

**KENTUCKY BAR ASSOCIATION
KENTUCKY RULES OF CRIMINAL PROCEDURE**

PRODUCTION OF EVIDENCE

RCr 7.02 Subpoenas

(1) A subpoena shall be issued by the clerk. It shall state the name of the court and title, if any, of the proceeding, and shall command each person to whom it is directed to attend and give testimony at the time and place specified therein. The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall fill in the blanks before it is served.

(2) A subpoena for an unmarried infant shall be served upon the infant's resident guardian if there is one known to the party requesting it or, if none, by serving either the infant's father or mother within this state or, if none, by serving the person within this state having control of the infant, and shall command each person to whom it is directed to attend with the infant for the purpose of the infant giving testimony at a time and place for the party therein specified.

(3) A subpoena may also command the person to whom it is directed to produce the books, papers, documents or other objects designated therein. The court on motion made promptly may quash or modify the subpoena if compliance would be unreasonable or oppressive. The court may direct that books, papers, documents or objects designated in the subpoena be produced before the court at a time prior to the trial or prior to the time when they are to be offered in evidence and may upon their production permit the books, papers, documents or objects or portions thereof to be inspected by the parties and their attorneys.

(4) A subpoena may be served by any officer by whom a summons might be served. It may also be served by any person eighteen years of age or over, and that person's affidavit endorsed thereon shall be proof of service or the witness may acknowledge service in writing on the subpoena. Service of the subpoena shall be made by delivering or offering to deliver a copy thereof to the person to whom it is directed.

(5) A subpoena requiring the attendance of a witness at a hearing or trial may be served at any place within the Commonwealth. Failure to tender to the witnesses any compensation for expenses shall not be a sufficient ground for failure to respond to the subpoena.

(6) (a) An order to take a deposition authorizes the clerk of the court in which the deposition is to be taken to issue subpoenas for the persons named or described therein.

(b) The witness whose deposition is to be taken may be required by subpoena to attend at any place designated by the trial court, taking into account the convenience of the witness and the parties.

(7) Failure by any person without adequate excuse to obey a subpoena served upon that person shall be punishable as a contempt of court, provided the appearance of an unmarried infant as specified in the subpoena shall be deemed compliance by the person served on behalf of the infant. Immediate attendance of the witness for the purpose for which the witness was subpoenaed may be compelled by bench warrant issued pursuant to Rule 2.05. A show-cause order may also issue for the purpose of determining whether the witness should be held in contempt.

HISTORY: Amended by Order 98-3, eff. 3-1-99; prior amendments eff. 1-1-85 (Order 84-2), 9-1-81 (Order 81-5); adopted eff. 1-1-63

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