

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1563

By: Duel

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5

6 AS INTRODUCED

7 An Act relating to criminal procedure; specifying
8 requirements for issuing criminal subpoenas;
9 requiring witnesses to attend trials or hearings upon
10 service of subpoenas; allowing court clerks and
11 attorneys to issue subpoenas; directing issuers of
12 subpoenas to avoid imposing undue burden or expense
13 on persons subject to subpoenas; requiring courts to
14 enforce said duty; providing for sanctions; allowing
15 courts to quash or modify subpoenas under certain
16 circumstances; declaring subpoenas separate and
17 distinct from certain rights or obligations; amending
18 22 O.S. 2021, Sections 708, 710, 712, 715, and 716,
19 which relate to the service and issuance of
20 subpoenas; updating statutory references and form
21 requirements; providing guidelines and requirements
22 for issuing subpoenas requesting the production of
documents or inspection of premises; allowing for the
nonappearance of persons unless commanded to appear;
authorizing service of written objections to
subpoenas; establishing time period for submitting
written objections; providing procedures for serving
written objections; allowing parties to move for
orders to compel production; providing requirements
for producing documents; providing guidelines for
claims of privilege or protection of trial
preparation materials; clarifying processes for
serving subpoenas in person and by mail; modifying
exemption to subpoena requirement for court clerks;
clarifying criminal contempt penalty provision;
providing for codification; and providing an
effective date.

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

2 SECTION 1. NEW LAW A new section of law to be codified

3 in the Oklahoma Statutes as Section 707.1 of Title 22, unless there

4 is created a duplication in numbering, reads as follows:

5 A. After a complaint, indictment, or information is filed, a
6 subpoena issued on behalf of or by a defendant to a law enforcement
7 agency may command the production of the following law enforcement
8 records:

- 9 1. Body camera videos;
- 10 2. Vehicle mounted camera videos;
- 11 3. Traffic camera videos; and
- 12 4. Law enforcement incident reports.

13 B. Any subpoena for a record which contains individual records
14 of persons, and the costs of copying, reproducing, or certifying
15 each individual record otherwise prescribed by state law, may be
16 assessed for each individual record or portion thereof requested, as
17 prescribed by state law. Otherwise, a public body may charge a fee
18 only for recovery of the reasonable, direct costs of record copying
19 or mechanical reproduction. In no instance shall the record copying
20 fee exceed twenty-five cents (\$0.25) per page for records having the
21 dimensions of eight and one-half (8 1/2) by fourteen (14) inches or
22 smaller, or a maximum of One Dollar (\$1.00) per copied page for a
23 certified copy.

1 SECTION 2. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 707.2 of Title 22, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Every subpoena issued on behalf of or by a defendant shall
5 state the name of the court from which it is issued and the title of
6 the action.

7 B. A witness shall be obligated upon service of a subpoena to
8 attend a trial or hearing at any place within the state.

9 C. The court clerk shall issue a subpoena, or a subpoena for
10 the production of documentary evidence, signed and sealed but
11 otherwise in blank, to a party requesting it, who shall complete the
12 subpoena before service. As an officer of the court, an attorney
13 authorized to practice law in this state may also issue and sign a
14 subpoena on behalf of a court in this state.

15 SECTION 3. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 707.3 of Title 22, unless there
17 is created a duplication in numbering, reads as follows:

18 A party or an attorney responsible for the issuance and service
19 of a subpoena shall take reasonable steps to avoid imposing undue
20 burden or expense on a person subject to that subpoena. The court,
21 on behalf of which the subpoena was issued, shall enforce this duty
22 and impose upon the party or attorney, or both, in breach of this
23 duty an appropriate sanction, which may include, but is not limited
24 to, lost earnings and a reasonable attorney fee.

1 SECTION 4. NEW LAW A new section of law to be codified

2 in the Oklahoma Statutes as Section 707.4 of Title 22, unless there
3 is created a duplication in numbering, reads as follows:

4 A. On timely motion, the court by which a subpoena was issued
5 shall quash or modify the subpoena if it:

6 1. Fails to allow reasonable time for compliance;

7 2. Requires a person to travel to a place beyond the limits of
8 the county where the person resides or is served with the subpoena;

9 3. Requires disclosure of privileged or other protected matter
10 and no exception or waiver applies;

11 4. Subjects a person to undue burden; or

12 5. Requires production of books, papers, documents, or tangible
13 things which are not relevant to any claim or defense of a party,
14 nor reasonably calculated to lead to the discovery of admissible
15 evidence. Information within this scope of discovery need not be
16 admissible in evidence to be discoverable.

17 B. A subpoena requiring the production of personal or
18 confidential information about a victim may be served on a victim or
19 a third party only by court order. Before entering the order and
20 unless there are exceptional circumstances, the court shall require
21 giving notice to the victim so that the victim can move to quash or
22 modify the subpoena or otherwise object.

23 C. If a subpoena:

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1 1. Requires disclosure of a trade secret or other confidential
2 research, development, or commercial information; or
3 2. Requires disclosure of the opinion of an unretained expert
4 or information not describing specific events or occurrences in
5 dispute and resulting from the study by the expert made not at the
6 request of any party,
7 the court may, to protect a person subject to or affected by the
8 subpoena, quash or modify the subpoena. However, if the party in
9 whose behalf the subpoena is issued shows a substantial need for the
10 testimony or material that cannot be otherwise met without undue
11 hardship and assures that the person to whom the subpoena is
12 addressed will be reasonably compensated, the court may order
13 appearance or production only upon specified conditions.

14 SECTION 5. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 707.5 of Title 22, unless there
16 is created a duplication in numbering, reads as follows:

17 Subpoenas issued in accordance with the provisions of Sections 1
18 through 3 of this act and Sections 708, 710 and 712 of Title 22 of
19 the Oklahoma Statutes shall be considered separate and distinct from
20 any right or obligation provided for in Section 2002 of Title 22 of
21 the Oklahoma Statutes.

22 SECTION 6. AMENDATORY 22 O.S. 2021, Section 708, is
23 amended to read as follows:

Section 708. A subpoena, authorized by the ~~last four sections~~
provisions of Sections 704, 705, 706, 707 of this title and Section
1 of this act, must be substantially in the following form:

IN THE NAME OF THE STATE OF

OKLAHOMA.

To /

Greeting: You are commanded to appear before C. D., a justice
of the peace of at (or the grand jury of the ~~county~~
County of or the district court of ~~county~~
County, or other location as ~~the case~~ may be specified), on the
..... (stating day and hour), and remain in attendance on and
call of said from day to day and term to term until
lawfully discharged, as a witness in a criminal action prosecuted by
the State of Oklahoma against E. F. (or to testify as the case may
be).

SECTION 7. AMENDATORY 22 O.S. 2021, Section 710, is amended to read as follows:

Section 710. A. If the books, papers or documents be required, a direction to the following effect must be continued in the subpoena:

And you are required also to bring with you the following:
(Describe intelligently the books, papers or documents required)

B. If the subpoena commands production of documents and things
or inspection of premises from a nonparty before trial but does not

1 require attendance of a witness, the subpoena shall specify a date
2 and location for the production or inspection that is at least seven
3 (7) days after the date that the subpoena and copies of the subpoena
4 are served on the witness and all parties, and the subpoena shall
5 include the following language: "In order to allow objections to the
6 production of documents and things to be filed, you should not
7 produce them until the date specified in this subpoena and, if an
8 objection is filed, until the court rules on the objection."

9 C. A person commanded to produce and permit inspection,
10 copying, testing, or sampling of designated books, papers,
11 documents, electronically stored information or tangible things, or
12 inspection of premises, need not appear in person at the place of
13 production or inspection unless commanded to appear for deposition,
14 hearing, or trial.

15 D. Subject to subsection F of this section, a person commanded
16 to produce and permit inspection, copying, testing, or sampling, or
17 any party may, within fourteen (14) days after service of the
18 subpoena or before the time specified for compliance if such time is
19 less than fourteen (14) days after service, serve written objection
20 to inspection, copying, testing, or sampling of any or all of the
21 designated materials or of the premises, or to producing
22 electronically stored information in the form or forms requested.
23 An objection that all or a portion of the requested material will or
24 should be withheld on a claim that it is privileged or subject to

1 protection as trial preparation materials shall be made within this
2 time period and in accordance with subsections E and F of this
3 section. If the objection is made by the witness, the witness shall
4 serve the objection on all parties; if objection is made by a party,
5 the party shall serve the objection on the witness and all other
6 parties. If an objection is made, the party serving the subpoena
7 shall not be entitled to inspect, copy, test, or sample the
8 materials or inspect the premises except pursuant to an order of the
9 court by which the subpoena was issued. For failure to object in a
10 timely fashion, the court may assess reasonable costs and attorney
11 fees or take any other action it deems proper; however, a privilege
12 or the protection for trial preparation materials shall not be
13 waived solely for a failure to timely object under this section. If
14 objection has been made, the party serving the subpoena may, upon
15 notice to the person commanded to produce, move at any time for an
16 order to compel the production. Such an order to compel production
17 shall protect any person who is not a party or an officer of a party
18 from significant expense resulting from the inspection and copying
19 commanded.

20 E. 1. A person responding to a subpoena to produce documents
21 shall produce them as they are kept in the usual course of business
22 or shall organize and label them to correspond with the categories
23 in the demand.

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1 2. If a subpoena does not specify the form or forms for
2 producing electronically stored information, a person responding to
3 a subpoena shall produce the information in a form or forms in which
4 the person ordinarily maintains it or in a form or forms that are
5 reasonably usable.

6 3. A person responding to a subpoena is not required to produce
7 the same electronically stored information in more than one form.

8 4. A person responding to a subpoena is not required to provide
9 discovery of electronically stored information from sources that the
10 person identifies as not reasonably accessible because of undue
11 burden or cost. If such showing is made, the court may order
12 discovery from such sources if the requesting party shows good
13 cause, considering the limitations of this act. The court may
14 specify conditions for the discovery.

15 F. 1. When information subject to a subpoena is withheld on a
16 claim that it is privileged or subject to protection as trial
17 preparation materials, the claim shall be made expressly and shall
18 be supported by a description of the nature of the documents,
19 communications, or things not produced that is sufficient to enable
20 the demanding party to contest the claim.

21 2. If information is produced in response to a subpoena that is
22 subject to a claim or privilege or of protection as trial
23 preparation material, the person making the claim may notify any
24 party that received the information of the claim and the basis for

1 such claim. After being notified, a party shall promptly return,
2 sequester, or destroy the specified information and any copies the
3 party has and may not use or disclose the information until the
4 claim is resolved. A receiving party may promptly present the
5 information to the court under seal for a determination of the
6 claim. If the receiving party disclosed the information before
7 being notified, such party shall take reasonable steps to retrieve
8 the information. The person who produced the information shall
9 preserve the information until the claim is resolved. This
10 mechanism is procedural only and does not alter the standards
11 governing whether the information is privileged or subject to
12 protection as trial preparation material or whether such privilege
13 or protection has been waived.

14 SECTION 8. AMENDATORY 22 O.S. 2021, Section 712, is
15 amended to read as follows:

16 Section 712. A. Service of ~~subpoenas for witnesses in criminal~~
17 ~~actions in the district courts of this state~~ a subpoena upon a
18 person named therein shall be made in the same manner as in civil
19 actions pursuant to Section 2004.1 of Title 12 of the Oklahoma
20 Statutes by delivering or mailing a copy thereof to such person and,
21 if the attendance of the person is demanded, by tendering to that
22 person the fees for one (1) day of attendance and the mileage
23 allowed by law. Service of a subpoena may be accomplished by any
24 person who is eighteen (18) years of age or older.

1 B. Service of a subpoena by mail may be accomplished by mailing
2 a copy thereof by certified mail with return receipt requested and
3 delivery restricted to the person named in the subpoena. The person
4 serving the subpoena shall make proof of service thereof to the
5 court promptly, and in any event, before the witness is required to
6 testify at the hearing or trial. If service is made by a person
7 other than a peace officer, such person shall make affidavit
8 thereof. If service is by mail, the person serving the subpoena
9 shall show in the proof of service the date and place of mailing and
10 attach a copy of the return receipt showing that the mailing was
11 accepted. Failure to make proof of service does not affect the
12 validity of the service, but service of a subpoena by mail shall not
13 be effective if the mailing was not accepted by the person named in
14 the subpoena. The ~~cost~~ ~~costs~~ of service of subpoenas shall be borne
15 by the parties unless otherwise ordered by the court allowed whether
16 service is made by a peace officer or any other person.

17 SECTION 9. AMENDATORY 22 O.S. 2021, Section 715, is
18 amended to read as follows:

19 Section 715. A. No person is obliged to attend as a witness
20 before a court or magistrate outside the county where the witness
21 resides or is served with a subpoena, unless the judge of the court
22 in which the offense is triable, upon an affidavit of the district
23 attorney, or of the defendant or the defendant's counsel, stating
24 that he or she believes that the evidence and attendance of the

1 witness is material and necessary, shall endorse on the subpoena an
2 order for the attendance of the witness.

3 B. The court clerks of this state shall not be subject to
4 subpoena in matters relating to court records unless the court makes
5 a specific finding that the appearance and testimony of the court
6 clerk are both material and necessary because of a written objection
7 to the introduction of ~~certified documents~~ court records made by the
8 defendant or other party prior to trial.

9 SECTION 10. AMENDATORY 22 O.S. 2021, Section 716, is
10 amended to read as follows:

11 Section 716. Disobedience or failure by any person without
12 adequate excuse to obey a subpoena served upon himself or herself,
13 or a refusal to be sworn or to testify, may be punished by the court
14 or magistrate, as for deemed a criminal contempt, in the manner
15 provided in civil procedure of the court from which the subpoena was
16 issued.

17 SECTION 11. This act shall become effective November 1, 2025.
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19 60-1-10055 GRS 12/28/24
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