set the conditions of release of the material witness. c. If the judge finds by clear and convincing evidence that confinement is the only method that will secure the appearance of the material witness, the judge may order the confinement of the material witness. d. The judge shall set forth the facts and reasons in support of the material witness order on the record. *N.J. Stat. Ann. § 2C:104-7 (Conditions of release; confinement).* a. A confined person shall not be held in jail or prison, but shall be lodged in comfortable quarters and served ordinary food. b. The conditions of release for a material witness or for a person held on an application for a material witness order shall be the least restrictive to effectuate the appearance of the material witness. A judge may: (1) place the witness in the custody of a designated person or organization agreeing to supervise the person; (2) restrict the travel of the person; (3) require the person to report; (4) set bail; or (5) impose other reasonable restrictions on the material witness. c. A person confined shall be paid $40.00 per day, and when the interests of justice require, the judge may order additional payment not exceeding the actual financial loss resulting from the confinement. The party obtaining the material witness order bears the cost of confinement and payment unless the party is indigent. *N.J. Stat. Ann. § 2C:104-8. (Deposition).* A material witness may apply to the Superior Court for an order directing that a deposition be taken to preserve the witness's testimony. After the

	deposition is taken, the judge shall vacate the terms of confinement contained in the material witness order and impose the least restrictive conditions to secure the appearance of the material witness. *N.J. Stat. Ann. §2C104-9 (Orders appealable).* A material witness order shall constitute a final order for purposes of appeal, but, on motion of the material witness, may be reconsidered at any time by the court which entered the order. *N.J. Ct. R. 3:26-3 (Bail for Witness).* (a) Authority to Issue. A Superior Court judge may, on application, conduct proceedings under N.J.S.A. 2C:104-1 et seq. as to any person who can give testimony relevant to the prosecution or defense of a pending indictment, accusation, or complaint for a crime or a criminal investigation before a grand jury. (b) Application. The application shall be captioned in Superior Court and entitled "In the Matter of (name of person alleged to be a material witness)". The application shall include a copy of the pending indictment, complaint, or accusation and an affidavit containing: (1) the name and address of the person alleged to be a material witness, (2) a summary of the facts believed to be known by the alleged material witness and the relevance to the criminal action or investigation, (3) the grounds for belief that the person has material and necessary information concerning the pending criminal action or investigation, and (4) the reasons why the alleged material witness is unlikely to respond to a subpoena. If the application requests an arrest warrant, the affidavit shall set forth why immediate arrest is necessary. (c) Order to Appear. If there is probable cause to support issuance of a material-witness order against the person named in the application, the court may order the person to appear at a hearing to determine whether the person should be adjudged a material witness. The order and a copy of the application shall be served personally on the alleged material witness at least 48 hours before the hearing, unless the judge adjusts the time period for good cause, and shall advise the person of: (1) the time and place of the hearing, and (2) the right to be represented by an attorney and to have an attorney appointed if the person cannot afford one. (d) Warrant for Immediate Detention. If there is clear and convincing evidence that the person will not be available as a witness unless immediately detained, the court may issue an order requiring that the person be brought before the court immediately. If the detention does not take place during regular court hours, the person shall be brought to the emergency-duty Superior Court judge. The judge shall inform the person: (1) the reason for detention, (2) the time and place of the hearing to determine whether the person is a material witness, and (3) that the person has a right to an attorney and to have an attorney appointed if the person cannot afford one. The judge shall set conditions for release, or, if there is clear and convincing evidence that the person will not be available as a witness unless detention is continued, the judge may order the person held until the material-witness hearing, which shall take place as soon as practicable but no later than 48 hours after detention. (e) Detention Without Prior Court Authorization. Where a law enforcement officer has detained an alleged material witness without prior court authorization, the law enforcement officer shall immediately bring the person before a Superior Court judge. If the detention does not take place during regular court hours, the person shall be brought to the emergent duty Superior Court judge. The judge shall determine whether there is probable cause to believe that the person is a material witness of a crime and, if an indictment, accusation, or complaint for that crime has not issued or if a grand jury has not commenced a criminal investigation of that crime, the judge shall determine whether there is probable cause to believe that, within 48 hours of the detention, an indictment, accusation, or complaint will issue or a grand jury investigation will commence. The judge will then proceed as if an application for an order had been made under paragraph (b). (f) Material Witness Hearing. At the material-witness hearing, the person shall have the rights: (1) to be represented by an attorney and to have an attorney appointed if the person cannot afford one, (2) to be heard and to present witnesses and evidence, and (3) unless otherwise sealed by the court for exceptional circumstances, to have all of the evidence in support of the application, and (4) to confront and cross-examine witnesses. If there is probable cause to believe that the person possesses information material to the prosecution of a defense of a pending indictment, accusation or complaint for a crime, or a criminal investigation before a grand jury and is unlikely to respond to subpoena, the judge shall: (1) set forth findings of facts on the record, and (2) set the conditions of release of the material witness. (g) Conditions of Release or Detention. Conditions of release for a material-witness or for a person held on an application for a material-witness order shall be the least restrictive to effect the order of the court including but not limited to: (1) placing the witness in the custody of a designated person or

	organization agreeing to supervise the person; (2) restricting the travel, association, or place of abode of the person during the period of detention; (3) requiring the person to report; (4) setting bail, or (5) imposing other reasonable restrictions on the material witness. No person may be detained unless the judge finds, by clear and convincing evidence, that detention is the only method that will secure the appearance of the material witness. A person detained as a material witness or pending a material-witness hearing shall be lodged in appropriate quarters and shall not be held in a jail or prison. (h) Deposition. The prosecutor, defendant, or material witness may apply to the Superior Court for an order directing that a deposition be taken to preserve the witness's testimony, for use at trial if the witness becomes unavailable, as provided by R. 3:13-2. After a deposition has been taken, the judge shall vacate the material-witness order and impose the least restrictive conditions to secure the appearance of the material witness. (i) Reconsideration of Material Witness Order. On motion of the material witness, prosecutor, or defendant, a material witness order may be reconsidered at any time by the court that entered the order. *N.J. Ct. R. 5:21-8 (Custody and Detention of Material Witness).* The judge of the Family Part shall be notified when any juvenile under 18 years of age has been taken into custody or detained as a material witness. The custody and conditions of detention of such juvenile material witness, pending the arraignment and the trial of the adult involved, shall be determined by the court upon notice to the prosecutor and other proper parties. If a juvenile is held in detention as a material witness, the trial for which the juvenile is held shall be brought on with all possible dispatch. The court may, in a proper case, dismiss a complaint for juvenile delinquency and designate the juvenile a material witness. Insofar as applicable, the provisions of R. 5:21 apply to the detention of a juvenile as a material witness.
New Mexico	*N.M. Dist. Ct. R. Crim. P. 5-404 (Bail for witness).* If it appears by affidavit that the testimony of a person is material in any felony proceeding and that it may become impracticable to secure his presence by subpoena, the court may require such person to give bail for his appearance as a witness. If the witness is not in court, a warrant for his arrest may be issued and upon return thereof the court may require him to give bail as provided in Rule 5-401 for his appearance as a witness. If a witness fails to give bail, he may be committed to the custody of the sheriff for a period not to exceed five (5) days, within which time his deposition shall be taken as provided in Rule 5-503. The court upon good cause shown may extend the time for taking such depositions for an additional period not exceeding five (5) days. Only in a capital, first or second degree felony case shall any surety be required for the bail of a witness. *N.M. Dist. Ct. R. Crim. P. 5-511 (Subpoena).* A. Form; Issuance. (1) Every subpoena shall: (a) state the name of the court from which it is issued; (b) state the title of the action and its criminal action number; (c) command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified; and (d) be substantially in the form approved by the Supreme Court. A command to produce evidence or to permit inspection may be joined with a command to appear at trial or hearing, deposition or statement, or may be issued separately. (2) All subpoenas shall issue from the court for the district in which the matter is pending. (3) The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney authorized to practice law in New Mexico and who represents a party, as an officer of the court, may also issue and sign a subpoena on behalf of the court. B. Service; Place of Examination. (1) A subpoena may be served any place within the state. (2) A subpoena may be served by any person who is not a party and is not less than eighteen (18) years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and, if that person's attendance is commanded:

	(a) if the witness is to be paid from funds appropriated by the legislature to the administrative office of the courts for payment of state witnesses or for the payment of witnesses in indigency cases, by processing for payment to such witness the fee and mileage prescribed by regulation of the administrative office of the courts; (b) for all persons not described in Subparagraph (2)(a) of this paragraph, by tendering to that person the full fee for one day's expenses provided by Subsection A of Section 10-8-4 NMSA 1978 as per diem for nonsalaried public officers attending a board or committee meeting and the mileage provided by Subsection D of Section 10-8-4 NMSA 1978. The fee for per diem expenses shall not be prorated. If attendance is required for more than one day, a full day's expenses shall be paid prior to commencement of each day attendance is required. When the subpoena is issued on behalf of the state or an officer or agency thereof, including the public defender department, fees and mileage need not be tendered. Prior to or at the same time as service of any subpoena commanding production of documents and things or inspection of premises before trial, notice shall be served on each party in the manner prescribed by Rule 5-103 NMRA. (3) A person may be required to attend a deposition or statement within one hundred (100) miles of where that person resides, is employed or transacts business in person, or at such other place as is fixed by an order of the court. (4) A person may be required to attend a hearing or trial at any place within the state. (5) Proof of service when necessary shall be made by filing with the clerk of the court a return substantially in the form approved by the Supreme Court. (6) A subpoena may be issued for taking of a deposition within this state in a criminal action pending outside the state pursuant to Section 38-8-1 NMSA 1978 upon the filing of a miscellaneous proceeding in the judicial district in which the subpoena is to be served. Upon the docketing of the miscellaneous proceeding, the subpoena may be issued and shall be served as provided by this rule. (7) A subpoena may be served in an action pending in this state on a person in another state or country in the manner provided by law or rule of the other state or country. C. Protection of Persons Subject to Subpoenas. (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction. (2)(a) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, statement, hearing or trial. (b) Subject to Subparagraph (2) of Paragraph D of this rule, a person commanded to produce and permit inspection and copying may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve upon all parties written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded. (3)(a) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it: (i) fails to allow reasonable time for compliance, (ii) requires a person who is not a party or an officer of a party to travel to a place more than one hundred (100) miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of Subparagraph (3)(b)(iii) of this paragraph, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held, or (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or (iv) subjects a person to undue burden. (b) If a subpoena (i) requires disclosure of a trade secret or other confidential research, development or commercial information, (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than one hundred (100) miles to attend trial,

	the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena. D. Duties in Responding to Subpoena. (1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand. (2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim. E. Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a non-party to attend or produce at a place not within the limits provided in Subparagraph (3)(a)(ii) of Paragraph C of this rule.
New York	*N.Y. Crim. Proc. Law § 620.10 (Material witness order; defined).* A material witness order is a court order (a) adjudging a person a material witness in a pending criminal action and (b) fixing bail to secure his future attendance thereat. *N.Y. Crim. Proc. Law § 620.20 (Material witness order; when authorized; by what courts issuable; duration thereof).* 1. A material witness order may be issued upon the ground that there is reasonable cause to believe that a person whom the people or the defendant desire to call as a witness in a pending criminal action: (a) Possesses information material to the determination of such action; and (b) Will not be amenable or responsive to a subpoena at a time when his attendance will be sought. 2. A material witness order may be issued only when: (a) An indictment has been filed in a superior court and is currently pending therein; or (b) A grand jury proceeding has been commenced and is currently pending; or (c) A felony complaint has been filed with a local criminal court and is currently pending therein. 3. The following courts may issue material witness orders under the indicated circumstances: (a) When an indictment has been filed, or a grand jury proceeding has been commenced, or a defendant has been held by a local criminal court for the action of a grand jury, a material witness order may be issued only by the superior court in which such indictment is pending or by which such grand jury has been or is to be impaneled; (b) When a felony complaint is currently pending in a district court or in the New York City criminal court or before a superior court judge sitting as a local criminal court, a material witness order may be issued either by such court or by the superior court which would have jurisdiction of the case upon a holding of the defendant for the action of the grand jury; (c) When a felony complaint is currently pending in a city court or a town court or a village court, a material witness order may be issued only by the superior court which would have jurisdiction of the case upon a holding of the defendant for the action of the grand jury. 4. Unless vacated pursuant to section 620.60, a material witness order remains in effect during the following periods of time under the indicated circumstances: (a) An order issued by a superior court under the circumstances prescribed in paragraph (a) of subdivision three remains in effect during the pendency of the criminal action in such superior court; (b) An order issued by a district court or the New York City criminal court or a superior court judge sitting as a local criminal court, under circumstances prescribed in paragraph (b) of subdivision three, remains in effect (i) until the disposition of the felony complaint pending in such court, and (ii) if the defendant is held for the action of a grand jury, during the pendency of the grand jury proceeding, and (iii) if an indictment results, for a period of ten days following the filing of such indictment, and (iv) if within such ten day period such order is indorsed by the superior court in which the indictment is pending, during the pendency of the action in such superior court. Upon such indorsement, the order is deemed to be that of the superior court. (c) An order issued by a superior court under circumstances prescribed in paragraph (c) of subdivision three remains in effect (i) until the disposition of

	the felony complaint pending in the city, town or village court, and (ii) if the defendant is held for the action of the grand jury, during the pendency of the action in the superior court. *N.Y. Crim. Proc. Law § 620.30 (Material witness order; commencement of proceeding by application; procurement of appearance of prospective witness).* 1. A proceeding to adjudge a person a material witness must be commenced by application to the appropriate court, made in writing and subscribed and sworn to by the applicant, demonstrating reasonable cause to believe the existence of facts, as specified in subdivision one of section 620.20, warranting the adjudication of such person as a material witness. 2. If the court is satisfied that the application is well founded, the prospective witness may be compelled to appear in response thereto as follows: (a) The court may issue an order directing him to appear therein at a designated time in order that a determination may be made whether he should be adjudged a material witness, and, upon personal service of such order or a copy thereof within the state, he must so appear. (b) If in addition to the allegations specified in subdivision one, the application contains further allegations demonstrating to the satisfaction of the court reasonable cause to believe that (i) the witness would be unlikely to respond to such an order, or (ii) after previously having been served with such an order, he did not respond thereto, the court may issue a warrant addressed to a police officer, directing such officer to take such prospective witness into custody within the state and to bring him before the court forthwith in order that a proceeding may be conducted to determine whether he is to be adjudged a material witness. *N.Y. Crim. Proc. Law § 620.40 (Material witness order; arraignment).* 1. When the prospective witness appears before the court, the court must inform him of the nature and purpose of the proceeding, and that he is entitled to a prompt hearing upon the issue of whether he should be adjudged a material witness. The prospective witness possesses all the rights, and is entitled to all the court instructions, with respect to right to counsel, opportunity to obtain counsel and assignment of counsel in case of financial inability to retain such, which, pursuant to subdivisions three through five of section 180.10, accrue to a defendant arraigned upon a felony complaint in a local criminal court. 2. If the proceeding is adjourned at the prospective witness' instance, for the purpose of obtaining counsel or otherwise, the court must order him to appear upon the adjourned date. The court may further fix bail to secure his appearance upon such date or until the proceeding is completed and, upon default thereof, may commit him to the custody of the sheriff for such period. *N.Y. Crim. Proc. Law § 620.50 (Material witness order; hearing, determination and execution of order).* 1. The hearing upon the application must be conducted as follows: (a) The applicant has the burden of proving by a preponderance of the evidence all facts essential to support a material witness order, and any testimony so adduced must be given under oath; (b) The prospective witness may testify under oath or may make an unsworn statement; (c) The prospective witness may call witnesses in his behalf, and the court must cause process to be issued for any such witness whom he reasonably wishes to call, and any testimony so adduced must be given under oath; (d) Upon the hearing, evidence tending to demonstrate that the prospective witness does or does not possess information material to the criminal action in issue, or that he will or will not be amenable or respond to a subpoena at the time his attendance will be sought, is admissible even though it consists of hearsay. 2. If the court is satisfied after such hearing that there is reasonable cause to believe that the prospective witness (a) possesses information material to the pending action or proceeding, and (b) will not be amenable or respond to a subpoena at a time when his attendance will be sought, it may issue a material witness order, adjudging him a material witness and fixing bail to secure his future attendance. 3. A material witness order must be executed as follows: (a) If the bail is posted and approved by the court, the witness must, as provided in subdivision three of section 510.40, be released and be permitted to remain at liberty; provided that, where the bail is posted by a person other than the witness himself, he may not be so released except upon his signed written consent thereto;

	(b) If the bail is not posted, or if though posted it is not approved by the court, the witness must, as provided in subdivision three of section 510.40, be committed to the custody of the sheriff. *N.Y. Crim. Proc. Law § 620.60 (Material witness order; vacation, modification and amendment thereof).* 1. At any time after a material witness order has been issued the court must, upon application of such witness, with notice to the party upon whose application the order was issued, and with opportunity to be heard, make inquiry whether by reason of new or changed facts or circumstances the material witness order is no longer necessary or warranted, or, if it is, whether the original bail currently appears excessive. Upon making any such determination, the court must vacate the order. If its determination is that the order is no longer necessary or warranted, it must, as the situation requires, either discharge the witness from custody or exonerate the bail. If its determination is that the bail is excessive, it must issue a new order fixing bail in a lesser amount or on less burdensome terms. 2. At any time when a witness is at liberty upon bail pursuant to a material witness order, the court may, upon application of the party upon whose application the order was issued, with notice to the witness if possible and to his attorney if any and opportunity to be heard, make inquiry whether, by reason of new or changed facts or circumstances, the original bail is no longer sufficient to secure the future attendance of the witness at the pending action. Upon making such a determination, the court must vacate the order and issue a new order fixing bail in a greater amount or on terms more likely to secure the future attendance of the witness. *N.Y. Crim. Proc. Law § 620.70 (Material witness order; compelling attendance of witness who fails to appear).* If a witness at liberty on bail pursuant to a material witness order cannot be found or notified at the time his appearance as a witness is required, or if after notification he fails to appear in such action or proceeding as required, the court may issue a warrant, addressed to a police officer, directing such officer to take such witness into custody anywhere within the state and to bring him to the court forthwith. *N.Y. Crim. Proc. Law § 620.80 (Material witness order; witness fee).* A witness held in the custody of the sheriff as a result of a material witness order must be paid the sum of three dollars per day for each day of confinement in such custody. Such compensation is a county charge and is payable upon release of such material witness from custody or, in the discretion of the court, at any designated times or intervals during the confinement as the court may deem appropriate.
North Carolina	*N.C. Gen. Stat. §15A-521(d) (Commitment to detention facility pending trial).* (d) Commitment of Witnesses. -- If a court directs detention of a material witness pursuant to G.S. 15A-803, the court must enter an order in the manner provided in this section, except that the order must: (1) State the reason for the detention in lieu of the description of the offense charged, and (2) Direct that the witness be brought before the appropriate court when his testimony is required. *N.C. Gen. Stat. § 15A-803 (Attendance of witnesses).* (a) Material Witness Order Authorized. -- A judge may issue an order assuring the attendance of a material witness at a criminal proceeding. This material witness order may be issued when there are reasonable grounds to believe that the person whom the State or a defendant desires to call as a witness in a pending criminal proceeding possesses information material to the determination of the proceeding and may not be amenable or responsive to a subpoena at a time when his attendance will be sought. (b) When Order Issued. -- A material witness order may be issued by a judge of superior court at any time after the initiation of criminal proceedings. A judge of district court may issue a material witness order only at the time that a defendant is bound over to superior court at a probable-cause hearing. (c) How Long Effective. -- A material witness order remains in effect during the period indicated in the order by the issuing judge unless it is sooner modified or vacated by a judge of superior court. In no event may a material witness order which provides for incarceration of the material witness be issued for a period longer than 20 days, but upon review a superior court judge in his discretion may renew an order one or more times for periods not to exceed five days each.

	(d) Procedure. -- A material witness order may be obtained upon motion supported by affidavit showing cause for its issuance. The witness must be given reasonable notice, opportunity to be heard and present evidence, and the right of representation by counsel at a hearing on the motion. Counsel for a material witness may be appointed and compensated in the same manner as counsel for an indigent defendant. Appointment of counsel shall be in accordance with rules adopted by the Office of Indigent Defense Services. The order must be based on findings of fact supporting its issuance. (e) Order. -- If the court makes a material witness order: (1) It may direct release of the witness in the same manner that a defendant may be released under G.S. 15A-534. (2) It may direct the detention of the witness. (f) Modification or Vacation. -- A material witness order may be modified or vacated by a judge of superior court upon a showing of new or changed facts or circumstances by the witness, the State, or any defendant. (g) Securing Attendance or Custody of Material Witness. -- The witness may be required to attend the hearing by subpoena, or if the court considers it necessary, by order for arrest. An order for arrest also may be issued if it becomes necessary to take the witness into custody after issuance of a material witness order.
North Dakota	*N.D. Cent. Code Ann. § 31-01-14 (Places where persons may be compelled to attend as witnesses in criminal matters).* No person is obliged to attend as a witness in a criminal action or proceeding in this state before a court or magistrate outside of the county in which the person resides or is served with the subpoena, unless the committing magistrate before whom the defendant is brought, or the judge of the court in which the offense is triable, or a judge of the district court, or a judge of the supreme court, upon an affidavit of the state's attorney or prosecutor, or of the defendant, or the defendant's counsel, stating that the affiant believes the evidence of the witness is material, and the witness's attendance at the examination or trial necessary, shall endorse upon the subpoena an order for the attendance of the witness. *N.D. Cent. Code Ann. § 31-03-19 (Undertaking for appearance of material witness for state who appeared at preliminary examination--Minors).* If, after a preliminary examination, a defendant is held to answer, the magistrate before whom the examination was held may require any material witness examined on the part of the state: 1. To enter into a written undertaking, without surety, to the effect that such witness will appear and testify at the court to which the complaint and depositions, if any, are to be sent, or that the witness will forfeit such sum as the magistrate may fix and determine; or 2. To enter into a written undertaking for the witness's appearance with such sureties and in such sum as the magistrate may deem proper, if the magistrate is satisfied, by proof on oath, that there is reason to believe that such witness will not appear and testify unless security is required. If any such material witness is a minor, any adult person may be allowed to give an undertaking for the minor's appearance, or the magistrate may take the undertaking of such minor in a sum not exceeding fifty dollars, which shall be valid and binding in law, notwithstanding the disability of minority. *N.D. Cent. Code Ann. § 31-03-20 (Undertaking for appearance of material witness for state--When required-- Procedure for requiring*). If, after any material witness on the part of the prosecution has been discharged on the witness's undertaking without surety, it is satisfactorily shown on the sworn application of the state's attorney or of some other person on behalf of the state made to the magistrate before whom the preliminary examination was held, or to any judge, that the presence of such witness or any other person on the part of the prosecution is material or necessary on the trial in court, such magistrate, justice, or judge may compel such witness, or any other material witness on the part of the state, to give an undertaking with sureties, to appear on said trial and give testimony therein, and for that purpose, such magistrate, justice, or judge may issue a warrant against any such person directed to a sheriff, marshal, or other peace officer, to arrest such person and bring the person before such magistrate, justice, or judge. *N.D. R. Crim. P. 46(d), (h) (Release from custody).* (d) Release of Material Witness. A magistrate may issue a warrant for detention of a person if: (1) it appears by affidavit that the testimony of the person is material in any criminal proceeding; and (2) it is shown that it may be impracticable to secure the person's presence by subpoena. The magistrate may impose release conditions as specified in Rule 46(a) on a detained material witness.

	A material witness may not be detained because of inability to comply with any release condition if the testimony of the witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release may be delayed for a reasonable time until the deposition of the witness is taken. … (h) Supervising Detention Pending Trial. To eliminate unnecessary detention, a court must supervise the detention of defendants it orders held awaiting trial and of persons it orders held as material witnesses.
Ohio	*Ohio Rev. Code Ann. § 2317.21 (Attachment of witness who disobeys subpoena).* When a witness, except a witness who has demanded and has not been paid his traveling fees and fee for one day's attendance when a subpoena is served upon him, as authorized by the provisions of section 2317.18 of the Revised Code,[1] fails to obey a subpoena personally served, the court or officer, before whom his attendance is required, may issue to the sheriff or a constable of the county, a writ of attachment, commanding him to arrest and bring the person named in the writ before such court or officer at the time and place the writ fixes, to give his testimony and answer for the contempt. If such writ does not require the witness to be immediately brought, he may give bond for a sum fixed by the court of common pleas or the court which issued the subpoena, with surety, for his appearance, which sum shall be endorsed on the back of the writ, except that, if no sum is so endorsed, it shall be one hundred dollars. When the witness was not personally served, the court, by a rule, may order him to show cause why such writ should not issue against him. *Ohio Rev. Code Ann. § 2317.22 (Punishment for contempt).* Punishment for the acts of contempt specified in section 2317.20 of the Revised Code1 shall be as follows: When the witness fails to attend in obedience to a subpoena, the court or officer may fine him not more than fifty dollars; in other cases, not more than fifty dollars nor less than five dollars; or the court or officer may imprison such witness in the county jail, there to remain until he submits to be sworn, testifies, or gives his deposition. *Ohio Rev. Code Ann. § 2317.24 (Release of witness from imprisonment).* A witness imprisoned by an officer under section 2317.22 of the Revised Code may apply to a judge of the supreme court, court of appeals, court of common pleas, or probate court, who may discharge him if it appears that such imprisonment is illegal. *Ohio Rev. Code Ann. § 2317.25 (Contents of attachment or order to commit).* Every attachment for the arrest or order to commit a witness to prison by a court or officer, pursuant to sections 2317.21 and 2317.22 of the Revised Code, must be under seal of the court or official seal of the officer, if he has one, and must particularly specify the cause of the arrest or commitment. When committed for a refusal to answer a question, the question must be stated in the order. *Ohio Rev. Code Ann. § 2937.18 (Detention of material witnesses).* If a witness ordered to give recognizance fails to comply with such order, the judge or magistrate shall commit him to such custody or open or close detention as may be appropriate under the circumstances, until he complies with the order or is discharged. Commitment of the witness may be to the custody of any suitable person or public or private agency, or to an appropriate detention facility other than a jail, or to a jail, but the witness shall not be confined in association with prisoners charged with or convicted of crime. The witness, in lieu of the fee ordinarily allowed witnesses, shall be allowed twenty-five dollars for each day of custody or detention under such order, and shall be allowed mileage as provided for other witnesses, calculated on the distance from his home to the place of giving testimony and return. All proceedings in the case or cases in which the witness is held to appear shall be given priority over other cases and had with all due speed. *Ohio Rev. Code Ann. § 2941.48 (Recognizance of witnesses).* In any case pending in the court of common pleas, the court, either before or after indictment, may require any witness designated by the prosecuting attorney to enter into a recognizance, with or without surety, in such sum as the court thinks proper for his appearance to testify in such cause. A witness

	failing or refusing to comply with such order shall be committed to the county jail until he gives his testimony in such case or is ordered discharged by the court. If a witness is committed to jail upon order of court for want of such recognizance, he shall be paid while so confined like fees as are allowed witnesses by section 2335.08 of the Revised Code. The trial of such case has precedence over other cases and the court shall designate any early day for such trial.
Oklahoma	*Okla. Stat. Ann. tit. 22, § 273 (Witness not giving undertaking committed, when).* If a witness, required to enter into an undertaking to appear and testify, either with or without sureties, refuse compliance with the order for that purpose, the magistrate must commit him to prison until he comply, or is legally discharged. *Okla. Stat. Ann. tit. 22, § 274 (Subsequent security may be demanded—Arrest of witness).* When, however, any material witness on the part of the people has been discharged on his undertaking, without surety, if afterwards, on the sworn application of the district attorney or other person on behalf of the state, made to the magistrate or to any judge, it satisfactorily appears that the presence of such witness or any other person on the part of the people is material or necessary on the trial in court, such magistrate or judge may compel such witness, or any other material witness on the part of the state, to give an undertaking with sureties, to appear on the said trial and give his testimony therein; and, for that purpose, the said magistrate or judge may issue a warrant against such person, under his hand, with or without seal, directed to a sheriff, marshal or other officer, to arrest such person and bring him before such magistrate or judge. *Okla. Stat. Ann. tit. 22, § 275 (Arrested witness may be confined).* In case the person so arrested shall neglect or refuse to give said undertaking in the manner required by said magistrate or judge, he may issue a warrant of commitment against such person, which shall be delivered to said sheriff or other officer, whose duty it shall be to convey such person to the jail mentioned in said warrant, and the said person shall remain in confinement until he shall be removed to the grand jury and to the court, for the purpose of giving his testimony, or until he shall have given the undertaking required by said magistrate or judge. *Okla. Stat. Ann. tit. 22, § 716 (Disobedience to subpoena).* Disobedience to a subpoena, or a refusal to be sworn or to testify, may be punished by the court or magistrate, as for a criminal contempt, in the manner provided in civil procedure. *Okla. Stat. Ann. tit. 22, § 717 (Disobeying defendant's subpoena--Forfeiture).* A witness disobeying a subpoena issued on the part of the defendant, also forfeits to the defendant the sum of Fifty Dollars ($50.00), which may be recovered in a civil action. *Okla. Stat. Ann. tit. 22, § 719 (Persons held as material witnesses to be informed of constitutional rights--Fees).* Whenever any person shall be taken into custody by any law enforcement officer to be held as a material witness in any criminal investigation or proceeding, he shall, if not sooner released, be taken before a judge of the district court without unnecessary delay and said judge of the district court shall immediately inform him of his constitutional rights including the reason he is being held in custody, his right to the aid of counsel in every stage of the proceedings, and of his right to be released from custody upon entering into a written undertaking in the manner provided by law. A witness who is held in custody pursuant to the provisions hereof shall be kept separately and apart from any person, or persons, being held in custody because of being accused of committing a crime. A witness who desires aid of counsel and is unable to obtain aid of counsel by reason of poverty shall be by the court provided counsel at the expense of the court fund of the county. During the time a witness is in custody he shall receive the witness fee provided by law for witnesses in criminal cases. *Okla. Stat. Ann. tit. 22, § 720 (Detainment of person as material witness).* A. If a law enforcement officer has probable cause to believe that a person is a necessary and material witness to a felony and that there is probable cause

	to believe that the person would be unwilling to accept service of a subpoena or may otherwise refuse to appear in any criminal proceeding, the officer may detain the person as a material witness with or without an arrest warrant; provided, no person may be detained as a material witness to a crime for more than forty-eight (48) hours without being taken before a judge as required by Section 719 of Title 22 of the Oklahoma Statutes; and provided further, no person may be detained as a material witness to a crime who is a victim of such crime. B. At the time of the detainment, the law enforcement officer shall inform the person: 1. Of the identity of the officer as a law enforcement officer; and 2. That the person is being detained because the officer has probable cause to believe the person: a. is a material witness to an identified felony, and b. would be unwilling to accept service of a subpoena or may otherwise refuse to appear in any criminal proceeding. C. If a material witness is taken into custody pursuant to this section, the provisions of Section 719 of Title 22 of the Oklahoma Statutes shall apply.
Oregon	*Or. Rev. Stat. Ann. § 136.608 (Application requirements).* (1) The district attorney or the defendant may apply to the court for a material witness order when: (a) An indictment has been filed, and is pending, against the defendant in a circuit court; (b) A grand jury proceeding has been commenced against the defendant; or (c) A complainant's information or a district attorney's information alleging that the defendant has committed a felony has been filed, and is pending, in a court of competent jurisdiction. (2) The application must be in writing and sworn to by the applicant. The request must state facts establishing a reasonable belief that the person the applicant desires to call as a witness: (a) Possesses information material to the determination of the action against the defendant; and (b) Will not appear at the time when attendance of the witness is required. (3) The applicant shall file the application: (a) If an indictment has been filed, a grand jury proceeding has been commenced or the defendant has been held to answer by any court to await the action of a grand jury, in the circuit court in which the indictment is pending or by which the grand jury has been impaneled; or (b) If information alleging the commission of a felony is pending in a court authorized to hold a preliminary hearing, in that court or in the circuit court that would have jurisdiction of the case upon holding the defendant to answer to await the action of the grand jury. (4) As used in this section and ORS 136.612 and 136.614, "material witness order" means an order finding a person to be a material witness in a pending criminal action and fixing a security amount to be posted to secure future attendance of the witness. *Or. Rev. Stat. Ann. § 136.611 (Court order; informing witness; hearing postponement).* (1) If, upon receipt of an application under ORS 136.608, the court determines that the application is well founded, the court shall: (a) Enter an order directing the prospective witness to appear before the court at a designated time; or (b) Issue a warrant of arrest directing the sheriff to take the person into custody and bring the person before the court, if the application included facts establishing a reasonable belief that the prospective witness would not respond to an order to appear. (2) An order under subsection (1) of this section must inform the prospective witness of the purpose of the hearing and must be served in the manner provided in ORCP 7 for the service of a summons. (3) When the prospective witness appears before the court, the court shall inform the person: (a) Of the nature and purpose of the hearing; and (b) That the person has all of the rights of a person in a criminal proceeding including, but not limited to, the right to counsel, the right to appointed counsel at state expense if the person is unable to afford counsel and the right to call witnesses and have subpoenas issued. (4) The hearing may be postponed at the request of the prospective witness for the purpose of obtaining counsel. If the hearing is postponed, the court shall order the prospective witness to appear at a future time. In addition, the court may require the prospective witness to pay an amount to secure the person's appearance. If the person refuses to comply with the order, the court shall commit the person to the jail of the county, or other appropriate

	detention facility, until the person complies or is discharged. *Or. Rev. Stat. Ann. § 136.612 (Hearing procedure; security; effect of order).* (1) At the hearing to determine whether a material witness order should be entered: (a) The applicant has the burden of proving by a preponderance of the evidence all facts essential to support the order; (b) The prospective witness may testify and may call witnesses; (c) All testimony is under oath; and (d) The Oregon Evidence Code shall apply in any material witness proceeding under ORS 136.611, except that hearsay may be admitted if the court determines that it would impose an unreasonable hardship on one of the parties or on a witness to require that the primary source of the evidence be produced at the hearing, and if the witness furnishes information bearing on the informant's reliability and, as far as possible, the means by which the information was obtained. (2) If the court finds by a preponderance of the evidence that the prospective witness possesses information that is material to the pending action and will not appear at the time the attendance of the witness is required, the court shall establish a security amount calculated to ensure the attendance of the witness and shall enter a material witness order. (3)(a) If the security amount is paid, the court shall release the witness. If someone other than the witness pays the security amount, the court shall release the witness only if the witness consents, in writing, to the payment of the security. (b) If the security amount is not paid, the court shall commit the witness to the jail of the county, or other appropriate detention facility, until the witness pays the security amount or the attendance of the witness is no longer needed in the action. (4) Unless vacated as provided in subsection (5) of this section, a material witness order remains in effect: (a) If issued by a circuit court, during the pendency of the criminal action in the circuit court; or (b) If issued by a court other than a circuit court, until the attendance of the witness is no longer needed in any part of the criminal action. (5) At any time after the entry of a material witness order, the court, upon application of either party to the order and notice to the other party, may vacate or modify the order. The court shall consider new, or changed, facts or circumstances. The court may vacate the order or may modify any part of the order. If the court reduces the security amount, the court shall exonerate any part of the original security amount in excess of the modified amount that has been paid. *Or. Rev. Stat. Ann. § 136.614 (Witness held in detention facility; payment)* A witness held in a county jail, or other appropriate detention facility, as the result of a material witness order must be paid $ 7.50 for each day of confinement. The county shall pay the fee upon the release of the witness from custody or, in the discretion of the court, at designated times or intervals during the confinement. *Or. Rev. Stat. Ann. § 136.616 (Petition for deposition to perpetuate testimony of material witness; requirements; effect on material witness order).* (1) As used in this section, "material witness order" has the meaning given that term in ORS 136.608. (2) At any time after the court enters a material witness order, the court may order, or the district attorney or the defendant may file a petition to conduct, a deposition to perpetuate the testimony of the material witness. (3)(a) The petition must be in writing and sworn to by the petitioner. (b) The petitioner shall serve a notice and a copy of the petition on the opposing party and on the material witness. (4) A petition filed under this section must describe: (a) The basis on which the court entered the material witness order; (b) Any findings made by the court in establishing the security amount under ORS 136.612; (c) Any findings made by the court in detaining the material witness; and (d) The reasons that perpetuating the testimony of the material witness is necessary. (5) The court shall grant or deny the petition no later than 30 days after the date the petition is filed. The court shall consider whether the perpetuation of the testimony will prevent failure or delay of justice for the parties and the material witness. If the court orders the deposition of the material witness, the

	court may specify the subject matter of the deposition, impose limitations on the deposition and require audio or video recording of the deposition. (6) The deposition of a material witness under this section does not invalidate or otherwise affect the material witness order, but may be considered in connection with an application to vacate or modify the order under ORS 136.612 (5). (7) The Oregon Evidence Code applies to depositions under this section.
Pennsylvania	*Pa. R. Crim. P. 522 (Detention of Witnesses).* (A) After an accused has been arrested for any offense, upon application of the attorney for the Commonwealth or defense counsel, and subject to the provisions of this chapter, a court may set bail for any material witness named in the application. The application shall be supported by an affidavit setting forth adequate cause for the court to conclude that the witness will fail to appear when required if not held in custody or released on bail. Upon receipt of the application, the court may issue process to bring any named witnesses before it for the purpose of demanding bail. (B) If the material witness is unable to satisfy the conditions of the bail bond after having been given immediate and reasonable opportunity to do so, the court shall commit the witness to jail, provided that at any time thereafter and prior to the term of court for which the witness is being held, the court shall release the witness when the witness satisfies the conditions of the bail bond. (C) Upon application, a court may release a witness from custody with or without bond, or grant other appropriate relief.
Rhode Island	*9 R.I. Gen. Laws Ann. § 9-17-7 (Attachment to compel attendance).* The court before which any witness is duly summoned to appear may compel his or her attendance by writ of attachment, fine him or her not exceeding twenty dollars ($20.00), and order him or her to pay the costs of the attachment and to be committed to the adult correctional institutions until the fine and costs are paid. *9 R.I. Gen. Laws Ann. § 9-17-8 (Attachment of witness in criminal proceeding).* Whenever any witness, duly served with a subpoena to testify in any criminal proceeding at any court, shall neglect to appear according to the tenor of the subpoena, the court may order a writ of attachment to issue against him or her, returnable at such time as the court shall direct, and may direct the writ of attachment to each and all deputy sheriffs, town sergeants, and constables within the state. *9 R.I. Gen. Laws Ann. § 9-17-9 (Commitment of attached witnesses--Recognizance).* If the court from which the writ of attachment issues, pursuant to § 9-17-8, shall not be in session at the time of the service of the writ, the officer charged with the service thereof shall commit the witness to jail, either in the county from which the writ shall issue or in which the witness shall be, there to be kept until he or she shall give recognizance before some person authorized to take bail in the same county, with sufficient surety, in the sum of one hundred dollars ($100), to appear before the court on the day named in the writ, or, failing to give recognizance, until he or she is discharged by the court; and the recognizance shall be returned by the person to the clerk of the court. *9 R.I. Gen. Laws Ann. § 9-17-10 (Discharge from custody on giving of recognizance).* The witness may give recognizance as provided in § 9-17-9 while in custody of the officer, before he or she is committed to jail; and thereupon the officer shall discharge him or her from custody. *R.I. Super. Ct. R. Crim. P. 46(b) (Release on Bail).* (b) Bail for Witness. If upon a hearing it appears that the testimony of a person is material in any criminal proceeding and if it is shown that it may become impracticable to secure the person's presence by subpoena, the court may require the person to give bail for his or her appearance as a witness, in an amount fixed by the court. If the person fails to give bail the court may commit the person pending final disposition of the proceeding in which the testimony is needed, may order the person's release if the person has been detained for an unreasonable length of time and may modify at any time the

	requirement as to bail.
South Carolina	*S.C. Code Ann. § 22-5-550 (Arrest and committal of witness on refusal to enter into recognizance.).* Upon information made of the materiality of any witness within the State to support any accusation made or when the materiality of such witness shall be within the knowledge of any magistrate, he shall issue his warrant requiring such witness to appear before him or the next magistrate to enter into recognizance, with good security, if deemed proper. Such warrant shall authorize the arrest and detention of any such witness in any county in the State. On being brought before such magistrate and refusing to enter into recognizance, such witness may be committed by the magistrate to the jail of the county, there to remain until he shall be regularly discharged or shall enter into recognizance as required by this chapter. *S.C. Code Ann. § 22-5-560 (Arrest of witness on behalf of accused.).* The accused shall, in felonies and in no other case, have the like process to compel the attendance of any witness in his behalf as is granted or permitted on the part of the State. *S.C. Code Ann. § 22-5-570 (Amount of recognizance of witness.).* The recognizance of any prosecutor or witness, in a case of misdemeanor, shall not be for less than one hundred dollars and, in case of a capital felony, shall not be for less than five hundred dollars though in all cases the magistrate shall cause it to be in such amount as the circumstances may seem to require.
South Dakota	*S.D. Codified Laws § 23A-43-18 (Conditions of release imposed on material witness--Release after deposition taken).* If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and if it is shown that it may become impracticable to secure his presence by subpoena, a committing magistrate or court shall impose conditions of release upon him pursuant to §§ 23A-43-2 and 23A-43-3. No material witness shall be detained because of his inability to comply with any condition of release if his testimony can adequately be secured by deposition, and further detention is not necessary to prevent a failure of justice, but his release may be delayed for a reasonable period of time until his deposition can be taken pursuant to chapter 23A-12. *S.D. Codified Laws § 23A-43-19 (Order for commitment or better security from person about to abscond--Order of arrest).* When proof is made to any committing magistrate that a person previously released on the execution of an appearance bail bond with one or more sureties is about to abscond, and that his bail is insufficient, the committing magistrate shall require such person to give better security or, for default thereof, cause him to be committed. An order for his arrest may be endorsed on the former commitment, or a new warrant therefor may be issued, by such committing magistrate, setting forth the cause thereof. *S.D. Codified Laws § 23A-43-30 (Court supervision to eliminate unnecessary detention).* A court shall exercise supervision over the detention of defendants and witnesses pending trial for the purpose of eliminating all unnecessary detention. *S.D. Codified Laws § 23A-43-31 (Failure to appear after release as forfeiture of security--Felony or misdemeanor).* Any person who, having been released pursuant to this chapter, fails to appear before any court or judicial officer as required or fails to comply with the provisions of § 25-10-41 shall, subject to the provisions of this title, forfeit any security which was given or pledged for such person's release and, in addition, shall: (1) If such person was released in connection with a charge of a felony, an alleged felony violation of § 32-23-1, or fails to report for a jail or penitentiary sentence for any offense, be guilty of a Class 6 felony; (2) If such person was released in connection with a charge of a misdemeanor, be guilty of a Class 1 misdemeanor; or (3) If such person was released for appearance as a material witness, be guilty of a Class 1 misdemeanor.

Tennessee	*Tenn. Code Ann. § 40-10-107 (Witnesses; bonds (officers and fiduciaries)).* On holding the defendant to answer, the magistrate shall take from each material witness examined by the magistrate on the part of the state a written undertaking, in the sum of two hundred fifty dollars ($250), to appear and testify, at the court at which the defendant is required to answer, on the second day of the term. *Tenn. Code Ann. § 40-10-110 (Witnesses; children and minors).* Minors, being material witnesses for the prosecution, may also be required, in the discretion of the magistrate, to procure sureties who will undertake for their appearance to testify, or the magistrate may issue subpoenas and have those minors instantly summoned to appear and testify. *Tenn. Code Ann. § 40-10-111 (Witnesses; commitment).* Any witness required to enter into an undertaking, with or without security, shall, on failure or refusal, be committed to jail. *Tenn. Code Ann. § 40-10-112 (Witnesses; bail).* In case of commitment pursuant to § 40-10-111, the magistrate shall state in the commitment the amount of the undertaking and whether security is required. The witness shall be discharged by the sheriff on entering into the undertaking as required. *Tenn. Code Ann. § 40-11-110 (Material witnesses).* (a) If it appears by affidavit that the testimony of a person is material in any criminal proceeding and if it is shown that the witness has refused or will refuse to respond to process, the court may require the witness to give bail under § 40-11-117 or § 40-11-122 for appearance as a witness, in an amount fixed by the court. (b) If the person fails to give bail, the court may commit the person to the custody of the sheriff, pending final disposition of the proceeding in which the testimony is needed, may order the person's release if the person has been detained for an unreasonable length of time, and may modify at any time the requirement as to bail. (c) If the person does not comply with the conditions of the bail bond, the court having jurisdiction shall enter an order declaring the bail to be forfeited as provided in § 40-11-120 or § 40-11-139.
Texas	*Tex. Code Crim. Proc. Ann. art. 24.11 (Requisites of an "Attachment").* An "attachment" is a writ issued by a clerk of a court under seal, or by any magistrate, or by the foreman of a grand jury, in any criminal action or proceeding authorized by law, commanding some peace officer to take the body of a witness and bring him before such court, magistrate or grand jury on a day named, or forthwith, to testify in behalf of the State or of the defendant, as the case may be. It shall be dated and signed officially by the officer issuing it. *Tex. Code Crim. Proc. Ann. art. 24.12 (When attachment may issue).* When a witness who resides in the county of the prosecution has been duly served with a subpoena to appear and testify in any criminal action or proceeding fails to so appear, the State or the defendant shall be entitled to have an attachment issued forthwith for such witness. *Tex. Code Crim. Proc. Ann. art. 24.14 (Attachment for resident witness).* When a witness resides in the county of the prosecution, whether he has disobeyed a subpoena or not, either in term-time or vacation, upon the filing of an affidavit with the clerk by the defendant or State's counsel, that he has good reason to believe, and does believe, that such witness is a material witness, and is about to move out of the county, the clerk shall forthwith issue an attachment for such witness; provided, that in misdemeanor cases, when the witness makes oath that he cannot give surety, the officer executing the attachment shall take his personal bond.

	Tex. Code Crim. Proc. Ann. art. 24.15 (To secure attendance before grand jury). At any time before the first day of any term of the district court, the clerk, upon application of the State's attorney, shall issue a subpoena for any witness who resides in the county. If at the time such application is made, such attorney files a sworn application that he has good reason to believe and does believe that such witness is about to move out of the county, then said clerk shall issue an attachment for such witness to be and appear before said district court on the first day thereof to testify as a witness before the grand jury. Any witness so summoned, or attached, who shall fail or refuse to obey a subpoena or attachment, shall be punished by the court by a fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases. *Tex. Code Crim. Proc. Ann. art. 24.16 (Application for out-county witnesses).* Where, in misdemeanor cases in which confinement in jail is a permissible punishment, or in felony cases, a witness resides out of the county in which the prosecution is pending, the State or the defendant shall be entitled, either in term-time or in vacation, to a subpoena to compel the attendance of such witness on application to the proper clerk or magistrate. Such application shall be in the manner and form as provided in Article 24.03. Witnesses in such misdemeanor cases shall be compensated in the same manner as in felony cases. This Article shall not apply to more than one character witness in a misdemeanor case. *Tex. Code Crim. Proc. Ann. art. 24.20 (Subpoena returnable at a future date).* If the subpoena be returnable at some future date, the officer shall have authority to take bail of such witness for his appearance under said subpoena, which bond shall be returned with such subpoena, and shall be made payable to the State of Texas, in the amount in which the witness and his surety, if any, shall be bound and conditioned for the appearance of the witness at the time and before the court, magistrate or grand jury named in said subpoena, and shall be signed by the witness and his sureties. If the witness refuses to give bond, he shall be kept in custody until such time as he starts in obedience to said subpoena, when he shall be, upon affidavit being made, provided with funds necessary to appear in obedience to said subpoena. *Tex. Code Crim. Proc. Ann. art. 24.22 (Witness fined and attached).* If a witness summoned from without the county refuses to obey a subpoena, he shall be fined by the court or magistrate not exceeding five hundred dollars, which fine and judgment shall be final, unless set aside after due notice to show cause why it should not be final, which notice may immediately issue, requiring the defaulting witness to appear at once or at the next term of said court, in the discretion of the judge, to answer for such default. The court may cause to be issued at the same time an attachment for said witness, directed to the proper county, commanding the officer to whom said writ is directed to take said witness into custody and have him before said court at the time named in said writ; in which case such witness shall receive no fees, unless it appears to the court that such disobedience is excusable, when the witness may receive the same pay as if he had not been attached. Said fine when made final and all costs thereon shall be collected as in other criminal cases. Said fine and judgment may be set aside in vacation or at the time or any subsequent term of the court for good cause shown, after the witness testifies or has been discharged. The following words shall be written or printed on the face of such subpoena for out-county witnesses: "A disobedience of this subpoena is punishable by fine not exceeding five hundred dollars, to be collected as fines and costs in other criminal cases." *Tex. Code Crim. Proc. Ann. art. 24.23 (Witness released).* A witness who is in custody for failing to give bail shall be at once released upon giving bail required. *Tex. Code Crim. Proc. Ann. art 24.24 (Bail for witness).* Witnesses on behalf of the State or defendant may, at the request of either party, be required to enter into bail in an amount to be fixed by the court to appear and testify in a criminal action; but if it shall appear to the court that any witness is unable to give security upon such bail, he shall be released without security. *Tex. Code Crim. Proc. Ann. art. 24.25 (Personal bond of witness).*

	When it appears to the satisfaction of the court that personal bond of the witness will insure his attendance, no security need be required of him; but no bond without security shall be taken by any officer.
Utah	*Utah Code Ann. § 77-10a-13(6) (Location--Who may be present--Witnesses--Witnesses who are subjects--Evidence--Contempt--Notice--Record of proceedings—Disclosure).* (6)(a) The managing judge has the contempt power and authority inherent in the court over which he presides and as provided by statute. (b) When a witness in any proceeding before or ancillary to any grand jury appearance refuses to comply with an order from the managing judge to testify or provide other information, including any book, paper, document, record, recording, or other material without having a recognized privilege, the attorney for the state or special prosecutor may apply to the managing judge for an order directing the witness to show cause why he should not be held in contempt. (c) After submission of the application and a hearing at which the witness is entitled to be represented by counsel, the managing judge may hold the witness in contempt and order that he be confined, upon a finding that the refusal was not privileged. (d) A hearing may not be held under this part unless 72 hours notice is given to the witness who has refused to comply with the order to testify or provide other information, except a witness may be given a shorter notice if the managing judge upon a showing of special need so orders. (e) Any confinement for refusal to comply with an order to testify or produce other information shall continue until the witness is willing to give the testimony or provide the information. A period of confinement may not exceed the term of the grand jury, including extensions, before which the refusal to comply with the order occurred. In any event the confinement may not exceed one year. (f) A person confined under this Subsection (6) for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events may not be again confined under this Subsection (6) or for criminal contempt for a subsequent refusal to testify or provide other information concerning the same transaction, set of transactions, event, or events. (g) Any person confined under this section may be admitted to bail or released in accordance with local procedures pending the determination of an appeal taken by him from the order of his confinement unless the appeal affirmatively appears to be frivolous or taken for delay. Any appeal from an order of confinement under this section shall be disposed of as soon as practicable, pursuant to an expedited schedule and in no event more than 30 days from the filing of the appeal. *Utah R. Crim. P. 14 (Subpoenas).* (a) Subpoenas requiring the attendance of a witness or interpreter and production or inspection of records, papers, or other objects. (a)(1) A subpoena to require the attendance of a witness or interpreter before a court, magistrate or grand jury in connection with a criminal investigation or prosecution may be issued by the magistrate with whom an information is filed, the prosecuting attorney on his or her own initiative or upon the direction of the grand jury, or the court in which an information or indictment is to be tried. The clerk of the court in which a case is pending shall issue in blank to the defendant, without charge, as many signed subpoenas as the defendant may require. An attorney admitted to practice in the court in which the action is pending may also issue and sign a subpoena as an officer of the court. (a)(2) A subpoena may command the person to whom it is directed to appear and testify or to produce in court or to allow inspection of records, papers or other objects, other than those records pertaining to a victim covered by Subsection (b). The court may quash or modify the subpoena if compliance would be unreasonable. (a)(3) A subpoena may be served by any person over the age of 18 years who is not a party. Service shall be made by delivering a copy of the subpoena to the witness or interpreter personally and notifying the witness or interpreter of the contents. A peace officer shall serve any subpoena delivered for service in the peace officer's county. (a)(4) Written return of service of a subpoena shall be made promptly to the court and to the person requesting that the subpoena be served, stating the time and place of service and by whom service was made. (a)(5) A subpoena may compel the attendance of a witness from anywhere in the state. (a)(6) When a person required as a witness is in custody within the state, the court may order the officer having custody of the witness to bring the witness before the court.

	(a)(7) Failure to obey a subpoena without reasonable excuse may be deemed a contempt of the court responsible for its issuance. (a)(8) Whenever a material witness is about to leave the state, or is so ill or infirm as to afford reasonable grounds for believing that the witness will be unable to attend a trial or hearing, either party may, upon notice to the other, apply to the court for an order that the witness be examined conditionally by deposition. Attendance of the witness at the deposition may be compelled by subpoena. The defendant shall be present at the deposition and the court shall make whatever order is necessary to effect such attendance. (b) Subpoenas for the production of records of victim. (b)(1) No subpoena or court order compelling the production of medical, mental health, school, or other non-public records pertaining to a victim shall be issued by or at the request of the defendant unless the court finds after a hearing, upon notice as provided below, that the defendant is entitled to production of the records sought under applicable state and federal law. (b)(2) The request for the subpoena or court order shall identify the records sought with particularity and be reasonably limited as to subject matter. (b)(3) The request for the subpoena or court order shall be filed with the court as soon as practicable, but no later than 28 days before trial, or by such other time as permitted by the court. The request and notice of any hearing shall be served on counsel for the victim or victim's representative and on the prosecutor. Service on an unrepresented victim shall be made on the prosecutor. (b)(4) If the court makes the required findings under subsection (b)(1), it shall issue a subpoena or order requiring the production of the records to the court. The court shall then conduct an in camera review of the records and disclose to the defense and prosecution only those portions that the defendant has demonstrated a right to inspect. (b)(5) The court may, in its discretion or upon motion of either party or the victim or the victim's representative, issue any reasonable order to protect the privacy of the victim or to limit dissemination of disclosed records. (b)(6) For purposes of this rule, "victim" and "victim's representative" are used as defined in Utah Code Ann. § 77-38-2(2). (c) Applicability of Rule 45, Utah Rules of Civil Procedure. The provisions of Rule 45, Utah Rules of Civil Procedure, shall govern the content, issuance, and service of subpoenas to the extent that those provisions are consistent with the Utah Rules of Criminal Procedure. *Utah R. Juv. P. Rule 59 (Material witnesses).* (a) When the court has good cause to believe that any material witness in a case will not appear and testify unless bond is required, the court may fix a bond with or without sureties, and in a sum the court considers adequate, for the appearance of the witness. (b) If the witness fails or refuses to post the bond with the clerk of the court, or the court deems it otherwise appropriate, the court may commit the witness to jail, detention, or other place of custody until the witness complies or is otherwise legally discharged. If bail is not ordered, the court shall make specific findings for detaining the witness. (c) (1) If the witness does provide bond when required, the witness may be examined and cross-examined before the court in the presence of the minor and the testimony shall be recorded. The witness shall then be discharged. (c) (2) If the witness is unavailable or fails to appear at any subsequent hearing or trial when ordered to do so, the recorded testimony may be used at the hearing or trial in lieu of the personal testimony of the witness.
Vermont	*Vt. Stat. Ann. tit. 13, § 6603 (Failure to obey summons to testify).* A person legally summoned to attend a court in this state to testify in a criminal cause, who wilfully or wrongfully refuses to attend and testify, shall be fined not less than $10.00 nor more than $100.00 or imprisoned not more than six months, or both. *Vt. Stat. Ann. tit. 13, § 6004 (Counseling or aiding in nonattendance of witness).* A person who knowingly and wrongfully counsels, aids or assists a person so summoned to testify, to absent himself or herself from attendance before such court, shall be fined not more than $50.00 nor less than $10.00. *Vt. Stat. Ann. tit. 13, § 6605 (Recognizance by witness; commitment).*

	In a proceeding before a court or magistrate for the investigation or prosecution of a criminal offense, the court or magistrate may order any witness appearing before such court or magistrate to enter into a sufficient recognizance with surety for his or her appearance before any court or magistrate where his or her attendance in such investigation or prosecution is necessary. If the witness refuses to enter into such recognizance with surety, he or she may be committed to jail in the county where his or her attendance as a witness is required, on a warrant of the court or magistrate making the order, and there detained until such time as his or her attendance to testify is required.
Virginia	*Va. Code Ann. § 19.2-127 (Conditions of release of material witness).* If it appears by affidavit that the testimony of a person is material in any criminal proceeding, and it reasonably appears that it will be impossible to secure his presence by a subpoena, a judge shall inquire into the conditions of his release pursuant to this article. *Vt. Code Ann. § 19.2-267 (Provisions applicable to witnesses in criminal as well as civil cases; obligation to attend; summons).* Sections 8.01-396.1, 8.01-402, 8.01-405, 8.01-407, and 8.01-408 to 8.01-410, inclusive, shall apply to a criminal as well as a civil case in all respects, except that a witness in a criminal case shall be obliged to attend, and may be proceeded against for failing to do so, although there may not previously have been any payment, or tender to him of anything for attendance, mileage, or tolls. In a criminal case a summons for a witness may be issued by the attorney for the Commonwealth or other attorney charged with the responsibility for the prosecution of a violation of any ordinance or by the attorney for the defendant; however, any attorney who issues such a summons shall, at the time of the issuance, file with the clerk of the court the names and addresses of such witnesses except to the extent protected under § 19.2-11.2. *Vt. Code Ann. § 19.2-267.1 (Authority of law-enforcement officer to issue summons to witness; failure to appear).* A summons may be issued by a law-enforcement officer during the course of his immediate investigation of an alleged misdemeanor for which an arrest warrant is not required pursuant to § 19.2-81 to any person he reasonably believes was a witness to the offense. The summons shall command the person to appear and testify at the trial of any criminal charge brought against any person as the result of the offense. A summons issued pursuant to this section shall have the same force as if issued by the court. The failure of any person so summoned to appear after receiving written notice of the date, time and place of the trial at least five days prior to the trial shall be punishable as contempt of the court in accordance with § 18.2-456 (5).
Washington	*Wash. Rev. Code § 10.16.145 (Witnesses--Recognizances with sureties).* If the magistrate shall be satisfied that there is good cause to believe that any such witness will not perform the condition of his or her recognizance unless other security be given, such magistrate may order the witness to enter into recognizance with such sureties as may be deemed necessary for his or her appearance at court. *Wash. Rev. Code § 10.16.150 (Recognizances for minors).* When any minor is a material witness, any other person may be allowed to recognize for the appearance of such witness, or the magistrate may, in his or her discretion, take the recognizance of such minor in a sum not exceeding fifty dollars which shall be valid and binding in law, notwithstanding the disability of minority. *Wash. Rev. Code § 10.16.160 (Witnesses--Failure to furnish recognizance--Commitment--Deposition--Discharge).* All witnesses required to recognize with or without sureties shall, if they refuse, be committed to the county jail by the magistrate, there to remain until they comply with such orders or be otherwise discharged according to law: PROVIDED, That when the magistrate is satisfied that any witness required to recognize with sureties is unable to comply with such order, the magistrate shall immediately take the deposition of such witness and discharge the witness from custody upon the witness' own recognizance. The testimony of the witness shall be reduced to writing by a district judge or some competent person under the judge's direction, and only the exact words of the witness shall be taken; the deposition, except the cross-examination, shall be in the

	narrative form, and upon the cross-examination the questions and answers shall be taken in full. The defendant must be present in person when the deposition is taken, and shall have an opportunity to cross-examine the witnesses; the defendant may make any objections to the admission of any part of the testimony, and all objections shall be noted by the district judge; but the district judge shall not decide as to the admissibility of the evidence, but shall take all the testimony offered by the witness. The deposition must be carefully read to the witness, and any corrections the witness may desire to make thereto shall be made in presence of the defendant by adding the same to the deposition as first taken; it must be signed by the witness, certified by the district judge, and transmitted to the clerk of the superior court, in the same manner as depositions in civil actions. And if the witness is not present when required to testify in the case, either before the grand jury or upon the trial in the superior court, the deposition shall be submitted to the judge of such superior court, upon the objections noted by the district judge, and such judge shall suppress so much of said deposition as such judge shall find to be inadmissible, and the remainder of the deposition may be read as evidence in the case, either before the grand jury or upon the trial in the court. *Wash. Super. Ct. R. Crim. P. 4.8(c) (Subpoenas).* (c) Contempt. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. *Wash. Super. Ct. R. Crim. P. 4.10 (Material witness).* (a) Warrant. On motion of the prosecuting attorney or the defendant, the court may issue a warrant, subject to reasonable bail, for the arrest of a material witness. The warrant shall issue only on a showing, by affidavit or on the record in open court, that the testimony of the witness is material and that (1) The witness has refused to submit to a deposition ordered by the court pursuant to rule 4.6; or (2) The witness has refused to obey a lawfully issued subpoena; or (3) It may become impracticable to secure the presence of the witness by subpoena. Unless otherwise ordered by the court, the warrant shall be executed and returned as in rule 2.2. (b) Hearing. After the arrest of the witness, the court shall hold a hearing no later than the next judicial day after the witness is present in the county from which the warrant issued. The witness shall be entitled to be represented by a lawyer. The court shall appoint a lawyer for an indigent witness if it is required to protect the rights of the witness. (c) Release/detention. Upon a determination that the testimony of the witness is material and that one of the conditions set forth in section (a) exists, the court shall set conditions for release of the witness pursuant to rule 3.2. A material witness shall be released unless the court determines that the testimony of such witness cannot be secured adequately by deposition and that further detention is necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to rule 4.6.
West Virginia	*W. Va. Code § 57-5-5 (Failure of witness to attend or produce writing).* If any person, after being served with such summons, fail to attend to give evidence or to produce such writing or document according to the summons, the court whose clerk issued the summons, or if it was not issued by the clerk of a court, the circuit court of the county in which the attendance is desired, or a judge of such court in vacation, on a special report by the person or persons before whom there was a failure to attend, on proof that there was paid to him (if it was required) a reasonable time before he was required to attend, the allowance for one day's attendance, and his mileage and tolls, shall, after service of a notice to, or rule upon him to show cause against it (if no sufficient cause be shown against it) fine him not exceeding twenty dollars, to the use of the party for whom he was summoned, and may proceed by attachment to compel him to attend and give his evidence or produce such writing or document at such time and place as such court or judge may deem fit. The witness shall, moreover, be liable to any party injured for damages. *W. Va. Code § 57-5-6 (Commitment to jail of person attending but refusing to testify or produce writing).* If a person, after being served with such summons, shall attend and yet refuse to be sworn, or to give evidence, or to produce any writing or document required, he may by order of the court whose clerk issued said summons, or of the person before whom he was summoned to attend, be committed to jail, there to remain until he shall, in custody of the jailer, give such evidence or produce such writing or document.

	W. Va. Code § 62-1C-15 (Bail for witness). The bail for a witness for or against the accused shall be conditioned upon his appearance at such time and place as the court or justice shall direct. *W. Va. Code § 62-1C-17b (Failure to appear; penalties).* (a) Any person, who, having been released upon his personal recognizance pursuant to section one-a of this article or having been otherwise admitted to bail and released in accordance with this article, and who shall willfully and without just cause fail to appear as and when it may be required of him, shall be guilty of the offense as hereinafter prescribed, and, upon conviction thereof, shall be punished in the manner hereinafter provided. (b) If any such person was admitted to bail or released after being arrested for, charged or convicted of a felony and shall thereafter be convicted for a violation of the provisions of subsection (a) of this section, such person shall be guilty of a felony and shall be fined not more than five thousand dollars or imprisoned not less than one nor more than five years, or both such fine and imprisonment. (c) If any such person was admitted to bail or released after being arrested for, charged or convicted of a misdemeanor and shall thereafter be convicted for a violation of the provision of subsection (a) of this section, such person shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars or confined in the county jail for not more than one year, or both such fine and confinement. (d) If any such person was admitted to bail or released pending appearance as a material witness and shall thereafter fail to appear when and where it shall have been required of him, such person shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than one thousand dollars or confined in the county jail not more than one year, or both such fine and confinement. (e) Any penalty authorized by this section shall be in addition to any forfeiture authorized or mandated by this article or by any other provision of law. *W. Va. Code § 62-2-16 (Execution of process within State).* When process of arrest in a criminal prosecution is issued from a court during its session, either against a party accused or a witness, the officer to whom it is directed or delivered may execute it in any part of the State. *W. Va. Code § 62-6-4 (Witnesses in criminal cases; forced attendance).* In a criminal case, a summons for a witness may be issued by the prosecuting attorney. Sections one, four, five, six and eight, article five, chapter fifty-seven of this Code shall, in other respects, apply to a criminal as well as a civil case, except that a witness in a criminal case shall be obliged to attend and may be proceeded against for failing to do so, although there may not previously have been any payment, or tender to him, of anything for attendance, mileage or tolls.
Wisconsin	*Wis. Stat. Ann. § 885.11 (Disobedient witness).* (1) Damages recoverable. If any person obliged to attend as a witness shall fail to do so without any reasonable excuse, the person shall be liable to the aggrieved party for all damages occasioned by such failure, to be recovered in an action. (2) Attendance compelled. Every court, in case of unexcused failure to appear before it, may issue an attachment to bring such witness before it for the contempt, and also to testify. (3) Punishment in courts. Inexcusable failure to attend any court of record is a contempt of the court, punishable by a fine not exceeding $200. (4) Same. Unexcused failure to attend a court not of record shall be a contempt, and the witness shall be fined all the costs of the witness's apprehension, unless the witness shall show reasonable cause for his or her failure; in which case the party procuring the witness to be apprehended shall pay said costs. (5) Striking out pleading. If any party to an action or proceeding shall unlawfully refuse or neglect to appear or testify or depose therein, either within or without the state, the court may, also, strike out the party's pleading, and give judgment against the party as upon default or failure of proof. *Wis. Stat. Ann. § 968.09 (Warrant on failure to appear).* (1) When a defendant or a witness fails to appear before the court as required, or violates a term of the defendant's or witness's bond or the defendant's or witness's probation, if any, the court may issue a bench warrant for the defendant's or witness's arrest which shall direct that the defendant or witness be brought before the court without unreasonable delay. The court shall state on the record at the time of issuance of the bench warrant the reason therefor.

	(2) Prior to the defendant's appearance in court after the defendant's arrest under sub. (1), ch. 969 shall not apply. *Wis. Stat. Ann. § 969.01(3) (Eligibility for release).* (3) Bail for witness. If it appears by affidavit that the testimony of a person is material in any felony criminal proceeding and that it may become impracticable to secure the person's presence by subpoena, the judge may require such person to give bail for the person's appearance as a witness. If the witness is not in court, a warrant for the person's arrest may be issued and upon return thereof the court may require the person to give bail as provided in s. 969.03 for the person's appearance as a witness. If the person fails to give bail, the person may be committed to the custody of the sheriff for a period not to exceed 15 days within which time the person's deposition shall be taken as provided in s. 967.04. *Wis. Stat. Ann. § 969.04 (Depositions in criminal proceedings).* (1) If it appears that a prospective witness may be unable to attend or prevented from attending a criminal trial or hearing, that the prospective witness's testimony is material and that it is necessary to take the prospective witness's deposition in order to prevent a failure of justice, the court at any time after the filing of an indictment or information may upon motion and notice to the parties order that the prospective witness's testimony be taken by deposition and that any designated books, papers, documents or tangible objects, not privileged, be produced at the same time and place. If a witness is committed pursuant to s. 969.01(3), the court shall direct that the witness's deposition be taken upon notice to the parties. After the deposition has been subscribed, the court shall discharge the witness. (2) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition. The notice shall state the name and address of each person to be examined. On motion of a party upon whom the notice is served, the court for cause shown may extend or shorten the time. Upon request of all defendants, unless good cause to the contrary is shown, the court may order that a deposition under this section be taken on the record by telephone or live audiovisual means. (3) A deposition shall be taken as provided in civil actions. At the request of a party, the court may direct that a deposition be taken on written interrogatories as provided in civil actions. (4)(a) If the state or a witness procures such an order, the notice shall inform the defendant that the defendant is required to personally attend at the taking of the deposition and that the defendant's failure so to do is a waiver of the defendant's right to face the witness whose deposition is to be taken. Failure to attend shall constitute a waiver unless the defendant was physically unable to attend. (b) If the defendant is not in custody, the defendant shall be paid witness fees for travel and attendance. If the defendant is in custody, the defendant's custodian shall, at county expense, produce the defendant at the taking of the deposition. If the defendant is in custody, leave to take a deposition on motion of the state shall not be granted unless all states which the custodian will enter with the defendant in going to the place the deposition is to be taken have conferred upon the officers of this state the right to convey prisoners in and through them. (5)(a) At the trial or upon any hearing, a part or all of a deposition, so far as it is otherwise admissible under the rules of evidence, may be used if any of the following conditions appears to have been met: 1. The witness is dead. 2. The witness is out of state, unless it appears that the absence of the witness was procured by the party offering the deposition. 3. The witness is unable to attend or testify because of sickness or infirmity. 4. The party offering the deposition has been unable to procure the attendance of the witness by subpoena. (b) Any deposition may also be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness. If only part of a deposition is offered in evidence by a party, an adverse party may require the offering party to offer all of it which is relevant to the part offered and any party may offer other parts. (6) Objections to receiving in evidence a deposition may be made as in civil actions. (7)(a) In any criminal prosecution or any proceeding under ch. 48 or 938, any party may move the court to order that a deposition of a child who has been or is likely to be called as a witness be taken by audiovisual means. Upon notice and hearing, the court may issue an order for such a deposition if the trial or hearing in which the child may be called will commence: 1. Prior to the child's 12th birthday; or 2. Prior to the child's 16th birthday and the court finds that the interests of justice warrant that the child's testimony be prerecorded for use at the trial or

	hearing under par. (b). (b) Among the factors which the court may consider in determining the interests of justice are any of the following: 1. The child's chronological age, level of development and capacity to comprehend the significance of the events and to verbalize about them. 2. The child's general physical and mental health. 3. Whether the events about which the child will testify constituted criminal or antisocial conduct against the child or a person with whom the child had a close emotional relationship and, if the conduct constituted a battery or a sexual assault, its duration and the extent of physical or emotional injury thereby caused. 4. The child's custodial situation and the attitude of other household members to the events about which the child will testify and to the underlying proceeding. 5. The child's familial or emotional relationship to those involved in the underlying proceeding. 6. The child's behavior at or reaction to previous interviews concerning the events involved. 7. Whether the child blames himself or herself for the events involved or has ever been told by any person not to disclose them; whether the child's prior reports to associates or authorities of the events have been disbelieved or not acted upon; and the child's subjective belief regarding what consequences to himself or herself, or persons with whom the child has a close emotional relationship, will ensue from providing testimony. 8. Whether the child manifests or has manifested symptoms associated with posttraumatic stress disorder or other mental disorders, including, without limitation, reexperiencing the events, fear of their repetition, withdrawal, regression, guilt, anxiety, stress, nightmares, enuresis, lack of self-esteem, mood changes, compulsive behaviors, school problems, delinquent or antisocial behavior, phobias or changes in interpersonal relationships. 9. The number of separate investigative, administrative and judicial proceedings at which the child's testimony may be required, the likely length of time until the last such proceeding, and the mental or emotional strain associated with keeping the child's recollection of the events witnessed fresh for that period of time. 10. Whether the use of a recorded deposition would reduce the mental or emotional strain of testifying and whether the deposition could be used to reduce the number of times the child will be required to testify. (8)(a) If the court orders a deposition under sub. (7), the judge shall preside at the taking of the deposition and enforce compliance with the applicable provisions of ss. 885.44 to 885.47. Notwithstanding s. 885.44(5), counsel may make objections and the judge shall make rulings thereon as at trial. The clerk of court shall keep the certified original recording of a deposition taken under sub. (7) in a secure place. No person may inspect or copy the deposition except by order of the court upon a showing that inspection or copying is required for editing under s. 885.44(12) or for the investigation, prosecution or defense of the action in which it was authorized or the provision of services to the child. (b) If the court orders that a deposition be taken by audiovisual means under sub. (7), the court shall do all of the following: 1. Schedule the deposition on a date when the child's recollection is likely to be fresh and at a time of day when the child's energy and attention span are likely to be greatest. 2. Schedule the deposition in a room which provides adequate privacy, freedom from distractions, informality and comfort appropriate to the child's developmental level. 3. Order a recess whenever the energy, comfort or attention span of the child or other circumstances so warrant. 4. Determine that the child understands that it is wrong to tell a lie and will testify truthfully if the child's developmental level or verbal skills are such that administration of an oath or affirmation in the usual form would be inappropriate. 5. Before questioning by the parties begins, attempt to place the child at ease, explain to the child the purpose of the deposition and identify all persons attending. 6. Allow any questioner to have an adviser to assist the questioner, and upon permission of the judge, to conduct the questioning. 7. Supervise the spatial arrangements of the room and the location, movement, and deportment of all persons in attendance. 8. Allow the child to testify while sitting on the floor, on a platform, on an appropriately sized chair, or on the lap of a trusted adult, or while moving about the room within range of the visual and audio recording equipment. 9. Permit the defendant to be in a position from which the defendant can communicate privately and conveniently with counsel. 10. Upon request, make appropriate orders for the discovery and examination by the defendant of documents and other evidence in the possession of the state which are relevant to the issues to be covered at the deposition at a reasonable time prior thereto.

	11. Bar or terminate the attendance of any person whose presence is not necessary to the taking of the deposition, or whose behavior is disruptive of the deposition or unduly stressful to the child. A reasonable number of persons deemed by the court supportive of the child or any defendant may be considered necessary to the taking of the deposition under this paragraph. (9) In any criminal prosecution or juvenile fact-finding hearing under s. 48.31 or 938.31, the court may admit into evidence a recorded deposition taken under subs. (7) and (8) without an additional hearing under s. 908.08. In any proceeding under s. 302.113(9)(am), 302.114(9)(am), 304.06(3), or 973.10(2), the hearing examiner may order that a deposition be taken by audiovisual means and preside at the taking of the deposition using the procedure provided in subs. (7) and (8) and may admit the recorded deposition into evidence without an additional hearing under s. 908.08. (10) If a court or hearing examiner admits a recorded deposition into evidence under sub. (9), the child may not be called as a witness at the proceeding in which it was admitted unless the court or hearing examiner so orders upon a showing that additional testimony by the child is required in the interest of fairness for reasons neither known nor with reasonable diligence discoverable at the time of the deposition by the party seeking to call the child. The testimony of a child who is required to testify under this subsection may be taken in accordance with s. 972.11(2m), if applicable.
Wyoming	*Wyo. Stat. Ann. § 7-11-403 (Applicability of rules and civil procedure provisions).* (a) To the extent practicable and when not otherwise specifically provided, the provisions of the Wyoming Rules of Civil Procedure, the Wyoming Rules of Evidence and the Wyoming Code of Civil Procedure shall govern in criminal cases, relative to: (i) Compelling the attendance and testimony of witnesses; (ii) The examination of witnesses and the administering of oaths and affirmations; (iii) Proceedings for contempt; and (iv) Proceedings to enforce the remedies and protect the rights of parties. *Wyo. Stat. Ann. § 1-12-107 (Attachment of witness who disobeys subpoena).* When a witness fails to attend in obedience to a subpoena, the court or officer before whom his attendance is required may issue an attachment to the sheriff of the county commanding him to arrest and bring the person named before the court at a time and place fixed in the attachment, to give his testimony and answer for the contempt. If the attachment is not for immediately bringing the witness before the court or officer, a sum may be fixed in which the witness may give bond with surety for his appearance. The sum shall be endorsed on the back of the attachment. If no sum is fixed and endorsed, it shall be one hundred dollars ($100.00). If the witness was not personally served, the court may order him to show cause why an attachment should not issue against him. *Wyo. Stat. Ann. § 1-12-108 (Punishment for contempt by witness).* (a) Punishment for the contempt mentioned in W.S. 1-12-106 is as follows: (i) When the witness fails to attend in obedience to a subpoena, the court or officer may fine him not more than fifty dollars ($50.00); (ii) In other cases the court or officer may fine the witness not more than fifty dollars ($50.00) nor less than five dollars ($5.00), or may imprison him in the county jail until he submits to be sworn, testifies or gives his deposition. (b) The fine imposed shall be paid into the county treasury. (c) The witness is also liable to the party injured for any damages occasioned by his failure to attend, his refusal to be sworn, to testify or give his deposition. *Wyo. Stat. Ann. § 1-12-109 (Discharge of imprisoned witness).* Upon application of a witness imprisoned by an officer, a judge of the supreme court or district court may discharge him if it appears that his imprisonment is illegal. *Wyo. Stat. Ann. § 1-12-110 (Attachment for arrest or order of commitment; execution).* Every attachment for the arrest or order of commitment to prison of a witness by a court or officer must be under the seal of the court or officer, if the

	officer has an official seal, and must specify particularly the cause of the arrest or commitment. If the commitment is for a refusal to answer a question, the question must be stated in the order and the order of commitment directed to the sheriff of the county where the witness resides or may be found at that time. It shall be executed by committing the witness to the jail of the county and delivering a copy of the order to the jailer. *Wyo. R. Crim. P. 46.3 (Release or Detention of Material Witnesses).* If, upon application filed by the state or the defendant and supported by oath or affidavit, it appears that the testimony of a person is material in a criminal proceeding, and if it is shown that it may become impracticable to secure the presence of the person by subpoena, a judicial officer may order the arrest of the person and treat the person in accordance with the provisions of Rule 46.1. No material witness may be detained because of inability to comply with any condition of release if the testimony of such witness can adequately be secured by deposition, and if further detention is not necessary to prevent a failure of justice. Release of a material witness may be delayed for a reasonable period of time until the deposition of the witness can be taken pursuant to the Wyoming Rules of Criminal Procedure.