

Public Law 88-619

AN ACT

To improve judicial procedures for serving documents, obtaining evidence, and proving documents in litigation with international aspects.

October 3, 1964
[H. R. 9435]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1621 of title 18, United States Code, is amended to read:

Courts.
Judicial procedure, improvement.
62 Stat. 773.
Penalty.

“§ 1621. Perjury generally

“Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.”

Applicability.

SEC. 2. Section 3491 of title 18, United States Code, is amended to read:

“§ 3491. Foreign documents

“Any book, paper, statement, record, account, writing, or other document, or any portion thereof, of whatever character and in whatever form, as well as any copy thereof equally with the original, which is not in the United States shall, when duly certified as provided in section 3494 of this title, be admissible in evidence in any criminal action or proceeding in any court of the United States if the court shall find, from all the testimony taken with respect to such foreign document pursuant to a commission executed under section 3492 of this title, that such document (or the original thereof in case such document is a copy) satisfies the requirements of section 1732 of title 28, unless in the event that the genuineness of such document is denied, any party to such criminal action or proceeding making such denial shall establish to the satisfaction of the court that such document is not genuine. Nothing contained herein shall be deemed to require authentication under the provisions of section 3494 of this title of any such foreign documents which may otherwise be properly authenticated by law.”

62 Stat. 945;
75 Stat. 413.

SEC. 3. The Act of July 3, 1930, 46 Stat. 1005, as amended by the Act of June 7, 1933 (48 Stat. 117; 22 U.S.C., secs. 270 through 270g), is repealed.

Repeal.

SEC. 4. (a) Chapter 113 of title 28, United States Code, is amended by inserting therein, after section 1695:

28 USC 1691-1695.

“§ 1696. Service in foreign and international litigation

“(a) The district court of the district in which a person resides or is found may order service upon him of any document issued in connection with a proceeding in a foreign or international tribunal. The order may be made pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon application of any interested person and shall direct the manner of service. Service pursuant to this subsection does not, of itself, require the recognition or enforcement in the United States of a judgment, decree, or order rendered by a foreign or international tribunal.

“(b) This section does not preclude service of such a document without an order of court.”

(b) The analysis of chapter 113 of title 28, United States Code, is amended by inserting:

"1696. Service in foreign and international litigation."

after:

"1695. Stockholder's derivative action."

62 Stat. 948.

SEC. 5. (a) Section 1741 of title 28, United States Code, is amended to read:

"§ 1741. Foreign official documents

"An official record or document of a foreign country may be evidenced by a copy, summary, or excerpt authenticated as provided in the Federal Rules of Civil Procedure."

28 USC app.

28 USC 1731-1745.

(b) The analysis of chapter 115 of title 28, United States Code, is amended by striking:

"1741. Foreign documents generally; copies."

and inserting in place thereof:

"1741. Foreign official documents."

Repeal.

SEC. 6. (a) Section 1742 of title 28, United States Code, is repealed.

(b) The analysis of chapter 115 of title 28, United States Code, is amended by inserting after:

"1742. Land titles; foreign records."

the following:

"[Repealed]."

63 Stat. 103.

SEC. 7. (a) Section 1745 of title 28, United States Code, is amended to read:

"§ 1745. Copies of foreign patent documents

"Copies of the specifications and drawings of foreign letters patent, or applications for foreign letters patent, and copies of excerpts of the official journals and other official publications of foreign patent offices belonging to the United States Patent Office, certified in the manner provided by section 1744 of this title are prima facie evidence of their contents and of the dates indicated on their face."

(b) The analysis of chapter 115 of title 28, United States Code, is amended by striking:

"1745. Copies of foreign patent specifications and drawings."

and inserting in place thereof:

"1745. Copies of foreign patent documents."

62 Stat. 949.

SEC. 8. (a) Section 1781 of title 28, United States Code, is amended to read:

"§ 1781. Transmittal of letter rogatory or request

"(a) The Department of State has power, directly, or through suitable channels—

"(1) to receive a letter rogatory issued, or request made, by a foreign or international tribunal, to transmit it to the tribunal, officer, or agency in the United States to whom it is addressed, and to receive and return it after execution; and

"(2) to receive a letter rogatory issued, or request made, by a tribunal in the United States, to transmit it to the foreign or international tribunal, officer, or agency to whom it is addressed, and to receive and return it after execution.

"(b) This section does not preclude—

"(1) the transmittal of a letter rogatory or request directly from a foreign or international tribunal to the tribunal, officer, or

agency in the United States to whom it is addressed and its return in the same manner; or

“(2) the transmittal of a letter rogatory or request directly from a tribunal in the United States to the foreign or international tribunal, officer, or agency to whom it is addressed and its return in the same manner.”

(b) The analysis of chapter 117 of title 28, United States Code, is amended by striking: 28 USC 1781-1785.

“1781. Foreign witnesses.”

and inserting in place thereof:

“1781. Transmittal of letter rogatory or request.”

SEC. 9. (a) Section 1782 of title 28, United States Code, is amended to read: 62 Stat. 949.

“§ 1782. Assistance to foreign and international tribunals and to litigants before such tribunals

“(a) The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use in a proceeding in a foreign or international tribunal. The order may be made pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court. By virtue of his appointment, the person appointed has power to administer any necessary oath and take the testimony or statement. The order may prescribe the practice and procedure, which may be in whole or part the practice and procedure of the foreign country or the international tribunal, for taking the testimony or statement or producing the document or other thing. To the extent that the order does not prescribe otherwise, the testimony or statement shall be taken, and the document or other thing produced, in accordance with the Federal Rules of Civil Procedure.

“A person may not be compelled to give his testimony or statement or to produce a document or other thing in violation of any legally applicable privilege. 28 USC app.

“(b) This chapter does not preclude a person within the United States from voluntarily giving his testimony or statement, or producing a document or other thing, for use in a proceeding in a foreign or international tribunal before any person and in any manner acceptable to him.”

(b) The analysis of chapter 117 of title 28, United States Code, is amended by striking:

“1782. Testimony for use in foreign countries.”

and inserting in place thereof:

“1782. Assistance to foreign and international tribunals and to litigants before such tribunals.”

SEC. 10. (a) Section 1783 of title 28, United States Code, is amended to read:

“§ 1783. Subpoena of person in foreign country

“(a) A court of the United States may order the issuance of a subpoena requiring the appearance as a witness before it, or before a person or body designated by it, of a national or resident of the United States who is in a foreign country, or requiring the production of a specified document or other thing by him, if the court finds that particular testimony or the production of the document or other thing by him is necessary in the interest of justice, and, in other than a

criminal action or proceeding, if the court finds, in addition, that it is not possible to obtain his testimony in admissible form without his personal appearance or to obtain the production of the document or other thing in any other manner.

“(b) The subpoena shall designate the time and place for the appearance or for the production of the document or other thing. Service of the subpoena and any order to show cause, rule, judgment, or decree authorized by this section or by section 1784 of this title shall be effected in accordance with the provisions of the Federal Rules of Civil Procedure relating to service of process on a person in a foreign country. The person serving the subpoena shall tender to the person to whom the subpoena is addressed his estimated necessary travel and attendance expenses, the amount of which shall be determined by the court and stated in the order directing the issuance of the subpoena.”

(b) The analysis of chapter 117 of title 28, United States Code, is amended by striking:

“1783. Subpoena of witness in foreign country.”

and inserting in place thereof:

“1783. Subpoena of person in foreign country.”

SEC. 11. Section 1784 of title 28, United States Code, is amended to read:

“§ 1784. Contempt

“(a) The court of the United States which has issued a subpoena served in a foreign country may order the person who has failed to appear or who has failed to produce a document or other thing as directed therein to show cause before it at a designated time why he should not be punished for contempt.

“(b) The court, in the order to show cause, may direct that any of the person's property within the United States be levied upon or seized, in the manner provided by law or court rules governing levy or seizure under execution, and held to satisfy any judgment that may be rendered against him pursuant to subsection (d) of this section if adequate security, in such amount as the court may direct in the order, be given for any damage that he might suffer should he not be found in contempt. Security under this subsection may not be required of the United States.

“(c) A copy of the order to show cause shall be served on the person in accordance with section 1783(b) of this title.

“(d) On the return day of the order to show cause or any later day to which the hearing may be continued, proof shall be taken. If the person is found in contempt, the court, notwithstanding any limitation upon its power generally to punish for contempt, may fine him not more than \$100,000 and direct that the fine and costs of the proceedings be satisfied by a sale of the property levied upon or seized, conducted upon the notice required and in the manner provided for sales upon execution.”

SEC. 12. (a) Section 1785 of title 28, United States Code, is repealed.

(b) The analysis of chapter 117 of title 28, United States Code, is amended by striking:

“1785. Privilege against incrimination.”

Approved October 3, 1964.

62 Stat. 949.

28 USC app.

Penalty.

Repeal.