

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Bell**

A Bill

SENATE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE ANNOTATED § 20-76-103 TO
9 GRANT AUTHORITY TO THE CHIEF COUNSEL OF THE ARKANSAS
10 DEPARTMENT OF HUMAN SERVICES TO ISSUE SUBPOENAS IN THE
11 INVESTIGATION OF FRAUD IN OBTAINING PUBLIC BENEFITS; AND
12 FOR OTHER PURPOSES."

Subtitle

14 "TO AUTHORIZE THE OFFICE OF CHIEF COUNSEL OF DHS TO ISSUE
15 SUBPOENAS IN INVESTIGATING FRAUD IN OBTAINING PUBLIC
16 BENEFITS."
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code § 20-76-103 is hereby amended to read as
22 follows:

23 "20-76-103. Use of subpoenas in hearings on benefit determinations.

24 (a) The Chief Counsel of the Department of Human Services is authorized
25 to require the attendance of witnesses and the production of books, records,
26 or other documents through the issuance of subpoenas when the testimony or
27 information is necessary to adequately present the position of the Department
28 of Human Services when making fair hearing determinations or conducting
29 investigations relating to public assistance benefits.

30 (b) Subpoenas issued pursuant to the authority of the Chief Counsel of
31 the Department of Human Services shall be substantially in the following form:

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33 _The State of Arkansas to the Sheriff of County:

34 You are commanded to subpoena,

35 (name)

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....., to attend a proceeding before the Arkansas Department
(address)

of Human Services to be held at
on the day of , 19. . ,
and testify and/or produce the following books, records, or other documents,
to wit:

..... , in the matter of
(style of proceeding)

being conducted under the authority of
WITNESS my hand this day of 19. .

.....'
Chief Counsel, Department of Human Services_

(c) Subpoenas provided for in this section shall be served in the
manner as now provided by law and returned and a record made and kept by the
Department of Human Services. The fees and mileage of officers serving the
subpoenas and witnesses in answer to subpoenas shall be the same as now
provided by law.

(d) Applicants and recipients of public assistance benefits who request
fair hearings on determinations made by the Department of Human Services and
other parties to administrative adjudications of the Department of Human
Services may request issuance of subpoenas by the Chief Counsel of the
Department of Human Services. These requests for subpoenas shall be granted by
the Chief Counsel of the Department of Human Services if the testimony or
documents desired are considered necessary and material without being unduly
repetitious of other available evidence.

(e) Persons duly served with subpoenas issued pursuant to the authority
provided in this section who shall refuse to testify or produce books,
records, or documents may be cited on affidavit through application of the
Chief Counsel of the Department of Human Services to the Circuit Court of

1 Pulaski County or any circuit court of the state where the subpoena was
2 served. Failure to obey the subpoena may be deemed a contempt with punishment
3 accordingly."

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5 SECTION 2. All provisions of this act of a general and permanent nature
6 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
7 Revision Commission shall incorporate the same in the Code.

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9 SECTION 3. If any provision of this act or the application thereof to
10 any person or circumstance is held invalid, such invalidity shall not affect
11 other provisions or applications of the act which can be given effect without
12 the invalid provision or application, and to this end the provisions of this
13 act are declared to be severable.

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15 SECTION 4. All laws and parts of laws in conflict with this act are
16 hereby repealed.

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