

1 ENGROSSED SENATE
2 BILL NO. 1246

By: Bingman of the Senate

and

Jordan of the House

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6 An Act relating to workers' compensation fraud;
7 amending 85 O.S. 2011, Section 410, which relates to
8 investigations and prosecutions; requiring stay of
9 certain proceeding under specified circumstances;
10 requiring certain notice; and providing an effective
11 date.

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

13 SECTION 1. AMENDATORY 85 O.S. 2011, Section 410, is
14 amended to read as follows:

15 Section 410. A. Every employer and every employee subject to
16 the provisions of the Workers' Compensation Code, upon filing a
17 notice of injury, accidental injury, death, occupational disease, or
18 claim for benefits from the Multiple Injury Trust Fund, shall give
19 written permission for the Administrator of the Workers'
20 Compensation Court or a designee, the Insurance Commissioner or a
21 designee, the Attorney General or a designee or a district attorney
22 or a designee to examine all records relating to the notice, any
23 matter contained in the notice, and any matter relating to the
24 notice.

1 B. Written permission given pursuant to this section shall
2 constitute authorization for access to medical records pursuant to
3 Section 19 of Title 76 of the Oklahoma Statutes.

4 C. In carrying out the responsibilities given to the Workers'
5 Compensation Fraud Unit, the Attorney General or designee may use
6 subpoenas or other process in aid of investigations and prosecutions
7 and may take possession of records subject to examination pursuant
8 to this section by subpoena. The Attorney General shall supply
9 copies of the records obtained which are necessary to the
10 continuation of normal business operations by the person maintaining
11 the records or may require the person maintaining the records to
12 provide copies as they are kept in the usual course of business.

13 D. Subpoenas ad testificandum or duces tecum requested by the
14 Attorney General or designee pursuant to subsection C of this
15 section shall be issued by the district court in the county of the
16 residence of the person to whom the subpoena is directed, in the
17 county where the records are located or in the county where a person
18 is to produce records or appear and be sworn. Subpoenas issued
19 pursuant to this section may be served by the Attorney General, any
20 peace officer or any competent person over eighteen (18) years of
21 age, and may require attendance or production at any place in this
22 state. Service may be made by mail and may be accomplished by
23 mailing a copy thereof by certified mail with return receipt
24 requested and delivery restricted to the person named in the

1 subpoena. Proof of service shall be made upon affidavit, and if
2 made by mail, a copy of the return receipt shall be attached. A
3 refusal to obey such subpoena, or willful failure to appear, be
4 sworn, testify or produce records at the place and time specified
5 shall constitute contempt and shall be enforced by the district
6 court of the county where issued.

7 E. Nothing in this section shall be construed to waive, limit
8 or impair any evidentiary privilege recognized by law.

9 F. The Workers' Compensation Court shall include a statement on
10 forms for notices and instructions to employers and employees that
11 the permission required by this section must be given at the time of
12 filing a notice specified in subsection A of this section.

13 G. In the event a claimant in a workers' compensation case is
14 charged with workers' compensation fraud pursuant to Section 1663 of
15 Title 21 of the Oklahoma Statutes, any pending workers' compensation
16 proceeding shall be stayed until the final disposition of the
17 criminal case. All notice requirements shall continue during any
18 such stay.

19 H. As used in this section, "records" includes, but is not
20 limited to, anything for which a request to produce may be served
21 pursuant to Section 3234 of Title 12 of the Oklahoma Statutes.

22 SECTION 2. This act shall become effective November 1, 2012.
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1 Passed the Senate the 14th day of March, 2012.

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4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2012.

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8 _____
9 Presiding Officer of the House
10 of Representatives