

1 ENGROSSED HOUSE
2 BILL NO. 1048

By: Biggs of the House

3 and

4 Smalley of the Senate

5
6
7 An Act relating to state government; amending 74 O.S.
8 2011, Section 151.1, as amended by Section 2, Chapter
9 115, O.S.L. 2012 (74 O.S. Supp. 2014, Section 151.1),
10 which relates to the Internet Crimes Against Children
11 unit of the Oklahoma State Bureau of Investigation;
12 authorizing the subpoena of witnesses and production
13 of records for certain investigations; providing
14 compliance options for witnesses; establishing
15 procedures for service of subpoenas and for
16 compelling witnesses to comply; authorizing district
17 courts to quash subpoenas; and providing an effective
18 date.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 74 O.S. 2011, Section 151.1, as
21 amended by Section 2, Chapter 115, O.S.L. 2012 (74 O.S. Supp. 2014,
22 Section 151.1), is amended to read as follows:

23 Section 151.1 A. The Oklahoma State Bureau of Investigation
24 shall establish an Internet Crimes Against Children (ICAC) unit for
the primary purpose of investigating Internet crimes committed
against children, including, but not limited to, offenses related to
child pornography and solicitation of minors for pornography,
prostitution or sex-related offenses. The unit shall additionally

1 promote safe Internet use among children and their parents by
2 various media or printed-material campaigns or by offering
3 educational programs to schools or communities throughout this
4 state. The Bureau shall employ sufficient employees to investigate
5 and implement the ICAC unit.

6 B. The Director of the Oklahoma State Bureau of Investigation
7 is hereby authorized to enter into local cooperative agreements with
8 local law enforcement agencies for the purpose of appointing ICAC
9 Affiliate Task Force Agents to assist the ICAC unit of the Bureau.
10 ICAC Affiliate Task Force Agents shall be employees and commissioned
11 law enforcement officers of the local law enforcement agency
12 entering into agreement with the Oklahoma State Bureau of
13 Investigation and shall not be employees of the Bureau. ICAC
14 Affiliate Task Force Agents shall have general peace officer powers
15 and the authority to arrest persons throughout the state for the
16 purpose of investigating Internet crimes committed against children
17 including, but not limited to, offenses related to child
18 pornography, solicitation of minors for pornography, prostitution or
19 sex-related offenses. ICAC Affiliate Task Force Agents shall
20 promote safe Internet use among children and parents of children by
21 various media or printed-material campaigns or by offering
22 educational programs to schools or communities throughout Oklahoma.
23 The Director of the Bureau may renew, suspend or revoke any
24 agreement appointing an ICAC Affiliate Task Force Agent at any time.

1 ICAC Affiliate Task Force Agents serve solely at the discretion and
2 will of the Director of the Oklahoma State Bureau of Investigation.

3 C. In any investigation relating to the functions of the ICAC
4 unit of the Oklahoma State Bureau of Investigation, if recommended
5 and approved by the Division Director of the Investigative Division
6 of the Oklahoma State Bureau of Investigation or designee and the
7 legal counsel of the Oklahoma State Bureau of Investigation, the
8 ICAC unit may subpoena witnesses, compel the attendance and
9 testimony of witnesses and require the production of any records
10 including books, papers, documents and other tangible things which
11 constitute or contain evidence, which the ICAC unit finds relevant
12 or material to the investigation. The attendance of witnesses and
13 the production of records may be required from any place in the
14 state to a designated location in the county seat of the county in
15 which the subpoenaed person is an inhabitant or in which the
16 subpoenaed person carries on business or may be found. Witnesses
17 summoned pursuant to this section shall be paid the same fees and
18 mileage that are paid witnesses in the courts of this state.

19 1. The witness shall have the option of complying with said
20 subpoena by:

- 21 a. appearing or producing documents, as requested, or
- 22 b. notifying the ICAC unit of the Oklahoma State Bureau
23 of Investigation, in writing, of refusal to appear or

24

1 produce documents within ten (10) days of the date of
2 service.

3 The subpoena form shall clearly set forth the optional means of
4 compliance including instructions for sending written notice of
5 refusal.

6 2. A subpoena issued pursuant to this section may be served by
7 any person designated in the subpoena to serve the subpoena.

8 Service upon a natural person may be made by personal delivery of
9 the subpoena to the person. Service may be made upon a domestic or
10 foreign corporation or upon a partnership or other unincorporated
11 association which is subject to suit under a common name by
12 delivering the subpoena to an officer, to a managing or general
13 agent, or to any other agent authorized by appointment or by law to
14 receive service of process. The affidavit of the person serving the
15 subpoena entered on a true copy thereof by the person serving the
16 subpoena shall be proof of service.

17 3. In the case of contumacy by or refusal to obey a subpoena
18 issued to any person, the Director may invoke the aid of any
19 district court of the state within the jurisdiction of which the
20 investigation is carried on or in which the subpoenaed person is an
21 inhabitant, or in which the person carries on business or may be
22 found, to compel compliance with the subpoena. The court may issue
23 an order requiring the subpoenaed person to appear before the
24 Director to produce records, if so ordered, or to give testimony

1 regarding the matter under investigation. Any failure to obey the
2 order of the court may be punished by the court as an indirect
3 contempt thereof. All process in any such case may be served in any
4 judicial district in which the person may be found.

5 4. The district court of the county wherein the subpoena is
6 served may quash a subpoena issued pursuant to this section upon a
7 motion to quash filed with the court by the party to whom the
8 subpoena is issued.

9 SECTION 2. This act shall become effective November 1, 2015.

10 Passed the House of Representatives the 9th day of February,
11 2015.

12
13 Presiding Officer of the House
14 of Representatives

15 Passed the Senate the ___ day of _____, 2015.

16
17 Presiding Officer of the Senate
18
19
20
21
22
23
24