

AMERICAN JURISPRUDENCE 2d



WITNESSES

AMERICAN JURISPRUDENCE

SECOND EDITION

A MODERN COMPREHENSIVE TEXT STATEMENT
OF AMERICAN LAW

STATE AND FEDERAL

COMPLETELY REVISED AND REWRITTEN
IN THE LIGHT OF MODERN AUTHORITIES AND DEVELOPMENTS
BY THE EDITORIAL STAFF OF THE PUBLISHERS

VOLUME 81

WITNESSES

1992



Lawyers Cooperative Publishing

Aqueduct Building, Rochester, New York 14694

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ANSI Z39.48-1984.



Library of Congress Catalog Card Number 62-4388

81 Am Jur 2d

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FOREWORD

The evolutionary process pervades the field of law, demanding periodic reconsiderations and updating of any treatise dealing with a specific aspect of that discipline. This certainly applies to the law of witnesses—substantial growth and development have been experienced since the **Witnesses** article last was published. The new **Witnesses** article presents a fresh and thorough discussion of that subject with emphasis upon such key issues as competency, privilege, and impeachment.

The new article contains expanded coverage of the availability of witnesses, including the granting of immunity from prosecution in return for the relinquishment of the privilege against self-incrimination, and new coverage of witness protection programs. There also is increased and extensive coverage of the Uniform Act to Secure Attendance of Witnesses From Without State.

New coverage includes statutes protecting infant witnesses in child abuse cases, and the effect of child protection statutes upon the applicability of the physician-patient privilege.

The traditional concepts of marital privilege as affected by spousal competency statutes is discussed, as is the effect of statutory removal of the common-law spousal immunity upon compellability of testimony from a spouse.

The modernization of “Dead Man’s” statutes receives extensive treatment, including discussion of the effect of statutes making “all witnesses” competent.

The growth of law regarding privileged communications is reflected by the discussion of the existence and application of privilege to communications with such persons as members of the clergy and social workers, including marriage counselors.

The effect of a patient’s mental condition constituting a threat to himself or others, upon the physician-patient privilege receives coverage. Also discussed is the use of televised, or videotaped, testimony.

The **Witnesses** article has been enhanced by the inclusion of *Observations*, *Practice guides*, *Cautions*, and *Checklists* providing detailed advice and procedures, as well as *Research References* directing the reader to related discussions in ALR and ALR Federal annotations, to practical advice in Am Jur Proof of Facts and Am Jur Trials, and to pertinent forms in Am Jur Pleading and Practice Forms (Rev) and Am Jur Legal Forms 2d. Such “practice guide” materials include sections on the selection and preparation of witnesses, notification of witnesses, the significance of a sanity determination in a criminal case, and indicia of present mental incompetence.

A **Table of Statutes and Rules Cited** and a **Table of Parallel References** for the article in this volume will be found immediately following this Foreword. An **Index** for this article will be found at the back of the volume.

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Also consult the index at the end of the volume for detail and for matters not appearing in the earlier edition.

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AMERICAN JURISPRUDENCE

SECOND EDITION

Volume 81

WITNESSES

by

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Scope of topic: This article discusses witnesses in judicial proceedings, including the competency, examination and cross-examination, impeachment, corroboration, credibility, and compensation of witnesses; their attendance in court and the duty to testify under oath or affirmation. Also discussed are privileged communications, the effect of dead man's statutes, and the privilege of a witness against self-incrimination. The article also discusses the examination and cross-examination of witnesses, and aspects thereof, including credibility, corroboration, impeachment, and refreshing memory. New and expanded coverage includes the effect of uniform laws for the securing the attendance of witnesses from without a state, and the effect of federal law for the protection of witnesses.

Federal aspects: This article briefly discusses the federal aspects of the subpoena, calling, and competency of witnesses, witness protection, and federal law sources of the various privileges against the disclosure of communications.

Treated elsewhere:

Accountants and clients, privileged communications between, see 1 Am Jur 2d, Accountants § 13

Witnesses in administrative proceedings, see 2 Am Jur 2d, Administrative Law §§ 263 et seq., 420-424

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Arrest on civil process, privilege or exemption of witness from, see 5 Am Jur 2d, Arrest §§ 108, 109

Tampering with witnesses as ground for disbaring attorney, see 7 Am Jur 2d, Attorneys at Law § 43

Witness in particular kinds of civil and criminal actions and proceedings, see, for example, 7, 8 Am Jur 2d, Automobiles and Highway Traffic; 9 Am Jur 2d, Bankruptcy; 12 Am Jur 2d, Bills and Notes; 22 Am Jur 2d, Death; 36 Am Jur 2d, Forgery; 40 Am Jur 2d, Homicide; 50 Am Jur 2d, Libel and Slander

Attesting and subscribing witnesses, see 12 Am Jur 2d, Bonds § 12; 23 Am Jur 2d, Deeds §§ 116-119; 55 Am Jur 2d, Mortgages § 164; 79 Am Jur 2d, Wills

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