

Senate Study Bill 131

Conference Committee Text

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1 1 Section 1. NEW SECTION. 819A.1 DEFINITIONS.
1 2 As used in this chapter, unless the context otherwise
1 3 requires:
1 4 1. "Criminal proceeding" means a criminal action which is
1 5 pending or is before a court in a state. For purposes of this
1 6 subsection, a criminal action includes, but is not limited to,
1 7 a prosecution of a complaint, indictment, or information, and
1 8 an investigation by a grand jury.
1 9 2. "Penal institution" means a jail, prison, penitentiary,
1 10 house of correction, or other place of penal detention which
1 11 is located in a state and includes, but is not limited to, a
1 12 city or county jail or detention facility, an institution or
1 13 facility under the control of the department of corrections,
1 14 the state training school or other facility under the control
1 15 of the director of the department of human services, and a
1 16 facility or electronic monitoring program under the control of
1 17 a judicial district department of correctional services in
1 18 this state.
1 19 3. "State" means any state of the United States, the
1 20 District of Columbia, the Commonwealth of Puerto Rico, or any
1 21 territory of the United States.
1 22 4. "Witness" means a person, who is confined in a penal
1 23 institution in a state, whose testimony is requested in
1 24 another state in a criminal proceeding.
1 25 Sec. 2. NEW SECTION. 819A.2 TESTIMONY OF IN-STATE
1 26 WITNESS IN OUT-OF-STATE PROCEEDING.
1 27 1. A judge of a court of record in another state, which
1 28 has enacted a law that requires persons confined in penal
1 29 institutions within that state to appear and testify in this
1 30 state, may certify to the district court in the county in this
1 31 state in which the witness is confined, as follows:
1 32 a. That a criminal proceeding is pending or before a court
1 33 in the other state.
1 34 b. That a person who is confined in a penal institution in
1 35 this state may be a material witness in the criminal
2 1 proceeding.
2 2 c. That the person's appearance and testimony will be
2 3 required at a specified time or during a specified time
2 4 period.
2 5 2. Upon the filing of the certification, the district
2 6 court shall set the matter for hearing and shall direct the
2 7 person having custody of the witness to produce the witness at
2 8 the hearing. The clerk of the district court shall send
2 9 copies of the order for hearing, together with a copy of the
2 10 certification, to the attorney general, the person having
2 11 custody of the witness, and the witness.
2 12 Sec. 3. NEW SECTION. 819A.3 ORDER FOR TRANSFER.
2 13 1. At the hearing on the certification, the district court
2 14 shall determine all of the following issues:
2 15 a. That the testimony of the witness may be material and
2 16 necessary to the criminal proceeding in the other state.
2 17 b. That the appearance of and testimony by the witness are
2 18 not adverse to the interests of this state or the health or
2 19 legal rights of the witness.
2 20 c. That the laws of the other state in which the witness
2 21 is requested to testify will protect the witness from arrest

2 22 and the service of civil and criminal process based on any act
2 23 committed prior to the witness's arrival in the other state
2 24 under a transfer order.

2 25 d. That the possibility that the witness may be subject to
2 26 arrest or to service of civil or criminal process in any other
2 27 state through which the witness will be required to pass is
2 28 remote.

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

2 33 a. An order directing the witness to attend and testify.

2 34 b. An order directing the person having custody of the
2 35 witness to produce the witness in the court in which the
3 1 criminal proceeding is taking place.

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

3 5 Sec. 4. NEW SECTION. 819A.4 TERMS AND CONDITIONS.

3 6 1. The order directing the witness to attend and testify
3 7 and the order directing the person having custody of the
3 8 witness to produce the witness shall provide for either of the
3 9 following:

3 10 a. The return of the witness at the conclusion of the
3 11 witness's testimony, proper safeguards on the witness's
3 12 custody, and that the requesting jurisdiction provide proper
3 13 financial reimbursement or prepayment of all expenses incurred
3 14 in the production of the witness.

3 15 b. That the person having custody of the witness transfer
3 16 custody of the witness to an officer of the requesting
3 17 jurisdiction who comes to the penal institution in which the
3 18 witness is confined to accept custody of the witness.

3 19 2. If the requesting jurisdiction sends an officer from
3 20 the requesting jurisdiction to accept custody of the witness,
3 21 the district court shall require that the requesting
3 22 jurisdiction provide proper safeguards for the witness's
3 23 custody while in transfer, and pay and be liable for all
3 24 expenses incurred in producing and returning the witness.

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

3 29 Sec. 5. NEW SECTION. 819A.5 EXCEPTIONS.

3 30 This chapter shall not apply to persons confined in a penal
3 31 institution because of insanity or other mental disorder which
3 32 prevents the person from appreciating the charge,
3 33 understanding the proceedings, or assisting effectively in the
3 34 person's defense.

3 35 Sec. 6. NEW SECTION. 819A.6 TESTIMONY OF OUT-OF-STATE
4 1 WITNESS IN IN-STATE PROCEEDING.

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

4 7 a. That a criminal proceeding is pending and before a
4 8 court in this state.

4 9 b. That a person who is confined in a penal institution in
4 10 the other state may be a material witness in the criminal
4 11 proceeding.

4 12 c. That the person's appearance and testimony will be
4 13 required at a specified time or during a specified time
4 14 period.

4 15 2. The certification shall be filed with the court of
4 16 record in the other state and notice of the certification
4 17 shall be given to the attorney general in that state.

4 18 Sec. 7. NEW SECTION. 819A.7 COMPLIANCE.

4 19 A judicial officer of the district court in this state may
4 20 enter an order directing compliance with any terms and
4 21 conditions prescribed by a judicial officer of the other state
4 22 in which the witness is confined.

4 23 Sec. 8. NEW SECTION. 819A.8 EXEMPTION FROM ARREST AND
4 24 SERVICE OF PROCESS.

4 25 If a witness from another state comes into or passes
4 26 through this state under an order directing the witness to
4 27 attend and testify in this or another state, the witness shall
4 28 not be subject to arrest or the service of civil or criminal
4 29 process during the time that the witness is in this state, if
4 30 the service of process is based on any act committed prior to
4 31 the witness's arrival in this state pursuant to a transfer
4 32 order.

4 33 Sec. 9. NEW SECTION. 819A.9 UNIFORMITY OF
4 34 INTERPRETATION.

4 35 This chapter shall be construed to effectuate the purpose
5 1 of making uniform the law of those states which enact a
5 2 uniform rendition of prisoners as witnesses in criminal
5 3 proceedings Act.

5 4 Sec. 10. NEW SECTION. 819A.10 SHORT TITLE.

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

5 7 Sec. 11. EFFECTIVE DATE. This Act, being deemed of
5 8 immediate importance, takes effect upon enactment.

5 9 EXPLANATION

5 10 This bill provides a new procedure for securing the
5 11 presence and testimony of prisoners who may be material
5 12 witnesses in a criminal proceeding either in this state or in
5 13 another state. Prisoners covered under the bill include
5 14 persons incarcerated in a jail, prison, penitentiary, house of
5 15 correction, or other place of detention. Under the bill, if a
5 16 prisoner is needed to testify in a grand jury investigation, a
5 17 criminal trial, or other criminal proceeding, the court is to
5 18 certify to a court in the other state in which the prisoner is
5 19 located that there is a criminal proceeding pending, that the
5 20 witness may be a material witness, and that the attendance and
5 21 testimony of the witness will be needed at a particular time.
5 22 The certification will be presented to the court in the state
5 23 where the prisoner is located and the attorney general and the
5 24 person who has custody of the prisoner will be notified. The
5 25 bill provides for a hearing upon receipt of the certification,
5 26 at which the court determines whether the witness's testimony
5 27 may be material, whether the witness's attendance and
5 28 testimony are not adverse to the witness's and state's
5 29 interests, that the other state's or states' laws will protect
5 30 the witness from criminal or civil service of process for acts
5 31 committed prior to the time when it is proposed that the
5 32 witness appear and testify, and whether it is likely that the
5 33 witness would be subject to criminal or civil service of
5 34 process. If the court determines that the witness should
5 35 appear and testify, the court is required to enter an order
6 1 for transfer which provides not only that the witness attend
6 2 and testify, but also requires that security measures be in
6 3 place for the witness's protection and for the payment of the
6 4 costs for the transfer. The bill also contains a provision
6 5 protecting prisoners who are brought into Iowa as material
6 6 witnesses in criminal proceedings from the service of civil or
6 7 criminal process during the pendency of their stay in Iowa
6 8 under a transfer order. The bill takes effect immediately
6 9 upon enactment.

6 10 LSB 1742SC 76

6 11 lh/cf/24