

House Study Bill 28 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON HOLT)

A BILL FOR

1 An Act relating to postconviction relief procedure and the
2 underlying trial court record of the proceedings challenged.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 822.6, subsection 1, Code 2019, is
2 amended to read as follows:

3 1. Within thirty days after the docketing of the
4 application, or within any further time the court may fix,
5 the state shall respond by answer or by motion which may
6 be supported by affidavits. At any time prior to entry of
7 judgment the court may grant leave to withdraw the application.
8 The court may make appropriate orders for amendment of the
9 application or any pleading or motion, for pleading over, for
10 filing further pleadings or motions, or for extending the time
11 of the filing of any pleading. In considering the application
12 the court shall take account of substance regardless of defects
13 of form. ~~If the application is not accompanied by the record~~
14 ~~of the proceedings challenged therein, the respondent shall~~
15 ~~file with its answer the record or portions thereof that are~~
16 ~~material to the questions raised in the application.~~

17 Sec. 2. NEW SECTION. **822.6A Underlying trial court record**
18 **part of application.**

19 The underlying trial court record containing the conviction
20 for which an applicant seeks postconviction relief, as well as
21 any previous application filed by the applicant relating to the
22 same conviction, shall automatically become part of the record
23 in a claim for postconviction relief under this chapter.

24 Sec. 3. NEW SECTION. **822.6B Electronic access to trial**
25 **court records.**

26 1. Upon the filing of an application, the clerk of the
27 district court shall make the underlying trial court record
28 accessible to the applicant's attorney, the county attorney,
29 and the attorney general. If the underlying trial court
30 record is not available in electronic format, the clerk of the
31 district court shall convert the record to an electronic format
32 and make the record available to the applicant's attorney, the
33 county attorney, and the attorney general.

34 2. Upon request by an attorney of record, the clerk of
35 the district court shall make any previous application filed

1 by the applicant relating to the same conviction accessible
2 to the applicant's attorney, the county attorney, and the
3 attorney general. If the previous application is not available
4 in electronic format, the clerk of the district court shall
5 convert the application to an electronic format and make the
6 application available to the applicant's attorney, the county
7 attorney, and the attorney general.

8

EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill relates to postconviction relief procedure and the
12 underlying trial court record of the proceedings challenged.

13 The bill strikes a provision which requires that if an
14 application for postconviction relief is not accompanied by the
15 underlying trial court record of the proceedings challenged,
16 the state shall file with its answer the record or portions
17 thereof that are material to the questions raised in the
18 application.

19 The bill provides that the underlying trial court record
20 containing the conviction for which an applicant seeks
21 postconviction relief, as well as any previous postconviction
22 relief application filed by the applicant relating to the same
23 conviction, shall automatically become part of the record in a
24 claim for postconviction relief.

25 The bill provides that upon the filing of an application
26 for postconviction relief, the clerk of the district court
27 shall make the underlying trial court record accessible
28 to the applicant's attorney, the county attorney, and the
29 attorney general. If the trial court record is not available
30 in electronic format, the clerk shall convert the record to
31 an electronic format and make the record available to the
32 applicant's attorney, the county attorney, and the attorney
33 general. Upon request made by an attorney of record, the clerk
34 of the district court shall make any previous application
35 for postconviction relief filed by the applicant relating to

1 the same conviction accessible to the applicant's attorney,
2 the county attorney, and the attorney general. If the
3 previous postconviction relief application is not available in
4 electronic format, the clerk shall convert the application to
5 an electronic format and make the application available to the
6 applicant's attorney, the county attorney, and the attorney
7 general.