

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/26/09

A Bill

HOUSE BILL 1986

5 By: Representatives J. Roebuck, *Harrelson*
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For An Act To Be Entitled

9 AN ACT TO ALLOW FOR ALTERNATIVE METHODS FOR
10 PROVIDING TESTIMONY UNDER SUBPOENA FROM A STATE
11 AGENCY; TO PROVIDE A METHOD TO CHALLENGE A
12 SUBPOENA; AND FOR OTHER PURPOSES.
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Subtitle

14 AN ACT CONCERNING SUBPOENAS ISSUED BY
15 STATE AGENCIES.
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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 § 25-15-104 is amended to read as follows:
22 25-15-104. Subpoena powers.

23 (a)(1) The following boards and commissions shall have the power to
24 issue subpoenas and bring before the board or commission as a witness any
25 person in this state:

26 (A) Auctioneer's Licensing Board, § 17-17-201 et seq.;

27 (B) State Athletic Commission, § 17-22-201 et seq.;

28 (C) State Board of Cosmetology, § 17-26-201 et seq.;

29 (D) Arkansas Board of Examiners in Counseling, § 17-27-201

30 et seq.;

31 (E) State Board of Embalmers and Funeral Directors, § 17-
32 29-201 et seq.;

33 (F) Arkansas State Board of Landscape Architects, § 17-36-
34 201 et seq.;

35 (G) Committee of Plumbing Examiners of the State Board of
36 Health, § 17-38-202;



1 (H) Arkansas Social Work Licensing Board, § 17-103-201 et
2 seq.;

3 (I) HVACR Licensing Board, § 17-33-201 et seq.;

4 (J) Liquefied Petroleum Gas Board, § 15-75-201 et seq.;

5 (K) Judicial Discipline and Disability Commission,
6 Arkansas Constitution, Amendment 66, and § 16-10-401 et seq.;

7 (L) Veterinary Medical Examining Board, § 17-101-201 et
8 seq.;

9 (M) Arkansas Board of Dispensing Opticians, § 17-89-201 et
10 seq.; and

11 (N) State Board of Election Commissioners, § 7-4-101 et
12 seq.

13 (2) These boards and commissions shall by regulation provide for
14 the issuance of a subpoena upon the request of any party to a proceeding
15 pending before the board or commission or at the request of the board or
16 commission.

17 (3) The ~~writ~~ subpoena shall:

18 (A) ~~be~~ Be in the name of the board or commission;

19 (B) ~~shall state~~ State the name of the board or
20 commission and the name of the proceeding; and

21 (C)(i) ~~shall command~~ Command each person to whom it
22 is directed to ~~appear and~~ give testimony at the time and place ~~therein~~
23 specified in the subpoena in one of the following ways:

24 (a) In person;

25 (b) Before a certified court reporter
26 under oath at the place of the witness' residence or employment;

27 (c) By video-taped deposition at the
28 place of the witness' residence or employment; or

29 (d) By live video communications from
30 the witness' residence, place of employment, or a nearby facility capable of
31 providing video transmission to the state agency that has subpoenaed the
32 witness.

33 (ii) The manner of providing testimony under the
34 subpoena shall be conducted by in person testimony unless another manner is
35 agreed upon by the board or commission and the person who is the subject of
36 the subpoena.

1 (4) The ~~writ~~ subpoena may require the witness to bring with him
2 or her any book, writing, or other thing under his or her control that he or
3 she is bound by law to produce in evidence.

4 (5) Service of the ~~writ~~ subpoena shall be in the manner as now
5 provided by statute or rule for the service of subpoenas in civil cases.

6 (b)(1) A witness who has been served by subpoena in the manner
7 provided by law and who ~~shall have been paid or tendered the legal fees for~~
8 ~~travel and attendance as provided by law shall be obligated to attend~~ appears
9 in person to testify for examination of at the trial or cause pending before
10 the board or commission shall be paid or tendered the legal fees for travel
11 and attendance as provided by law.

12 (2) In the event a witness shall have been served with subpoenas
13 ~~as herein provided under this section~~ and fails to attend the hearing provide
14 testimony in obedience to the subpoena, the board or commission may apply to
15 the circuit court of the county wherein the board or commission is having its
16 meeting for an order causing the arrest of the witness and directing that the
17 witness be brought before the court.

18 (3) The court shall have the power to punish the disobedient
19 witness for contempt as provided by the Arkansas Rules of Civil Procedure.

20 (4) A witness who is served with a subpoena under this section
21 may challenge the validity of the subpoena in the circuit court of the county
22 where the board or commission is having its meeting or the circuit court of
23 Pulaski County.

24 (c) This section is intended to be supplemental and add the power to
25 issue subpoenas to the various chapters of the Code that do not now provide
26 the power to do so. This section shall not repeal any law or part of laws now
27 in existence.

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29 /s/ J. Roebuck
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