

An Act

ENROLLED HOUSE
BILL NO. 1888

By: Ownbey of the House

and

Holt of the Senate

An Act relating to subpoena power; authorizing subpoena for production of certain records; providing for compliance with certain subpoena; establishing procedures for issuance of certain subpoena; directing enforcement of certain subpoena; establishing requirements for service of certain subpoena; authorizing court to compel compliance with certain subpoena; authorizing certain order; providing for punishment; providing for codification; and providing an effective date.

SUBJECT: Subpoena power

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 167.2 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. In any investigation relating to crimes committed against the Department of Human Services or crimes committed in the course of any program administered by the Department, or in investigations of Medicaid recipient fraud, the Inspector General of the Department, if approved by the legal counsel of the Department, may require, by subpoena, the production of any records, including books, papers, documents and other tangible things which constitute or contain evidence, which the Inspector General or agent finds relevant or material to the investigation. The production of records may be required from any place in the state to be forwarded to the Inspector General.

B. Compliance with the subpoena may be accomplished by:

1. Producing documents, as requested; or

2. Notifying the Department, in writing, of refusal to produce documents, within ten (10) days of the date of service.

C. The subpoena shall specify a date for production that is at least fifteen (15) days after the date that the subpoena is served upon the person named therein. The subpoena form shall clearly set forth the optional means of compliance including instructions for sending written notice of refusal.

D. A subpoena issued to a financial institution pursuant to subsection A of this section shall comply with Section 2204 of Title 6 of the Oklahoma Statutes. A subpoena to a financial institution may be enforced under the provisions of subsection G of this section in lieu of enforcement pursuant to Section 315 of Title 75 of the Oklahoma Statutes.

E. A subpoena issued pursuant to this section may be served by any person designated in the subpoena to serve it. Service of a subpoena upon a person named therein shall be made by delivering or mailing a copy of the subpoena to such person. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering or mailing the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.

F. Service of a subpoena by mail may be accomplished by mailing a copy thereof by certified mail with return receipt requested and delivery restricted to the person named in the subpoena. The person serving the subpoena shall make proof of service thereof to the Inspector General. If service is by mail, the person serving the subpoena shall show in the proof of service the date and place of mailing and attach a copy of the return receipt showing that the mailing was accepted. Service of a subpoena by mail shall not be effective if the mailing was not accepted by the person named in the subpoena.

G. In the case of refusal to obey a subpoena issued to any person, the Inspector General may invoke the aid of any district court of the state within the jurisdiction of which the investigation is conducted or of which the subpoenaed person is an inhabitant, or in which the person carries on business or may be found, to compel compliance with the subpoena. The court may issue an order requiring the subpoenaed person to appear before the Inspector General to produce records, if so ordered. Any failure to obey the order of the court may be punished by the court as an indirect contempt thereof. All process in any such case may be served in any judicial district in which such person may be found.

H. The district court of the county wherein the subpoena is served may quash a subpoena issued pursuant to this section, upon a motion to quash the subpoena filed with the court by the party to whom the subpoena is issued.

SECTION 2. This act shall become effective November 1, 2017.

Passed the House of Representatives the 20th day of March, 2017.

Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of April, 2017.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____