

Senate File 158 - Introduced

SENATE FILE 158
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1005)

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 the court file containing any previous application filed by the
22 applicant relating to the same conviction, shall automatically
23 become part of the record in a claim for postconviction relief
24 under this chapter.

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

27 1. Upon the filing of an application, the clerk of the
28 district court shall make the underlying trial court record
29 accessible to the applicant's attorney, the county attorney,
30 and the attorney general, without the necessity of a court
31 order. If the underlying trial court record is not available
32 in electronic format, the clerk of the district court shall
33 convert the record to an electronic format and make the record
34 available to the applicant's attorney, the county attorney, and
35 the attorney general, without the necessity of a court order.

1 2. Upon request by an attorney of record, the clerk of
2 the district court shall make the court file containing
3 any previous application filed by the applicant relating to
4 the same conviction accessible to the applicant's attorney,
5 the county attorney, and the attorney general, without the
6 necessity of a court order. If the court file containing the
7 previous application is not available in electronic format, the
8 clerk of the district court shall convert the application to
9 an electronic format and make the application available to the
10 applicant's attorney, the county attorney, and the attorney
11 general, without the necessity of a court order.

12 EXPLANATION

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

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

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

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

29 The bill provides that upon the filing of an application
30 for postconviction relief, the clerk of the district court
31 shall make the underlying trial court record accessible to the
32 applicant's attorney, the county attorney, and the attorney
33 general, without the necessity of a court order. If the
34 underlying trial court record is not available in electronic
35 format, the clerk shall convert the record to an electronic

1 format and make the record available to the applicant's
2 attorney, the county attorney, and the attorney general,
3 without the necessity of a court order. Upon request made
4 by an attorney of record, the clerk of the district court
5 shall make the court file containing any previous application
6 for postconviction relief filed by the applicant relating to
7 the same conviction accessible to the applicant's attorney,
8 the county attorney, and the attorney general, without the
9 necessity of a court order. If the court file containing the
10 previous postconviction relief application is not available in
11 electronic format, the clerk shall convert the application to
12 an electronic format and make the application available to the
13 applicant's attorney, the county attorney, and the attorney
14 general, without the necessity of a court order.