

1 **SENATE FLOOR VERSION**

2 February 22, 2012

3 As Amended

4 SENATE BILL NO. 1321

5 By: Brinkley and Shortey of the
6 Senate

7 and

8 Derby of the House

9 An Act relating to workers' compensation fraud;
10 amending 85 O.S. 2011, Section 410, which relates to
11 investigations and prosecutions; authorizing
12 contracts with retired police officers for certain
13 investigative services; and providing an effective
14 date.

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

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

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

1 matter contained in the notice, and any matter relating to the
2 notice.

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

6 C. In carrying out the responsibilities given to the Workers'
7 Compensation Fraud Unit, the Attorney General or designee may use
8 subpoenas or other process in aid of investigations and prosecutions
9 and may take possession of records subject to examination pursuant
10 to this section by subpoena. Additionally, the Attorney General is
11 authorized to enter into contracts with retired **peace officers**
12 **certified by the Council on Law Enforcement Education and Training**
13 **pursuant to Section 1289.8 of Title 21 of the Oklahoma Statutes or**
14 **CLEET-certified private investigators** for investigative services to
15 carry out the responsibilities given to the Workers' Compensation
16 Fraud Unit. The Attorney General shall supply copies of the records
17 obtained which are necessary to the continuation of normal business
18 operations by the person maintaining the records or may require the
19 person maintaining the records to provide copies as they are kept in
20 the usual course of business.

21 D. Subpoenas ad testificandum or duces tecum requested by the
22 Attorney General or designee pursuant to subsection C of this
23 section shall be issued by the district court in the county of the
24 residence of the person to whom the subpoena is directed, in the

1 county where the records are located or in the county where a person
2 is to produce records or appear and be sworn. Subpoenas issued
3 pursuant to this section may be served by the Attorney General, any
4 peace officer or any competent person over eighteen (18) years of
5 age, and may require attendance or production at any place in this
6 state. Service may be made by mail and may be accomplished by
7 mailing a copy thereof by certified mail with return receipt
8 requested and delivery restricted to the person named in the
9 subpoena. Proof of service shall be made upon affidavit, and if
10 made by mail, a copy of the return receipt shall be attached. A
11 refusal to obey such subpoena, or willful failure to appear, be
12 sworn, testify or produce records at the place and time specified
13 shall constitute contempt and shall be enforced by the district
14 court of the county where issued.

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

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

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

24 SECTION 2. This act shall become effective November 1, 2012.

1 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-7-12 - DO PASS,
As Amended and Coauthored.

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