

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               1st Session of the 56th Legislature (2017)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1888

By: Ownbey of the House

and

Holt of the Senate

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10                               COMMITTEE SUBSTITUTE

11           An Act relating to subpoena power; authorizing  
12           subpoena for production of certain records; providing  
13           for compliance with certain subpoena; establishing  
14           procedures for issuance of certain subpoena;  
15           directing enforcement of certain subpoena;  
16           establishing requirements for service of certain  
17           subpoena; authorizing court to compel compliance with  
18           certain subpoena; authorizing certain order;  
19           providing for punishment; providing for codification;  
20           and providing an effective date.

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

22           SECTION 1.       NEW LAW       A new section of law to be codified  
23           in the Oklahoma Statutes as Section 167.2 of Title 56, unless there  
24           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

1 of any program administered by the Department, or in investigations  
2 of Medicaid recipient fraud, the Inspector General of the  
3 Department, if approved by the legal counsel of the Department, may  
4 require, by subpoena, the production of any records, including  
5 books, papers, documents and other tangible things which constitute  
6 or contain evidence, which the Inspector General or agent finds  
7 relevant or material to the investigation. The production of  
8 records may be required from any place in the state to be forwarded  
9 to the Inspector General.

10 B. Compliance with the subpoena may be accomplished by:

11 1. Producing documents, as requested; or

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

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

19 D. A subpoena issued to a financial institution pursuant to  
20 subsection A of this section shall comply with Section 2204 of Title  
21 6 of the Oklahoma Statutes. A subpoena to a financial institution  
22 may be enforced under the provisions of subsection G of this section  
23 in lieu of enforcement pursuant to Section 315 of Title 75 of the  
24 Oklahoma Statutes.

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

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

22 G. In the case of refusal to obey a subpoena issued to any  
23 person, the Inspector General may invoke the aid of any district  
24 court of the state within the jurisdiction of which the

1 investigation is conducted or of which the subpoenaed person is an  
2 inhabitant, or in which the person carries on business or may be  
3 found, to compel compliance with the subpoena. The court may issue  
4 an order requiring the subpoenaed person to appear before the  
5 Inspector General to produce records, if so ordered. Any failure to  
6 obey the order of the court may be punished by the court as an  
7 indirect contempt thereof. All process in any such case may be  
8 served in any judicial district in which such person may be found.

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

13 SECTION 2. This act shall become effective November 1, 2017.  
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15 COMMITTEE REPORT BY: COMMITTEE ON ADMINISTRATIVE RULES, dated  
16 02/15/2017 - DO PASS, As Amended and Coauthored.  
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