

State of Arkansas

76th General Assembly

Regular Session, 1987 AS ENGROSSED 4/1/87

HOUSE BILL 1393

By: Representative Wilson

"AN ACT TO ESTABLISH SUBPOENA AUTHORITY AMONG THE POWERS OF THE GENERAL COUNSEL OF THE DEPARTMENT OF HUMAN SERVICES WHEN DETERMINING FAIR HEARING APPEALS OF DECISIONS RELATING TO PUBLIC BENEFITS AND OTHER FORMS OF ASSISTANCE AND RELIEF; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. The General Counsel of the Department of Human Services is authorized to require the attendance of witnesses and the production of books, records or other documents through the issuance of subpoenas when such testimony or information is necessary to adequately present the position of the Department of Human Services when making fair hearing determinations relating to public assistance benefits.

SECTION 2. Subpoenas issued pursuant to the authority of the General Counsel of the Department of Human Services shall be substantially in the following form:

"The State of Arkansas to the sheriff of _____ County: You are commanded to subpoena _____ (name) _____, _____ (address) _____, to attend a proceeding before the Arkansas Department 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____

General Counsel, Department of Human Services

SECTION 3. Subpoenas provided for herein shall be served in the manner as now provided by law and returned and a record made and kept by the Arkansas 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.

SECTION 4. 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 General Counsel of the Department of Human Services. Such requests for subpoenas shall be granted by the General 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.

SECTION 5. Witnesses duly served with subpoenas issued pursuant to the authority provided herein who shall refuse to testify or give evidence may be cited on affidavit through application of the General Counsel of the Department of Human Services to the Circuit Court of Pulaski County or any Circuit Court of the State where the subpoena was served and such failure to obey the subpoena may be deemed a contempt with punishment accordingly.

SECTION 6. It is hereby found and determined by the Seventy-Sixth General Assembly that the effectiveness of the Department of Human Services to render fair and impartial administrative decisions on matters appealed before it requires the ability to compel the attendance of witnesses and the production of documentary evidence upon which such decisions may be based. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

