

**House File 426 - Introduced**

HOUSE FILE 426

BY ANDREWS

**A BILL FOR**

1 An Act relating to postconviction access to a defendant's  
2 file in the possession of a law enforcement agency, county  
3 attorney, the attorney general in this state, and the  
4 defendant's previous trial or appellate attorney.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 701.13 Postconviction file access  
2 — discoverable materials.

3 1. For purposes of this section, "file" means all papers,  
4 documents, statements, photographs, or tangible objects in  
5 the possession, custody, or control of the state including  
6 any results or reports of physical or mental examinations and  
7 of scientific tests or experiments made in connection with a  
8 particular criminal case.

9 2. Except as provided in subsection 3, a prosecuting  
10 attorney, to the extent allowed by law, shall make available to  
11 a defendant who has been convicted of a felony or an aggravated  
12 misdemeanor, any file in the possession of a law enforcement  
13 agency, county attorney, or the attorney general in this state  
14 involved in the investigation of any felony or aggravated  
15 misdemeanor committed by the defendant relating to the  
16 prosecution of the defendant that the defendant was entitled to  
17 at the time of the defendant's trial.

18 3. In all criminal cases involving a conviction for a felony  
19 or an aggravated misdemeanor, all of the following shall apply:

20 a. A defendant's previous trial or appellate attorney shall  
21 retain a copy of the defendant's file for the term of the  
22 defendant's imprisonment. An electronic copy is sufficient  
23 only if an entire file is digitally copied and preserved.

24 b. A defendant's previous trial or appellate attorney shall  
25 make available to the defendant or the defendant's current  
26 attorney the complete file relating to the prosecution of the  
27 defendant.

28 4. If a prosecuting attorney has a reasonable belief  
29 that allowing inspection of any portion of the defendant's  
30 file by the defendant's attorney would place a person in  
31 imminent danger, the prosecuting attorney may submit any  
32 portion of the file so identified for inspection by the court.  
33 If upon examination of the file the court finds that the  
34 submitted portion of the file would not assist the defendant  
35 in investigating, preparing, or presenting a motion for any

1 appropriate relief, the court in its discretion may allow the  
2 prosecutor to withhold that portion of the file.

3 5. A defendant, the defendant's attorney, investigator,  
4 expert, consulting legal counsel, or other agent of the  
5 attorney representing the defendant shall not disclose to a  
6 third party any file received from the prosecuting attorney  
7 under this section that is prohibited from public disclosure  
8 unless any of the following apply:

9 a. A court orders the disclosure of the file upon a showing  
10 of good cause after notice and a hearing to consider the  
11 security and privacy interests of a victim or witness.

12 b. The file has already been publicly disclosed.

13 6. The actual costs involved in the examination or copying  
14 of the disclosed file pursuant to this section shall be  
15 reimbursed by the defendant.

16 7. This section does not require the retention of any file  
17 not otherwise required by law or court order.

18 EXPLANATION

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

21 This bill relates to postconviction access to a defendant's  
22 file in the possession of a law enforcement agency, county  
23 attorney, the attorney general in this state, and the  
24 defendant's previous trial or appellate attorney.

25 The bill provides that the prosecuting attorney, to the  
26 extent allowed by law, shall make available to a defendant, who  
27 has been convicted of a felony or an aggravated misdemeanor,  
28 the file in the possession of any law enforcement agency,  
29 county attorney, or the attorney general in this state involved  
30 in the investigation of the public offenses committed by  
31 the defendant or the prosecution of the defendant which the  
32 defendant was entitled to at the time of the defendant's trial.  
33 If the prosecuting attorney has a reasonable belief that  
34 allowing inspection of any portion of the file by the attorney  
35 for the defendant would place a person in imminent danger,

1 the prosecuting attorney may submit any portion of the file  
2 identified for inspection by the court. If upon examination  
3 the court finds that the submitted portion of the file would  
4 not assist the defendant in investigating, preparing, or  
5 presenting a motion for appropriate relief, the court in its  
6 discretion may allow the prosecutor to withhold that portion  
7 of the file.

8 The bill provides that in all criminal matters involving  
9 a conviction for a felony or aggravated misdemeanor, a  
10 defendant's trial or appellate attorney shall retain a copy  
11 of the defendant's file for the term of the defendant's  
12 imprisonment and shall make available to the defendant or the  
13 defendant's current attorney the complete file relating to the  
14 prosecution of the defendant.

15 The bill provides that the defendant, the defendant's  
16 attorney, investigator, expert, consulting legal counsel, or  
17 other agent of the attorney representing the defendant shall  
18 not disclose to a third party any file received from the  
19 prosecuting attorney that is prohibited from public disclosure  
20 unless a court orders the disclosure of the materials of such  
21 file upon a showing of good cause after notice and a hearing  
22 to consider the security and privacy interests of a victim or  
23 witness, or the file has already been publicly disclosed.

24 The actual costs involved in the examination or copying of  
25 any file disclosed shall be reimbursed by the defendant. The  
26 bill does not require the retention of any file not otherwise  
27 required by law or court order.

28 The bill defines "file" as papers, documents, statements,  
29 photographs, or tangible objects in the possession, custody,  
30 or control of the state including any results or reports of  
31 physical or mental examinations and of scientific tests or  
32 experiments made in connection with a particular case.