

H- 3/24/95 Judiciary
H- 3/24/95 Do Pass
FILED MAR 20 1995
H- 4/6/95 Do Pass
H- 4-13-95 Unfinished Business
Calverton

SENATE FILE **428**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 131)

Passed Senate, Date 3/22/95 (p.819) Passed House, Date 4/18/95 (p.1688)
Vote: Ayes 50 Nays 0 Vote: Ayes 92 Nays 0
Approved April 26, 1995

A BILL FOR

1 An Act to provide for the reciprocal rendition of prisoners as
2 witnesses in criminal proceedings and providing an effective
3 date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 428

1 Section 1. NEW SECTION. 819A.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Criminal proceeding" means a criminal action which is
5 pending or is before a court in a state. For purposes of this
6 subsection, a criminal action includes, but is not limited to,
7 a prosecution of a complaint, indictment, or information, and
8 an investigation by a grand jury.

9 2. "Penal institution" means a jail, prison, penitentiary,
10 house of correction, or other place of penal detention which
11 is located in a state and includes, but is not limited to, a
12 city or county jail or detention facility, an institution or
13 facility under the control of the department of corrections,
14 the state training school or other facility under the control
15 of the director of the department of human services, and a
16 facility or electronic monitoring program under the control of
17 a judicial district department of correctional services in
18 this state.

19 3. "State" means any state of the United States, the
20 District of Columbia, the Commonwealth of Puerto Rico, or any
21 territory of the United States.

22 4. "Witness" means a person, who is confined in a penal
23 institution in a state, whose testimony is requested in
24 another state in a criminal proceeding.

25 Sec. 2. NEW SECTION. 819A.2 TESTIMONY OF IN-STATE
26 WITNESS IN OUT-OF-STATE PROCEEDING.

27 1. A judge of a court of record in another state, which
28 has enacted a law that requires persons confined in penal
29 institutions within that state to appear and testify in this
30 state, may certify to the district court in the county in this
31 state in which the witness is confined, as follows:

32 a. That a criminal proceeding is pending or before a court
33 in the other state.

34 b. That a person who is confined in a penal institution in
35 this state may be a material witness in the criminal

1 proceeding.

2 c. That the person's appearance and testimony will be
3 required at a specified time or during a specified time
4 period.

5 2. Upon the filing of the certification, the district
6 court shall set the matter for hearing and shall direct the
7 person having custody of the witness to produce the witness at
8 the hearing. The clerk of the district court shall send
9 copies of the order for hearing, together with a copy of the
10 certification, to the attorney general, the person having
11 custody of the witness, and the witness.

12 Sec. 3. NEW SECTION. 819A.3 ORDER FOR TRANSFER.

13 1. At the hearing on the certification, the district court
14 shall determine all of the following issues:

15 a. That the testimony of the witness may be material and
16 necessary to the criminal proceeding in the other state.

17 b. That the appearance of and testimony by the witness are
18 not adverse to the interests of this state or the health or
19 legal rights of the witness.

20 c. That the laws of the other state in which the witness
21 is requested to testify will protect the witness from arrest
22 and the service of civil and criminal process based on any act
23 committed prior to the witness's arrival in the other state
24 under a transfer order.

25 d. That the possibility that the witness may be subject to
26 arrest or to service of civil or criminal process in any other
27 state through which the witness will be required to pass is
28 remote.

29 2. If the district court makes affirmative findings on all
30 of the issues, the district court shall issue an order for
31 transfer, with a copy of the certificate attached, that
32 provides for all of the following orders:

33 a. An order directing the witness to attend and testify.

34 b. An order directing the person having custody of the
35 witness to produce the witness in the court in which the

1 criminal proceeding is taking place.

2 c. An order prescribing such other terms and conditions as
3 the district court may require, including, but not limited to,
4 the terms and conditions provided in section 819A.4.

5 Sec. 4. NEW SECTION. 819A.4 TERMS AND CONDITIONS.

6 1. The order directing the witness to attend and testify
7 and the order directing the person having custody of the
8 witness to produce the witness shall provide for either of the
9 following:

10 a. The return of the witness at the conclusion of the
11 witness's testimony, proper safeguards on the witness's
12 custody, and that the requesting jurisdiction provide proper
13 financial reimbursement or prepayment of all expenses incurred
14 in the production of the witness.

15 b. That the person having custody of the witness transfer
16 custody of the witness to an officer of the requesting
17 jurisdiction who comes to the penal institution in which the
18 witness is confined to accept custody of the witness.

19 2. If the requesting jurisdiction sends an officer from
20 the requesting jurisdiction to accept custody of the witness,
21 the district court shall require that the requesting
22 jurisdiction provide proper safeguards for the witness's
23 custody while in transfer, and pay and be liable for all
24 expenses incurred in producing and returning the witness.

25 3. The order shall not be effective until an order is
26 entered by the court of the other state that submitted the
27 request for transfer that directs compliance with the terms
28 and conditions required by the district court in this state.

29 Sec. 5. NEW SECTION. 819A.5 EXCEPTIONS.

30 This chapter shall not apply to persons confined in a penal
31 institution because of insanity or other mental disorder which
32 prevents the person from appreciating the charge,
33 understanding the proceedings, or assisting effectively in the
34 person's defense.

35 Sec. 6. NEW SECTION. 819A.6 TESTIMONY OF OUT-OF-STATE

1 WITNESS IN IN-STATE PROCEEDING.

2 1. If a person confined in a penal institution in any
3 other state may be a material witness in a criminal proceeding
4 in a court of this state, a judicial officer of the district
5 court in this state may certify to a court of record in
6 another state having jurisdiction over the witness as follows:

7 a. That a criminal proceeding is pending and before a
8 court in this state.

9 b. That a person who is confined in a penal institution in
10 the other state may be a material witness in the criminal
11 proceeding.

12 c. That the person's appearance and testimony will be
13 required at a specified time or during a specified time
14 period.

15 2. The certification shall be filed with the court of
16 record in the other state and notice of the certification
17 shall be given to the attorney general in that state.

18 Sec. 7. NEW SECTION. 819A.7 COMPLIANCE.

19 A judicial officer of the district court in this state may
20 enter an order directing compliance with any terms and
21 conditions prescribed by a judicial officer of the other state
22 in which the witness is confined.

23 Sec. 8. NEW SECTION. 819A.8 EXEMPTION FROM ARREST AND
24 SERVICE OF PROCESS.

25 If a witness from another state comes into or passes
26 through this state under an order directing the witness to
27 attend and testify in this or another state, the witness shall
28 not be subject to arrest or the service of civil or criminal
29 process during the time that the witness is in this state, if
30 the service of process is based on any act committed prior to
31 the witness's arrival in this state pursuant to a transfer
32 order.

33 Sec. 9. NEW SECTION. 819A.9 UNIFORMITY OF
34 INTERPRETATION.

35 This chapter shall be construed to effectuate the purpose

1 of making uniform the law of those states which enact a
2 uniform rendition of prisoners as witnesses in criminal
3 proceedings Act.

4 Sec. 10. NEW SECTION. 819A.10 SHORT TITLE.

5 This chapter may be cited as the "Uniform Rendition of
6 Prisoners as Witnesses in Criminal Proceedings Act".

7 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
8 immediate importance, takes effect upon enactment.

9 EXPLANATION

10 This bill provides a new procedure for securing the
11 presence and testimony of prisoners who may be material
12 witnesses in a criminal proceeding either in this state or in
13 another state. Prisoners covered under the bill include
14 persons incarcerated in a jail, prison, penitentiary, house of
15 correction, or other place of detention. Under the bill, if a
16 prisoner is needed to testify in a grand jury investigation, a
17 criminal trial, or other criminal proceeding, the court is to
18 certify to a court in the other state in which the prisoner is
19 located that there is a criminal proceeding pending, that the
20 witness may be a material witness, and that the attendance and
21 testimony of the witness will be needed at a particular time.
22 The certification will be presented to the court in the state
23 where the prisoner is located and the attorney general and the
24 person who has custody of the prisoner will be notified. The
25 bill provides for a hearing upon receipt of the certification,
26 at which the court determines whether the witness's testimony
27 may be material, whether the witness's attendance and
28 testimony are not adverse to the witness's and state's
29 interests, that the other state's or states' laws will protect
30 the witness from criminal or civil service of process for acts
31 committed prior to the time when it is proposed that the
32 witness appear and testify, and whether it is likely that the
33 witness would be subject to criminal or civil service of
34 process. If the court determines that the witness should
35 appear and testify, the court is required to enter an order

1 for transfer which provides not only that the witness attend
2 and testify, but also requires that security measures be in
3 place for the witness's protection and for the payment of the
4 costs for the transfer. The bill also contains a provision
5 protecting prisoners who are brought into Iowa as material
6 witnesses in criminal proceedings from the service of civil or
7 criminal process during the pendency of their stay in Iowa
8 under a transfer order. The bill takes effect immediately
9 upon enactment.

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McKean, Ch
Giannetto
Vilsack
Fraise
Redfern

SSA-131

Judiciary

Succeeded By

SENATE FILE 428

BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIR-
PERSON GIANNETTO)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

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11 is located in a state and includes, but is not limited to, a
12 city or county jail or detention facility, an institution or
13 facility under the control of the department of corrections,
14 the state training school or other facility under the control
15 of the director of the department of human services, and a
16 facility or electronic monitoring program under the control of
17 a judicial district department of correctional services in
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29 institutions within that state to appear and testify in this
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32 a. That a criminal proceeding is pending or before a court
33 in the other state.

34 b. That a person who is confined in a penal institution in
35 this state may be a material witness in the criminal

1 proceeding.

2 c. That the person's appearance and testimony will be
3 required at a specified time or during a specified time
4 period.

5 2. Upon the filing of the certification, the district
6 court shall set the matter for hearing and shall direct the
7 person having custody of the witness to produce the witness at
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23 committed prior to the witness's arrival in the other state
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30 of the issues, the district court shall issue an order for
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1 criminal proceeding is taking place.

2 c. An order prescribing such other terms and conditions as
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15 b. That the person having custody of the witness transfer
16 custody of the witness to an officer of the requesting
17 jurisdiction who comes to the penal institution in which the
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8 court in this state.

9 b. That a person who is confined in a penal institution in
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11 proceeding.

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13 required at a specified time or during a specified time
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31 the witness's arrival in this state pursuant to a transfer
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35 This chapter shall be construed to effectuate the purpose

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3 proceedings Act.

4 Sec. 10. NEW SECTION. 819A.10 SHORT TITLE.

5 This chapter may be cited as the "Uniform Rendition of
6 Prisoners as Witnesses in Criminal Proceedings Act".

7 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
8 immediate importance, takes effect upon enactment.

9 EXPLANATION

10 This bill provides a new procedure for securing the
11 presence and testimony of prisoners who may be material
12 witnesses in a criminal proceeding either in this state or in
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14 persons incarcerated in a jail, prison, penitentiary, house of
15 correction, or other place of detention. Under the bill, if a
16 prisoner is needed to testify in a grand jury investigation, a
17 criminal trial, or other criminal proceeding, the court is to
18 certify to a court in the other state in which the prisoner is
19 located that there is a criminal proceeding pending, that the
20 witness may be a material witness, and that the attendance and
21 testimony of the witness will be needed at a particular time.
22 The certification will be presented to the court in the state
23 where the prisoner is located and the attorney general and the
24 person who has custody of the prisoner will be notified. The
25 bill provides for a hearing upon receipt of the certification,
26 at which the court determines whether the witness's testimony
27 may be material, whether the witness's attendance and
28 testimony are not adverse to the witness's and state's
29 interests, that the other state's or states' laws will protect
30 the witness from criminal or civil service of process for acts
31 committed prior to the time when it is proposed that the
32 witness appear and testify, and whether it is likely that the
33 witness would be subject to criminal or civil service of
34 process. If the court determines that the witness should
35 appear and testify, the court is required to enter an order

1 for transfer which provides not only that the witness attend
2 and testify, but also requires that security measures be in
3 place for the witness's protection and for the payment of the
4 costs for the transfer. The bill also contains a provision
5 protecting prisoners who are brought into Iowa as material
6 witnesses in criminal proceedings from the service of civil or
7 criminal process during the pendency of their stay in Iowa
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SENATE FILE 428

AN ACT

TO PROVIDE FOR THE RECIPROCAL RENDITION OF PRISONERS AS WITNESSES IN CRIMINAL PROCEEDINGS AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 819A.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Criminal proceeding" means a criminal action which is pending or is before a court in a state. For purposes of this subsection, a criminal action includes, but is not limited to, a prosecution of a complaint, indictment, or information, and an investigation by a grand jury.

2. "Penal institution" means a jail, prison, penitentiary, house of correction, or other place of penal detention which is located in a state and includes, but is not limited to, a city or county jail or detention facility, an institution or facility under the control of the department of corrections, the state training school or other facility under the control of the director of the department of human services, and a facility or electronic monitoring program under the control of a judicial district department of correctional services in this state.

3. "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory of the United States.

4. "Witness" means a person, who is confined in a penal institution in a state, whose testimony is requested in another state in a criminal proceeding.

Sec. 2. NEW SECTION. 819A.2 TESTIMONY OF IN-STATE WITNESS IN OUT-OF-STATE PROCEEDING.

1. A judge of a court of record in another state, which has enacted a law that requires persons confined in penal

institutions within that state to appear and testify in this state, may certify to the district court in the county in this state in which the witness is confined, as follows:

a. That a criminal proceeding is pending or before a court in the other state.

b. That a person who is confined in a penal institution in this state may be a material witness in the criminal proceeding.

c. That the person's appearance and testimony will be required at a specified time or during a specified time period.

2. Upon the filing of the certification, the district court shall set the matter for hearing and shall direct the person having custody of the witness to produce the witness at the hearing. The clerk of the district court shall send copies of the order for hearing, together with a copy of the certification, to the attorney general, the person having custody of the witness, and the witness.

Sec. 3. NEW SECTION. 819A.3 ORDER FOR TRANSFER.

1. At the hearing on the certification, the district court shall determine all of the following issues:

a. That the testimony of the witness may be material and necessary to the criminal proceeding in the other state.

b. That the appearance of and testimony by the witness are not adverse to the interests of this state or the health or legal rights of the witness.

c. That the laws of the other state in which the witness is requested to testify will protect the witness from arrest and the service of civil and criminal process based on any act committed prior to the witness's arrival in the other state under a transfer order.

d. That the possibility that the witness may be subject to arrest or to service of civil or criminal process in any other state through which the witness will be required to pass is remote.

2. If the district court makes affirmative findings on all of the issues, the district court shall issue an order for

SENATE FILE 429

S-3167

1 Amend Senate File 429 as follows:
2 1. Page 1, line 2, by inserting after the word
3 "PRACTITIONERS" the following: "OR LICENSED PHYSICIAN
4 ASSISTANTS".
5 2. Page 1, line 7, by inserting after the figure
6 "152," the following: "or a physician assistant
7 licensed pursuant to chapters 147 and 148C,".
8 3. Page 1, line 9, by inserting after the word
9 "license" the following: "or the licensed physician
10 assistant's license, as applicable,".
11 4. Page 1, line 15, by inserting after the word
12 "practitioner" the following: "or a licensed
13 physician assistant".
14 5. Title page, line 1, by inserting after the
15 word "practitioners" the following: "and licensed
16 physician assistants".
By ROBERT DVORSKY MERLIN E. BARTZ
PATTY JUDGE ELAINE SZYMONIAK

S-3167 FILED MARCH 21, 1995

SENATE FILE 429

S-3332

1 Amend the amendment, S-3167, to Senate File 429 as
2 follows:
3 1. Page 1, line 3, by inserting before the word
4 "OR" the following: ", LICENSED CHIROPRACTORS,
5 LICENSED OPTOMETRISTS,".
6 2. Page 1, line 6, by inserting before the word
7 "or" the following: ", a chiropractor licensed
8 pursuant to chapters 147 and 151, an optometrist
9 licensed pursuant to chapters 147 and 154,".
10 3. Page 1, line 9, by inserting before the word
11 "or" the following: ", the licensed chiropractor's
12 license, the licensed optometrist's license,".
13 4. Page 1, line 12, by inserting before the word
14 "or" the following: ", a licensed chiropractor, a
15 licensed optometrist,".
16 5. Page 1, line 15, by inserting before the word
17 "and" the following: ", licensed chiropractors,
18 licensed optometrists,".
By JIM LIND

S-3332 FILED APRIL 4, 1995

SENATE FILE 429

S-3334

1 Amend Senate File 429 as follows:
2 1. Page 1, line 15, by striking the word
3 "practitioner" and inserting the following:
4 "practitioner."
5 2. Page 1, by striking line 16.
6 3. Page 1, line 17, by striking the word
7 "services."

By JIM LIND
TOM FLYNN

S-3334 FILED APRIL 4, 1995