

Senate File 2349

H-8290

1 Amend Senate File 2349, as passed by the Senate, as follows:

2 1. By striking everything after the enacting clause and
3 inserting:

4 <DIVISION I

5 DEFENSE SUBPOENAS IN CRIMINAL ACTIONS

6 Section 1. Section 815.9, subsection 1, unnumbered
7 paragraph 1, Code 2024, is amended to read as follows:

8 For purposes of **this chapter, chapters 13B, 229A, 232, 665,**
9 **812, 814, and 822,** and ~~section~~ sections 811.1A and 821A.1, and
10 the rules of criminal procedure, a person is indigent if the
11 person is entitled to an attorney appointed by the court as
12 follows:

13 Sec. 2. NEW SECTION. **821A.1 Defense subpoenas in criminal**
14 **actions.**

15 1. *a.* A criminal defendant or counsel acting on the
16 defendant's behalf shall not issue any subpoena for documents
17 or other evidence except upon application to the court. An
18 application shall not be granted unless a defendant proves by a
19 preponderance of the evidence all of the following:

20 (1) There is a compelling need for the evidence sought and
21 that such evidence is material, necessary, exculpatory, and
22 admissible at trial.

23 (2) The evidence sought does not include the private
24 information of a crime victim or any other person except for
25 the defendant's own private information.

26 *b.* For the purposes of this subsection:

27 (1) "*Exculpatory*" means information that tends to negate the
28 guilt of the defendant and not information that is unrelated to
29 the case and is merely impeaching or substantially cumulative
30 in nature.

31 (2) "*Private information*" means information that is not
32 material for the case for which a person has a reasonable
33 expectation of privacy including but not limited to information
34 the state would need a search warrant to obtain, nonpublic
35 electronic communications, and information that would reveal

1 personal information not related to the case.

2 2. Notwithstanding any rule of criminal procedure
3 concerning the issuance of a subpoena, this section is the
4 exclusive mechanism for a criminal defendant or counsel acting
5 on the defendant's behalf to issue a subpoena for documents or
6 other evidence.

7 3. An application for a defense subpoena shall not be filed
8 or reviewed ex parte.

9 4. The prosecuting attorney shall not be required to execute
10 or effectuate any order or subpoena issued pursuant to this
11 section.

12 5. A crime victim or other person who is the subject of
13 a subpoena shall not be required by the court to execute a
14 waiver.

15 6. Upon application by a crime victim or the prosecuting
16 attorney, the court shall appoint an attorney to represent a
17 person or entity served with a defense subpoena if the person
18 or entity is determined to be indigent pursuant to section
19 815.9. Counsel appointed pursuant to this subsection shall be
20 paid from the indigent defense fund established pursuant to
21 section 815.11.

22 7. Documents or other evidence obtained through a defense
23 subpoena must be provided to the prosecuting attorney within
24 five business days after the receipt of the documents or other
25 evidence.

26 8. Documents or other evidence obtained through a defense
27 subpoena that does not comply with this section shall not be
28 admissible in any criminal action if offered by the defendant.

29 9. The court may sanction an attorney for knowingly issuing
30 a defense subpoena in violation of this section.

31 10. An applicant for postconviction relief shall not be
32 entitled to relief on a claim of ineffective assistance of
33 counsel when that claim is predicated upon evidence that
34 was obtained through a defense subpoena and required to be
35 disclosed pursuant to this section.

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DIVISION II

LIMITATION OF CRIMINAL ACTIONS INVOLVING CERTAIN SEXUAL
OFFENSES

Sec. 3. Section 802.2B, Code 2024, is amended by adding the following new subsections:

NEW SUBSECTION. 5A. Continuous sexual abuse of a child in violation of section 709.23.

NEW SUBSECTION. 5B. Kidnapping in the first degree when the person kidnapped, and as a consequence of the kidnapping, is intentionally subjected to sexual abuse in violation of section 710.2.

NEW SUBSECTION. 5C. Burglary in the first degree in violation of section 713.3, subsection 1, paragraph "d".

Sec. 4. Section 802.2C, Code 2024, is amended to read as follows:

802.2C Kidnapping.

An information or indictment for kidnapping in the first, second, or third degree, except as provided in section 802.2B, committed on or with a person who is under the age of eighteen years shall be found within ten years after the person upon whom the offense is committed attains eighteen years of age, or if the person against whom the information or indictment is sought is identified through the use of a DNA profile, an information or indictment shall be found within three years from the date the person is identified by the person's DNA profile, whichever is later.

DIVISION III

SEXUALLY PREDATORY OFFENSES

Sec. 5. Section 901A.1, subsection 1, paragraph c, Code 2024, is amended to read as follows:

c. Enticing a minor in violation of section 710.10, subsection 1 or 2.>

2. Title page, by striking lines 1 and 2 and inserting <An Act relating to criminal law, including defense subpoenas in criminal cases, limitation of criminal actions involving

1 certain sexual offenses, and sexually predatory offenses, and
2 providing penalties.>

GUSTOFF of Polk