

Senate File 2349

H-8291

- 1 Amend the amendment, H-8290, to Senate File 2349, as passed
2 by the Senate, as follows:
- 3 1. Page 1, line 15, by striking <a.>
 - 4 2. Page 1, line 19, by striking <all of the following:> and
5 inserting <that there is a compelling need for the evidence
6 sought or that such evidence appears reasonably likely to lead
7 to the discovery of relevant information. A defense subpoena
8 shall not be filed or reviewed ex parte.>
 - 9 3. By striking page 1, line 20, through page 2, line 8.
 - 10 4. Page 2, line 14, after <waiver> by inserting <except upon
11 a showing of good and otherwise lawful cause>
 - 12 5. Page 2, by striking lines 29 through 35 and inserting:
13 <___. A criminal defendant or counsel acting on the
14 defendant's behalf, in evaluating whether to submit an
15 application for a subpoena, and the court, in considering
16 an application for a subpoena, shall give due consideration
17 concerning the likely burdens placed upon the person to
18 be subpoenaed. No subpoena shall issue if the court finds
19 that the likely burdens, including but not limited to the
20 compromise of privacy interests, expense, inconvenience,
21 and the disruption of emotional tranquility, so overwhelm
22 the likely benefit to the defense that the granting of the
23 subpoena application would constitute manifest injustice. If
24 an application for a subpoena appears to have been motivated
25 by malice, the court shall impose appropriate sanctions upon
26 the criminal defendant or counsel acting on the defendant's
27 behalf.>
 - 28 6. By renumbering, redesignating, and correcting internal
29 references as necessary.

THOMSON of Floyd