

CIVIL PROCEDURE

SUBCHAPTER A

TESTIMONY UNDER PRIVILEGE AGAINST PROSECUTION

Section 550. Privilege for Committee Testimony

No testimony given by a witness before the Tribal Legislative Body, or any agency established by Tribal law having power to issue a subpoena, shall be used as evidence in any criminal proceeding against him in any court, except in a prosecution for perjury committed in giving such testimony if such person is granted immunity as provided in Section 551. An official paper or record produced by him is not within the privilege.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 551. Procedure for Claiming Privilege

In the case of proceedings before a committee or agency, when two-thirds (2/3) of the members of the full committee or agency shall by affirmative vote have authorized such witness to be granted immunity under this Chapter with respect to the transactions, matters, or thing, concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence by direction of the presiding officer, and, when an Order of the Tribal District Court has been entered into the record requiring said person to testify or produce evidence, such person shall be privileged as stated in Section 550 of this Chapter. Such an Order may be issued by a Tribal District Court Judge upon application by a duly authorized representative of the committee or agency concerned, accompanied by the written approval of the Tribal Legislative Body. The Court shall not grant immunity to any witness without first having notified the Attorney General of such action. The Attorney General shall be notified of the time of each proposed application to the District Court and shall be given an opportunity to be heard with respect thereto prior to the entrance into the record of the Order of the District Court. No witness shall be exempt from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this Section.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 552. Oaths

The members of the Tribal Legislative Body, a Chairman or equivalent officer of any committee or agency authorized to issue subpoenas, and any officer or employee of the commission or agency authorized by agency or commission rule, is empowered to administer oaths to witness in any case under their examination.

[History: PUBLIC LAW #85-58, June 21, 1985.]

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Section 553. Penalties

(a) Every person who having been summoned as a witness, by authority of the Tribal Legislative Body or other tribal agency authorized to take testimony and compel attendance of witnesses by subpoena, to give testimony or produce papers under a grant of immunity as provided by Section 551 upon any matter under inquiry before that body, willfully makes default, or who, having appeared, refuses to answer any question pertinent to the question under inquiry, shall be punishable by a civil fine of not more than Five Hundred Dollars (\$500.00) to be imposed by that body, and to an attachment and commitment to be imposed by that body to the Tribal jail until such testimony be given.

(b) In addition to, or in the alternative to civil punishment, the agency may proceed in the Tribal Court for an order requiring such witness to testify, and if such order is issued and disobeyed by the witness, the witness shall be guilty of an offense, and may be fined not more than Five Hundred Dollars (\$500.00), or imprisoned in the Tribal jail for a term not exceeding six months, or both.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 554. Disgrace as Ground for Refusal to Testify

No witness is privileged to refuse to testify to any fact, or produce any paper, respecting which he shall be examined by the Tribal Legislative Body, or by any subordinate committee or agency thereof authorized to issue subpoenas, upon the ground that his testimony to such fact or his production of such paper may tend to disgrace or otherwise render him infamous, provided that such fact or paper is reasonably related to the purpose of the hearing and the purpose of the hearing is reasonably related to the exercise by the body, agency, or committee of authority delegated to it by law.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 555. Prosecution

Whenever an body before whom a witness granted immunity pursuant to this Subchapter believes that criminal prosecution pursuant to Section 553(b) should be instituted, it shall certify such fact to the Attorney General, whose duty it shall be to bring the matter in the Court by information or complaint for prosecution if the person has not purged his contempt within 48 hours.

[History: PUBLIC LAW #85-58, June 21, 1985.]

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Section 556. Fees and Mileage

(a) Witnesses before legislative and administrative bodies compelled to attend by subpoena shall be paid the same fees and mileage as are paid in civil cases in the Tribal District Court from the approved budget of said body.

(b) Witness fees and allowances for mileage shall be set by rule of the court. Witness fees shall not exceed the amount set for witness fees by Part 11 of Title 25 of the Code of Federal Regulations. Mileage fees shall not exceed the Federal mileage rate.

[History: PUBLIC LAW #85-58, June 21, 1985.]