

**In the Iowa Supreme Court**

**In the Matter of Adopting Revised  
Chapter 2 Iowa Rules of Criminal  
Procedure**

**Order**

The Iowa Supreme Court adopts revised Chapter 2 Iowa Rules of Criminal Procedure, replacing the current Chapter 2 Iowa Rules of Criminal Procedure, effective July 1, 2023.

**Background.** The Iowa Rules of Criminal Procedure have not undergone a comprehensive review since the 1976 legislation moved the Iowa Rules of Criminal Procedure from the Iowa Code to the Iowa Court Rules. Over the past several years, the court has received several requests to review and update the rules.

On April 3, 2018, the court, believing that it was the appropriate time for a full review of the rules, created a task force of judges, prosecutors, defense attorneys, and law professors from around the state. The task force was asked to review the rules and make recommendations to the court for amending and updating the rules as set forth in chapter 2 as well as promulgating new rules if needed. The task force members included:

- Honorable Thomas Bitter, District Court Judge, Dubuque
- Angela Campbell, Criminal Defense Attorney, Des Moines
- Mary Conroy, Assistant Appellate Defender, Ames
- Honorable Meghan Corbin, Criminal Defense Attorney and Magistrate, Davenport
- David Denison, Staff Attorney, Iowa Supreme Court
- Honorable Linda Fangman, District Court Judge, Waterloo
- Gerald Feuerhelm, Criminal Defense Attorney, Des Moines
- Honorable Myron Gookin, Chief Judge of the Eighth Judicial District, Fairfield
- Aaron Hawbaker, State Public Defender's Office, Waterloo
- Professor Emily Hughes, University of Iowa College of Law, Iowa City
- Jaki Livingston, Assistant Polk County Attorney, Des Moines

- Professor David McCord, Drake University Law School, Des Moines
- Honorable Edward Mansfield, Justice, Iowa Supreme Court, Des Moines, Chair
- Alan Ostergren, then Muscatine County Attorney, Muscatine, now Attorney, Des Moines
- Honorable David Porter, District Court Judge, Des Moines
- Darin Raymond, Plymouth County Attorney, LeMars
- Aaron Rogers, Assistant Attorney General, Des Moines
- Honorable DeDra Schroeder, District Court Judge, Osage
- Alfred Willett, Criminal Defense Attorney, Cedar Rapids

After nearly two years of work by the task force and the supreme court, the proposed revision of chapter 2 was approved by the court for public comment. The public comment period began on March 30, 2020, and continued through July 14, 2020. During the public comment period, twenty-four written public comments, collectively totaling more than two hundred pages, were submitted from a variety of individuals and organizations for the court's review.

After the close of the public comment period, the task force met to review the submitted comments and suggest revisions based on the feedback received. The task force also created a new written guilty plea form.

In addition to the public comments, the task force took into consideration judicial branch policies and practices implemented in response to the COVID-19 pandemic, feedback from district court judges regarding those practices, and recommendations provided by the court's Lessons Learned Task Force. The Lessons Learned Task Force was established in 2021 to review the interim policies and practices adopted in response to COVID-19 and make recommendations as to whether any of them should be retained permanently.

The task force's final draft of the proposed revised rules and forms was submitted to the supreme court for review and approval in late July 2021. While not every task force member agreed with everything in the final draft, the draft reflected the consensus of the task force.

The supreme court reviewed the task force's report, made a few changes, and approved the rules and forms to be promulgated as final rules and forms in January 2022. On January 31, 2022, the court adopted the revised rules and forms and submitted them to Legislative Council for review. The court then became aware of additional concerns. These concerns included the fact that the court had not allowed an opportunity for additional public input after making changes based on the original round of public comments as well as lessons learned from the COVID-19 pandemic.

Accordingly, on February 17, 2022, the court withdrew the comprehensive revision of chapter 2 from Legislative Council consideration. On June 6, 2022, the court put the proposed rules and forms out for public comment a second time, seeking comment on any changes that had been made since the previous 2020 public comment period. The second public comment period continued through July 22, 2022. During the second public comment period, twenty-four written public comments, collectively totaling more than one hundred pages, were submitted from a variety of individuals and organizations for the court's review. After the public comment period closed, the task force held a public session on August 5, 2022, from 9 a.m. to noon, where individuals and organizations could further discuss any concerns they had with the proposed rules. During the public session, the task force heard from county attorneys, defense attorneys, a representative of a victim's rights organization, and a representative of the NAACP.

After the public session, the task force reconvened and worked to address concerns raised in the second round of public comments and during the public session. The task force completed its work in early October 2022 and presented the revised proposed rules to the court for approval. After receiving the task force's final draft, the supreme court made some additional modifications—with input from the task force—and approved the final revised rules and forms during its October administrative conference.

**Full text of final revised rules and forms.** The full texts of the final rule revisions and forms are provided along with this order. Because of the number of changes, it is not deemed feasible to include a redlined comparison to the existing rules.

**Explanation and summary of changes made since the January 31, 2022 version previously submitted to Legislative Council.** A document showing all changes, in redlining, made since the January 31, 2022 version submitted to Legislative Council is provided with this order. The document only includes rules where changes were made. These changes include:

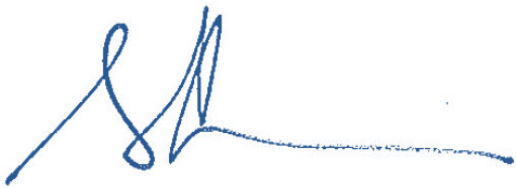
- Rule 2.8(2)(b)(9), regarding conditional guilty pleas, was modified to strike the language, “When a conditional guilty plea is approved by the court, this constitutes good cause for the defendant to appeal the ruling on the specified pretrial motion.”
- Rule 2.13(6)(b), regarding the continuation of the prosecuting attorneys’ investigation, was modified to eliminate redundant language; no substantive changes result from the modification.
- Rule 2.13(6)(c), regarding a procedure for the deposition of minors, was removed as a procedure for the depositions of minor is now covered in Iowa Code section 915.36A (2022).
- Rule 2.13(7), regarding perpetuating testimony, was changed back to the existing text, so the revised rule is now the same rule that has existed unchanged since its February 2002 effective date.
- Rule 2.15(3)(a), regarding defense subpoenas, was stricken and replaced with a new version developed by the task force in response to the second round of written public comments and the verbal input received during the August 5, 2022 public session.
- Rule 2.18(5)(a), regarding challenges for cause related to jurors with prior felony convictions, was modified to strike the language, “or more than 10 years have passed since the juror’s conviction or release from confinement for that felony, whichever is later.”

**Effective date.** The revised Chapter 2 Iowa Rules of Criminal Procedure filed in conjunction with this order are effective July 1, 2023, subject to Legislative Council review as provided by Iowa Code section 602.4202. This includes criminal cases filed after that date and *criminal cases already pending on that date*. However, judicial districts or individual district judges may, in the

exercise of their discretion, exempt any case that was pending before July 1, 2023, from one or more of the revised rules.

Dated this 14th day of October 2022.

**The Iowa Supreme Court**

By:   
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Susan Larson Christensen, Chief Justice