

The Supreme Court of South Carolina

Re: Amendments to Rule 13(a), South Carolina Rules of
Criminal Procedure

Appellate Case No. 2017-001233

ORDER

Pursuant to Article V, § 4 of the South Carolina Constitution, Rule 13(a) of the South Carolina Rules of Criminal Procedure is amended as set forth in the attachment to this order. This amendment shall be submitted to the General Assembly as provided in Article V, § 4A of the South Carolina Constitution.

s/ Donald W. Beatty C.J.

s/ John W. Kittredge J.

s/ Kaye G. Hearn J.

s/ John Cannon Few J.

s/ George C. James, Jr. J.

Columbia, South Carolina
January 31, 2019

Rule 13(a), South Carolina Rules of Criminal Procedure, is amended to provide as follows:

**RULE 13
SUBPOENAS**

(a)(1) Issuance of Subpoenas. Upon the request of any party, the clerk of court shall issue subpoenas or subpoenas duces tecum for any person or persons to attend as witnesses in any cause or matter in the General Sessions Court. An attorney, as an officer of the court, may also issue and sign subpoenas or subpoenas duces tecum for any person or persons to attend as witnesses in any cause or matter in the General Sessions Court. The subpoena shall state the name of the court, the title of the action, and shall command each person to whom it is directed to attend and give testimony, or otherwise produce documentary evidence at a specified court proceeding. The subpoena shall also set forth the name of the party requesting the appearance of such witness and the name of counsel for the party, if any. The clerk of court or attorney issuing the subpoena shall utilize a court-approved subpoena form.

(2) Issuance of Subpoena for Personal or Confidential Information About a Victim. A subpoena requiring the production of personal or confidential information about a victim may be served on a third party only by court order. Before entering the order and unless there are exceptional circumstances, the court must require giving notice to the victim so that the victim can move to quash or modify the subpoena or otherwise object.

Note to 2019 Amendment:

The 2019 amendment provides that an attorney is also authorized to issue and sign a subpoena on behalf of a court in which that attorney is licensed to practice. The amendment also makes clear that subpoenas may only be issued to summon a witness to appear or present documentary evidence at a court proceeding. The rule allowing an attorney to issue and sign a subpoena does not apply to any request for a subpoena for a witness located in another state, which is governed by the Uniform Act to Secure the Attendance of

Witnesses from Without a State in Criminal Proceedings. See S.C. Code. Ann. §§ 19-9-10 et seq. (2014). New paragraph (a)(2) adopts a version of the federal rule intended to provide a protective mechanism when the defense subpoenas a third party to provide personal or confidential information about a victim. The amendment requires judicial approval before service of a subpoena seeking personal or confidential information about a victim from a third party.

SUBMITTED TO GENERAL ASSEMBLY