

House Study Bill 156 - Introduced

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

A BILL FOR

1 An Act relating to criminal law including defense subpoenas,
2 depositions, conditional guilty pleas, prosecution witnesses
3 who are minors, and juror qualifications, providing
4 penalties, and including effective date provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

DEFENSE SUBPOENAS

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3 Section 1. Section 815.9, subsection 1, unnumbered
4 paragraph 1, Code 2023, is amended to read as follows:

5 For purposes of **this chapter, chapters 13B, 229A, 232, 665,**
6 **812, 814, and 822,** and ~~section~~ sections 811.1A and 821A.1, and
7 the rules of criminal procedure, a person is indigent if the
8 person is entitled to an attorney appointed by the court as
9 follows:

10 Sec. 2. NEW SECTION. **821A.1 Defense subpoenas in criminal**
11 **actions.**

12 1. *a.* A criminal defendant or counsel acting on the
13 defendant's behalf shall not issue any subpoena for documents
14 or other evidence except upon application to the court. An
15 application shall not be granted unless a defendant proves by
16 clear and convincing evidence all of the following:

17 (1) There is a compelling need for the evidence sought and
18 that such evidence is material, necessary, exculpatory, and
19 admissible at trial.

20 (2) The evidence sought does not include the private
21 information of a crime victim or any other person except for
22 the defendant's own private information.

23 *b.* For the purposes of this subsection:

24 (1) "*Exculpatory*" means information that tends to negate
25 the guilt of the defendant, and not information that is merely
26 impeaching or is substantially cumulative in nature.

27 (2) "*Private information*" means information for which
28 a person has a reasonable expectation of privacy including
29 but not limited to information the state would need a search
30 warrant to obtain, nonpublic electronic communications, and
31 information that would reveal personal information immaterial
32 to the prosecution.

33 2. Notwithstanding any rule of criminal procedure
34 concerning the issuance of a subpoena, this section is the
35 exclusive mechanism for a criminal defendant or counsel acting

1 on the defendant's behalf to issue a subpoena for documents or
2 other evidence.

3 3. An application for a defense subpoena shall not be filed
4 or reviewed ex parte.

5 4. The prosecuting attorney shall not be required to execute
6 or effectuate any order or subpoena issued pursuant to this
7 section.

8 5. A crime victim or other party who is the subject of
9 a subpoena shall not be required by the court to execute a
10 waiver.

11 6. Upon application by a crime victim or the prosecuting
12 attorney, the court shall appoint an attorney to represent a
13 person or entity served with a defense subpoena if the person
14 or entity is determined to be indigent pursuant to section
15 815.9. Counsel appointed pursuant to this subsection shall be
16 paid from the indigent defense fund established pursuant to
17 section 815.11.

18 7. Documents or other evidence obtained through a defense
19 subpoena must be provided to the prosecuting attorney within
20 twenty-four hours of obtaining the documents or evidence.

21 8. Documents or other evidence obtained through a defense
22 subpoena that does not comply with this section shall not be
23 admissible in any criminal action if offered by the defendant.

24 9. An attorney who knowingly issues a defense subpoena that
25 does not comply with this section and the rules of criminal
26 procedure commits a simple misdemeanor.

27 10. An applicant for postconviction relief shall not be
28 entitled to relief on a claim of ineffective assistance of
29 counsel as a result of evidence obtained through a defense
30 subpoena.

31 DIVISION II

32 DEPOSITIONS

33 Sec. 3. NEW SECTION. 701.13 **Depositions before indictment.**

34 A person expecting to be made a party to a criminal
35 prosecution shall not be entitled to conduct a deposition prior

1 to the person being indicted for a criminal offense.

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DIVISION III

CONDITIONAL GUILTY PLEAS

4 Sec. 4. Section 814.6, Code 2023, is amended by adding the
5 following new subsection:

6 NEW SUBSECTION. 3. A conditional guilty plea that purports
7 to reserve an issue for appeal shall only be entered by the
8 court with the consent of the prosecuting attorney and the
9 attorney general. An appellate court shall have jurisdiction
10 over only conditional guilty pleas that comply with this
11 section and when appellate adjudication of the reserved issue
12 is in the interest of justice.

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DIVISION IV

PROSECUTION WITNESSES — MINORS

15 Sec. 5. Section 915.36A, Code 2023, is amended to read as
16 follows:

17 **915.36A Minor prosecuting witness — pretrial contact.**

18 1. A prosecuting witness who is a minor shall have the
19 right to have the interview or deposition taken outside of the
20 presence of the defendant. The interview or deposition may
21 be televised by closed-circuit equipment to a room where the
22 defendant can view the interview or deposition or in a manner
23 that ensures that the defendant shall not have contact with
24 the minor. The defendant shall be allowed to communicate with
25 the defendant's counsel in the room where the minor is being
26 interviewed or deposed by an appropriate electronic method.

27 2. The supreme court shall amend the rules of criminal
28 procedure to comply with this section including but not
29 limited to the elimination of a requirement that a defendant be
30 physically present at the deposition of a minor.

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DIVISION V

JUROR QUALIFICATIONS

33 Sec. 6. Section 48A.30, subsection 1, paragraph f, Code
34 2023, is amended to read as follows:

35 *f.* The registered voter is not a resident of Iowa, or the

1 registered voter submits documentation under section 607A.4,
2 subsection ~~3~~ 5, that indicates that the voter is not a citizen
3 of the United States.

4 Sec. 7. Section 607A.4, Code 2023, is amended to read as
5 follows:

6 **607A.4 Jury service — minimum qualifications —**
7 **disqualification — documentation.**

- 8 1. To serve or to be considered for jury service, a person
9 must possess the following minimum qualifications:
- 10 a. Be eighteen years of age or older.
 - 11 b. Be a citizen of the United States.
 - 12 c. Be able to understand the English language in a written,
13 spoken, or manually signed mode.
 - 14 d. Be able to receive and evaluate information such that the
15 person is capable of rendering satisfactory ~~juror~~ jury service.
- 16 2. ~~However,~~ A person possessing the minimum
17 qualifications for service or consideration for service may be
18 disqualified for service or consideration for service if the
19 person has, directly or indirectly, requested to be placed on
20 a list for ~~juror~~ jury service.
- 21 3. A person convicted of a felony who remains under the
22 supervision of the department of corrections, a judicial
23 district department of correctional services, or the board of
24 parole shall be disqualified from jury service.
- 25 4. A person convicted of a felony that requires the person
26 to register as a sex offender under chapter 692A or to serve a
27 special sentence under chapter 903B shall be disqualified from
28 jury service.
- 29 ~~3.~~ 5. A person who claims disqualification for any of
30 the grounds identified in **this section** may, upon the person's
31 own volition, or shall, upon the court's volition, submit
32 in writing to the court's satisfaction, documentation that
33 verifies disqualification from ~~juror~~ jury service.

34 DIVISION VI

35 SUPREME COURT — RULES OF CRIMINAL PROCEDURE REVISIONS

1 Sec. 8. SUPREME COURT — RULES OF CRIMINAL PROCEDURE
2 REVISIONS. The supreme court shall revise the rules of
3 criminal procedure submitted for legislative council review
4 on October 14, 2022, to comply with this Act. The revised
5 rules of criminal procedure shall be submitted for legislative
6 council review no later than June 1, 2023, and shall supercede
7 the revised rules submitted on October 14, 2022. If the
8 supreme court fails to timely submit rules of criminal
9 procedure revised to comply with this Act, the rules of
10 criminal procedure submitted for legislative council review on
11 October 14, 2022, shall be rejected in their entirety.

12 Sec. 9. EFFECTIVE DATE. This division of this Act, being
13 deemed of immediate importance, takes effect upon enactment.

14 EXPLANATION

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

17 This bill relates to criminal law including defense
18 subpoenas, depositions, conditional guilty pleas, prosecution
19 witnesses who are minors, and juror qualifications.

20 DIVISION I — DEFENSE SUBPOENAS. The bill provides that a
21 criminal defendant or counsel acting on the defendant's behalf
22 shall not issue any subpoena for documents or other evidence
23 except upon application to the court. An application shall not
24 be granted unless a defendant proves by clear and convincing
25 evidence there is a compelling need for the evidence sought and
26 that such evidence is material, necessary, exculpatory, and
27 admissible at trial; and the evidence sought does not include
28 the private information of a crime victim or any other person
29 except for the defendant's own private information.

30 Notwithstanding any rule of criminal procedure concerning
31 the issuance of a subpoena, the bill provides that this
32 bill provision is the exclusive mechanism for a criminal
33 defendant or counsel acting on behalf of the defendant to
34 issue a subpoena for documents or other evidence. Documents
35 or other evidence obtained by a subpoena that does not comply

1 with the requirements of this bill provision shall not be
2 admissible in any criminal action if offered by the defendant,
3 and an attorney who knowingly issues a defense subpoena that
4 does not comply with the requirements of the bill commits a
5 simple misdemeanor. An application for a defense subpoena
6 shall not be made or reviewed ex parte. Any documents or
7 evidence obtained by a defense subpoena must be provided to the
8 prosecuting attorney within 24 hours of obtaining the documents
9 or evidence.

10 The bill provides that upon application by a crime victim or
11 the prosecuting attorney, the court shall appoint an attorney
12 to represent a person or entity served with a defense subpoena,
13 if the person or entity is indigent.

14 The bill provides that an applicant for postconviction
15 relief shall not be entitled to relief on a claim of
16 ineffective assistance of counsel as a result of evidence
17 obtained through a defense subpoena.

18 DIVISION II — DEPOSITIONS. The bill provides that a person
19 who has the expectation of being made a party to a criminal
20 prosecution shall not be entitled to conduct a deposition prior
21 to the person being indicted for a criminal offense.

22 DIVISION III — CONDITIONAL GUILTY PLEAS. The bill provides
23 that a conditional guilty plea that purports to reserve an
24 issue for appeal may only be entered with the consent of the
25 prosecuting attorney and the attorney general. An appellate
26 court shall have jurisdiction only over conditional guilty
27 pleas that comply with this provision in the bill and when
28 appellate adjudication of the reserved issue is in the interest
29 of justice.

30 DIVISION IV — PROSECUTION WITNESSES — MINORS. The
31 bill provides that the supreme court shall amend the rules
32 of criminal procedure to comply with Code section 915.36A
33 concerning the rights of a minor being interviewed or deposed,
34 including but not limited to the elimination of a requirement
35 that a defendant be physically present at the deposition of a

1 minor.

2 DIVISION V — JUROR QUALIFICATIONS. The bill provides that a
3 person is disqualified from jury service if the person has been
4 convicted of a felony and remains under the supervision of the
5 department of corrections, a judicial district department of
6 correctional services, or the board of parole, or if the person
7 has been convicted of a felony which requires registration as
8 a sex offender under Code chapter 692A or to serve a special
9 sentence under Code chapter 903B. The bill makes conforming
10 Code changes.

11 DIVISION VI — SUPREME COURT — RULES OF CRIMINAL PROCEDURE
12 REVISIONS. The bill requires the supreme court to revise the
13 rules of criminal procedure submitted for legislative council
14 review on October 14, 2022, to comply with the bill. The
15 revised rules shall be submitted for legislative council review
16 no later than June 1, 2023, and shall supercede the revised
17 rules submitted on October 14, 2022. If the supreme court
18 fails to timely submit rules of criminal procedure revised to
19 comply with the bill for legislative council review on October
20 14, 2022, the submitted rules shall be rejected in their
21 entirety.

22 The division is effective upon enactment.