

## HOUSE REPUBLICAN STAFF ANALYSIS

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| Bill: House File 644 (Formerly HSB 156) | House Committee: PASSED on March 3 (14-6) |
| Committee: Judiciary                    | House Floor:                              |
| Floor Manager: Rep. Holt                | Senate Floor:                             |
| Date: March 21, 2023                    | Governor:                                 |
| Staff: Amanda Wille (1-5230)            |   |

### Criminal Procedure Rules

- Makes changes to multiple areas of criminal procedure, including defense subpoenas, depositions, conditional guilty pleas, depositions of children, and jury qualifications.
- **Fiscal Note-** Division I- Office of the State Public Defender will require 15.0 Investigator 2 FTE positions, at a total cost of \$1.0 million to the State Public Defender operating budget, which is funded through the General Fund. There will also be costs to the courts and the indigent defense fund that cannot be calculated.

### Section by Section Analysis

#### Division I- Defense Subpoena

The defense in a criminal case may not issue a subpoena for documents or evidence except upon approval of the court. The defense must prove by clear and convincing evidence that there is a compelling need for the evidence and it is material, necessary, exculpatory, and admissible at trial.

The evidence cannot include private information of a crime victim or any other person except the defendant's own private information.

This is the exclusive mechanism for a criminal defendant to issue a subpoena for documents or other evidence.

An attorney who knowingly issues a defense subpoena that does not comply with the requirements of the bill commits a simple misdemeanor.

If a crime victim or the prosecution asks, the court shall appoint an attorney to represent a person served with a defense subpoena if they are indigent.

#### Division II- Depositions

A person who has the expectation of being a party in a criminal trial shall not conduct a deposition prior to the indictment.

### **Division III- Conditional Guilty Pleas**

A conditional guilty plea that purports to reserve an issue for appeal may only be entered with the consent of the prosecuting attorney and the Attorney General.

### **Division IV- Prosecution Witnesses- Minors**

The Iowa Supreme Court shall amend the rules of criminal procedure to apply with Iowa code that eliminates the requirement that a defendant be physically present at a deposition of a minor.

### **Division V- Juror Qualifications**

A person is disqualified from jury service if they have been convicted of a felony and are under the supervision of the DOC, a CBC, or the board of parole. Additionally, if a person has been convicted for a sex offense that places them on the sex offender registry they are also disqualified from jury service.

### **Division VI- Supreme Court- Rules of Criminal Procedure**

The Iowa Supreme Court shall revise the rules of criminal procedure to comply with the bill. The revised rules shall be submitted to legislative council for review by June 1, 2023. If the court does not resubmit rules the previously submitted rules shall be rejected in their entirety.

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## **Amendment Analysis**

### **H-1140- Holt**

#### **Division I**

Strikes clear and convincing evidence requirement and replaces it with preponderance of the evidence

The evidence sought must be relevant or will lead to the discovery of relevant information.

The evidence sought does not include private information of a crime victim or other person unless the evidence is exculpatory

Documents obtained through a subpoena must be provided to the prosecuting attorney within three days of receipt.

Strikes the simple misdemeanor and allows the court to sanction an attorney who knowingly submits a defense subpoena that does not comply with the bill.

#### **Division III**

A conditional guilty plea that reserves an issue for appeal shall only be entered with the consent of the prosecuting attorney and the defendant.

#### **Division V**

Clarifies that a person who is currently on the sex offender registry is prohibited from serving on a jury.