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April 3, 2017

ENGROSSED HOUSE
BILL NO. 1888

By: Ownbey of the House

and

Holt of the Senate

An Act relating to subpoena power; authorizing subpoena for production of certain records; providing for compliance with certain subpoena; establishing procedures for issuance of certain subpoena; directing enforcement of certain subpoena; establishing requirements for service of certain subpoena; authorizing court to compel compliance with certain subpoena; authorizing certain order; providing for punishment; 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 167.2 of Title 56, unless there 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 of any program administered by the Department, or in investigations of Medicaid recipient fraud, the Inspector General of the Department, if approved by the legal counsel of the Department, may require, by subpoena, the production of any records, including

1 books, papers, documents and other tangible things which constitute
2 or contain evidence, which the Inspector General or agent finds
3 relevant or material to the investigation. The production of
4 records may be required from any place in the state to be forwarded
5 to the Inspector General.

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

7 1. Producing documents, as requested; or

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

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

15 D. A subpoena issued to a financial institution pursuant to
16 subsection A of this section shall comply with Section 2204 of Title
17 6 of the Oklahoma Statutes. A subpoena to a financial institution
18 may be enforced under the provisions of subsection G of this section
19 in lieu of enforcement pursuant to Section 315 of Title 75 of the
20 Oklahoma Statutes.

21 E. A subpoena issued pursuant to this section may be served by
22 any person designated in the subpoena to serve it. Service of a
23 subpoena upon a person named therein shall be made by delivering or
24 mailing a copy of the subpoena to such person. Service may be made

1 upon a domestic or foreign corporation or upon a partnership or
2 other unincorporated association which is subject to suit under a
3 common name, by delivering or mailing the subpoena to an officer, to
4 a managing or general agent, or to any other agent authorized by
5 appointment or by law to receive service of process. The affidavit
6 of the person serving the subpoena entered on a true copy thereof by
7 the person serving it shall be proof of service.

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

18 G. In the case of refusal to obey a subpoena issued to any
19 person, the Inspector General may invoke the aid of any district
20 court of the state within the jurisdiction of which the
21 investigation is conducted or of which the subpoenaed person is an
22 inhabitant, or in which the person carries on business or may be
23 found, to compel compliance with the subpoena. The court may issue
24 an order requiring the subpoenaed person to appear before the

1 Inspector General to produce records, if so ordered. Any failure to
2 obey the order of the court may be punished by the court as an
3 indirect contempt thereof. All process in any such case may be
4 served in any judicial district in which such person may be found.

5 H. The district court of the county wherein the subpoena is
6 served may quash a subpoena issued pursuant to this section, upon a
7 motion to quash the subpoena filed with the court by the party to
8 whom the subpoena is issued.

9 SECTION 2. This act shall become effective November 1, 2017.

10 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
11 April 3, 2017 - DO PASS
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