

Public Law 95-535  
95th Congress

An Act

To establish fees and allow per diem and mileage expenses for witnesses before  
United States courts.

Oct. 27, 1978  
[S. 2049]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 1821 of title 28, United States Code, is amended to read as follows:

U.S. Courts.  
Fees, per diem  
and mileage  
expenses for  
witnesses.

**“§ 1821. Per diem and mileage generally; subsistence**

“(a) (1) Except as otherwise provided by law, a witness in attendance at any court of the United States, or before a United States Magistrate, or before any person authorized to take his deposition pursuant to any rule or order of a court of the United States, shall be paid the fees and allowances provided by this section.

“(2) As used in this section, the term ‘court of the United States’ includes, in addition to the courts listed in section 451 of this title, any court created by Act of Congress in a territory which is invested with any jurisdiction of a district court of the United States.

“(b) A witness shall be paid an attendance fee of \$30 per day for each day’s attendance. A witness shall also be paid the attendance fee for the time necessarily occupied in going to and returning from the place of attendance at the beginning and end of such attendance or at any time during such attendance.

“(c) (1) A witness who travels by common carrier shall be paid for the actual expenses of travel on the basis of the means of transportation reasonably utilized and the distance necessarily traveled to and from such witness’s residence by the shortest practical route in going to and returning from the place of attendance. Such a witness shall utilize a common carrier at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished.

“(2) A travel allowance equal to the mileage allowance which the Administrator of General Services has prescribed, pursuant to section 5704 of title 5, for official travel of employees of the Federal Government shall be paid to each witness who travels by privately owned vehicle. Computation of mileage under this paragraph shall be made on the basis of a uniformed table of distances adopted by the Administrator of General Services.

“(3) Toll charges for toll roads, bridges, tunnels, and ferries, taxicab fares between places of lodging and carrier terminals, and parking fees (upon presentation of a valid parking receipt), shall be paid in full to a witness incurring such expenses.

“(4) All normal travel expenses within and outside the judicial district shall be taxable as costs pursuant to section 1920 of this title.

“(d) (1) A subsistence allowance shall be paid to a witness (other than a witness who is incarcerated) when an overnight stay is required at the place of attendance because such place is so far removed from the residence of such witness as to prohibit return thereto from day to day.

“(2) A subsistence allowance for a witness shall be paid in an amount not to exceed the maximum per diem allowance prescribed by the Administrator of General Services, pursuant to section 5702(a) of title 5, for official travel in the area of attendance by employees of the Federal Government.

“(3) A subsistence allowance for a witness attending in an area designated by the Administrator of General Services as a high-cost area shall be paid in an amount not to exceed the maximum actual subsistence allowance prescribed by the Administrator, pursuant to section 5702(c) (B) of title 5, for official travel in such area by employees of the Federal Government.

“(4) When a witness is detained pursuant to section 3149 of title 18 for want of security for his appearance, he shall be entitled for each day of detention when not in attendance at court, in addition to his subsistence, to the daily attendance fee provided by subsection (b) of this section.

“(e) An alien who has been paroled into the United States for prosecution, pursuant to section 212(d) (5) of the Immigration and Nationality Act (8 U.S.C. 1182(d) (5)), or an alien who either has admitted belonging to a class of aliens who are deportable or has been determined pursuant to section 242(b) of such Act (8 U.S.C. 1252(b)) to be deportable, shall be ineligible to receive the fees or allowances provided by this section.”

SEC. 2. The amendments made by this Act shall take effect on October 1, 1978, or on the date of enactment, whichever occurs later.

Approved October 27, 1978.

Effective date.  
28 USC 1821  
note.

**LEGISLATIVE HISTORY:**

- HOUSE REPORT No. 95-1651 (Comm. on the Judiciary).
- SENATE REPORT No. 95-756 (Comm. on the Judiciary).
- CONGRESSIONAL RECORD, Vol. 124 (1978):
  - Apr. 27, considered and passed Senate.
  - Oct. 12, considered and passed House, amended.
  - Oct. 13, Senate concurred in House amendment.