

**Senate Study Bill 1055 - 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.