

1 STATE OF OKLAHOMA

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

3 POLICY COMMITTEE
4 RECOMMENDATION

5 FOR

6 HOUSE BILL NO. 1563

7 By: Duel

8 POLICY COMMITTEE RECOMMENDATION

9 An Act relating to criminal procedure; specifying
10 requirements for issuing criminal subpoenas for law
11 enforcement records; requiring witnesses to attend
12 trials or hearings upon service of subpoenas;
13 allowing court clerks and attorneys to issue
14 subpoenas; directing issuers of subpoenas to avoid
15 imposing undue burden or expense on persons subject
16 to subpoenas; requiring courts to enforce said duty;
17 providing for sanctions; prohibiting the issuance of
18 subpoenas for information upon human victims;
19 declaring subpoenas separate and distinct from
20 certain rights or obligations; amending 22 O.S. 2021,
21 Sections 708, 710, 712, 715, and 716, which relate to
22 the service and issuance of subpoenas; updating
23 statutory references and form requirements; providing
24 guidelines and requirements 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; making disclosure requirements
inapplicable to certain persons; clarifying processes
for serving subpoenas in person and by mail; defining
term; modifying exemption to subpoena requirement for
court clerks; clarifying criminal contempt penalty

1 provision; providing for codification; and providing
2 an effective date.

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

6 SECTION 1. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 707.1 of Title 22, unless there
8 is created a duplication in numbering, reads as follows:

9 A. After a complaint, indictment, or information is filed, a
10 subpoena issued on behalf of or by a defendant to a law enforcement
11 agency may command the production of the following law enforcement
12 records:

- 13 1. Body camera videos;
- 14 2. Vehicle mounted camera videos;
- 15 3. Traffic camera videos; and
- 16 4. Law enforcement incident reports.

17 B. Any subpoena for a record which contains individual records
18 of persons, and the costs of copying, reproducing, or certifying
19 each individual record otherwise prescribed by state law, may be
20 assessed for each individual record or portion thereof requested, as
21 prescribed by state law. Otherwise, a public body may charge a fee
22 only for recovery of the reasonable, direct costs of record copying
23 or mechanical reproduction. In no instance shall the record copying
24 fee exceed twenty-five cents (\$0.25) per page for records having the

1 dimensions of eight and one-half (8 1/2) by fourteen (14) inches or
2 smaller, or a maximum of One Dollar (\$1.00) per copied page for a
3 certified copy.

4 SECTION 2. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 707.2 of Title 22, unless there
6 is created a duplication in numbering, reads as follows:

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

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

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

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

21 A party or an attorney responsible for the issuance and service
22 of a subpoena shall take reasonable steps to avoid imposing undue
23 burden or expense on a person subject to that subpoena. The court
24 on behalf of which the subpoena was issued shall enforce this duty

1 and impose upon the party or attorney, or both, in breach of this
2 duty an appropriate sanction, which may include, but is not limited
3 to, lost earnings and a reasonable attorney fee.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 707.4 of Title 22, unless there
6 is created a duplication in numbering, reads as follows:

7 A. On timely motion, the court on behalf of which a subpoena
8 was issued shall quash or modify the subpoena if it:

- 9 1. Fails to allow reasonable time for compliance;
- 10 2. Requires a person to travel to a place beyond the limits of
11 the county where the person resides or is served with the subpoena;
- 12 3. Requires disclosure of privileged or other protected matter
13 and no exception or waiver applies;
- 14 4. Subjects a person to undue burden; or
- 15 5. Requires production of books, papers, documents, or tangible
16 things which are not relevant to any claim or defense of a party,
17 nor reasonably calculated to lead to the discovery of admissible
18 evidence. Information within this scope of discovery need not be
19 admissible in evidence to be discoverable.

20 B. Under no circumstances shall a subpoena be issued or served
21 for information upon a human victim who is the subject in a criminal
22 action being prosecuted by the state.

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 on
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:

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

4 IN THE NAME OF THE STATE OF
5 OKLAHOMA.

6 To ,

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

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

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

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

23 B. If the subpoena commands production of documents and
24 tangible things or inspection of premises from a nonparty before

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

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

16 D. Subject to subsection F of this section, a person commanded
17 to produce and permit inspection, copying, testing, or sampling of
18 designated books, papers, documents, electronically stored
19 information or tangible things, or inspection of premises, or any
20 party, may, within fourteen (14) days after service of the subpoena
21 or before the time specified for compliance if such time is less
22 than fourteen (14) days after service, serve written objection to
23 inspection, copying, testing, or sampling of any or all of the
24 designated materials or of the premises, or to producing

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

23 E. 1. A person responding to a subpoena to produce documents
24 shall produce them as they are kept in the usual course of business

1 or shall organize and label them to correspond with the categories
2 in the demand.

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

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

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

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

23 2. If information is produced in response to a subpoena that is
24 subject to a claim of privilege or of protection as trial

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

16 G. The disclosure requirements provided for in this section,
17 shall not apply to any human victim who is the subject in a criminal
18 action being prosecuted by the state.

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

21 Section 712. A. Service of ~~subpoenas for witnesses in criminal~~
22 ~~actions in the district courts of this state~~ a subpoena upon a
23 person named therein shall be made ~~in the same manner as in civil~~
24 ~~actions pursuant to Section 2004.1 of Title 12 of the Oklahoma~~

1 Statutes by delivering or mailing a copy thereof to such person and,
2 if the attendance of the person is demanded, by tendering to that
3 person the fees for one (1) day of attendance and the mileage
4 allowed by law. Service of a subpoena may be accomplished by any
5 person who is eighteen (18) years of age or older.

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

22 C. The disclosure requirements provided for in this section,
23 shall not apply to any human victim who is the subject in a criminal
24 action being prosecuted by the state.

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

3 Section 715. A. No person is obliged to attend as a witness
4 before a court or magistrate outside the county where the witness
5 resides or is served with a subpoena, unless the judge of the court
6 in which the offense is triable, upon an affidavit of the district
7 attorney, or of the defendant or the defendant's counsel, stating
8 that he or she believes that the evidence and attendance of the
9 witness is material and necessary, shall endorse on the subpoena an
10 order for the attendance of the witness.

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

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

19 Section 716. Disobedience or failure by any person without
20 adequate excuse to obey a subpoena served upon himself or herself,
21 or a refusal to be sworn or to testify, may be ~~punished by the court~~
22 ~~or magistrate, as for~~ deemed a criminal contempt, ~~in the manner~~
23 ~~provided in civil procedure~~ of the court from which the subpoena was
24 issued.

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SECTION 11. This act shall become effective November 1, 2025.

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