

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1139

By: Hilliard

AS INTRODUCED

An Act relating to the Oklahoma State Bureau of Investigation; amending 74 O.S. 1991, Section 150.7, as amended by Section 2, Chapter 305, O.S.L. 1998 (74 O.S. Supp. 1998, Section 150.7), which relates to the powers and duties of the Director; authorizing Director to issue administrative subpoenas under certain circumstances; stating procedure to be followed; establishing process for contesting issuance of subpoena; amending 74 O.S. 1991, Section 150.21, as amended by Section 2, Chapter 388, O.S.L. 1998 (74 O.S. Supp. 1998, Section 150.21), which relates to the legal division; modifying number of attorneys that may be employed; and providing an effective date.

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

SECTION 1. AMENDATORY 74 O.S. 1991, Section 150.7, as amended by Section 2, Chapter 305, O.S.L. 1998 (74 O.S. Supp. 1998, Section 150.7), is amended to read as follows:

Section 150.7 The Director of the Oklahoma State Bureau of Investigation shall have the following powers, duties and responsibilities:

1. To appoint or dismiss a Deputy Director who shall have the same qualifications as the Director;
2. To supervise the maintaining of all reports and records of the Bureau which shall be kept for at least ten (10) years. Such records shall not be transferred to the custody or control of the State Archives Commission. The Director may, after said ten-year period, order destruction of records deemed to be no longer of value to the Bureau;
3. To report to the Commission at each regular meeting, or as directed by the Commission, the current workload of the Bureau.

Such reports shall be submitted by category of the persons or entities authorized to initiate investigations as provided for in subsection A of Section 150.5 of this title, and any other category the Commission may request which does not violate the confidentiality restrictions imposed in Sections 150.1 through 152.9 of this title. Such reports shall contain the following information:

- a. what types of investigations are pending,
- b. what new types of investigations have been opened,
- c. what types of investigations have been closed, and
- d. what criminal charges have been filed as a result of Bureau investigations.

The reports shall not contain any information on the individual subjects of the investigation or persons questioned in connection with an investigation. These reports shall be open for public inspection; ~~and~~

4. To designate positions, appoint employees and fix salaries of the Bureau, other than the salaries established by subsection A of Section ~~4~~ 150.6a of this ~~act~~ title; and

5. To subpoena witnesses, compel the attendance and testimony of witnesses, and require the production of any records, including books, papers, documents and other tangible things, which constitute or contain evidence which the Director finds relevant or material to any investigation relating to the functions of the Oklahoma State Bureau of Investigation pursuant to this title, if recommended and approved by the Assistant Director of Investigative Services of the Bureau and the legal counsel of the Bureau. The attendance of witnesses and the production of records may be required from any place in the state to a designated location in the county seat of the county in which the subpoenaed person carries on business or may be found. Witnesses summoned pursuant to this paragraph shall be

paid the same fees and mileage that are paid witnesses in the courts of this state.

- a. A witness may comply with the subpoena by appearing or producing documents as requested, or by notifying the Bureau, in writing, of refusal to appear or produce documents, within ten (10) days of the date of service of the subpoena. The subpoena form shall clearly set forth the optional means of compliance, including instructions for sending written notice of refusal.
- b. A subpoena issued pursuant to this paragraph may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to that 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 the subpoena to an officer, a managing or general agent, or by any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered upon a true copy thereof by the person serving shall be proof of service.
- c. In the case of refusal to obey a subpoena issued to any person, the Director may invoke the aid of any district court where the jurisdiction of the investigation lies, or of which the subpoenaed person is an inhabitant, or a county in which the subpoenaed 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 Director to produce records, if so ordered, or to give testimony touching upon the matter under

investigation. Any failure to obey the order of the court may be punished by the court as an indirect contempt. All process in any such case may be served in any judicial district in which such person may be found.

d. The district court of the county in which a 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. AMENDATORY 74 O.S. 1991, Section 150.21, as amended by Section 2, Chapter 388, O.S.L. 1998 (74 O.S. Supp. 1998, Section 150.21), is amended to read as follows:

Section 150.21 The Oklahoma State Bureau of Investigation shall establish or provide for a legal division and the Director may employ ~~two~~ four attorneys as needed, which attorneys, in addition to advising the Director, the Commission and employees of the Bureau on legal matters, may appear for and represent the Director, the Commission and employees of the Bureau in administrative hearings and other legal actions and proceedings. No Bureau attorney shall enter an appearance in a criminal action nor engage in private practice of the law while in the employment of the Oklahoma State Bureau of Investigation. It shall continue to be the duty of the Attorney General to give official opinions to and to prosecute and defend actions for the Director, Commission and employees of the Bureau, if requested to do so.

SECTION 3. This act shall become effective November 1, 1999.

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