

2001 DRAFTING REQUEST

Bill

Received: 11/29/2000

Received By: nelsorp1

Wanted: As time permits

Identical to LRB:

For: Robert Ziegelbauer (608) 266-0315

By/Representing: Tom Kelly

This file may be shown to any legislator: NO

Drafter: nelsorp1

May Contact:

Alt. Drafters:

Subject: Courts - civil procedure

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Authority of attorneys to issue subpoenas

Instructions:

See Attached AB 575 99-2019

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	nelsorp1 11/29/2000	gilfokm 11/30/2000		_____			
/1			martykr 12/01/2000	_____	lrb_docadmin 12/01/2000	lrb_docadmin 02/09/2001 lrb_docadmin 02/28/2001	

FE Sent For:

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LEGISLATIVE REFERENCE BUREAU

BILL REQUEST FORM

Legal Section, 5th Floor, 100 N. Hamilton St.
(608) 266-3561

Use of this form is optional. It is often helpful to talk directly with the LRB attorney who will draft the bill.
Use this form only for **BILL** drafts. Attach more pages if necessary.

Date of request: <i>11-27-00</i>	Legislator or agency requesting this draft: <i>Rep. Bob Ziegelbauer</i>
Name/phone number of person submitting request: <i>Tom Kelly / 266-0315</i>	
Persons to contact for questions about this draft (names and phone numbers please): <i>Bob Ziegelbauer: (920) 684-6783</i> <i>Tom Kelly or Luane Kastelic: 266-0315</i>	
Describe the problem, including any helpful examples. How do you want to solve the problem? <i>Rep. Ziegelbauer would like to reintroduce 1999 AB 575 (LRB-2019/1), relating to the authority of attorneys to issue subpoenas, in the 2001-2002 Legislative Session.</i>	
If you know of any statute sections that might be affected, please list them or provide a marked (not re-typed) copy. <i>805.07(1); 805.01(6)</i>	

Please attach a copy of any correspondence or material that may help us. You may also attach a marked (not re-typed) copy of any LRB draft, or provide its number (e.g., 1997 LRB-2345/1 or 1995 AB-67): *1999 LRB-2019/1*

Requests are confidential unless stated otherwise.
May we tell others that we are working on this for you? YES NO
If yes, anyone who asks? YES NO
Any legislator? YES NO ONLY the following persons:

Do you consider this urgent? YES NO If yes, please indicate why:

Is this request of higher priority than other pending request(s) you have made?
 YES NO If yes, please sign your name here:

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2019/P1dn
RPN:kmg:ijs

March 31, 1999

Please review this draft carefully to ensure that it complies with your intent. This bill allows the attorney representing a criminal defendant to issue subpoenas. However, if the criminal defendant is not able to pay the fee of a witness subpoenaed, including expert witness fees, the defendant may need to request the court under s. 885.10 to approve the issuance of the subpoena and of the payment of the fees. See *State ex rel. Dressler v. Circuit Court for Racine County Branch I*, 163 Wis. 2d. 622 (App. 1991) and *Payment of Witness Fees in State v. Huisman*, 167 Wis. 2d. 168 (1992).

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511

2001
1999 ASSEMBLY BILL 575

November 5, 1999 - Introduced by Representative ZIEGELBAUER. Referred to Committee on Judiciary and Personal Privacy.

Gen. Cat.

1 AN ACT ~~to amend~~ 805.07 (1); and *to create* 885.01 (6) of the statutes; relating
2 to: the authority of attorneys 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 attorneys in civil actions.

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

3 SECTION 1. 805.07 (1) of the statutes is amended to read:

ASSEMBLY BILL 575

SECTION 1

P. W. F. {

1 805.07 (1) ISSUANCE AND SERVICE. Subpoenas shall be issued and served in
2 accordance with ch. 885. ~~A subpoena may also be issued by any attorney of record~~
3 ~~in a civil action or special proceeding to compel attendance of witnesses for~~
4 ~~deposition, hearing or trial in the action or special proceeding.~~

5 **SECTION 2.** 885.01 (6) of the statutes is created to read:

6 885.01 (6) By an attorney of record in a civil action, criminal action^v, or special
7 proceeding, to require the attendance of a witness for a deposition, hearing^v or trial
8 in the action or special proceeding.

9 **SECTION 3. Initial applicability.**

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

12 (END)



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
5TH FLOOR
MADISON, WI 53701-2037

STEPHEN R. MILLER
CHIEF

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-6948

December 1, 2000

MEMORANDUM

To: Representative Ziegelbauer

From: Robert P. Nelson, Senior Legislative Attorney

Re: LRB-1230 Authority of attorneys to issue subpoenas

The attached draft was prepared at your request. Please review it carefully to ensure that it is accurate and satisfies your intent. If it does and you would like it jacketed for introduction, please indicate below for which house you would like the draft jacketed and return this memorandum to our office. If you have any questions about jacketing, please call our program assistants at 266-3561. Please allow one day for jacketing.

JACKET FOR ASSEMBLY JACKET FOR SENATE

If you have any questions concerning the attached draft, or would like to have it redrafted, please contact me at (608) 267-7511 or at the address indicated at the top of this memorandum.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will request that it be prepared after the draft is introduced. You may obtain a fiscal estimate on the attached draft before it is introduced by calling our program assistants at 266-3561. Please note that if you have previously requested that a fiscal estimate be prepared on an earlier version of this draft, you will need to call our program assistants in order to obtain a fiscal estimate on this version before it is introduced.

Please call our program assistants at 266-3561 if you have any questions regarding this memorandum.