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## ASSEMBLY SUBSTITUTE AMENDMENT 1, TO 2003 ASSEMBLY BILL 142

May 13, 2003 - Offered by Representative Ziegelbauer.

AN ACT to create 885.01 (6) of the statutes; relating to: the authority of attorneys representing criminal defendants to issue subpoenas.

## Analysis by the Legislative Reference Bureau

Current law allows various public officials, including judges, court commissioners, arbitrators, the attorney general, district attorneys, coroners, and chairpersons of local elected bodies, to issue a subpoena to require the attendance of a witness at a proceeding, hearing, or trial. Under current law, an attorney of record in a civil action or proceeding also has the power to issue a subpoena to require the attendance of a witness at a deposition, hearing, or trial in the civil action. Attorneys representing defendants in criminal matters are not listed in the statutes as having authority to issue subpoenas. Current law provides that the rules of practice in civil actions apply in criminal actions, unless otherwise specified. However, because there is no specific authority giving attorneys representing criminal defendants the power to issue subpoenas, there is some question as to whether those attorneys currently have that authority.

This bill specifically gives attorneys representing criminal defendants the same power to issue subpoenas as is currently provided to public officials and attorneys in civil actions.

## The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- **SECTION 1.** 885.01 (6) of the statutes is created to read:
- 2 885.01 (6) By an attorney of record in a criminal action or proceeding.
- 3 Section 2. Initial applicability.

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(1) This act first applies to actions or proceedings pending on the effective date of this subsection.

6 (END)