

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 SENATE BILL 441

By: Holt

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5
6 AS INTRODUCED

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

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

18 SECTION 1. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 167.2 of Title 56, unless there
20 is created a duplication in numbering, reads as follows:

21 A. In any investigation relating to crimes committed against
22 the Department of Human Services or crimes committed in the course
23 of any program administered by the Department, or in investigations
24 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
books, papers, documents and other tangible things which constitute

1 or contain evidence, which the Inspector General or agent finds
2 relevant or material to the investigation. The production of
3 records may be required from any place in the state to be forwarded
4 to the Inspector General.

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

6 1. Producing documents, as requested; or

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

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

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

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

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

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

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

1 obey the order of the court may be punished by the court as an
2 indirect contempt thereof. All process in any such case may be
3 served in any judicial district in which such person may be found.

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

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

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