SHORT TITLE: Criminal procedure; grand jury and multicounty grand jury subpoenas; codification; effective date.

STATE OF OKLAHOMA

1st Session of the 45th Legislature (1995)

SENATE BILL NO. 656 By: Roberts

AS INTRODUCED

An Act relating to grand juries; amending 22 O.S. 1991, Sections 335 and 354, which relate to grand juries and multicounty grand juries; clarifying who may issue certain subpoenas; requiring subpoena to specify evidence sought; clarifying methods for issuance, enforcement, and challenge of certain subpoenas; requiring certain notices; providing exceptions to certain notice and challenge procedures; repealing 22 O.S. 1991, Section 705, which relates to issuance of subpoenas on behalf of grand juries; providing for codification; and providing an effective date.

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 331.1 of Title 22, unless there is created a duplication in numbering, reads as follows:

A. Except as provided by Section 335 of Title 22 of the Oklahoma Statutes, a grand jury or multicounty grand jury or a district attorney or the Attorney General on behalf of a grand jury or multicounty grand jury may issue a subpoena duces tecum only in a manner authorized by this act.

B. A subpoena shall specify what record or document is sought.

C. A copy of the subpoena shall be served on the person to whom the record or document belongs and to the person about whom the record or document relates.

D. 1. The person served pursuant to subsection B of this section shall have fourteen (14) days after the subpoena was served or mailed in which to file a motion to quash the subpoena on any of the following grounds:

a. that the record or document sought is incompetent, irrelevant, or immaterial for the purpose or purposes for which it is sought,

b. that the release of the record or document would cause an unreasonable burden or hardship under the circumstances,

c. that the grand jury or multicounty grand jury seeking the record or document is attempting to harass the person served, or

d. that there is no merit in the purpose or purposes for which the record or document is sought.

2. A motion to quash a subpoena issued by a grand jury or multicounty grand jury or a district attorney or the Attorney General on behalf of a grand jury or multicounty grand jury shall be filed in the district court.

D. A copy of a motion to quash filed pursuant to subsection C of this section shall, at least ten (10) days before any hearing on the motion to quash, be served by personal service or by certified mail, return receipt requested, on the district attorney or Attorney General advising the grand jury or multicounty grand jury which issued or requested issuance of the subpoena.

E. Failure to file a motion to quash in the time specified in subsection C of this section shall constitute a waiver of the right to object to the release, disclosure, or production of the record or document sought by the grand jury or multicounty grand jury.

F. During the period for filing the motion to quash and continuing until a ruling is made on the motion, if one is filed, the person in possession of the record or document sought shall preserve the original record or document without alteration.

G. Upon proper application, a district court may order that a person not be notified of the issuance and service of a subpoena only if after a hearing which may be closed it finds:

1. That the records are relevant to a legitimate law enforcement inquiry; and

2. There is reason to believe that notice will result in:

a. endangering the life or physical safety of any person,

b. flight from prosecution,

c. destruction of or tampering with evidence,

d. intimidation of potential witnesses, or

e. otherwise seriously jeopardizing an investigation or official proceeding or unduly delaying a trial or unduly delaying an ongoing official proceeding.

SECTION 2. AMENDATORY 22 O.S. 1991, Section 335, is amended to read as follows:

Section 335. ~~The grand jurors, upon~~ Upon request of the accused~~,~~ a grand jury shall, and on their own motion may, hear the evidence for the accused. It is ~~their~~ the duty of the grand jury to weigh all ~~the~~ evidence submitted ~~to them~~ and, when ~~they have~~ there is reason to believe that there is other evidence, ~~they~~ the grand jury may order ~~such~~ the evidence to be produced, and for that purpose the ~~State's Attorney~~ district attorney shall cause appropriate process to issue ~~for the witnesses~~.

SECTION 3. AMENDATORY 22 O.S. 1991, Section 354, is amended to read as follows:

Section 354. A. The multicounty grand jury shall have the power to:

1. ~~compel~~ Request the issuance of subpoenas for the attendance of witnesses;

2. ~~compel~~ Compel the testimony of witnesses under oath;

3. ~~take~~ Take testimony of witnesses who have been granted immunity;

4. ~~require~~ Request the issuance of subpoenas for the production of documents, records, and other evidence in the manner prescribed by Section 1 of this act;

5. ~~obtain~~ Request the initiation of civil and criminal contempt proceedings; and

6. ~~exercise~~ Exercise any investigative power of any grand jury of the state.

B. ~~Any~~ Except as otherwise provided by law, any document produced before a multicounty grand jury may be copied or reproduced.

C. Each statement, question, comment, or response of the presiding judge, the Attorney General or ~~his~~ a designee, any witness, any grand juror, or any other person which is made in the presence of the multicounty grand jury, except its deliberations and the vote of any juror, shall be stenographically recorded or transcribed, or both.

SECTION 4. REPEALER 22 O.S. 1991, Section 705, is hereby repealed.

SECTION 5. This act shall become effective November 1, 1995.

45-1-0860 MR