

House Study Bill 20 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED ATTORNEY GENERAL
BILL)

A BILL FOR

- 1 An Act relating to defense subpoenas in criminal cases, and
- 2 providing penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. Section 815.9, subsection 1, unnumbered paragraph
2 1, Code 2025, is amended to read as follows:

3 For purposes of this chapter, chapters 13B, 229A, 232, 665,
4 812, 814, and 822, and ~~section~~ sections 811.1A and 821A.1, and
5 the rules of criminal procedure, a person is indigent if the
6 person is entitled to an attorney appointed by the court as
7 follows:

8 Sec. 2. NEW SECTION. **821A.1 Defense subpoenas in criminal**
9 **actions.**

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

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

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

21 b. For the purposes of this subsection:

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

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

32 2. Notwithstanding any rule of criminal procedure concerning
33 the issuance of a subpoena, this section is the exclusive
34 mechanism for a criminal defendant or counsel acting on the
35 defendant's behalf to issue a subpoena for documents or other

1 evidence.

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

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

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

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

15 7. Documents or other evidence obtained through a defense
16 subpoena must be provided to the prosecuting attorney within
17 five business days after the receipt of the documents or other
18 evidence.

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

22 9. The court may sanction an attorney for knowingly issuing a
23 defense subpoena in violation of this section.

24 10. An applicant for postconviction relief shall not be
25 entitled to relief on a claim of ineffective assistance of
26 counsel when that claim is predicated upon evidence that was
27 obtained through a defense subpoena and required to be disclosed
28 pursuant to this section.

29 **EXPLANATION**

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

32 This bill relates to defense subpoenas in criminal cases.

33 The bill provides that a criminal defendant or counsel acting
34 on the defendant's behalf shall not issue any subpoena for
35 documents or other evidence except upon application to the court.

1 An application shall not be granted unless a defendant proves
2 by a preponderance of the evidence there is a compelling need
3 for the evidence sought and that such evidence is material,
4 necessary, exculpatory, and admissible at trial; and the evidence
5 sought does not include the private information of a crime victim
6 or any other person except for the defendant's own private
7 information.

8 Notwithstanding any rule of criminal procedure concerning the
9 issuance of a subpoena, the bill provides that the procedure
10 set forth in the bill is the exclusive mechanism for a criminal
11 defendant or counsel acting on behalf of the defendant to
12 issue a subpoena for documents or other evidence. Documents
13 or other evidence obtained by a subpoena that does not comply
14 with the requirements of the bill shall not be admissible in any
15 criminal action if offered by the defendant, and an attorney who
16 knowingly issues a defense subpoena that does not comply with
17 the requirements of the bill may be sanctioned by the court. An
18 application for a defense subpoena shall not be made or reviewed
19 ex parte. Any documents or evidence obtained by a defense
20 subpoena must be provided to the prosecuting attorney within five
21 business days of obtaining the documents or evidence.

22 The bill provides that upon application by a crime victim or
23 the prosecuting attorney, the court shall appoint an attorney to
24 represent a person or entity served with a defense subpoena, if
25 the person or entity is indigent.

26 The bill provides that an applicant for postconviction relief
27 shall not be entitled to relief on a claim of ineffective
28 assistance of counsel when that claim is predicated upon evidence
29 that was obtained through a defense subpoena and required to be
30 disclosed under the bill.