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#### **Alabama**

## Title IV-D Agency: 1975 Ala. Code § 30-3-193: (2011)

- (a) Subject to due process safeguards, including requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to a judicial tribunal, upon request from the state Title IV-D agency, public and private entities and individuals as specified in this section shall provide information when the state Title IV-D agency has reason to believe that the information provides location information or otherwise assists in the administration of the state's child support enforcement program. The information shall be available only for the purposes prescribed herein.
- (b) The state Title IV-D agency shall be provided access to information contained in the following records, including automated access from the governmental entities

#### maintaining the records:

- (1) State and local governmental agency records for vital statistics including records of marriage, birth, paternity, death, and divorce.
- (2) State and local tax and revenue agency records including information on residence address, employer, income, and assets.
- (3) State and local governmental agency records concerning real and titled personal property including motor vehicles.
- (4) State and local governmental agency records of employment.
- (5) State and local governmental agency records of public assistance, food stamps, Medicaid, and Department of Corrections.
- (6) State and local governmental agency records relating to law enforcement including, but not limited to, National Crime Information Center records.
- (c) The state Title IV-D agency shall be provided access to state and local governmental or nongovernmental agency records of occupational and professional licenses and records concerning the ownership and control of corporations, partnerships, and other business entities.
- (d) The state Title IV-D agency shall be provided information pursuant to an administrative subpoena issued by the Title IV-D agency to a public or private company or agency such as a utility or cable television company; provided that such information sought in the subpoena shall be limited to the address of individuals identified by the agency and the name and address of the employer of such individuals.
- (e) No entity or individual shall be held liable in any civil or criminal action for disclosing any information to the state Title IV-D agency under this section or for any other action taken in good faith to comply with this section.
- (f) The recipient of an administrative subpoena shall be permitted up to 30 calendar days to respond to such subpoena.
- (g) The state Title IV-D agency may pay a reasonable fee to a private entity or individual for conducting a data match, records search, or other efforts to comply with an administrative subpoena. Such fee shall not exceed the actual costs incurred by the private entity or individual.

#### **Alaska**

# Child Support Services Agency: Alaska Stat. Ann. § 25.27.085 (2011)

(a) The agency may subpoena persons, books, records, and documents to

- (1) obtain any financial or other information needed to establish, modify, or enforce a child support order;
- (2) determine the paternity of a child under AS 25.27.165; or
- (3) disestablish the paternity of a child under AS 25.27.166.
- (b) An administrative subpoena issued under this section shall be served in the manner provided for service of liens under <u>AS 25.27.240</u>. Proof of service may be completed according to <u>Rule 5</u>, <u>Alaska Rules of Civil Procedure</u>.
- (c) A person who is issued an administrative subpoena shall be provided an opportunity to refuse to comply with it for good cause by filing a request for a conference with the agency in this state in the manner and within the time specified in regulations adopted by the agency. Good cause shall be limited to mistake in identity of the person or to a prohibition under law to release such information.
- (d) After a conference requested under (c) of this section, the agency shall issue an order on the request relating to good cause. If the person continues to refuse to comply with the administrative subpoena, the agency in this state shall issue an order to impose a civil penalty of \$10 for each day of noncompliance with the subpoena.
- (e) An order imposing a civil penalty under this section is a final administrative decision and may be appealed under AS 25.27.210.
- (f) This section does not limit the ability of the agency to make other lawful requests for information.
- (g) If a person fails to comply with a subpoena issued under this section, the agency may apply to the court for an order to compel obedience by proceedings for contempt as if the subpoena had been issued by a court.

# Department of Natural Resources: Alaska Stat. Ann. § 46.17.060 (2011)

- (a) If the department has given two weeks' written notice of intent to inspect a dam or reservoir and the owner refuses to allow the inspection, the department may seek a search warrant to allow the inspection. If the department has been refused inspection of drawings, operational records, or other information concerning a dam or reservoir, the department may seek an administrative subpoena compelling production of the drawings, operational records, or other information.
- (b) If the department has reason to believe that a dam or reservoir may be unsafe or presents an imminent threat to life or property, the department may enter the dam or reservoir premises without notice.

#### **Arizona**

## Department of Economic Security: Ariz. Rev. Stat. Ann. § 25-520 (2011)

- **A.** In a title IV-D case the department or its agent may issue a subpoena to a person or entity believed to have information needed for the establishment of paternity or the establishment, modification or enforcement of a child support order, requiring appearance before the department or its agent and the production of all records or documents related to an investigation or child support proceeding.
- **B.** The subpoena shall be served in the manner provided under applicable law or rules of procedure for the service of subpoenas in a civil action.
- **C.** A person or entity that, without reasonable cause, fails to comply with the subpoena or that wilfully gives false information is subject to a civil penalty of not more than two hundred fifty dollars for each violation.
- **D.** A civil penalty imposed by the department pursuant to subsection C of this section is subject to court review if the person or entity requests a review within fifteen business days after the department imposes the penalty.
- **E.** A civil penalty imposed by the department on an obligor pursuant to this section may be referred to credit reporting agencies for up to seven years after the date of the order that imposed the penalty or until collected. The department shall not take this action until the time for a court review pursuant to subsection D of this section has elapsed.
- **F.** A civil penalty imposed by the department operates as a final judgment without further action by the department. The department may collect the penalty through all available civil remedies. A civil judgment accrues interest pursuant to § 44-1201.
- **G.** The department shall deposit, pursuant to §§ 35-146 and 35-147, monies collected under this section in the state general fund.

## Department of Public Saftey: Ariz. Rev. Stat. Ann. § 36-2541

- **A.** Issuance and execution of administrative inspection warrants for purposes of this chapter shall be as follows:
- 1. A judge of a state court of record or any justice of the peace or magistrate within his jurisdiction and upon proper oath or affirmation showing probable cause may issue warrants for the purpose of conducting administrative inspections authorized by this chapter or rules adopted pursuant to this chapter and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter, or rules and regulations adopted pursuant to this chapter, sufficient to justify administrative inspection of the area, premises, building or conveyance in the circumstances specified in the application for the warrant.
- 2. A warrant shall issue only upon an affidavit of a peace officer or a member, officer or

employee of the board having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is probable cause to believe they exist, such judge or magistrate shall issue a warrant identifying the area, premises, building or conveyance to be inspected, the purpose of the inspection and the type of property to be inspected, if any. The warrant shall:

- (a) State the grounds for its issuance and the name of each person whose affidavit has been taken in support thereof.
- (b) Be directed to a peace officer to execute it.
- (c) Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of the property specified.
- (d) Identify the item or types of property to be seized, if any.
- (e) Direct that it be served during normal business hours and designate the judge or magistrate to whom it shall be returned.
- 3. A warrant issued pursuant to this section shall be executed and returned within ten days of its date unless, upon a showing of a need for additional time, the court orders otherwise. If property is seized pursuant to a warrant, a copy shall be given to the person from whom or from whose premises the property is taken, together with a receipt for the property taken. The return of the warrant shall be made promptly, accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if present, or in the presence of at least one credible person other than the person executing the warrant. A copy of the inventory shall be delivered to the person from whom or from whose premises the property was taken and to the applicant for the warrant.
- 4. The judge or magistrate who has issued a warrant shall attach to such warrant a copy of the return and all papers returnable and file them with the clerk of the court in which the inspection was executed.
- **B.** The board, its members, officers or employees and officers and employees of the department or other peace officers may make administrative inspections of controlled premises in accordance with the following provisions:
- 1. For purposes of this section only, "controlled premises" means:
- (a) Places where persons registered or exempted from registration requirements under this chapter are required to keep records.

- (b) Places including factories, warehouses, establishments and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver or otherwise dispose of any controlled substance.
- 2. When executing an administrative inspection warrant issued pursuant to subsection A of this section a peace officer may be accompanied by a member, officer or employee of the board, and upon presenting the warrant and appropriate credentials to the owner, operator or agent in charge they may enter controlled premises for the purpose of conducting an administrative inspection.
- 3. When authorized by an administrative inspection warrant, such officer or employee may:
- (a) Inspect and copy records required by this chapter to be kept.
- (b) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found in such premises and, except as provided in paragraph 5 of this subsection, all other things, including records, files, papers, processes, controls and facilities bearing on any violation of this chapter.
- (c) Inventory any stock of any controlled substance and obtain samples of such substance.
- 4. This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:
- (a) If the owner, operator or agent in charge of the controlled premises consents.
- (b) In situations presenting imminent danger to health or safety.
- (c) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant.
- (d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking.
- (e) In all other situations in which a warrant is not constitutionally required.
- 5. An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator or agent in charge of the controlled premises consents in writing.

#### **Arkansas**

## Arkansas Department of Environmental Quality: 12 Ark. Code Ann. § 8-1-107 (2011)

the warrant. A copy of the inventory shall be delivered to the person from whom or from whose facility the documents were taken. The seized documents shall be copied as soon as feasible under circumstances preserving their authenticity, then returned to the person from whom the documents were taken;

- (4) The warrant may authorize the taking of samples of materials generated, stored, or treated at the facility, or of the water, air, or soils within the facility's control or that may have been affected by the facility's operations. The person executing the warrant shall prepare an inventory of all samples taken. In any inspection conducted pursuant to an administrative warrant in which such samples are taken, the department shall make split samples available to the person whose facility is being inspected;
- (5) A warrant issued pursuant to this section must be executed and returned within ten (10) days of its date unless, upon a showing of a need for additional time, the court orders otherwise. The return of the warrant shall be made promptly, accompanied by a written inventory of any documents or samples taken;
- (6) The judge or magistrate who has issued a warrant shall attach thereto a copy of the return and all papers returnable in connection therewith and file them with the clerk of the circuit court for the judicial district in which the inspection was made;
- (7) This subsection does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with duly adopted administrative procedures; and
- (8) A copy of the warrant and all supporting affidavits shall be provided to the person served, or left at the entry of the facility inspected.
- (e) ADMINISTRATIVE WARRANTS--EXCEPTIONS. Notwithstanding the previous subsection, an administrative warrant shall not be required for any inspection, including the review and copying of documents and taking of samples, under the following circumstances:
- (1) For pervasively regulated facilities or activities as defined by this section whose permit, license, certification, or operational approval from the department provides notice that the department may inspect regulated activities to assure compliance. If the department has reason to believe that a violation of any law has or is occurring, the basis for such belief shall be communicated at the time of the inspection;
- (2) If the owner, operator, or agent in charge of the facility consents;
- (3) In situations presenting imminent danger to public health and safety or the environment;
- (4) In situations involving inspection of conveyances, if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
- (5) In any other exception or emergency circumstance when time or opportunity to apply for a warrant is lacking;

- (6) In situations involving conditions that may be observed in an open field, from an area practically open to public access, or in plain view; or
- (7) In all other situations in which a warrant is not constitutionally required.
- (f) PENALTIES. Any willful and unjustified refusal of right of entry and inspection to department personnel as set out in this section shall constitute a misdemeanor subject to a fine of up to twenty-five thousand dollars (\$25,000) or civil penalties up to twenty-five thousand dollars (\$25,000).

## Office of Child Support Enforcement: 13 Ark. Code Ann. § 9-14-207 (2011)

- (a) The Administrator of the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration is authorized to enter into cooperative agreements with county judges, court clerks, and prosecuting attorneys concerning the establishment, enforcement, collection, monitoring, and distribution of support obligations.
- (b) The administrator is further authorized to appoint child support officers, in counties where the court grants at least two thousand five hundred (2,500) divorces each year, as law enforcement officers in the duties and obligations as set forth in § 9-14-206(c).
- (c)(1) The administrator or his or her designee is authorized to issue an administrative subpoena for any financial or other information needed to establish, modify, or enforce a child support order to any individual or organization reasonably believed to have information on the financial resources of a parent or presumed or alleged father.
- (2) A court may compel compliance with an administrative subpoena, impose penalties as authorized by § 9-14-208(c), and award attorney's fees and costs to the Office of Child Support Enforcement of the Revenue Division of the Department of Finance and Administration upon proof that an individual or organization failed to comply with the subpoena without cause.

(3) Subpoenas issued pursuant to the authority of the office shall be substantially in the
following form:
"The State of Arkansas to the Sheriff of County: You are commanded to subpoena (name), regarding a proceeding before the Office of Child Support Enforcement to
be held at (address) on the day of, 20,, and 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 and seal this day of, 20
Administrator, Office of Child Support Enforcement"

- (d)(1) 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 office.
- (2) The fees and mileage of officers serving the subpoenas and witnesses in answer to subpoenas shall be the same as now provided by law.

#### California

# California Parent Locator Service and Central Registry / California Child Support Automation System: West's Ann. Cal. Fam. Code § 17506 (2011)

- (a) There is in the department a California Parent Locator Service and Central Registry that shall collect and disseminate all of the following, with respect to any parent, putative parent, spouse, or former spouse:
- (1) The full and true name of the parent together with any known aliases.
- (2) Date and place of birth.
- (3) Physical description.
- (4) Social security number.
- (5) Employment history and earnings.
- (6) Military status and Veterans Administration or military service serial number.
- (7) Last known address, telephone number, and date thereof.
- (8) Driver's license number, driving record, and vehicle registration information.
- (9) Criminal, licensing, and applicant records and information.
- (10)(A) Any additional location, asset, and income information, including income tax return information obtained pursuant to Section 19285.1 of the Revenue and Taxation Code, and to the extent permitted by federal law, the address, telephone number, and social security number obtained from a public utility, cable television corporation, a provider of electronic digital pager communication, or a provider of mobile telephony services that may be of assistance in locating the parent, putative parent, abducting, concealing, or detaining parent, spouse, or former spouse, in establishing a parent and child relationship, in enforcing the child support liability of the absent parent, or enforcing the spousal support liability of the spouse or former spouse to the extent required by the state plan pursuant to Section 17604.

following regarding the taxpayer:
(i) Assets.
(ii) Credits.
(iii) Deductions.
(iv) Exemptions.
(v) Identity.
(vi) Liabilities.
(vii) Nature, source, and amount of income.
(viii) Net worth.
(ix) Payments.
(x) Receipts.
(xi) Address.
(xii) Social security number.
(b) Pursuant to a letter of agreement entered into between the Department of Child Support Services and the Department of Justice, the Department of Child Support Services shall assume responsibility for the California Parent Locator Service and Central Registry. The letter of agreement shall, at a minimum, set forth all of the following:
(1) Contingent upon funding in the Budget Act, the Department of Child Support

(B) For purposes of this subdivision, "income tax return information" means all of the

(2) All employees and other personnel who staff or provide support for the California Parent Locator Service and Central Registry shall, at the time of the transition, at their option, become the employees of the Department of Child Support Services at their existing or equivalent classification, salaries, and benefits.

Services shall assume responsibility for leadership and staff of the California Parent

Locator Service and Central Registry commencing July 1, 2003.

(3) Until the department's automation system for the California Parent Locator Service and Central Registry functions is fully operational, the department shall use the automation system operated by the Department of Justice.

- (4) Any other provisions necessary to ensure continuity of function and meet or exceed existing levels of service.
- (c) To effectuate the purposes of this section, the California Child Support Automation System, the California Parent Locator Service and Central Registry, and the Franchise Tax Board shall utilize the federal Parent Locator Service to the extent necessary, and may request and shall receive from all departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, and those entities shall provide, that assistance and data that will enable the Department of Child Support Services and other public agencies to carry out their powers and duties to locate parents, spouses, and former spouses, and to identify their assets, to establish parent-child relationships, and to enforce liability for child or spousal support, and for any other obligations incurred on behalf of children, and shall also provide that information to any local child support agency in fulfilling the duties prescribed in Section 270 of the Penal Code, and in Chapter 8 (commencing with Section 3130) of Part 2 of Division 8 of this code, relating to abducted, concealed, or detained children. The California Child Support Automation System shall be entitled to the same cooperation and information as the California Parent Locator Service and Central Registry to the extent allowed by law. The California Child Support Automation System shall be allowed access to criminal record information only to the extent that access is allowed by state and federal law.
- (d)(1) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the California Child Support Automation System may request and shall receive from public utilities, as defined in Section 216 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the public utility, to the extent that this information is stored within the computer database of the public utility.
- (2) To effectuate the purposes of this section, and notwithstanding any other provision of California law, regulation, or tariff, and to the extent permitted by federal law, the California Parent Locator Service and Central Registry and the California Child Support Automation System may request and shall receive from cable television corporations, as defined in Section 216.4 of the Public Utilities Code, the providers of electronic digital pager communication, as defined in Section 629.51 of the Penal Code, and the providers of mobile telephony services, as defined in Section 224.4 of the Public Utilities Code, customer service information, including the full name, address, telephone number, date of birth, employer name and address, and social security number of customers of the cable television corporation, customers of the providers of electronic digital pager communication, and customers of the providers of mobile telephony services.
- (3) In order to protect the privacy of utility, cable television, electronic digital pager communication, and mobile telephony service customers, a request to a public utility, cable television corporation, provider of electronic digital pager communication, or provider of mobile telephony services for customer service information pursuant to this

section shall meet the following requirements:

- (A) Be submitted to the public utility, cable television corporation, provider of electronic digital pager communication, or provider of mobile telephony services in writing, on a transmittal document prepared by the California Parent Locator Service and Central Registry or the California Child Support Automation System and approved by all of the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony services. The transmittal shall be deemed to be an administrative subpoena for customer service information.
- (B) Have the signature of a representative authorized by the California Parent Locator Service and Central Registry or the California Child Support Automation System.
- (C) Contain at least three of the following data elements regarding the person sought:
- (i) First and last name, and middle initial, if known.
- (ii) Social security number.
- (iii) Driver's license number.
- (iv) Birth date.
- (v) Last known address.
- (vi) Spouse's name.
- (D) The California Parent Locator Service and Central Registry and the California Child Support Automation System shall ensure that each public utility, cable television corporation, provider of electronic digital pager communication services, and provider of mobile telephony services has at all times a current list of the names of persons authorized to request customer service information.
- (E) The California Child Support Automation System and the California Parent Locator Service and Central Registry shall ensure that customer service information supplied by a public utility, cable television corporation, providers of electronic digital pager communication, or provider of mobile telephony services is applicable to the person who is being sought before releasing the information pursuant to subdivision (d).
- (4) During the development of the California Child Support Automation System, the department shall determine the necessity of additional locate sources, including those specified in this section, based upon the cost-effectiveness of those sources.
- (5) The public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony service provider may charge a fee to the California Parent Locator Service and Central Registry or the California Child Support

Automation System for each search performed pursuant to this subdivision to cover the actual costs to the public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony service provider for providing this information.

- (6) No public utility, cable television corporation, electronic digital pager communication provider, or mobile telephony service provider or official or employee thereof, shall be subject to criminal or civil liability for the release of customer service information as authorized by this subdivision.
- (e) Notwithstanding Section 14202 of the Penal Code, any records established pursuant to this section shall be disseminated only to the Department of Child Support Services, the California Child Support Automation System, the California Parent Locator Service and Central Registry, the parent locator services and central registries of other states as defined by federal statutes and regulations, a local child support agency of any county in this state, and the federal Parent Locator Service. The California Child Support Automation System shall be allowed access to criminal offender record information only to the extent that access is allowed by law.
- (f)(1) At no time shall any information received by the California Parent Locator Service and Central Registry or by the California Child Support Automation System be disclosed to any person, agency, or other entity, other than those persons, agencies, and entities specified pursuant to Section 17505, this section, or any other provision of law.
- (2) This subdivision shall not otherwise affect discovery between parties in any action to establish, modify, or enforce child, family, or spousal support, that relates to custody or visitation.
- (g)(1) The Department of Justice, in consultation with the Department of Child Support Services, shall promulgate rules and regulations to facilitate maximum and efficient use of the California Parent Locator Service and Central Registry. Upon implementation of the California Child Support Automation System, the Department of Child Support Services shall assume all responsibility for promulgating rules and regulations for use of the California Parent Locator Service and Central Registry.
- (2) The Department of Child Support Services, the Public Utilities Commission, the cable television corporations, providers of electronic digital pager communication, and the providers of mobile telephony services shall develop procedures for obtaining the information described in subdivision (c) from public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony services and for compensating the public utilities, cable television corporations, providers of electronic digital pager communication, and providers of mobile telephony services for providing that information.
- (h) The California Parent Locator Service and Central Registry may charge a fee not to exceed eighteen dollars (\$18) for any service it provides pursuant to this section that is

not performed or funded pursuant to Section 651 and following of Title 42 of the United States Code.

(i) This section shall be construed in a manner consistent with the other provisions of this article.

# Generally Every State or Local Agency (See Definitions [7470] and then [7474]): West's Ann. Cal. Gov. Code § 7470 (2011) For the purposes of this chapter:

- (a) The term "financial institution" includes state and national banks, state and federal savings associations, trust companies, industrial loan companies, and state and federal credit unions. Such term shall not include a title insurer while engaging in the conduct of the "business of title insurance" as defined by <u>Section 12340.3 of the Insurance Code</u>, an underwritten title company, or an escrow company.
- (b) The term "financial records" means any original or any copy of any record or document held by a financial institution pertaining to a customer of the financial institution.
- (c) The term "person" means an individual, partnership, corporation, limited liability company, association, trust or any other legal entity.
- (d) The term "customer" means any person who has transacted business with or has used the services of a financial institution or for whom a financial institution has acted as a fiduciary.
- (e) The term "state agency" means every state office, officer, department, division, bureau, board, and commission or other state agency, including the Legislature.
- (f) The term "local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; or other local public agency.
- (g) The term "supervisory agency" means any of the following:
- (1) The Department of Financial Institutions.
- (2) The Controller.
- (3) The Administrator of Local Agency Security.
- (4) The Department of Real Estate.

- (5) The Department of Insurance.
- (h) The term "investigation" includes, but is not limited to, any inquiry by a peace officer, sheriff, or district attorney, or any inquiry made for the purpose of determining whether there has been a violation of any law enforceable by imprisonment, fine, or monetary liability.
- (i) The term "subpoena" includes subpoena duces tecum.

West's Ann. Cal. Gov. Code § 7474 (2011)

- (a) An officer, employee, or agent of a state or local agency or department thereof, may obtain financial records under <u>paragraph (2) of subdivision (a) of Section 7470</u> pursuant to an administrative subpoena or summons otherwise authorized by law and served upon the financial institution only if:
- (1) The person issuing such administrative summons or subpoena has served a copy of the subpoena or summons on the customer pursuant to Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure, which copy may be served by an employee of the state or local agency or department thereof; and
- (2) The subpoena or summons includes the name of the agency or department in whose name the subpoena or summons is issued and the statutory purpose for which the information is to be obtained; and
- (3) Ten days after service pass without the customer giving notice to the financial institution that the customer has moved to quash the subpoena.
- (b)(1) In issuing an administrative subpoena or summons pursuant to subdivision (a), the Attorney General or the Commissioner of Corporations pursuant to the enforcement of statutes within his jurisdiction, or the district attorney of any county in connection with investigations of violations of antitrust law as authorized by Section 16759 of the Business and Professions Code, may petition a court of competent jurisdiction in the county in which the records are located, and the court, upon a showing of a reasonable inference that a law subject to the jurisdiction of the petitioning agency has been or is about to be violated, may order that service upon the customer pursuant to paragraph (1) of subdivision (a) and the 10-day period provided for in paragraph (3) of subdivision (a) be waived or shortened. For the purpose of this subdivision, an "inference" is a deduction that may reasonably be drawn by the Attorney General, the Commissioner of Corporations, or the district attorney from facts relevant to the investigation.
- (2) Such petition may be presented to the court in person or by telephoned oral statement which shall be recorded and transcribed. In the case of telephonic petition, the recording of the sworn oral statement and the transcribed statement shall be certified by the magistrate receiving it and shall be filed with the clerk of the court.

- (3) Where the court grants such petition, the court shall order the petitioning agency to notify the customer in writing of the examination of records within a period to be determined by the court but not to exceed 60 days of the agency's receipt of any of the customer's financial records. The notice shall specify the information otherwise required by paragraph (2) of subdivision (a), and shall also specify the financial records which were examined pursuant to the administrative subpoena or summons. Upon renewed petition, the time of notification may be extended for an additional 30-day period upon good cause to believe that such notification would impede the investigation. Thereafter, by application to a court upon a showing of extreme necessity for continued withholding of notification, such notification requirements may be extended for three additional 30-day periods.
- (4) The Attorney General shall not provide financial records obtained pursuant to the procedure authorized in this subdivision to a local law enforcement agency unless (i) that agency has independently obtained authorization to receive such financial records pursuant to the provisions of this chapter, or (ii) he obtains such records in an investigation conducted wholly independently of the local agency and not at its instigation or request.
- (c) Except as provided in this subdivision, nothing in this chapter shall preclude a financial institution from notifying a customer of the receipt of an administrative summons or subpoena. A court may order a financial institution to withhold notification to a customer of the receipt of an administrative summons or subpoena when the court issues an order pursuant to subdivision (b) and makes a finding that notice to the customer by the financial institution would impede the investigation.
- (d) If a customer files a motion to quash an administrative subpoena or summons issued pursuant to subdivision (a), such proceedings shall be afforded priority on the court calendar and the matter shall be heard within 10 days from the filing of the motion to quash.

#### Colorado

## Secretary of State: Colorado Rev. Stat. Ann. § 1-45-111.5

- (1) The secretary of state shall promulgate such rules, in accordance with article 4 of title 24, C.R.S., as may be necessary to enforce and administer any provision of this article.
- (1.5)(a) Any person who believes that a violation of either the secretary of state's rules concerning campaign and political finance or this article has occurred may file a written complaint with the secretary of state not later than one hundred eighty days after the date of the occurrence of the alleged violation. The complaint shall be subject to all applicable procedures specified in section 9(2) of article XXVIII of the state constitution.

- (b) Any person who commits a violation of either the secretary of state's rules concerning campaign and political finance or this article that is not specifically listed in <u>section</u> 9(2)(a) of article XXVIII of the state constitution shall be subject to any of the sanctions specified in <u>section 10</u> of article XXVIII of the state constitution or in this section.
- (c) In addition to any other penalty authorized by article XXVIII of the state constitution or this article, an administrative law judge may impose a civil penalty of fifty dollars per day for each day that a report, statement, or other document required to be filed under this article that is not specifically listed in article XXVIII of the state constitution is not filed by the close of business on the day due. Any person who fails to file three or more successive committee registration reports or reports concerning contributions, expenditures, or donations in accordance with the requirements of section 1-45-107.5 shall be subject to a civil penalty of up to five hundred dollars for each day that a report, statement, or other document required to be filed by an independent expenditure committee is not filed by the close of business on the day due. Any person who knowingly and intentionally fails to file three or more reports due under section 1-45-107. 5 shall be subject to a civil penalty of up to one thousand dollars per day for each day that the report, statement, or other document is not filed by the close of business on the day due. Imposition of any penalty under this paragraph (c) shall be subject to all applicable requirements specified in section 10 of article XXVIII of the state constitution governing the imposition of penalties.
- (d) In connection with a complaint brought to enforce any requirement of article XXVIII of the state constitution or this article, an administrative law judge may order disclosure of the source and amount of any undisclosed donations or expenditures.
- (e) In connection with any action brought to enforce any provision of article XXVIII of the state constitution or this article, the membership lists of a labor organization or, in the case of a publicly held corporation, a list of the shareholders of the corporation, shall not be disclosed by means of discovery or by any other manner.
- (f) Any person who is fined up to one thousand dollars per day for a knowing and intentional failure to file under paragraph (c) of this subsection (1.5) shall, if the person has shareholders or members, notify such shareholders or members of the penalty and the adjudicated violations on its publicly accessible web site in a prominent manner for not less than one hundred eighty days after the final adjudication. A copy of this notice, with the web site address used, shall be filed with the secretary of state and shall be a public record.
- (2) A party in any action brought to enforce the provisions of article XXVIII of the state constitution or of this article shall be entitled to the recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, upon a determination by the office of administrative courts that the action, or any part thereof, lacked substantial justification or that the action, or any part thereof, was interposed for delay or harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct,

including, but not limited to, abuses of discovery procedures available under the Colorado rules of civil procedure. Notwithstanding any other provision of this subsection (2), no attorney fees may be awarded under this subsection (2) unless the court or administrative law judge, as applicable, has first considered the provisions of section 13-17-102(5) and (6), C.R.S. For purposes of this subsection (2), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

- (3) Upon a determination by the office of administrative courts that an issue committee failed to file a report required pursuant to section 1-45-108, the administrative law judge shall direct the issue committee to file any such report within ten days containing all required disclosure of any previously unreported contributions or expenditures and may, in addition to any other penalty, impose a penalty not to exceed twenty dollars for each contribution received and expenditure made by the issue committee that was not timely reported.
- (4)(a) Upon failure of a witness or party to comply with an administrative subpoena issued in relation to an alleged campaign finance violation pursuant to article XXVIII of the state constitution or this article, the party that requested the administrative subpoena or the issuing agency may petition the district court, ex parte with a copy of the petition sent to the subpoenaed witness or party and the administrative law judge by regular mail, for an order directing the witness or party to comply with the administrative subpoena.
- (b) If the petition required by paragraph (a) of this subsection (4) shows to the district court's satisfaction that the administrative subpoena was properly served pursuant to <u>rule</u> 4 of the Colorado rules of civil procedure, the district court shall order the subpoenaed witness or party to appear before the district court and show cause why the witness or party should not be ordered to comply with the administrative subpoena. A copy of the petition and the court order shall be served, pursuant to <u>rule 5 of the Colorado rules of civil procedure</u>, on the witness or party at least fifteen days before the date designated for the witness or party to appear before the district court.
- (c) At a show cause hearing ordered by the district court pursuant to paragraph (b) of this subsection (4), the court shall review the administrative subpoena and any evidence presented by the parties to determine compliance with the Colorado rules of civil procedure. The subpoenaed witness or party shall bear the burden of showing good cause as to why he or she should not be ordered to comply with the administrative subpoena.
- (d) If the court determines that the subpoenaed witness or party is required to comply with the administrative subpoena:
- (I) The district court shall order compliance forthwith and may impose remedial and punitive fines, including attorneys' fees and costs, for the witness's or party's failure to comply with the administrative subpoena; and

- (II) The administrative law judge shall schedule a hearing on the complaint to occur on a day after the occurrence of the required deposition and such other discovery as may be warranted due to such deposition.
- (e) If the subpoenaed witness or party fails to appear at the show cause hearing, the district court may issue a bench warrant for the arrest of the subpoenaed witness or party and may impose other sanctions pursuant to the Colorado rules of civil procedure.

## Water Quality Control Commission: Colorado Rev. Stat. Ann. § 25-8-205.5 (2011)

- (1) Legislative declaration. The general assembly hereby declares that the public policy of this state is to protect groundwater and the environment from impairment or degradation due to the improper use of agricultural chemicals while allowing for their proper and correct use, in particular, to provide for the management of agricultural chemicals to prevent, minimize, and mitigate their presence in groundwater and to provide for the education and training of agricultural chemical applicators and the general public regarding groundwater protection, agricultural chemical use, and the use of other agricultural methods.
- (2) **Definition.** For the purpose of this section only, "groundwater" means any subsurface water in a zone of saturation which is or can be brought to the surface of the ground or to surface waters through wells, springs, seeps, or other discharge areas.
- (3) **Powers and duties of the commissioner of agriculture.** (a) The commissioner of agriculture shall identify agricultural management areas in the state.
- (b) The commissioner shall promulgate rules for the following:
- (I) Facilities for the storage of pesticides in bulk;
- (II) Mixing and loading areas where any of the following are handled in any one-year period:
- (A) Five hundred gallons or more, in the aggregate, of formulated product or combination of formulated products of liquid pesticides;
- (B) Three thousand pounds or more, in the aggregate, of formulated product or combination of formulated products of dry pesticides;
- (C) One thousand five hundred pounds or more, in the aggregate, of active ingredients of pesticides;
- (III) Storage facilities where any liquid fertilizer is stored in any container or series of interconnected containers having a capacity greater than five thousand gallons;

- (IV) Storage facilities where fifty-five thousand pounds or more, in the aggregate, of formulated product or combination of formulated products of bulk dry fertilizer are stored;
- (V) Mixing and loading areas at any storage facility subject to the provisions of this section.
- (b.1) No rule promulgated pursuant to paragraph (b) of this subsection (3) shall apply to any field mixing and loading of agricultural chemicals.
- (b.2) Every rule promulgated pursuant to paragraph (b) of this subsection (3) shall include a three-year phase-in period after promulgation of the rule for persons subject to the rule.
- (b.3) Pursuant to paragraph (h) of this subsection (3), the commissioner is authorized to enforce rules promulgated pursuant to paragraph (b) of this subsection (3).
- (c) The commissioner may, in his discretion, develop best management practices for any other activity relating to the use of any agricultural chemical.
- (d) If the commissioner determines that the use of best management practices is ineffective or insufficient to prevent or mitigate the pollution of groundwater, the commissioner may require, by rule and regulation adopted pursuant to article 4 of title 24, C.R.S., the use of agricultural management plans.
- (e) The commissioner is authorized to adopt, pursuant to article 4 of title 24, C.R.S., any other reasonable rules and regulations for the administration and implementation of this section.
- (f) The commissioner is authorized to enter into an agreement with the Colorado cooperative extension service to provide training and education as specified in subsection (4) of this section.
- (g) The commissioner shall perform the monitoring specified in subsection (5) of this section. The commissioner shall enter into an agreement with the department of public health and environment to assist in the identification of agricultural management areas and to perform analysis, interpretation, and reporting of groundwater monitoring data supplied by the commissioner.
- (h) With respect to any rule or regulation adopted pursuant to paragraph (b) of this subsection (3) only, the commissioner shall have the following investigation and enforcement powers:
- (I) At any reasonable time during regular business hours, the commissioner shall have free and unimpeded access upon consent or upon obtaining an administrative search warrant:

- (A) To all areas, buildings, yards, warehouses, and storage facilities in which any agricultural chemicals are kept, stored, handled, processed, or transported; and
- (B) To all records, if any, required to be kept and to make copies of such records.
- (II) The commissioner shall have full authority to administer oaths and take statements, to issue administrative subpoenas requiring the attendance of witnesses before him and the production of all books, memoranda, papers, and other documents, articles, or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation. Upon the failure or refusal of any witness to obey any subpoena, the commissioner may petition the district court, and, upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey such an order of the court shall be punishable as a contempt of court.
- (III) Any complaints of record made to the commissioner and the results of his investigations may, in the discretion of the commissioner, be closed to public inspection, except as provided by court order, during the investigatory period and until dismissed or until notice of hearing and charges are served on any such person subject to a rule or regulation adopted pursuant to paragraph (b) of this subsection (3).
- (IV)(A) Whenever the commissioner has reasonable cause to believe that a violation of any rule or regulation adopted pursuant to paragraph (b) of this subsection (3) has occurred and immediate enforcement is deemed necessary, he may issue a cease-and-desist order, which may require any person to cease violating any such rule or regulation. Such cease-and-desist order shall set forth the rule or regulation alleged to have been violated, the facts alleged to have constituted the violation, and the requirement that all actions be ceased forthwith.
- (B) At any time after the date of the service of the order to cease and desist, the person may request a hearing on the question of whether or not such violation has occurred. Such hearing shall be concluded in not more than ten days after such request, excluding Saturdays, Sundays, and any legal holidays, and shall be conducted pursuant to the provisions of article 4 of title 24, C.R.S.
- (C) In the event that any person fails to comply with a cease-and-desist order within twenty-four hours, the commissioner may bring a suit for a temporary restraining order and injunctive relief to prevent any further or continued violation of such order.
- (D) No stay of a cease-and-desist order shall be issued before a hearing thereon involving both parties.
- (E) Matters brought before a court pursuant to this section shall have preference over other matters on the court's calendar.

- (V) Whenever the commissioner possesses evidence satisfactory to him that any person has engaged in or is about to engage in any act or practice constituting a violation of any rule or regulation adopted pursuant to paragraph (b) of this subsection (3), he may apply to any court of competent jurisdiction to temporarily or permanently restrain or enjoin the act or practice in question and to enforce compliance with the rule or regulation. In any such action, the commissioner shall not be required to plead or prove irreparable injury or the inadequacy of the remedy at law. Under no circumstances shall the court require the commissioner to post a bond.
- (VI)(A) Any person who violates any rule or regulation adopted pursuant to paragraph (b) of this subsection (3) is subject to a civil penalty, as determined by the commissioner. The maximum penalty shall not exceed one thousand dollars per violation. Each day the violation occurs shall constitute a separate violation.
- (B) No civil penalty may be imposed unless the person charged is given notice and opportunity for a hearing pursuant to article 4 of title 24, C.R.S.
- (C) If the commissioner is unable to collect such civil penalty or if any person fails to pay all or a set portion of the civil penalty as determined by the commissioner, the commissioner may recover such amount plus costs and attorney fees by action in any court of competent jurisdiction.
- (D) Before imposing any civil penalty, the commissioner may consider the effect of such penalty on the ability of the person charged to stay in business.
- (4) **Training and education.** The Colorado cooperative extension service, acting in cooperation with the commissioner of agriculture and pursuant to any contract authorized in paragraph (f) of subsection (3) of this section, shall disseminate information and provide training regarding agricultural management areas, best management practices, and agricultural management plans.
- (5) **Monitoring.** Pursuant to the commissioner's duties as set forth in any contract authorized in paragraph (g) of subsection (3) of this section, the commissioner shall identify agricultural management areas as defined in <u>section 25-8-103(1.1)</u> and shall conduct monitoring programs to determine:
- (a) The presence of any agricultural chemical in groundwater at a level which meets or exceeds any water quality standard applicable under this article or which has a reasonable likelihood of meeting or exceeding any such standard; or
- (b) The likelihood that an agricultural chemical will enter the groundwater, based upon the existence of sufficient, valid scientific data which reasonably predict the behavior of a particular agricultural chemical in the soil.
- (6) **Reporting of monitoring results -- regulation.** (a) If the division determines that

any agricultural chemical exists at a level which meets or exceeds any water quality standard or which has a reasonable likelihood of meeting or exceeding any such standard, it shall so notify the commissioner of agriculture and shall provide him with any written reports it deems necessary or desirable to define the extent of such occurrence. When the commissioner has been notified of such an occurrence related to an agricultural chemical which is registered as a pesticide, he shall take reasonable steps to notify the registrant of any such pesticide. When the commissioner has been notified of such an occurrence related to any other agricultural chemical, he shall take reasonable steps to notify the distributors of such chemical in the area affected by such occurrence.

- (b) Unless such occurrence is determined by the commissioner of agriculture and the water quality control commission to require a control regulation as set forth in paragraph (c) of this subsection (6), the commissioner of agriculture may promulgate rules and regulations regarding the use of any agricultural chemical giving rise to the occurrence. (c) If continued monitoring reveals that rules and regulations adopted by the commissioner pursuant to this section are not preventing or mitigating the presence of the subject agricultural chemical to the extent necessary, the commissioner of agriculture and the water quality control commission shall confer and determine whether an amendment to such rules and regulations may be sufficient to prevent or mitigate the occurrence to the extent necessary. Only if the commissioner of agriculture and the water quality control commission determine that such rules and regulations have been or will be insufficient to meet the requirements of state law or the federal act shall the occurrence be referred to the water quality control commission for the promulgation of a control regulation. In the event that the commissioner of agriculture and the water quality control commission fail to agree on such a determination, the authority of the water quality control commission shall be final.
- (7) **Promulgation of control regulations.** (a) With respect to the regulation of pollutants from agricultural chemicals, the water quality control commission is authorized to promulgate control regulations only when:
- (I) Any occurrence has been referred to the commission pursuant to subsection (6) of this section; or
- (II) Incentive, grant, and cooperative programs are determined by the water quality control commission to be inadequate as set forth in section 25-8- 205(5).
- (b) Any such control regulations shall be promulgated in consultation with the commissioner of agriculture.
- (8) Groundwater protection fund--transfer of moneys to the plant health, pest control, and environmental protection cash fund--fees. The fees as specified and collected pursuant to sections 35-9-118(3)(a) and 35-12-106(1), C.R.S., and any civil fines imposed pursuant to subparagraph (VI) of paragraph (h) of subsection (3) of this section shall be transmitted to the state treasurer, who shall credit the same to the plant health, pest control, and environmental protection cash fund created in section 35-1-

<u>106.3, C.R.S</u>. Within sixty days after July 1, 2009, the unexpended and unencumbered balance of the groundwater protection fund, as that fund existed prior to July 1, 2009, shall be transferred to the plant health, pest control, and environmental protection cash fund.

(9) Repealed by Laws 1996, H.B.96-1167, § 163, eff. Aug. 7, 1996.

## State Parent Locator Service / Child Support Enforcement Agency: Colo. Rev. Stat. Ann. § 26-13-107 (2011)

- (1) There shall be established in the state department a state parent locator service to assist delegate child support enforcement units or their authorized agents, other states, and agencies of the federal government in the location of parents who have or appear to have abandoned children who qualify under section 26-13-106.
- (2) To effectuate the purposes of subsection (1) of this section, the executive director may request and shall receive from departments, boards, bureaus, or other agencies of the state, including but not limited to law enforcement agencies, or any of its political subdivisions, and the same are authorized to provide, such assistance and data as will enable the state department and delegate child support enforcement units or their authorized agents properly to carry out their powers and duties to locate such parents for the purpose of establishing parentage or establishing, modifying, or enforcing child support obligations. In addition, any federal agency or such agency's authorized agents properly carrying out their powers and duties to locate a parent for the purpose of establishing parentage or establishing, modifying, or enforcing child support obligations may request and shall have access to any motor vehicle or law enforcement system used by the state to locate an individual. Any records established pursuant to the provisions of this section shall be available only to the following:
- (a) Any state or local agency or official seeking to collect child support under the state plan or the agency's or official's authorized agents;
- (b) The attorney general, district attorneys, and county attorneys;
- (c) Courts having jurisdiction in support or abandonment proceedings or actions to establish child support against a parent or to issue an order against a parent for the allocation of parental responsibilities or parenting time rights or any agent of such court;
- (d) The obligee parent, legal guardian, attorney, or agent of a child who is not receiving aid under Title IV-A of the federal "Social Security Act", as amended, [FN1] when a court order is provided; and
- (e) United States agents or attorneys for use with the federal parent locator service in connection with a parental kidnapping or child custody case, as authorized by federal law.

- (3)(a)(I) All departments and agencies of the state and local governments, including but not limited to law enforcement agencies, shall cooperate in the location of parents who have abandoned or deserted children who qualify under section 26-13-106; and, on request of a delegate child support enforcement unit or its authorized agent, the state department, or the district attorney of any judicial district in this state, they shall supply any information on hand, notwithstanding any other provisions of law making such information confidential, concerning:
- (A) The location of any individual, including the individual's social security number, most recent address, and the name, address, and employer identification number of the individual's employer, or facilitating the discovery of such individual's location, who is under an obligation to pay child support, against whom such an obligation is sought, or to whom such an obligation is owed;
- (B) The individual's wages or other income from employment and any benefits of employment, including any right to or enrollment in group health care coverage; and
- (C) The type, status, location, and amount of any assets of, or debts owed by or to, any such individual.
- (II) The department of revenue shall furnish, at no cost to inquiring departments and agencies, such information as may be necessary to effectuate the purposes of this article. Any information so provided may be transmitted to those persons or entities specified in paragraph (a.5) of this subsection (3). The procedures whereby this information will be requested and provided shall be established pursuant to rules and regulations of the state department. The state department and delegate child support enforcement units shall use such information only for the purposes of administering child support enforcement under this title, and the district attorney shall use it only for the purpose of establishing parentage or establishing, modifying, or enforcing child support obligations. The state department and delegate child support enforcement units shall not use the information, or disclose it, for any other purpose. Any violation or misuse of this information will be subject to any civil or criminal penalties provided by law.
- (a.5) The state parent locator service shall only accept applications from and transmit Colorado and federal parent locator information to:
- (I) Any state or local agency or official seeking to collect child support under the state plan or the agency's or official's authorized agents;
- (II) The attorney general, district attorneys, and county attorneys;
- (III) Courts having jurisdiction in support and abandonment proceedings or actions to establish child support against a parent or to issue an order against a parent for the allocation of parental responsibilities or parenting time rights or any agent of such court;
- (IV) The obligee parent, legal guardian, attorney, or agent of a child who is not receiving aid under Title IV-A of the federal "Social Security Act", as amended, when a court order

#### is provided;

- (V) United States agents or attorneys for use with the federal parent locator service in connection with a parental kidnapping or child custody case, as authorized by federal law; and
- (VI) The court when a court order is provided from a parent seeking to enforce a child custody, parental responsibilities, or parenting time order.
- (b) Nothing in this subsection (3) shall be construed to compel the disclosure of information relating to a deserting parent who is a recipient of aid under a public assistance program for which federal aid is paid to this state, if such information is required to be kept confidential by the federal law or regulations relating to such program, or to compel the disclosure of any information disclosed in any document, report, or return made confidential by section 39-21-113, C.R.S.
- (c) The state parent locator service or the equivalent of a state child support enforcement agency or delegate child support enforcement unit of any other state may initiate a request requiring any employer, trustee, payor of funds, or other employer located within this state or doing business in this state to provide any information on the employment, compensation, and benefits of any individual for whom information is known. Compliance with such a request shall not subject the employer, trustee, or payor of funds to liability to the obligor for disclosing such information without a subpoena pursuant to this paragraph (c). The state department shall not use the provisions of this paragraph (c) for the information-gathering purposes of the financial institution data match system required by section 26-13-128.
- (d) The state parent locator service or a delegate child support enforcement unit may obtain information from credit bureaus on the whereabouts, income, and assets of individuals pursuant to the provisions of the federal "Fair Credit Reporting Act" [FN2] in order to provide the services set forth in section 26-13-105.
- (e) The state parent locator service or a delegate child support enforcement unit may initiate a request requiring any person located within this state or doing business in this state who is in possession or control of personal property or information concerning the location, benefits, income, and assets of parents with a child support obligation to provide such information to the requesting agency. Compliance with such request shall not subject the holder to liability to the obligor for disclosing such information without a subpoena pursuant to this paragraph (e).
- (e.5) The state parent locator service may initiate an administrative subpoena requiring any public employee retirement benefit plan or financial institution located within this state or doing business in this state that is in possession or control of personal property or information concerning the location, benefits, income, and assets of a person who owes or is owed an obligation for child support debt, retroactive child support, or child support arrearages or against whom an obligation is sought to provide such information to the

requesting agency. Compliance with such subpoena shall not subject the public employee retirement benefit plan or the financial institution to liability to the parent for disclosing such information.

- (f)(I)(A) The state parent locator service or the equivalent of a state child support enforcement agency or delegate child support enforcement unit of any other state is authorized to issue an administrative subpoena to gather financial or other information to establish, modify, or enforce a support order. An administrative subpoena is authorized to be issued to a public utility for records pertaining to individuals who owe or are owed child support or against or with respect to whom a support obligation is sought. Such subpoena shall require the public utility to furnish documentation providing the names and addresses of these individuals and the names and addresses of the employers of such individuals as appearing in the customer records of the public utility. A public utility responding to an administrative subpoena request shall be entitled to collect a reasonable fee for the processing of each such subpoena.
- (B) In seeking information from a public utility, as defined in subparagraph (III) of this paragraph (f), the state parent locator service shall be subject to the confidentiality requirements and restrictions set forth in section 631 of the federal "Cable Communications Policy Act of 1984", 47 U.S.C. sec. 551.
- (II) The provisions of this section shall in no way alter the method of regulation or deregulation of telecommunications service as set forth in article 15 of title 40, C.R.S.
- (III) For purposes of this section, "public utility" means any gas corporation, electrical corporation, telegraph corporation, water corporation, rural electric association, municipal electric systems, person, or municipality that operates for the purpose of supplying gas, electricity, telegraph services, or water to the public for domestic, mechanical, or public uses and that is subject to regulation by the public utilities commission under articles 1 to 7 of title 40, C.R.S., and any telephone corporation, municipal telephone entity, or other corporation that offers telecommunications services to the public that is subject to the provisions of article 15 of title 40, C.R.S., and any corporation that provides cable television services to the public.
- (g) The child support enforcement agency shall make every reasonable effort to accommodate those entities to which the child support enforcement agency directs an administrative subpoena, if the requirements of this section would pose a hardship on those entities.
- (4) The state parent locator service may establish fees to be charged for the provision of services in paragraphs (d) and (e) of subsection (2) of this section and in subparagraphs (IV) and (V) of paragraph (a.5) of subsection (3) of this section.
- (5) This section shall apply to all child support obligations ordered as a part of any proceeding, regardless of when the order was entered.

## Commissioner of Agriculture: Colo. Rev. Stat. Ann. § 35-9-119 (2011)

- (1) The commissioner, upon his own motion or upon the complaint of any person, may make any and all investigations necessary to insure compliance with this article.
- (2)(a) At any reasonable time during regular business hours, the commissioner shall have free and unimpeded access upon consent or upon obtaining an administrative search warrant:
- (I) To all buildings, yards, warehouses, and storage facilities in which any pesticides are kept, stored, handled, processed, or transported for the purpose of carrying out any provision of this article or any rule made pursuant to this article;
- (II) To all records required to be kept at any reasonable time and may make copies of such records for the purpose of carrying out any provision of this article or any rule made pursuant to this article.
- (b) The commissioner shall have full authority to administer oaths and take statements, to issue administrative subpoenas requiring the attendance of witnesses before him and the production of all books, memoranda, papers, and other documents, articles, or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation. Upon the failure or refusal of any witness to obey any subpoena, the commissioner may petition the district court, and, upon a proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey such an order of the court shall be punishable as a contempt of court.
- (3) Complaints of record made to the commissioner and the results of his investigations may, in the discretion of the commissioner, be closed to public inspection, except as provided by court order, during the investigatory period and until dismissed or until notice of hearing and charges are served on a licensee or registrant.

## Magistrate Judges: D.C. Colo. L. Civ. R. 72.1 (2011)

- **A. General Authority.** Except as restricted by these rules, magistrate judges may exercise all powers and duties authorized by federal statutes, regulations, and the Federal Rules of Civil Procedure.
- **B. Duties.** Each magistrate judge may:
- 1. issue administrative inspection warrants;
- 2. issue civil seizure warrants pursuant to 21 U.S.C. § 881 and 18 U.S.C. § 981-983.
- 3. issue search and seizure warrants for levy pursuant to the Internal Revenue Code;

- 4. act on postjudgment matters arising under Fed. R. Civ. P. 69, including:
- a. issue writs;
- b. issue orders directing funds to be paid into or disbursed from the registry of the court;
- c. hold hearings and make recommendations to the district judge on substantive issues including the liability of a party under a writ of garnishment or execution;
- d. perform duties set forth in chapter 176 of Title 28 United States Code, as assigned by the court pursuant to the Federal Debt Collection Procedures Act, 28 U.S.C. § 3008;
- 5. make determinations and enter appropriate orders pursuant to <u>28 U.S.C. § 1915</u> with respect to any suit, action, or proceedings in which a request is made to proceed in forma pauperis;
- 6. perform duties set forth in <u>D.C.COLO.LCivR 8.1</u> and <u>8.2</u>;
- 7. make determinations and enter appropriate orders on discovery disputes in cases pending in other federal courts or courts of another country;
- 8. exercise contempt authority as authorized by law; and
- 9. issue administrative subpoenas as authorized by law.
- **C. Other Duties.** On reference by a district judge, a magistrate judge may:
- 1. conduct pretrial conferences, settlement conferences, and other nondispositive pretrial proceedings;
- 2. handle petitions to perpetuate testimony pursuant to Fed. R. Civ. P. 27; and
- 3. hold hearings and make recommendations to the district judge on dispositive matters.

#### **Delaware**

## Secretary of the Department of Natural Resources and Environmental Control: 7 Del. Code Ann. § 9105 (2011)

- (a) The following persons are liable with respect to a facility from which there is or has been a release or imminent threat of release, except as provided in subsection (c) of this section:
- (1) Any person who owned or operated the facility at any time.
- (2) Any person who owned or possessed a hazardous substance and who by contract, agreement or otherwise arranged for disposal or treatment of a hazardous substance at the facility.

- (3) Any person who arranged with a transporter for transport, disposal or treatment of a hazardous substance to the facility.
- (4) Any person who generated, disposed of or treated a hazardous substance at the facility.
- (5) Any person who accepted any hazardous substance for transport to the facility, when the facility was selected by the transporter.
- (6) Any person who is responsible in any other manner for a release or imminent threat of release.
- (b) Each person who is liable under this section is strictly liable, jointly and severally, for all costs associated with a release from a facility and for all natural resource damages resulting from the release. The Secretary may recover all costs and damages from all responsible parties. The amounts recoverable in an action under this chapter shall include interest on the amounts recoverable through regulations developed pursuant to §§ 9104 and 9109 of this title. Such interest shall accrue from the date the expenditure was incurred. The rate of interest on the outstanding unpaid balance of the amounts recoverable under this section shall be at the established allowable interest rate.
- (c) The following persons are not liable under this section:
- (1) Any person who can establish that the release or imminent threat of release for which the person would be otherwise liable was caused solely by:
- a. An act of God;
- b. An act of war; or
- c. An act or omission of a 3rd party other than:
- 1. An employee or agent of the person asserting the defense; or
- 2. Any person whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly with the person asserting this defense to liability. This defense applies only when the person asserting the defense has exercised due care with respect to the hazardous substance, the foreseeable acts or omissions of the 3rd party, and the foreseeable consequences of those acts or omissions.
- (2) Any person who is an operator, past operator, owner, or past owner of a facility and who can establish that at the time the facility was acquired or operated by the person, the person had no knowledge or reason to know of any release or imminent threat of release. This paragraph (c)(2) is limited as follows:

- a. Reason to know. --To establish that the person had no reason to know of the matter described in § 9103(6)a. of this title the person must demonstrate that on or before the date on which the person acquired the facility, the person carried out all appropriate inquiries, as provided in paragraph (c)(2)b. of this section below, into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices.
- b. All appropriate inquiry.
- 1. With respect to property purchased on or after May 31, 1997, the procedures of the American Society for Testing and Materials ("ASTM"), including the documents known as "Standard E1527-97" and "Standards E1527-00," entitled "Standard Practice for Environmental Site Assessment: Phase 1 Environmental Site Assessment Process," or any other procedure the Secretary may adopt by regulation, shall satisfy the requirements in subparagraph a. of this subdivision.
- 2. With respect to property purchased before May 31, 1997, in making a determination with respect to a person described in paragraph (c)(2)a. of this section, the following factors shall be taken into account:
- A. Any specialized knowledge or experience on the part of the person;
- B. The relationship of the purchase price to the value of the property, if the property was not contaminated;
- C. Commonly known or reasonably ascertainable information about the property;
- D. The obviousness of the presence or likely presence of contamination at the property; and
- E. The ability of the person to detect the contamination by appropriate inspection.
- 3. In the case of property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of subparagraph a. of this subdivision.
- c. Nothing in this subsection shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this chapter.
- d. Notwithstanding this subsection, if the person obtained actual knowledge of the release or threatened release of a hazardous substance at such facility when the person owned the real property and then subsequently transferred ownership of the property to another person without disclosing such knowledge, such person shall be treated as liable under subsection (a) of this section and no defense under this subsection shall be available to such person.

- e. Nothing in this subsection shall affect the liability under this chapter of a person who, by any act or omission, caused or contributed to the release or threatened release of a hazardous substance which is the subject of the action relating to the facility.
- (3) A person who acquires ownership or control of a property to realize on a security interest held by the person in that property or a fiduciary which has a legal title to or manages any property for purposes of administering an estate or trust of which such property is part; provided, however, that this exemption shall not relieve a person from liability under this section where such liability is based on conduct entirely independent from that covered by this exemption.
- (4) Prospective purchaser agreements.
- a. Notwithstanding paragraph (c)(5) of this section, a prospective purchaser whose potential liability for a release or threatened release is based solely on the purchaser's being considered to be an owner or operator of a facility shall not be liable as long as the prospective purchaser, with or without the participation of the seller of the property, enters into a prospective purchaser agreement in which the parties responsible for completing a site investigation and any subsequent remediation are identified and paragraph (c)(4)b. of this section is met. Such prospective purchaser agreements shall:
- 1. Define the scope of and financial responsibility for the environmental work to be performed pursuant to the agreement;
- 2. Define the amount, if any, of assistance to be provided by the Department; and
- 3. Define the scope of any lien to be secured.
- b. Requirements for operation under a prospective purchaser agreement.
- 1. The person shall exercise appropriate care with respect to hazardous substance or substances found at the facility by:
- A. As a prospective purchaser (i.e. prior to acquisition of the property): I. Not causing a new release of hazardous substances; and II. Not taking any action to exacerbate or contribute to an existing release.
- B. As owner after acquisition of the property, unless specifically addressed in a prospective purchaser agreement with the Department, by: I. Stopping or mitigating any on-going release; II. Preventing any threatened future release; and III. Preventing or limiting exposure (human, environmental, or natural resource) to any previously released hazardous substance or substances.
- 2. The person shall provide cooperation, assistance, and access to persons that are authorized to oversee remedies or natural resource restoration at a facility (including the

cooperation and access necessary for the installation, integrity, operation and maintenance of any complete or partial remedies or natural resource restoration at the facility).

- 3. The person shall:
- A. Be in compliance with any land use restrictions established or relied on in connection with the remedy at a facility; and
- B. Not impede the effectiveness or integrity of any institutional control employed at the facility in connection with a remedy.
- 4. The person shall comply with any request for information or administrative subpoena issued by the Secretary under this chapter.
- 5. The person shall not be affiliated with any other person that is potentially liable pursuant to § 9105(a) of this title, for response costs at a facility through:

  A. Any direct or indirect familial relationship, to include spouse, domestic partner, parent, grandparent, brother, sister, son, son-in-law, daughter, daughter-in-law, grandson, granddaughter, step-parent, the parent, son or daughter of a son or daughter of the person's spouse or domestic partner, nephew, niece, aunt, uncle, brother-in-law, sister-in-law, grandparent-in-law or any relative or friend living in the person's household; or
- B. Any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services); or
- C. The result of a reorganization of a business entity that was potentially liable.
- c. Lien.
- 1. If there are unrecovered remedial costs incurred by the State at a facility for which an owner of the facility is not liable by reason of paragraph (c)(4)a. of this section, the State may by agreement with the owner, obtain from the owner a lien on this or on any other property or other assurance of payment satisfactory to the Secretary, for all or any portion of the unrecovered remedial costs.
- 2. A lien under this subsection:
- A. Shall be in an amount not to exceed the unrecovered remedial costs incurred by the State;
- B. Shall be subject to the requirements of subparagraph a. of this subdivision; and
- C. Shall not exceed the value added to the worth of the property by the remedial action.

- (5) Contiguous properties.
- a. Not considered to be an owner or operator.
- 1. A person that owns real property that is contiguous to or otherwise similarly situated with respect to, and that is or may be contaminated by a release or threatened release of a hazardous substance from, real property that is not owned by that person shall not be considered to be an owner or operator of a facility under this paragraph (c)(5)a.1. or paragraph (c)(5)a.2. of this section solely by reason of said release if:

  A. The person did not cause, contribute or consent to the release or threatened release;
- B. The person is not: I. Potentially liable, or affiliated with any other person that is potentially liable, for costs at a facility through any direct or indirect familial relationship or any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by a contract for the sale of goods or services); or II. The result of a reorganization of a business entity that was potentially liable:
- C. The person takes reasonable steps to: I. not cause a release of hazardous substances on their property; and II. not take any action to exacerbate or contribute to contamination migrating onto their property.
- D. The person provides reasonable cooperation, assistance and access to persons that are authorized to conduct a remedy or natural resource restoration at the facility from which there has been a release or threatened release (including the cooperation and access necessary for the installation, integrity, operation and maintenance of any complete or partial remedy or natural resource restoration at the facility);
- E. The person: I. Is in compliance with any land use restrictions established or relied on in connection with the remedy at the facility; and II. Does not impede the effectiveness or integrity of any institutional control employed in connection with a remedy;
- F. The person is in compliance with any written request for information related to the property or contamination or administrative subpoena issued by the Secretary or a court pursuant to this chapter;
- G. The person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility; and
- H. At the time at which the person acquired the property, the person conducted all appropriate inquiry within the meaning of paragraph (c)(2)b. of this section with respect to the property.
- 2. To qualify as a person described in paragraph (c)(5)a.1. of this section, a person must establish by a preponderance of the evidence that the conditions in paragraph (c)(5)a.1.A. through H. of this section have been met.

- 3. Any person that does not qualify as a person described in this paragraph because the person had, or had reason to have, knowledge specified in paragraph (c)(5)a.1.H. of this section at the time of acquisition of the real property may qualify as a prospective purchaser under § 9103(20) of this title if the person is otherwise described in that section.
- b. With respect to a person described in this subdivision, nothing in this subsection:
- 1. Limits any defense to liability that may be available to the person under any other provision of law; or
- 2. Imposes liability on the person that is not otherwise imposed by paragraph (c)(5)a. of this section.
- c. The Secretary shall, upon written request:
- 1. Issue an assurance in writing that no enforcement action under this chapter will be initiated against a person described in paragraph (c)(5)a. of this section; and
- 2. Grant a person described in paragraph a protection against a cost recovery or contribution action under § 9107(c) of this title.
- (d) A person who expends moneys performing a remedy or any remedial action under this chapter or reimbursing the State for any remedial action may bring an action against any responsible party as defined in subsection (a) of this section who has not entered into a settlement agreement with the Secretary. In an action authorized by this section, the person bringing the action shall be entitled to reimbursement for the costs incurred which are consistent with this chapter and contribution for moneys expended to reimburse the state for its expenses.
- (e) Where the Secretary has issued a certification of completion of remedy pursuant to § 9108 of this title with respect to a remedy performed at a facility, any person who owns, operates or otherwise controls activities at the facility after the date of issuance of the certification shall not, by virtue of that later ownership, operation or control, be liable for the release or imminent threat of release addressed in the certification, or for any future release or imminent threat of release attributable to conditions existing prior to the issuance of the certification, provided such person does not interfere or permit any interference with any aspect of the remedy addressed by the certification of completion of remedy.
- (f) The exemption contained in subsection (e) of this section shall also apply to any person who, in connection with the sale, lease, acquisition or transfer of a facility, enters into a settlement agreement with the Secretary for a remedy at the facility; provided, that the remedy is satisfactorily conducted and the Department issues a certification of completion of remedy. The Secretary, in the settlement agreement, may place conditions

or limitations on the scope of the exemption granted under this subsection.

# Division of Child Support Enforcement: 13 Del. Code Ann. § 2205 (2011)

- (a) In all cases enforced under Title IV-D of the Social Security Act, [FN1] the Division of Child Support Enforcement is authorized to take the following actions for the purpose of establishing paternity or establishing, modifying or enforcing a support order, without the necessity of obtaining a Court order:
- (1) Order genetic testing for the purpose of establishing paternity;
- (2) Request, and obtain access to, information on the employment, residential address, social security number, compensation and benefits of any employee or contractor of an entity in the State, including for-profit, nonprofit and governmental employers, and any member of a labor organization;
- (3) Request, and obtain access to, information contained in the records of state and local government agencies regarding a putative father, an obligor or an obligee, which includes, but is not limited to, the following:
- a. State income tax returns and all other state income tax information including, but not limited to, documents or records provided in support of a tax return by an employer, financial institution, or other holder or source of income;
- b. Division of Motor Vehicles information including, but not limited to, proper name spelling, physical description, date of birth, location and date of last contact with the Division of Motor Vehicles, license expiration date, vehicle registration, violations and warrants;
- c. Public housing authority records;
- d. Vital statistics records and information including, but not limited to, birth, marriage, divorce and death records:
- e. Criminal history record information including, but not limited to, arrest, conviction, incarceration, parole and employment information;
- f. Credit bureau information including, but not limited to, credit history and locations and dates of credit application;
- g. Deed or title registry records; and
- h. Any other information deemed necessary by the Division to assist in administering the child support program;

- (4) Request, and obtain access to, information contained in the records of financial institutions with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is sought);
- (5) Issue an administrative subpoena to any individual, state or local government agency, private company, institution or other entity seeking financial or other information needed to establish paternity or to establish, modify or enforce a support order;
- (6) Issue an administrative subpoena, pursuant to paragraph (a)(5) of this section, seeking the name, social security number, residential address, employer and employment address of any parent or custodian that appears in the customer records of a public utility or a cable television company;
- (7) Order income withholding pursuant to § 513(b)(12) of this title; and
- (8) Institute collection procedures pursuant to § 2207 of this title.
- (b) Any individual, state or local government agency, private company, institution or other entity providing information in response to a request by the Division or an administrative subpoena issued by the Division shall be immune from any civil or criminal liability based on such compliance unless the individual, state or local government agency, private company, institution or other entity knowingly provided false information.
- (c) If any individual, private company, institution or other entity fails to comply with an administrative subpoena issued by the Division of Child Support Enforcement, the Division may compel compliance with said subpoena by filing a motion to compel in the Family Court, which shall have jurisdiction to hear such actions. The Family Court may order costs, attorney's fees and/or a civil fine not to exceed \$1,000 if the motion to compel is granted.
- (d) Upon request, the Division of Child Support Enforcement shall make available information, as provided in this section, for use by federal and state agencies conducting activities pursuant to Title IV-D of the Social Security Act [FN1]
- (e) Information obtained by the Division of Child Support Enforcement under this section shall be used only for purposes related to the child support program administered pursuant to Title IV-D of the Social Security Act (42 U.S.C. § 651 et seq.).

### **District of Columbia**

# Chief Medical Examiner: D.C. Stat § 5-1407 (2011)

The CME is authorized to issue a subpoena for confidential medical records and relevant information from physicians, hospitals, nursing homes, residential care facilities and

other health care providers as in his or her opinion is necessary for investigating deaths under this chapter. Any such subpoena issued by the CME may be enforced by order of the Superior Court. The Mayor shall, by regulation, prescribe procedures for issuing administrative subpoenas pursuant to this section.

Mayor: D.C. Stat. § 8-631.02 (2011)

For the purposes of this chapter, the term:

- (1) "Applicant" means a person who submits an application to participate in the Voluntary Cleanup Program established by § 8-633.01.
- (1A) "Bona fide prospective purchaser" means a person, or tenant of a person, who acquires ownership of a facility after June 13, 2001 and establishes by a preponderance of the evidence that:
- (A) All disposal of hazardous substances at the facility occurred before the person acquired the facility;
- (B) The person undertook, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability, taking into account any specialized knowledge or experience on the part of the person, the relationship of the purchase price to the value of the property if uncontaminated, commonly known or reasonably ascertainable information about the property, the obviousness of the presence or likely presence of contamination at the property, and the ability to detect such contamination by appropriate inspection; provided, that in the case of property in residential or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a facility inspection and title search that reveal no basis for further investigation shall be considered to satisfy the requirements of this subparagraph;
- (C) The person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility;
- (D) The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to:
- (i) Stop any continuing release;
- (ii) Prevent any threatened future release; and
- (iii) Prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance;
- (E) The person provides full cooperation, assistance, and access to persons that are authorized to conduct response actions or natural resource restoration at a vessel or facility (including the cooperation and access necessary for the installation, integrity,

- operation, and maintenance of any complete or partial response actions or natural resource restoration at the vessel or facility);
- (F) The person is in compliance with any institutional controls established or relied on in connection with the response action at the facility;
- (G) The person does not impede the effectiveness or integrity of any institutional control employed at the facility in connection with a response action;
- (H) The person complies with any request for information or administrative subpoena issued by the Mayor under this chapter;
- (I) The person is not potentially liable, or affiliated with any other person that is potentially liable, for response costs at the facility through a familial, contractual, corporate, or financial relationship, other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services; and
- (J) The person is not the result of a reorganization of a business entity that was potentially liable; provided, that a bona fide prospective purchaser may know, or have reason to know, of the contamination at the facility at or before the time of acquisition and still be eligible for a defense to liability under this chapter.
- (2) "Brownfield" means abandoned, idled property or industrial property where expansion or redevelopment is complicated by actual or perceived environmental contamination.
- (3) "Contamination" means a release, discharge, or threatened release of a hazardous substance.
- (4) "DDOE" means the District Department of the Environment.
- (5) "Eligible property" means a brownfield or any contaminated property that is not listed on the National Priority List pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, approved December 11, 1980 (94 Stat. 2767; 42 U.S.C. 9601 et seq.), and is not the subject of a current cleanup action by the Environmental Protection Agency or the DDOE.
- (6) "EPA" means the United States Environmental Protection Agency or its successor agency.
- (6A)(A) "Facility" means:
- (i) A building, structure, installation, equipment, pipe, pipeline (including any pipe into a sewer or publicly-owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft; or

- (ii) A site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.
- (B) The term "facility" shall not include a consumer product in consumer use or any vessel.
- (7) "Federal Act" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, approved December 11, 1980 (94 Stat. 2767; <u>42 U.S.C. 9601</u> et seq.).
- (8) "Hazardous substance" means any substance designated as a hazardous substance pursuant to section 101(14) of the Federal Act, or any substance identified as a hazardous substance by the DDOE in regulations adopted pursuant to this chapter.
- (8A) "Hazardous Substances Response Plan" means the Mayor's plan, including policies and procedures, for responding to, and evaluating, hazardous substance releases that may threaten public health, welfare, and the environment, and that is consistent with the provisions of this chapter.
- (9) "Non-responsible person" means a person:
- (A) With no prior or current ownership interest in an eligible property at the time of making application to participate in the Voluntary Cleanup Program, and who has not caused or contributed to the contamination of an eligible property; or
- (B) Who is a successor in interest in an eligible property acquired from a non-responsible person, if the successor in interest does not have a prior ownership in the eligible property and is not otherwise a responsible person concerning the eligible property other than by virtue of ownership of the eligible property.
- (10) "Institutional control" means any legal, institutional, or administrative mechanisms meant to prevent contamination or the potential exposure to hazardous substances, including any measure to ensure that use of the property, after completion of response or cleanup action pursuant to this chapter, remains in conformity with the levels of any residual hazardous substance left on the property.
- (11) "Participant" means an applicant accepted into the Voluntary Cleanup Program.
- (12) "Person" means any individual, partnership, corporation, trust, association, firm, joint-stock company, organization, commission, independent authority of the District government, or District, state, or federal government agency.
- (13) "Program" means the Voluntary Cleanup Program established pursuant to \$8-633.01.

- (14) "Release" means the addition, introduction, leaking, pumping, spilling, emitting, discharging, escaping, dumping, injecting, disposing or leaching of any hazardous substance into the environment, including the abandoning or discarding of barrels, containers, and other closed receptacles containing any hazardous substance.
- (14A) "Response" means an action necessary to cleanup or otherwise prevent, minimize, or mitigate damage to the public health or welfare or to the environment from the release or threatened release of a hazardous substance, including a temporary or permanent measure and related enforcement activity.
- (15) "Responsible person" means a person who is liable pursuant to § 8-632.01.

### Child Support Services Division: D.C. Stat. 46-226.03 (2011)

- (a) The IV-D agency may take the following actions relating to paternity establishment or the establishment, modification, or enforcement of support orders without obtaining an order from any judicial or other administrative tribunal:
- (1) Order genetic testing relating to the establishment of paternity;
- (2) Issue an administrative subpoena to an individual or public or private entity (including a financial institution) for financial or other information needed to establish, modify, or enforce a support order, which may include information from a public utility or cable television company, that provides the name and address of a customer or a customer's employer as well as information in paragraph (3) of this subsection;
- (3) Require a public or private entity in the District to provide promptly, in response to a request from the District's IV-D agency or any other state's IV-D agency, information on the employment status, number of hours worked, title, employment start date, employment termination date (if applicable), whether the employee ever quit voluntarily, location of work site, compensation, and benefits (including access to health insurance) of any employee of the entity, or of one of its contractors;
- (4) Obtain prompt access, including automated access, to information in the following records maintained or possessed by the District government, subject to any applicable privacy provisions under District or federal law:
- (A) Vital records maintained by the Registrar and the court;
- (B) Tax and revenue records;
- (C) Records of real and titled personal property;
- (D) Records of occupational, professional, recreational, and sporting licenses issued under any District law or regulation;

- (E) Records concerning the ownership and control of corporations, partnerships, and other business entities;
- (F) Employment security records, subject to such restrictions as the Mayor may, by regulation, prescribe pursuant to Chapter 1 of Title 51;
- (G) Records concerning public assistance, as defined in § 4-201.01(6), subject to confidentiality restrictions set forth in the Chapter 2 of Title 4 or prescribed by the Mayor;
- (H) Records maintained by the Department of Motor Vehicles;
- (I) Records maintained by the Department of Corrections; and
- (J) Social security numbers on file, if submitted in an application;
- (5) Direct an obligor or other payor to substitute for the payee of a support order the appropriate governmental entity, upon notice to the obligor (or other payor) and obligee, sent by first-class mail, to their last known address, if the support is subject to:
- (A) An assignment to pay the District government under Chapter 2 of Title 4, title IV, part E of the Social Security Act, approved June 17, 1980 (94 Stat. 501; 42 U.S.C. § 670 et seq.), or section 1912 of the Social Security Act, approved October 25, 1977 (91 Stat. 1196; 42 U.S.C. § 1396k); or
- (B) A requirement to pay support through the Collection and Disbursement Unit;
- (6) Order income withholding, including the amount of periodic support payments and any additional amount for health insurance coverage, medical support, overdue support payments, and other costs or fees required under a support order;
- (7) When there is a support arrearage, secure assets to satisfy any current support obligation and the support arrearage by:
- (A) Intercepting or seizing periodic or lump-sum payments from:
- (i) Any District agency, including payments for unemployment compensation, worker's compensation, and other non-means-tested public benefits; and
- (ii) Judgments, settlements, and lotteries (interception or seizure of lottery prize winnings shall be made pursuant to § 46-224.01);
- (B) Attaching and seizing assets owned by the support obligor and held in financial institutions, or held in a financial institution by another on behalf of the support obligor;
- (C) Attaching public and private retirement funds, to the extent permitted by federal law; and

- (D) Imposing liens pursuant to § 46-224 and, when appropriate, forcing the sale of property and distributing the proceeds;
- (8) Increase the amount of periodic support payments to include amounts for arrearages, subject to section 303 of the Consumer Credit Protection Act, approved May 29, 1968 (82 Stat. 163; 15 USC § 1673), to secure overdue support; and
- (9) Enter agreements with financial institutions pursuant to Chapter 5A of Title 26.
- (b) The IV-D agency shall provide notice of any action taken under subsection (a) of this section to any person or entity, other than another agency of the District government, that is subject to the action, except that the IV-D agency shall provide notice of withholding to the obligor only as required pursuant to § 46-209.
- (c) Any person or entity subject to any IV-D action under subsection (a) of this section, other than another agency of the District government, is entitled to an administrative proceeding before the IV-D agency to contest the action and to judicial review based upon the administrative record. The procedures set forth in §§ 2-509 and 2-510 shall apply to the administrative proceeding and the judicial review, respectively. This subsection shall not apply to IV-D agency actions related to the withholding of earnings or other income under this subchapter.
- (d) The Superior Court may issue an ex parte order to enforce any power asserted by the IV-D agency pursuant to subsection (a) of this section upon petition by the IV-D agency.
- (e) A person or entity shall honor an administrative subpoena issued pursuant to subsection (a)(2) of this section to the same extent as a judicial subpoena issued by the Court. The subpoena issued pursuant to subsection (a)(2) of this section may be served by first-class mail. If any person or entity neglects or otherwise fails to comply with an administrative subpoena issued pursuant to subsection (a)(2) of this section, the IV-D agency may report the noncompliance to the Court, and the Court is empowered to compel obedience to the subpoena to the same extent that it may compel obedience to subpoenas issued by the Court.
- (f) As an alternative to judicial enforcement pursuant to subsections (d) and (e) of this section, the IV-D agency may impose a civil penalty of up to \$1,000 per incident for failure to comply with an administrative subpoena issued pursuant to subsection (a)(2) of this section, or a request for information made pursuant to subsection (a)(3) of this section. The IV-D agency may double the penalty if the failure to comply persists for more than 30 days after the date the subpoena or request required compliance. The Court is authorized to enter a penalty assessed by the IV-D agency pursuant to this subsection as a judgment in the Court, upon application by the IV-D agency, and that judgment shall be enforceable by the Attorney General for the District of Columbia.
- (g) A District government agency shall promptly provide information in response to a request by the IV-D agency made pursuant to subsection (a)(4) of this section. If a

District government agency fails to provide information requested by the IV-D agency pursuant to subsection (a)(4) of this section, the Mayor shall promptly direct the agency to comply within a period specified by the Mayor.

- (h) No public or private entity providing the IV-D agency with information or access to information pursuant to this section shall be liable under any District law to any person for providing the information or access.
- (i) The IV-D agency shall promulgate rules pursuant to subchapter I of Chapter 5 of Title 2 to implement this section.

# Georgia

# Georgia Composite Medical Board: Ga. Code Ann. § 16-13-60 (2011)

- (a) Except as otherwise provided in subsections (c) and (d) of this Code section, prescription information submitted pursuant to Code Section 16-13-59 shall be confidential and shall not be subject to open records requirements, as contained in Article 4 of Chapter 18 of Title 50.
- (b) The agency, in conjunction with the board, shall establish and maintain strict procedures to ensure that the privacy and confidentiality of patients, prescribers, and patient and prescriber information collected, recorded, transmitted, and maintained pursuant to this part are protected. Such information shall not be disclosed to any person or entity except as specifically provided in this part and only in a manner which in no way conflicts with the requirements of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, P.L. 104-191.
- (c) The agency shall be authorized to provide requested prescription information collected pursuant to this part only as follows:
- (1) To persons authorized to prescribe or dispense controlled substances for the sole purpose of providing medical or pharmaceutical care to a specific patient;
- (2) Upon the request of a patient, prescriber, or dispenser about whom the prescription information requested concerns or upon the request on his or her behalf of his or her attorney;
- (3) To local, state, or federal law enforcement or prosecutorial officials pursuant to the issuance of a search warrant pursuant to Article 2 of Chapter 5 of Title 17; and
- (4) To the agency or the Georgia Composite Medical Board upon the issuance of an administrative subpoena issued by a Georgia state administrative law judge.
- (d) The board may provide data to government entities for statistical, research,

National District Attorneys Association National Center for Prosecution of Child Abuse educational, or grant application purposes after removing information that could be used to identify prescribers or individual patients or persons who received prescriptions from dispensers.

- (e) Any person or entity who receives electronic data base prescription information or related reports relating to this part from the agency shall not provide such information or reports to any other person or entity except by order of a court of competent jurisdiction pursuant to this part.
- (f) Any permissible user identified in this part who directly accesses electronic data base prescription information shall implement and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards that are substantially equivalent to the security measures of the agency. The permissible user shall identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of personal information that could result in the unauthorized disclosure, misuse, or other compromise of the information and shall assess the sufficiency of any safeguards in place to control the risks.
- (g) No provision in this part shall be construed to modify, limit, diminish, or impliedly repeal any authority existing on June 30, 2011, of a licensing or regulatory board or any other entity so authorized to obtain prescription information from sources other than the data base maintained pursuant to this part; provided, however, that the agency shall be authorized to release information from the data base only in accordance with the provisions of this part.

State Personnel Board: Ga. Code Ann. § 49-5-41 (2011)

- (a) Notwithstanding <u>Code Section 49-5-40</u>, the following persons or agencies shall have reasonable access to such records concerning reports of child abuse:
- (1) Any federal, state, or local governmental entity, or any agency of any such entity, that has a need for information contained in such reports in order to carry out its legal responsibilities to protect children from abuse and neglect;
- (2) A court, by subpoena, upon its finding that access to such records may be necessary for determination of an issue before such court; provided, however, that the court shall examine such record in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then before it and the record is otherwise admissible under the rules of evidence;
- (3) A grand jury by subpoena upon its determination that access to such records is necessary in the conduct of its official business;
- (4) The district attorney of any judicial circuit in this state, a solicitor-general, or any assistant district attorney or assistant solicitor-general who may seek such access in connection with official duty;

- (5) Any adult who makes a report of suspected child abuse as required by <u>Code Section 19-7-5</u>, but such access shall include only notification regarding the child concerning whom the report was made, shall disclose only whether the investigation by the department or governmental child protective agency of the reported abuse is ongoing or completed and, if completed, whether child abuse was confirmed or unconfirmed, and shall only be disclosed if requested by the person making the report;
- (6) Any adult requesting information regarding investigations by the department or a governmental child protective agency regarding the findings or information about the case of child abuse or neglect that results in a child fatality or near fatality, unless such disclosure of information would jeopardize a criminal investigation or proceeding, but such access shall be limited to a disclosure of the available facts and findings. Any identifying information, including but not limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and any other information that is privileged or confidential, shall be redacted to preserve the confidentiality of the child, other children in the household, and the child's parents, guardians, custodians, or caretakers.
- (7) The State Personnel Board, by administrative subpoena, upon a finding by an administrative law judge appointed by the chief state administrative law judge pursuant to Article 2 of Chapter 13 of Title 50, that access to such records may be necessary for a determination of an issue involving departmental personnel and that issue involves the conduct of such personnel in child related employment activities, provided that only those parts of the record relevant to the child related employment activities shall be disclosed. The name of any complainant or client shall not be identified or entered into the record;
- (7.1) A child advocacy center which is certified by the Child Abuse Protocol Committee of the county where the principal office of the center is located as participating in the Georgia Network of Children's Advocacy Centers or a similar accreditation organization and which is operated for the purpose of investigation of known or suspected child abuse and treatment of a child or a family which is the subject of a report of abuse, and which has been created and supported through one or more intracommunity compacts between such advocacy center and one or more police agencies, the office of the district attorney, a legally mandated public or private child protective agency, a mental health board, and a community health service board; provided, however, that any child advocacy center which is granted access to records concerning reports of child abuse shall be subject to the confidentiality provisions of subsection (b) of Code Section 49-5-40 and shall be subject to the penalties imposed by Code Section 49-5-44 for authorizing or permitting unauthorized access to or use of such records;
- (8) Police or any other law enforcement agency of this state or any other state or any medical examiner or coroner investigating a report of known or suspected abuse or any child fatality review panel or child abuse protocol committee or subcommittee thereof created pursuant to Chapter 15 of Title 19, it being found by the General Assembly that the disclosure of such information is necessary in order for such entities to carry out their legal responsibilities to protect children from abuse and neglect, which protective actions

include bringing criminal actions for such abuse or neglect, and that such disclosure is therefore permissible and encouraged under the 1992 amendments to Section 107(b)(4) of the Child Abuse Prevention and Treatment Act, 42 U.S.C. Section 5106(A)(b)(4); and

- (9) The Governor, the Attorney General, the Lieutenant Governor, or the Speaker of the House of Representatives when such officer makes a written request to the commissioner of the department which specifies the name of the child for which such access is sought and which describes such officer's need to have access to such records in order to determine whether the laws of this state are being complied with to protect children from abuse and neglect and whether such laws need to be changed to enhance such protection, for which purposes the General Assembly finds such disclosure is permissible and encouraged under the 1992 amendments to Section 107(b)(4) of the Child Abuse Prevention and Treatment Act, 42 U.S.C. Section 5106(A)(b)(4).
- (b)(1) Notwithstanding Code Section 49-5-40, the juvenile court in the county in which are located any department or county board records concerning reports of child abuse, after application for inspection and a hearing on the issue, shall permit inspection of such records by or release of information from such records to individuals or entities who are engaged in legitimate research for educational, scientific, or public purposes and who comply with the provisions of this subsection. When those records are located in more than one county, the application may be made to the juvenile court of any one such county. A copy of any application authorized by this subsection shall be served on the nearest office of the department. In cases where the location of the records is unknown to the applicant, the application may be made to the Juvenile Court of Fulton County.
- (2) The juvenile court to which an application is made pursuant to paragraph (1) of this subsection shall not grant the application unless:
- (A) The application includes a description of the proposed research project, including a specific statement of the information required, the purpose for which the project requires that information, and a methodology to assure the information is not arbitrarily sought;
- (B) The applicant carries the burden of showing the legitimacy of the research project; and
- (C) Names and addresses of individuals, other than officials, employees, or agents of agencies receiving or investigating a report of abuse or treating a child or family which is the subject of a report, shall be deleted from any information released pursuant to this subsection unless the court determines that having the names and addresses open for review is essential to the research and the child, through his or her representative, gives permission to release the information.
- (3) Notwithstanding the provisions of this subsection, access to the child abuse registry created pursuant to Article 8 of this chapter shall not be permitted except as allowed by Article 8 of this chapter.

- (c) The department or a county or other state or local agency may permit access to records concerning reports of child abuse and may release information from such records to the following persons or agencies when deemed appropriate by such department:
- (1) A physician who has before him a child whom he reasonably suspects may be abused;
- (2) A licensed child-placing agency, a licensed child-caring institution of this state which is assisting the Department of Human Services by locating or providing foster or adoptive homes for children in the custody of the department, or an investigator appointed by a court of competent jurisdiction of this state to investigate a pending petition for adoption;
- (3) A person legally authorized to place a child in protective custody when such person has before him a child he reasonably suspects may be abused and such person requires the information in the record or report in order to determine whether to place the child in protective custody;
- (4) An agency or person having the legal custody, responsibility, or authorization to care for, treat, or supervise the child who is the subject of a report or record;
- (5) An agency, facility, or person having responsibility or authorization to assist in making a judicial determination for the child who is the subject of the report or record of child abuse, including but not limited to members of officially recognized citizen review panels, court appointed guardians ad litem, certified Court Appointed Special Advocate (CASA) volunteers who are appointed by a judge of a juvenile court to act as advocates for the best interest of a child in a juvenile proceeding, and members of a county child abuse protocol committee or task force;
- (6) A legally mandated public child protective agency or law enforcement agency of another state bound by similar confidentiality provisions and requirements when, during or following the department's investigation of a report of child abuse, the alleged abuser has left this state;
- (7) A child welfare agency, as defined in <u>Code Section 49-5-12</u>, or a school where the department has investigated allegations of child abuse made against any employee of such agency or school and any child remains at risk from exposure to that employee, except that such access or release shall protect the identity of:
- (A) Any person reporting the child abuse; and
- (B) Any other person whose life or safety has been determined by the department or agency likely to be endangered if the identity were not so protected;
- (8) An employee of a school or employee of a child welfare agency, as defined in <u>Code Section 49-5-12</u>, against whom allegations of child abuse have been made, when the department has been unable to determine the extent of the employee's involvement in alleged child abuse against any child in the care of that school or agency. In those

instances, upon receiving a request and signed release from the employee, the department may report its findings to the employer, except that such access or release shall protect the identity of:

- (A) Any person reporting the child abuse; and
- (B) Any other person whose life or safety has been determined by the department or agency likely to be endangered if the identity were not so protected;
- (9) Any person who has an ongoing relationship with the child named in the record or report of child abuse any part of which is to be disclosed to such person but only if that person is required to report suspected abuse of that child pursuant to subsection (b) of Code Section 19-7-5, as that subsection existed on January 1, 1990;
- (10) Any school principal or any school guidance counselor, school social worker, or school psychologist who is certified under Chapter 2 of Title 20 and who is counseling a student as a part of such counseling person's school employment duties, but those records shall remain confidential and information obtained therefrom by that counseling person may not be disclosed to any person, except that student, not authorized under this Code section to obtain those records, and such unauthorized disclosure shall be punishable as a misdemeanor;
- (11) The Department of Early Care and Learning or the Department of Education; or
- (12) An individual, at the time such individual is leaving foster care by reason of having attained the age of majority, but such access shall be limited to providing such individual with a free copy of his or her health and education records, including the most recent information available.
- (d) Notwithstanding any other provision of law, any child-caring agency, child-placing agency, or identified foster parent shall have reasonable access to nonidentifying information from the placement or child protective services record compiled by any state department or agency having custody of a child with respect to any child who has been placed in the care or custody of such agency or foster parent or for whom foster care is being sought, excluding all documents obtained from outside sources which cannot be redisclosed under state or federal law. A department or agency shall respond to a request for access to a child's record within 14 days of receipt of such written request. Any childcaring agency, child-placing agency, or identified foster parent who is granted access to a child's record shall be subject to the penalties imposed by Code Section 49-5-44 for unauthorized access to or use of such records. Such record shall include reports of abuse of such child and the social history of the child and the child's family, the medical history of such child, including psychological or psychiatric evaluations, or educational records as allowed by state or federal law and any plan of care or placement plan developed by the department, provided that no identifying information is disclosed regarding such child.

- (e) Notwithstanding any other provisions of law, with the exception of medical and mental health records made confidential by other provisions of law, child abuse and deprivation records applicable to a child who at the time of his or her fatality or near fatality was:
- (1) In the custody of a state department or agency or foster parent;
- (2) A child as defined in paragraph (3) of <u>Code Section 15-11-171</u>; or
- (3) The subject of an investigation, report, referral, or complaint under <u>Code Section 15-11-173</u> shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating to open records; provided, however, that any identifying information, including but not limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and any other information that is privileged or confidential, shall be redacted to preserve the confidentiality of the child, other children in the household, and the child's parents, guardians, custodians, or caretakers. Upon the release of documents pursuant to this subsection, the department may comment publicly on the case.

#### Hawai'i

### Director of Health: Hawai'l Rev. Stat. Ann. § 128D-1 (2011)

As used in this chapter, unless the context otherwise requires:

"Bona fide prospective purchaser" means a person (or a tenant of a person) who acquires ownership of a facility after October 1, 2009, and establishes each of the following by a preponderance of the evidence:

- (1) All disposal of hazardous substances at the facility occurred before the person acquired the facility;
- (2) The person carried out all appropriate inquiries when, on or before the date on which the person acquired the facility:
- (A) The person made all appropriate inquiries into the previous ownership and uses of the facility in accordance with generally accepted good commercial and customary standards and practices in accordance with subparagraphs (B) and (C);
- (B) The standards and practices referred to in 42 United States Code section 9601(35)(B)(ii) and (iv) and 40 Code of Federal Regulations Part 312 are used unless the director requires otherwise by rules adopted pursuant to chapter 91; and (C) In the case of property in residential use or other similar use at the time of purchase by a nongovernmental or noncommercial entity, a facility inspection and title search that

reveal no basis for further investigation shall be considered to satisfy the requirements of this paragraph;

- (3) The person provides all legally required notices with respect to the discovery or release of any hazardous substances at the facility;
- (4) The person exercises appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to:
- (A) Stop any continuing release;
- (B) Prevent any threatened future release; and
- (C) Prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance;
- (5) The person provides full cooperation, assistance, and access to persons who are authorized to conduct response actions or natural resource restoration at a vessel or facility (including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial response actions or natural resource restoration at the vessel or facility);
- (6) The person:
- (A) Is in compliance with any land use restrictions established or relied on in connection with the response action at a vessel or facility; and
- (B) Does not impede the effectiveness or integrity of any institutional control employed at the vessel or facility in connection with a response action;
- (7) The person complies with any request for information or administrative subpoena issued by the President of the United States under 42 United States Code Chapter 103, by the director under chapter 128D, or issued by any state or federal court; and
- (8) The person is not:
- (A) Potentially liable, or affiliated with any other person who is potentially liable, for response costs at a facility through:
- (i) Any direct or indirect familial relationship; or
- (ii) Any contractual, corporate, or financial relationship (other than a contractual, corporate, or financial relationship that is created by the instruments by which title to the facility is conveyed or financed or by a contract for the sale of goods or services); or
- (B) The result of a reorganization of a business entity that was potentially liable.

## Child Support Enforcement: Hawai'l Rev. Stat. § 576D-18 (2011)

- (a) The attorney general shall commission child support enforcement investigators who shall have all powers and authority of a police officer or a deputy sheriff to fulfill their official responsibilities; provided that a person so appointed and commissioned shall not carry firearms.
- (b) The duties of the commissioned investigators shall be to locate absent parents for the establishment of paternity, and for obtaining and enforcing orders of support.
- (c) The agency and other state agencies administering a program under Title IV-D shall have access, including automated inquiry access, to the records of all entities in the State for information on the employment, compensation, and benefits of any individual member, employee, or contractor of the entity, to accomplish the purposes of the child support program. The entities include but are not limited to for-profit, nonprofit, and labor organizations, and any agency, board, commission, authority, court, or committee of the State or its political subdivisions, notwithstanding any provision for confidentiality. Subject to safeguards on privacy and confidentiality and subject to the nonliability of entities that afford access under this section, the agency and other state agencies administering a program under Title IV-D shall also have access to records held by private entities with respect to individuals who owe or are owed support, or against or with respect to whom a support obligation is sought consisting of:
- (1) The names and addresses of individuals and the names and addresses of the employers of those individuals as appearing in customer records of public utilities and cable television companies, pursuant to an administrative subpoena authorized pursuant to section 576E-2; and
- (2) Information, including information on assets and liabilities, on the individuals held by financial institutions.
- (d) Other state and federal agencies conducting activities under Title IV-D shall have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.
- (e) Notwithstanding section 338-18, the agency, through the offices of county corporation counsels, county attorneys, or the attorney general, shall have access, including automated inquiry access, to the public health statistics records of the department of health and may make only such use of identifying information in those records as is necessary for purposes consistent with Title IV-D and applicable state laws. The United States Secretary of Health and Human Services or the Secretary's agent, notwithstanding section 338-18, shall also have access, including automated inquiry access, to the public health statistics records of the department of health solely for purposes of funding and oversight under Title IV-D.

### Idaho

# Prosecuting Attorney or Attorney General: Idaho Code Ann. § 19-3004A (2011)

- (1) A provider of an electronic communication service or remote computing service that is transacting or has transacted any business in the state shall disclose the following to a prosecuting attorney or the attorney general pursuant to an administrative subpoena issued by the prosecuting attorney or attorney general:
- (a) Records and information in its possession containing the name, address, local and long distance telephone connection records, or records of session times and durations, length of service, including the start date; and
- (b) Records and information in its possession containing the types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and
- (c) Records and information in its possession relating to the means and source of payment for such service pertaining to a subscriber to or customer of such service.

The provider of an electronic communication service or remote computing service shall deliver the records to the prosecuting attorney or attorney general within fourteen (14) days of receipt of the subpoena.

- (2) For the purpose of this section, the following definitions shall apply:
- (a) "Electronic communication service" has the same meaning as provided in <u>section 18-6701(13)</u>, <u>Idaho Code</u>.
- (b) "Remote computing service" means the provision to the public of computer storage or processing service by means of an electronic communications system as defined in section 18-6701(12), Idaho Code.
- (3) In order to obtain the records or information, the prosecuting attorney or attorney general shall certify on the face of the subpoena that there is reason to believe that the records or information being sought are relevant to a legitimate law enforcement investigation concerning a violation of <a href="section 18-1505B">section 18-1505B</a>, <a href="18-1506A">18-1506A</a>, <a href="18-1507A">18-1506A</a>, <a href="18-1509A">18-1508A</a>, <a href="18-1509A">18-1509A</a>, <a href="18-1515">18-2202</a> or <a href="18-6609">18-6609</a>, <a href="18-1508A">Idaho Code</a>.
- (4) No subpoena issued pursuant to this section shall demand records that disclose the content of electronic communications or subscriber account records disclosing internet locations which have been accessed including, but not limited to, websites, chat channels and news groups, but excluding servers used to initially access the internet. No recipient of a subpoena issued pursuant to this section shall provide any such content or records

accessed, in response to the subpoena.

- (5) On a motion made by the electronic communication service or remote computing service provider prior to the time for appearance or the production of documents under the subpoena issued pursuant to this section, a court of competent jurisdiction may quash or modify the administrative subpoena if the provider establishes that the records or other information requested are unusually voluminous in nature or if compliance with the subpoena would otherwise cause an undue burden on the service provider.
- (6) No cause of action shall lie in any court against an electronic communication service or remote computing service provider, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of an administrative subpoena issued under this section.
- (7) A person who is subpoenaed under this section and who fails to appear or produce materials as required by the subpoena, or who refuses to be sworn or give testimony, may be found to be in contempt of court. Proceedings to hold a person in contempt under this subsection may be brought in the county where the subpoena was issued.
- (8) Nothing in this section shall limit the right of a prosecuting attorney or the attorney general to otherwise obtain records or information from a provider of electronic communication service or remote computing service pursuant to a search warrant, a court order or a grand jury or trial subpoena.

## Department of Finance: Idaho Code Ann. § 30-1509 (2011)

- (1) The director may make investigations, within or outside this state, as the director deems necessary or appropriate to:
- (a) Determine whether any person has violated, or is about to violate, any provision of this chapter or any rule or order hereunder; or
- (b) Aid in enforcement of the provisions of this chapter.
- (2) The director may publish information concerning any violation of the provisions of this chapter or any rule or order of the director.
- (3) For purposes of any investigation or proceeding under this chapter, the director or any officer or employee designated by him, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems to be relevant or material to the inquiry.
- (4)(a) If a person does not give testimony or produce the documents required by the director pursuant to an administrative subpoena, the director may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.

(b) The request for order of compliance may be addressed to any court of competent jurisdiction, within or outside the state.

### Idaho State Lottery: Idaho Code Ann. 67-7410 (2011)

The director shall hire a security director who shall manage the lottery's security division. The security division shall be responsible for the performance of background investigations of employees, lottery retailers, bingo and raffle operators, vendors and major procurement contractors and for the enforcement of the criminal provisions of this chapter. In addition, the security division shall develop a security plan to be implemented by the lottery. The lottery's security division is herein designated as an Idaho law enforcement agency. The director of security has the authority to:

- (1) Issue administrative subpoenas during the conduct of investigations in accordance with commission rules and this chapter;
- (2) Require fingerprint-based criminal history check of the Idaho central database and the federal bureau of investigation's criminal history database on prospective employees, vendors, contractors, lottery retailers and bingo and raffle operators; and
- (3) Access criminal offender record information from the Idaho state police for the purpose of background or other investigations performed in accordance with this chapter.

Such information obtained and kept by the security director shall be subject to disclosure according to chapter 3, title 9, Idaho Code. Nothing herein shall prohibit the lottery from disclosing information obtained by it to law enforcement agencies or other lottery organizations for security or enforcement purposes.

### Illinois

# Child and Spouse Support Unit: 305 III. Comp. Stat. Ann. 5/10-3.3 (2011)

(a) Upon request by the Child and Spouse Support Unit, employers, labor unions, and telephone companies shall provide location information concerning putative fathers and noncustodial parents for the purpose of establishing a child's paternity or establishing, enforcing, or modifying a child support obligation. In this Section, "location information" means information about (i) the physical whereabouts of a putative father or noncustodial parent, (ii) the putative father or noncustodial parent's employer, or (iii) the salary, wages, and other compensation paid and the health insurance coverage provided to the putative father or noncustodial parent by the employer of the putative father or noncustodial parent is a member.

An employer, labor union, or telephone company shall respond to the request of the Child

and Spouse Support Unit within 15 days after receiving the request. Any employer, labor union, or telephone company that willfully fails to fully respond within the 15-day period shall be subject to a penalty of \$100 for each day that the response is not provided to the Illinois Department after the 15- day period has expired. The penalty may be collected in a civil action, which may be brought against the employer, labor union, or telephone company in favor of the Illinois Department.

- (b) Upon being served with an administrative subpoena as authorized under this Code, a utility company or cable television company must provide location information to the Child and Spouse Support Unit for the purpose of establishing a child's paternity or establishing, enforcing, or modifying a child support obligation.
- (c) Notwithstanding the provisions of any other State or local law to the contrary, an employer, labor union, telephone company, utility company, or cable television company shall not be liable to any person for disclosure of location information under the requirements of this Section, except for willful and wanton misconduct.

# Illinois Commerce Commission: 625 III. Comp. Stat. Ann. 5/18c-1703 (2011)

- § 18c-1703. Investigations and Arrests. (1) Enforcement Officers and Investigators. Enforcement officers and investigators appointed by the Commission shall have, and may exercise throughout the state, all the powers of police officers when enforcing provisions of this Chapter, subject to the regulations and orders of the Commission.
- (2) Investigations.
- (a) General Provisions. The Commission, through its employees, shall conduct such investigations as are necessary for the enforcement of this Chapter.
- (b) Examination, Audit and Production of Records. Authorized employees of the Commission shall have the power at any and all times to examine, audit, or demand production of all accounts, books, records, memoranda, and other papers in the possession or control of a license or registration holder, its employees or agents. In addition, every person other than a license or registration holder and every officer, employee or agent of such person shall permit every authorized employee of the Commission, upon administrative subpoena issued by the Chairman or his designee or the Attorney General, to inspect and copy any accounts, books, records, memoranda, letters, checks, vouchers, telegrams, documents, or other papers in its possession or control which the Commission deems necessary to the proper conduct of an investigation to determine whether provisions of this Chapter, Commission regulations or orders, have been violated.
- (c) Inspection of Equipment and Facilities. Authorized employees of the Commission shall have the power at all times to inspect the equipment, facilities, and other property of the licensee in the possession or control of a carrier or broker, its employees or agents.

- (d) Special Investigations. The Commission may also conduct special investigations as necessary for the enforcement of this Chapter. Where such person is found by the Commission to have violated this Chapter, and where the Commission imposes a sanction for such violation under Section 18c-1704 of this Chapter, the Commission may impose on such person an assessment of reasonable expenses incurred by the Commission in the investigation and subsequent proceeding. Such assessment shall not exceed a fee of \$100 per work day or \$50 per half work day, per employee, for the payroll costs of the Commission staff, plus actual transportation (in accordance with applicable state employee travel expense reimbursement regulations) and all other actual expenses incurred in the special investigation and subsequent proceeding.
- (3) Arrests and Citations. The Commission shall make arrests and issue notices of civil violations where necessary for the enforcement of this Chapter. No rail carrier employee shall be arrested for violation of this Chapter. No person operating a motor vehicle in violation of the licensing or safety provisions of this Chapter shall be permitted to transport property or passengers beyond the point of arrest unless, in the opinion of the officer making the arrest, it is necessary to transport the property or passengers to another location to insure their safety or to preserve or tend cargo carried in the vehicle.

#### Indiana

## Board of Trade: Indiana Code 23-2-6-28 (2011)

Sec. 28. (a) The commissioner may make investigations in or outside Indiana that the commissioner finds necessary or appropriate to:

- (1) determine whether any person has violated or is about to violate this chapter or any rule or order of the commissioner; or
- (2) aid in the enforcement of this chapter.
- (b) The commissioner may charge as costs of an investigation or examination all reasonable expenses, including a per diem prorated on the salary of the commissioner or an employee. All reasonable expenses of investigation, examination, or hearing shall be paid by the party under investigation or examination.
- (c) The commissioner may publish information concerning any violation of this chapter or any rule or order of the commissioner. The commissioner shall upon request make available for inspection and copying under IC 5-14-3 information concerning any violation of this chapter or any rule or order of the commissioner.
- (d) For purposes of an investigation or a proceeding under this chapter, the commissioner or an officer or employee designated by rule or order may do any of the following:

- (1) Administer oaths and affirmations.
- (2) Subpoena witnesses and compel the attendance of witnesses.
- (3) Take evidence.
- (4) Require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner finds to be relevant or material to the investigation or proceeding.
- (e) If a person does not give testimony or produce the documents required by the commissioner or the commissioner's designee under an administrative subpoena, the commissioner or the designee may petition for a court order compelling compliance with the subpoena or the giving of the required testimony.
- (f) A petition for an order of compliance under subsection (e) may be filed in any of the following:
- (1) The circuit or superior court of a county containing a consolidated city.
- (2) The circuit or superior court where service may be obtained on the person refusing to comply with the subpoena if the person is within Indiana.
- (3) The appropriate court of the state having jurisdiction over the person refusing to comply with the subpoena if the person is outside Indiana.
- (g) Costs of investigations, examinations, and hearings and civil penalties recovered under this chapter shall be deposited in the securities division enforcement account established under IC 23-19-6-1(f). With the approval of the budget agency, the funds in the securities division enforcement account may be used to augment and supplement the funds appropriated for the administration of this chapter.

# Child Support Bureau: Indiana Code § 31-25-3-2 (2011)

- Sec. 2. (a) The bureau shall operate the state parent locator service. The bureau shall make all necessary requests and responses to the federal parent locator service and to the parent locator services of the other states.
- (b) To carry out the bureau's responsibilities under this chapter, the bureau or a prosecuting attorney, private attorney, or private entity operating under an agreement or contract described in IC 31-25-4-13.1 shall, subject to policies adopted by the superintendent of the state police department concerning the disclosure of law enforcement records, be granted access to information that is contained in an information system used by the state to locate an individual for purposes relating to motor vehicles or law enforcement.

- (c) To carry out the bureau's responsibilities under this chapter, the bureau, through the parent locator service, may request information and assistance from a state, county, city, or town agency. Officers and employees of a state, county, city, or town agency shall cooperate with the bureau in determining the location of a parent who:
- (1) owes child support; or
- (2) has abandoned or deserted a child;

by providing the pertinent information relative to the location, income, and property of the parent, notwithstanding any other statute making the information confidential.

- (d) Notwithstanding any other statute making the information confidential, each person doing business in Indiana shall provide the bureau or an agent of the bureau with the following information, if available, upon receipt of the certification described in subsection (e):
- (1) Full name of the parent.
- (2) Social Security number of the parent.
- (3) Date of birth of the parent.
- (4) Address of the parent's residence.
- (5) Amount of wages earned by the parent.
- (6) Number of dependents claimed by the parent on state and federal tax withholding forms.
- (7) Name and address of the parent's employer.
- (8) Name and address of any financial institution maintaining an account for the parent.
- (9) Address of any real property owned by the parent.
- (10) Name and address of the parent's health insurance carrier and health coverage policy number.
- (e) The parent locator service shall certify that the information requested in subsection (d) is for the purpose of locating a parent who owes child support or who has abandoned a child and that the information obtained is to be treated as confidential by the bureau and any other state to which the information is released.

- (f) A business in Indiana and each unit of state and local government shall comply with an administrative subpoena issued by a Title IV-D agency in another jurisdiction. The information requested may not be provided unless the Title IV-D agency of the other jurisdiction certifies that the information will be treated as confidential. The business or unit of government shall provide the Title IV-D agency of the other jurisdiction with the information listed in subsection (d), if available, if requested in the subpoena, upon certification by the Title IV-D agency of the other jurisdiction that the information is for the purpose of locating a parent who owes child support or who has abandoned or deserted a child.
- (g) A person may not knowingly refuse to give the bureau, the bureau's agents, or the Title IV-D agency of another jurisdiction the following:
- (1) The name of a parent of a child for whom the state is providing public assistance.
- (2) Information that may assist the parent locator service or other jurisdiction in locating the parent of a child.
- (h) Information obtained under this section may not be used in a criminal prosecution against the informant.
- (i) A person may not knowingly give the bureau or the Title IV-D agency of another jurisdiction the incorrect name of a parent of a child or knowingly give the parent locator service incorrect information on the parent's whereabouts for the purpose of concealing the identity of the real parent of the child or the location of the parent.

#### lowa

## Child Support Recovery Unit: Iowa Code Ann. § 252B.9 (2011)

- 1. a. The director may request from state, county, and local agencies information and assistance deemed necessary to carry out the provisions of this chapter. State, county, and local agencies, officers, and employees shall cooperate with the unit and shall on request supply the department with available information relative to the absent parent, the custodial parent, and any other necessary party, notwithstanding any provisions of law making this information confidential. The cooperation and information required by this subsection shall also be provided when it is requested by a child support agency. Information required by this subsection includes, but is not limited to, information relative to location, income, property holdings, records of licenses as defined in section 252J.1, and records concerning the ownership and control of corporations, partnerships, and other business entities. If the information is maintained in an automated database, the unit shall be provided automated access.
- b. Parents of a child on whose behalf support enforcement services are provided shall provide information regarding income, resources, financial circumstances, and property

holdings to the department for the purpose of establishment, modification, or enforcement of a support obligation. The department may provide the information to parents of a child as needed to implement the requirements of <a href="section 598.21B">section 598.21B</a>, notwithstanding any provisions of law making this information confidential.

- c. Notwithstanding any provisions of law making this information confidential, all persons, including for-profit, nonprofit, and governmental employers, shall, on request, promptly supply the unit or a child support agency information on the employment, compensation, and benefits of any individual employed by such person as an employee or contractor with relation to whom the unit or a child support agency is providing services.
- d. Notwithstanding any provisions of law making this information confidential, the unit may subpoena or a child support agency may use the administrative subpoena form promulgated by the secretary of the United States department of health and human services under 42 U.S.C. § 652(a)(11)(C), to obtain any of the following:
- (1) Books, papers, records, or information regarding any financial or other information relating to a paternity or support proceeding.
- (2) Certain records held by public utilities, cable or other television companies, cellular telephone companies, and internet service providers with respect to individuals who owe or are owed support, or against or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records, and including the cellular telephone numbers of such individuals appearing in the customer records of cellular telephone companies. If the records are maintained in automated databases, the unit shall be provided with automated access.
- e. The unit or a child support agency may subpoena information for one or more individuals.
- f. If the unit or a child support agency issues a request under paragraph "c", or a subpoena under paragraph "d", all of the following shall apply:
- (1) The unit or child support agency may issue a request or subpoena to a person by sending it by regular mail. Proof of service may be completed according to <u>rule of civil procedure 1.442</u>.
- (2) A person who is not a parent or putative father in a paternity or support proceeding, who is issued a request or subpoena, shall be provided an opportunity to refuse to comply for good cause by filing a request for a conference with the unit or child support agency in the manner and within the time specified in rules adopted pursuant to subparagraph (7).
- (3) Good cause shall be limited to mistake in the identity of the person, or prohibition

under federal law to release such information.

- (4) After the conference the unit shall issue a notice finding that the person has good cause for refusing to comply, or a notice finding that the person does not have good cause for failing to comply. If the person refuses to comply after issuance of notice finding lack of good cause, or refuses to comply and does not request a conference, the person is subject to a penalty of one hundred dollars per refusal.
- (5) If the person fails to comply with the request or subpoena, fails to request a conference, and fails to pay a fine imposed under subparagraph (4), the unit may petition the district court to compel the person to comply with this paragraph. If the person objects to imposition of the fine, the person may seek judicial review by the district court.
- (6) If a parent or putative father fails to comply with a subpoena or request for information, the provisions of chapter 252J shall apply.
- (7) The unit may adopt rules pursuant to chapter 17A to implement this section.
- g. Notwithstanding any provisions of law making this information confidential, the unit or a child support agency shall have access to records and information held by financial institutions with respect to individuals who owe or are owed support, or with respect to whom a support obligation is sought including information on assets and liabilities. If the records are maintained in automated databases, the unit shall be provided with automated access. For the purposes of this section, "financial institution" means financial institution as defined in section 252I.1.
- h. Notwithstanding any law to the contrary, the unit and a child support agency shall have access to any data maintained by the state of Iowa which contains information that would aid the agency in locating individuals. Such information shall include, but is not limited to, driver's license, motor vehicle, and criminal justice information. However, the information does not include criminal investigative reports or intelligence files maintained by law enforcement. The unit and child support agency shall use or disclose the information obtained pursuant to this paragraph only in accordance with subsection 3. Criminal history records maintained by the department of public safety shall be disclosed in accordance with chapter 692. The unit shall also have access to the protective order file maintained by the department of public safety.
- i. Liability shall not arise under this subsection with respect to any disclosure by a person as required by this subsection, and no advance notice from the unit or a child support agency is required prior to requesting information or assistance or issuing a subpoena under this subsection.
- j. Notwithstanding any provision of law making this information confidential, data provided to the department by an insurance carrier under section 505.25 shall also be provided to the unit. Provision of data to the unit under this paragraph shall not require an agreement or modification of an agreement between the department and an insurance

carrier, but the provisions of this section applicable to information received by the unit shall apply to the data received pursuant to <u>section 505.25</u> in lieu of any confidentiality, privacy, disclosure, use, or other provisions of an agreement between the department and an insurance carrier.

- 2. Notwithstanding other statutory provisions to the contrary, including but not limited to chapters 22 and 217, as the chapters relate to confidentiality of records maintained by the department, the payment records of the collection services center maintained under section 252B.13A are public records only as follows:
- a. Payment records of the collection services center which are maintained pursuant to chapter 598 are public records and may be released upon request. Payment records of the clerk of the district court, to which the department has access to meet the requirements of a state disbursement unit, are also public records and may be released upon request. A payment record shall not include address or location information.
- b. Except as otherwise provided in subsection 1, the department shall not release details related to payment records or provide alternative formats for release of the information, with the following additional exceptions:
- (1) The unit or collection services center may provide additional detail or present the information in an alternative format to an individual or to the individual's legal representative if the individual owes or is owed a support obligation, to an agency assigned the obligation as the result of receipt by a party of public assistance, to an agency charged with enforcing child support pursuant to Tit. IV-D of the federal Social Security Act, [FN1] or to the court.
- (2) For support orders entered in Iowa which are being enforced by the unit, the unit may compile and make available for publication a listing of cases in which no payment has been credited to an accrued or accruing support obligation during a previous three-month period. Each case on the list shall be identified only by the name of the support obligor, the address, if known, of the support obligor, unless the information pertaining to the address of the support obligor is protected through confidentiality requirements established by law and has not otherwise been verified with the unit, the support obligor's court order docket or case number, the county in which the obligor's support order is filed, the collection services center case numbers, and the range within which the balance of the support obligor's delinquency is established. The department shall determine dates for the release of information, the specific format of the information released, and the three-month period used as a basis for identifying cases. The department may not release the information more than twice annually. In compiling the listing of cases, no prior public notice to the obligor is required, but the unit may send notice annually by mail to the current known address of any individual owing a support obligation which is being enforced by the unit. The notice shall inform the individual of the provisions of this subparagraph. Actions taken pursuant to this subparagraph are not subject to review under chapter 17A, and the lack of receipt of a notice does not prevent the unit from

proceeding in implementing this subparagraph.

- (3) The provisions of subparagraph (2) may be applied to support obligations entered in another state, at the request of a child support agency if the child support agency has demonstrated that the provisions of subparagraph (2) are not in conflict with the laws of the state where the support obligation is entered and the unit is enforcing the support obligation.
- (4) Records relating to the administration, collection, and enforcement of surcharges pursuant to section 252B.23 which are recorded by the unit or a collection entity shall be confidential records except that information, as necessary for support collection and enforcement, may be provided to other governmental agencies, the obligor or the resident parent, or a collection entity under contract with the unit unless otherwise prohibited by the federal law. A collection entity under contract with the unit shall use information obtained for the sole purpose of fulfilling the duties required under the contract, and shall disclose any records obtained by the collection entity to the unit for use in support establishment and enforcement.
- 3. Notwithstanding other statutory provisions to the contrary, including but not limited to chapters 22 and 217, as the chapters relate to the confidentiality of records maintained by the department, information recorded by the department pursuant to this section or obtained by the unit is confidential and, except when prohibited by federal law or regulation, may be used or disclosed as provided in subsection 1, paragraphs "b" and "h", and subsection 2, and as follows:
- a. The attorney general may utilize the information to secure, modify, or enforce a support obligation of an individual.
- b. This subsection shall not permit or require the release of information, except to the extent provided in this section.
- c. The unit may release or disclose information as necessary to provide services under <u>section 252B.5</u>, as provided by chapter 252G, as provided by Tit. IV-D of the federal Social Security Act, as amended, or as required by federal law.
- d. The unit may release information under <u>section 252B.9A</u> to meet the requirements of Tit. IV-D of the federal Social Security Act for parent locator services.
- e. Information may be released if directly connected with any of the following:
- (1) The administration of the plan or program approved under Tit. I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI, XIX, or XX, or the supplemental security income program established under Tit. XVI, of the federal Social Security Act, [FN2] as amended.
- (2) Any investigations, prosecutions, or criminal or civil proceeding conducted in connection with the administration of any such plan or program.

- (3) The administration of any other federal or federally assisted program which provides assistance in cash or in kind or provides services, directly to individuals on the basis of need.
- (4) Reporting to an appropriate agency or official, information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement action under circumstances which indicate that the child's health or welfare is threatened.
- f. Information may be released to courts having jurisdiction in support proceedings. If a court issues an order, which is not entered under <a href="section 252B.9A">section 252B.9A</a>, directing the unit to disclose confidential information, the unit may file a motion to quash pursuant to this chapter, Tit. IV-D of the federal Social Security Act, or other applicable law.
- g. The child support recovery unit shall release information relating to an absent parent to another unit of the department pursuant to a written request for the information approved by the director or the director's designee.
- h. For purposes of this subsection, "party" means an absent parent, obligor, resident parent, or other necessary party.
- i. If the unit receives notification under this paragraph, the unit shall notify the federal parent locator service as required by federal law that there is reasonable evidence of domestic violence or child abuse against a party or a child and that the disclosure of information could be harmful to the party or the child. The notification to the federal parent locator service shall be known as notification of a disclosure risk indicator. For purposes of this paragraph, the unit shall notify the federal parent locator service of a disclosure risk indicator only if at least one of the following applies:
- (1) The unit receives notification that the department, or comparable agency of another state, has made a finding of good cause or other exception as provided in <u>section 252B.3</u>, or comparable law of another state.
- (2) The unit receives and, through automation, matches notification from the department of public safety or the unit receives notification from a court of this or another state, that a court has issued a protective order or no-contact order against a party with respect to another party or child.
- (3) The unit receives notification that a court has dismissed a petition for specified confidential information pursuant to <u>section 252B.9A</u>.
- (4) The unit receives notification that a tribunal has issued an order under chapter 252K, the uniform interstate family support Act, or the comparable law of another state, that the address or other identifying information of a party or child not be disclosed.

- (5) The unit receives and, through automation, matches notification from the division of child and family services of the department, or the unit receives notification from a comparable agency of another state, of a founded allegation of child abuse, or a comparable finding under the law of the other state.
- (6) The unit receives notification that an individual has an exemption from cooperation with child support enforcement under a family investment program safety plan which addresses family or domestic violence.
- (7) The unit receives notification, as the result of a request under section 252B.9A, of the existence of any finding, order, safety plan, or founded allegation referred to in subparagraphs (1) through (6) of this paragraph.
- j. The unit may provide information regarding delinquent obligors as provided in <u>42</u> <u>U.S.C.</u> § <u>666(a)(7)</u> to a consumer reporting agency if all the following apply:
- (1) The agency provides the unit with satisfactory evidence that it is a consumer reporting agency as defined in 15 U.S.C. § 1681a(f) and meets all the following requirements:
- (a) Compiles and maintains files on consumers on a nationwide basis as provided in <u>15</u> U.S.C. § 1681a(p).
- (b) Participates jointly with other nationwide consumer reporting agencies in providing annual free credit reports to consumers upon request through a centralized source as required by the federal trade commission in 16 C.F.R. § 610.2.
- (2) The agency has entered into an agreement with the unit regarding receipt and use of the information.
- 4. Nothing in this chapter, chapter 252A, 252C, 252D, 252E, 252F, 252G, 252H, 252I, 252J, or 252K, or any other comparable chapter or law shall preclude the unit from exchanging any information, notice, document, or certification with any government or private entity, if the exchange is not otherwise prohibited by law, through mutually agreed upon electronic data transfer rather than through other means.

# Securities and Regulated Industries Bureau: Iowa Code Ann. § 501A.11 (2011)

- 1. The administrator may make investigations, within or without this state, as the administrator finds necessary or appropriate to do either or both of the following:
- a. Determine whether any person has violated, or is about to violate this chapter or any rule or order of the administrator.
- b. Aid in enforcement of this chapter.

- 2. The administrator may publish information concerning a violation of this chapter or any rule or order of the administrator.
- 3. For purposes of an investigation or proceeding under this chapter, the administrator or any officer or employee designated by rule or order, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator finds to be relevant or material to the inquiry.
- 4. a. If a person does not give testimony or produce the documents required by the administrator or a designated employee pursuant to an administrative subpoena, the administrator or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.
- b. The request for order of compliance may be addressed to either of the following:
- (1) The Polk county district trial court or the district court where service may be obtained on the person refusing to testify or produce, if the person is within this state.
- (2) The appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside this state.

#### **Kansas**

#### Court Trustee: Kan. Stat. Ann. § 23-496

- (a) The court trustee shall be authorized and empowered to pursue all civil remedies which would be available to the obligee or obligor in establishing and enforcing payment of support or restitution.
- (b) The court trustee may also file motions for an increase or a decrease of the amount of support on behalf of any child. Any such motion to modify the amount of support shall not be heard until notice has been given to the obligee, the obligor and their attorneys of record, if any.
- (c) The court trustee shall have the following additional powers and duties upon approval of the chief judge:
- (1) To issue summonses, administrative subpoenas and subpoenas duces tecum to obligors, obligees and other witnesses who possess knowledge or books and records relating to enforcement of support or restitution to appear in the office of the trustee or before the district court for examination;

- (2) to administer oaths and take sworn testimony on the record or by affidavit;
- (3) to appoint special process servers as required to carry out the court trustee's responsibilities under this section;
- (4) to enter into stipulations, acknowledgments, agreements and journal entries, subject to approval of the court; and
- (5) to enter into contracts pursuant to <u>K.S.A. 75-719</u>, and amendments thereto, with the attorney general for the collection of debts owed to courts or restitution owed to obligees.

#### Kentucky

### Education Professional Standards Board: Kent. Rev. Stat. § 161.017 (2011)

- (1) The Education Professional Standards Board, established in <u>KRS 161.028</u>, shall be headed by an executive director who shall be responsible for the day to day operations of the board including the following:
- (a) Setting up appropriate organizational structures and personnel policies for approval by the board;
- (b) Appointing all staff, including the deputy executive director;
- (c) Preparing annual reports on the board's program of work;
- (d) Carrying out policy and program directives of the board;
- (e) Preparing and submitting to the board for its approval a proposed biennial budget; and
- (f) Performing all other duties and responsibilities assigned by state law.
- (2) When it is necessary to fill the position of executive director, the board shall conduct a comprehensive search for candidates and may employ a search firm if the board deems it necessary. The executive director shall possess broad-based experience in education and teacher development, and have demonstrated leadership skills in addition to other qualifications to be established by the board as authorized in <a href="KRS 161.028">KRS 161.028</a>.
- (3) With approval of the board, the executive director may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities of the board.
- (4) The executive director shall have access to the papers, books, and records of education personnel as part of an inquiry or investigation relating to disciplinary actions

against a certified employee.

(5) Pursuant to KRS 161.120, the executive director, on behalf of the board, may issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to disciplinary cases under consideration. Compliance with the subpoenas shall be enforceable by the Circuit Court in Franklin County.

## Board of Trustees of UK or Louisville, or the board of regents for a comprehensive university or Kentucky Community and Technical College System: Kent. Rev. Stat. § 164.748 (2011). Powers and duties of board

The board shall have the following powers, functions, and duties:

- (1) To provide loan guarantees, upon terms and conditions the board may prescribe within the limitations provided by KRS 164.740 to 164.770, and the federal act in respect of loans to eligible borrowers. The board may require additional security, including endorsers it deems necessary and desirable and is not in contravention of the federal act. The purpose of the loans shall be to assist individuals in meeting the expense of their education.
- (2) To enter into agreements and undertakings with the secretary as may be required and necessary pursuant to the federal act in order to constitute the authority as a state agency qualified and empowered to insure student loans within the meaning of the federal act and to qualify insured student loans for interest payments, reimbursement, reinsurance, and other benefits available under the federal act to the authority.
- (3) To issue loan guarantees in respect of loans made to eligible borrowers by participating lenders, including the authority. No loan guarantee shall be issued, executed, and delivered by the authority unless any insured student loan resulting shall be the subject of agreements pursuant to the federal act by which the insured student loan is made the subject of interest payments, reimbursements, reinsurance, and other benefits to the extent provided by the federal act.
- (4) To promulgate administrative regulations pursuant to KRS Chapter 13A pertaining to insured student loans, loan guarantees, loans, and work-study payments and the awarding of grants, scholarships, and honorary scholarships, as provided in KRS 164.740 to 164.7891.
- (5) To enter into contracts with eligible lenders, approved by the state to lend moneys, upon terms and conditions agreed upon between the authority and the eligible lender, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the authority's program of insured student loans.
- (6) To enter into contracts with eligible institutions, upon terms and conditions agreed upon between the authority and the eligible institution, to provide for the administration of student financial assistance programs, including, but not by way of limitation, the

authority's program of insured student loans.

- (7) To receive funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to expend them, on behalf of the authority and for any of its purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, absolutely or in trust, and to hold, administer, and dispose of it, on behalf of the authority and for any of its purposes. The authority shall not make its debts payable out of any funds except those of the authority.
- (8) To administer federal funds allotted to the state in respect of insured student loans, loan guarantees, loans, work-study, grants, scholarships, administrative costs, and related matters.
- (9) To sue and be sued in the name of the authority and to plead and be impleaded, and to purchase, on behalf of members of the board or officers and employees of the authority, liability insurance for individual protection from liability for acts and omissions committed in the course and scope of the individual's employment or service.
- (10) To collect from individual borrowers loans made by the authority and insured student loans on which the authority has been compelled to meet its loan guarantee obligations following the inability of the participating lender involved to collect the insured student loans.
- (11) To gather information on all loans, scholarships, honorary scholarships, grants, and work-study opportunities available to Kentucky residents attending or planning to attend an eligible institution and to disseminate the information through the methods of mass communication necessary to ensure that Kentucky residents are aware of financial resources available to those attending or desiring to attend an eligible institution.
- (12) To request reports from each eligible institution or eligible lender necessary for the effective performance of its duties and to publish the information it deems necessary.
- (13) To approve, disapprove, limit, suspend, or terminate the participation of, or take emergency action to withhold authority funds and insured student loans from eligible institutions or eligible lenders in programs administered by the board, subject to the provisions of the federal act and this chapter.
- (14) To perform other acts necessary or appropriate to carry out effectively the purposes of the authority as provided by <u>KRS 164.740</u> to <u>164.7891</u> and <u>KRS 164A.010</u> to <u>164A.380</u>.
- (15) If any conflict exists between <u>KRS 164.740</u> to <u>164.770</u> and the federal act, which conflict would result in a loss by the authority of any federal funds, including, but not by way of limitation, federal funds made available to the authority under the federal act,

including interest payments and reimbursement for insured student loans in default, to promulgate regulations and policies consistent with the federal act not in derogation of the Constitution and general laws of the Commonwealth.

- (16) Except where specifically prohibited by law, to secure data from any other Commonwealth of Kentucky agency or instrumentality or from any other source in furtherance of any purposes of the authority related to any program or function administered by the authority.
- (17) To enter into contracts with public or private nonprofit agencies, eligible to hold or insure student loans under the federal act, to provide for the exchange of information, not in contravention of any federal or state law, or the provision of services necessary to the administration of the authority's insured student loan programs.
- (18) To enter into contracts with the Kentucky Higher Education Student Loan Corporation, the Kentucky Educational Savings Plan Trust, and the Commonwealth postsecondary education prepaid tuition trust fund as necessary or appropriate to facilitate their common administration, operation, and management, as required pursuant to KRS Chapter 164A.
- (19) To act as the board of directors of the Commonwealth postsecondary education prepaid tuition trust fund under KRS 164A.700 to 164A.709.
- (20) To conduct, in accordance with KRS Chapter 13B, administrative hearings pertaining to any adverse action by the authority affecting participating institutions and lenders, eligible students, and borrowers of loans made by the authority and insured student loans guaranteed by the authority. Wage garnishment hearings and administrative review procedures pertaining to disputes concerning setoff of federal tax refunds shall be exempt under KRS 13B.020 and shall be conducted in accordance with applicable federal law. In an exempt hearing, the board or a hearing officer designated by the board may issue administrative subpoenas for the attendance of witnesses and the production of documents relevant to the issues in dispute. Compliance with the subpoenas shall be enforceable by a court of competent jurisdiction.
- (21) To provide upon termination of the retirement plan authorized by Executive Order 75-964 to active and retired employees of the authority who participated in that plan, health insurance premiums and disability insurance benefits as provided to employees who participate in a state-administered retirement system pursuant to KRS 18A.225 to 18A.229, 61.600, and 61.702.
- (22) To delegate to the executive director general supervision and direction over the administrative function of the authority and its employees in carrying out the policies, programs, administrative regulations, and directives of the board.

Division of Child Support: Kent. Rev. Stat. § 205.712 (2011). Division of Child Support; duties; cabinet to process child

support payments; state disbursement unit; cabinet's cooperation with courts and officials; reporting of obligors; denial, suspension, and revocation of licenses; data match system; subpoenas; distribution of child support program information

- (1) The Division of Child Support is established in the Cabinet for Health and Family Services.
- (2) The duties of the Division of Child Support, or its designee, shall include:
- (a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, <u>42 U.S.C. secs. 651</u> to <u>669</u>;
- (b) Serve as the information agency as provided in the Uniform Interstate Family Support Act, KRS Chapter 407;
- (c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act;
- (d) Serve as the agent for enforcement of international child support obligations, and respond to requests from foreign reciprocating countries;
- (e) Establish and enforce an obligation upon receipt of a completed, notarized voluntary acknowledgment-of-paternity form;
- (f) Enforce Kentucky child support laws, including collection of court-ordered or administratively ordered child support arrearages and prosecution of persons who fail to pay child support;
- (g) Publicize the availability of services and encourage the use of these services for establishing paternity and child support;
- (h) Pay the cost of genetic testing to establish paternity, subject to recoupment from the alleged father, when paternity is administratively or judicially determined; and obtain additional testing when an original test is contested, upon request and advance payment by the contestant;
- (i) Establish child support obligations and seek modification of judicially or administratively established child support obligations in accordance with the child support guidelines of the Commonwealth of Kentucky as provided under KRS 403.212;
- (j) Administratively establish child support orders which shall have the same force and effect of law:
- (k) Issue an administrative subpoena to secure public and private records of utility and cable companies and asset and liability information from financial institutions for the establishment, modification, or enforcement of a child support obligation;
- (1) Impose a penalty for failure to comply with an administrative subpoena;
- (m) Provide notices, copies of proceedings, and determinations of support amounts to any parties or individuals who are applying for or receiving Title IV-D services, or who are parties to cases in which Title IV-D services are being provided;
- (n) Issue interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Part D of Title IV of the Social Security Act, <u>42 U.S.C.</u> secs. 651 et seq. An administrative subpoena lawfully issued in another state to an

individual or entity residing in this state shall be honored and enforced in the Circuit Court where the individual or entity resides; and

- (o) May promulgate administrative regulations to implement this section and adopt forms or implement other requirements of federal law relating to interstate administrative subpoenas.
- (3) Effective September 30, 1999, the cabinet shall establish a system to receive and process all child support payments. The system shall include existing computer systems to record the payments. The automated system shall include a state case registry that contains records with respect to each case in which services are being provided by the cabinet and each child support order established or modified in the state on or after October 1, 1998.
- (4) The cabinet shall establish and operate a state disbursement unit for the collection, disbursement, and recording of payments under support orders for all Title IV-D cases and for all cases initially issued in the state on or after January 1, 1994, in which a wage withholding has been court-ordered or administratively ordered, pursuant to Part D of Title IV of the Social Security Act. Establishment of the state unit may include the designation and continuation of existing local collection units to aid efficient and effective collection, disbursement, and recording of child support payments.
- (5) After the establishment of the disbursement unit child support collection system, the cabinet or its designee shall serve as collector of all court- ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act.
- (6) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met. When a cooperative agreement with a contracting official is canceled for good cause, the cabinet may not offer that cooperative agreement to that official during the official's tenure.
- (7) Where the local county attorney, friend of the court, domestic relations agent, or other designee of the cabinet has been contracted for the purpose of administering child support enforcement pursuant to Title IV-D of the Social Security Act, the contracting official shall be deemed to be representing the cabinet and as such does not have an attorney-client relationship with the applicant who has requested services pursuant to Title IV-D of the Social Security Act nor with any dependent on behalf of the individuals for whom

services are sought.

- (8) The cabinet shall determine the name of each obligor who owes an arrearage of at least two thousand five hundred dollars (\$2,500). After notification to the obligor owing an arrearage amount of two thousand five hundred dollars (\$2,500), the cabinet shall transmit to the United States secretary of health and human services the certified names of the individuals and supporting documentation for the denial, revocation, or limitation of the obligor's passport. The cabinet shall notify the identified obligor of the determination and the consequences and provide an opportunity to contest the determination.
- (9) The cabinet shall determine the name of an obligor owing an arrearage and shall indefinitely deny, suspend, or revoke a license or certification that has been issued if the person has a child support arrearage that equals or exceeds the amount that would be owed after six (6) months of nonpayment or fails, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16).
- (10) The cabinet shall forward the name of the individual to a board of licensure or board of certification for the notification of the denial, revocation, or suspension of a driver's license, professional license or certification, occupational license or certification, recreational license, or sporting license.
- (11) The denial or suspension shall remain in effect until the child support arrearage has been eliminated or payments on the child support arrearage are being made in accordance with a court or administrative order, the person complies with the subpoena or warrant relating to paternity or child support proceedings, or the appeal of the denial or suspension is upheld and the license is reinstated.
- (12) Except for cases administered by the cabinet under <u>42 U.S.C. secs. 651 et seq.</u> which shall be afforded the appeal process set forth by <u>KRS 405.450(3)</u>, an individual who has a license or certification denied, revoked, or suspended shall have the right to appeal to the licensing or certifying board.
- (13) A dispute hearing shall be conducted by the cabinet in accordance with <u>KRS</u> 405.450. The only basis for a dispute hearing shall be a mistake in fact.
- (14) The cabinet shall in its discretion enter into agreements with financial institutions doing business in the Commonwealth to develop and operate, in coordination with the financial institutions, a data match system. The financial institution shall be required to provide identifying information for each obligated parent who maintains an account at the institution and owes an arrearage, and who shall be identified by the cabinet. Assets held by the institutions on behalf of any obligated parent who is subject to a child support lien pursuant to <a href="KRS 205.745">KRS 205.745</a> shall be encumbered or surrendered in response to a notice of lien or levy issued by the cabinet. The cabinet may pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual cost. The financial

institution shall not be liable for encumbering or surrendering any assets held by the financial institution in response to a notice of lien or levy issued by the cabinet or for any other action taken in good faith to comply with the requirements of this subsection.

- (15) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents that are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, <u>42 U.S.C. secs. 651 et seq.</u> An administrative subpoena lawfully issued in another state to an individual or entity in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.
- (16) The Cabinet for Health and Family Services shall forward to the Office of the Attorney General a list of names of delinquent obligors and, in cooperation with the Office of the Attorney General, shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement KRS 15.055.
- (17) The cabinet shall compare a quarterly report provided by the Finance and Administration Cabinet of all tort claims made against the state by individuals with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.
- (18) The cabinet shall prepare and distribute to the cabinet's designee for the administration of the child support program information on child support collections and enforcement. The information shall include a description of how child support obligations are:
- (a) Established;
- (b) Modified;
- (c) Enforced;
- (d) Collected; and
- (e) Distributed.
- (19) The cabinet's designee for the administration of the child support program shall distribute, when appropriate, the following:
- (a) Information on child support collections and enforcement; and
- (b) Job listings posted by employment services.

# Cabinet for Health and Family Services: Kent. Rev. Stat. § 205.793 (2011). Administrative subpoena for information relating to child support; financial institution may deduct funds from account; action to enforce subpoena

(1) The cabinet shall have authority to issue an administrative subpoena commanding information and records relating to the establishment, enforcement, and collection of child support.

- (2) All public and private entities including financial institutions shall comply with a subpoena issued under this section within a reasonable time period. Financial institutions may deduct twenty dollars (\$20) from the account on which the subpoenaed information has been issued.
- (3) The cabinet may enforce compliance by filing an action in the Franklin Circuit Court.
- (4) The subpoena shall be issued by a person designated by the secretary.

### Department of Charitable Gaming: Kent. Rev. Stat. § 238.515 (2011). Powers and duties of department

The department shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the department shall have the following powers and duties:

- (1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;
- (2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;
- (3) Prescribing reasonable fees for licenses;
- (4) Establishing standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;
- (5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the department shall have the authority to issue administrative subpoenas and summonses. The department shall also establish toll-free telephone service for receiving complaints and inquiries;
- (6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;
- (7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;
- (8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the department; and
- (9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter. Any administrative regulation proposed by the department that changes the manner in which a charitable organization conducts charitable gaming or is likely to cause a charitable organization to incur new or additional costs shall be subject to the requirements of KRS

238.522. In promulgating administrative regulations under this subsection, the department shall submit any proposed regulations to the advisory commission established under KRS 238.520, and shall not promulgate the administrative regulations without giving the advisory commission the opportunity to produce written comments in accordance with KRS 238.522. If the advisory commission chooses to produce written comments, the comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.

# Department of Agriculture: Kent. Rev. Stat. § 247.233 (2011). Occurrence involving amusement ride or attraction resulting in death, significant injury, or damage affecting future safe operation

- (1) The owner of any amusement ride or attraction shall, within twelve (12) hours, notify the Commissioner of any occurrence involving an amusement ride or attraction if the occurrence results in:
- (a) Death;
- (b) Injury requiring medical treatment other than first aid; or
- (c) Damage to an amusement ride or attraction that affects the future safe operation of the ride or attraction. Reporting is not required in the case of normal wear and tear.
- (2) The Commissioner shall, after notification of an occurrence described in subsection (1) of this section, make a complete and thorough investigation of the occurrence. The report of the investigation shall be placed on file in the department and shall give in detail all facts and information available. The owner may submit results of investigations independent of the department's investigation for inclusion in the file.
- (3) No person, following an occurrence described in subsection (1) of this section, shall:
- (a) Operate or move the amusement ride or attraction without the approval of the Commissioner, unless necessary to prevent injury to a person; or
- (b) Remove from the premises any damaged or undamaged part of the amusement ride or attraction or attempt to repair any damaged part before the department has completed its investigation. The department shall initiate its investigation within twelve (12) hours of being notified.
- (4) The department may:
- (a) Conduct hearings;
- (b) Administratively subpoena and examine under oath persons whose activities are subject to KRS 247.232 to 247.236;
- (c) Issue administrative subpoenas and examine the business records, books, and accounts of persons whose activities are subject to <a href="KRS 247.232">KRS 247.232</a> to <a href="247.236">247.236</a>; and
- (d) Request any other information necessary to assist the department in properly performing the department's duties.
- (5) The department shall have control of any incident scene involving an amusement ride or attraction if there has been an occurrence described in subsection (1) of this section. The department shall remain in control of the scene until the department completes its

investigation and releases the scene. The department shall have access within twelve (12) hours to all documents or records pertaining to the amusement ride or attraction.

- (6) (a) The department shall promulgate administrative regulations relating to amusement rides and attractions that establish:
- 1. A comprehensive set of administrative violations and civil penalties not to exceed ten thousand dollars (\$10,000); and
- 2. The procedure for the suspension or revocation of any business identification number, license, or other certificate issued by the department.
- (b) No owner of an amusement ride or attraction shall remove the amusement ride or attraction from the state before paying all civil penalties imposed under this subsection.

## Commissioner of the Department of Workers' Claims: Kent. Rev. Stat. § 393.082 (2011). Special expendable trust fund for unclaimed sums under KRS 393.080(3); administration and distribution of fund; claims procedures

- (1) Unclaimed sums delivered to the Kentucky State Treasurer pursuant to <a href="KRS">KRS</a>
  <a href="MRS 393.080(3">MRS 393.080(3")</a> shall be placed in a special expendable trust fund established by the Kentucky Workers' Compensation Funding Commission. The Kentucky Workers' Compensation Funding Commission shall establish a separate trust account with respect to each final determination or order providing for a refund that the Attorney General determines to have a reasonable relationship to the workers' compensation liability of a bankrupt employer.
- (2) The commissioner of the Department of Workers' Claims shall be the administrator of the resulting trust fund established pursuant to this section. The commissioner or his or her designee shall be authorized to determine the value of all workers' compensation claims against the bankrupt employer and to prepare a comprehensive distribution plan. Eligible claimants may elect to participate in a comprehensive distribution plan in exchange for the release of all related claims against the Commonwealth and all of its cabinets, departments, offices, bureaus, agencies, officers, agents, and employees, with the exception of the special fund in the Labor Cabinet. A claimant shall agree as part of a release under this section not to file any future motions to reopen the named workers' compensation claim or claims, and not to file new claims with respect to the same injury or occupational disease.
- (3) A comprehensive distribution plan for unclaimed utility refunds placed in a trust account pursuant to this section shall consist of the full payment of workers' compensation income benefits for eligible claimants until the fund is exhausted, subject to the exceptions noted in <a href="KRS 393.080">KRS 393.080</a> and this section, and may include lump-sum settlements in addition to biweekly payment plans. An initial distribution shall be made to eligible claimants after the commissioner of the Department of Workers' Claims, or the commissioner's designee, has made an initial determination of the number of eligible claimants, the amount of income benefits due, and the amount to be retained as a reserve for pending claims. The initial distribution shall include payment of all past due income

benefits, without interest, for eligible claimants.

- (4) Neither the special fund nor the uninsured employers' fund shall be considered to be claimants for the purposes of this section. Medical and related benefits shall not be considered in the valuation of the claims unless the amount available in the trust fund clearly exceeds the estimated value of income benefits for all claims. If a workers' compensation surety bond, letter of credit, or other form of security for the payment of the workers' compensation liabilities of a bankrupt employer has been collected by the commissioner of the Department of Workers' Claims or the Workers' Compensation Board for distribution to claimants in a manner to be determined by court order, it may be assumed in the valuation of the claims in a comprehensive distribution plan that the security will be distributed by the court on a pro rata basis and an appropriate deduction may be taken.
- (5) In preparing the valuation of claims for inclusion in a comprehensive distribution plan, the commissioner or the commissioner's designee shall deduct special fund payments. Settlement of a workers' compensation claim as part of a comprehensive distribution plan under this section shall not accelerate the date on which the special fund's liability becomes due.
- (6) If the bankrupt employer ceased business operations at least three (3) years prior to establishment of a trust account pursuant to this section, only claimants who file workers' compensation claims within sixty (60) days of the establishment of the trust account or before shall be eligible to receive payments from the trust fund.
- (7) All claimants shall cooperate with information requests from the Department of Workers' Claims concerning prior payments of workers' compensation benefits. The commissioner of the Department of Workers' Claims or his or her designee may subpoena witnesses, including present or past managers and officers of the bankrupt employer, and may conduct evidentiary hearings under oath relating to the past and present workers' compensation liabilities of the bankrupt employer or information relevant to unpaid workers' compensation benefits. Administrative subpoenas issued under the authority of the commissioner of the Department of Workers' Claims for this purpose may be enforced in the Franklin Circuit Court.
- (8) The Attorney General shall provide representation of the comprehensive distribution plan as a named defendant in the event the establishment of the trust fund is challenged.
- (9) The provisions of KRS 393.080(3) or this section shall not be construed to constitute an admission of the validity of any workers' compensation claims, nor shall these provisions be interpreted in a manner that would transfer or create liability on behalf of the commissioner of the Department of Workers' Claims, any agency, or employee, beyond that expressly set forth in a comprehensive distribution plan.

- (10) The special fund shall issue trust fund checks in the amounts and to the claimants or claimants' representatives as directed by the commissioner of the Department of Workers' Claims.
- (11) The personnel and other costs of administering a trust fund established pursuant to this section shall be paid out of the investment income of the trust fund.
- (12) Attorney fees shall be subject to the limitations and maximum amounts for the payment of attorney's fees established by <u>KRS 342.320</u>, as well as the approval of the commissioner or his or her designee.
- (13) If a workers' compensation claimant elects not to participate in a comprehensive distribution plan proposed by the commissioner of the Department of Workers' Claims or the commissioner's designee, that claimant shall not be entitled to any portion of the utility refund for the payment of the workers' compensation benefits. A claimant shall have sixty (60) days following issuance of a comprehensive distribution plan in which to make an election to participate or not.

Cabinet for Health and Family Services: Kent. Rev. Stat. § 405.430 (2011). Genetic testing to establish paternity; cabinet may determine child support or child care obligation; adjustment of child support or child support obligation; order requiring parent to work or continue educational or training activities; disclosure of financial records; voluntary acknowledgment of paternity as basis; administrative subpoenas to enforce child support obligation; prohibition; employment assistance

- (1) When a parent presents himself to the cabinet for the voluntary establishment of paternity and clear evidence of parentage is not present, the cabinet shall pay when administratively ordered the cost of genetic testing to establish paternity, subject to recoupment from the alleged father when paternity is established.
- (2) The cabinet shall obtain additional testing in any case if an original test is contested, upon request and advance payment by the contestant.
- (3) In a contested paternity case, the child, the mother, and the putative father shall submit to genetic testing upon a request of any of the parties, unless the person or guardian of the person who is requested to submit to genetic testing shows good cause, taking into account the best interests of the child, why the genetic tests cannot be performed. The request shall be supported by a sworn statement of the party, requesting that the test be performed, which shall include the information required by 42 U.S.C. sec. 666(a)(5)(B)(i) or (ii).
- (4) When a parent who fails to support a child is not obligated to provide child support by court order, the cabinet may administratively establish a child support obligation based upon a voluntary acknowledgment of paternity as set forth in KRS Chapter 406, the parent's minimum monthly child support obligation and proportionate share of child care costs incurred due to employment or job search of either parent, or incurred while

receiving elementary or secondary education, or higher education or vocational training which will lead to employment. The monthly child support obligation shall be determined pursuant to the Kentucky child support guidelines set forth in <a href="KRS 403.212">KRS 403.212</a>. The actual cost of child care shall be reasonable and shall be allocated between the parents in the same proportion as each parent's gross income, as determined under the guidelines, bears to the total family gross income.

- (5) The cabinet shall recognize a voluntary acknowledgment of paternity as a basis for seeking a support order, irrespective of the alleged father's willingness to consent to a support order.
- (6) When in the best interest of the child, the cabinet may review and adjust a parent's child support obligation or child care obligation as established by the cabinet, upon a request of the cabinet when an assignment has been made, or upon either parent's petition if the amount of the child support awarded under the order differs from the amount that would be awarded in accordance with <u>KRS 403.212</u>. The cabinet shall notify parents at least once every three (3) years of the right to a review.
- (7) In establishing or modifying a parent's monthly child support obligation, the cabinet may use automated methods to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the adjustment to eligible orders in accordance with KRS 403.212. The cabinet shall utilize information, including financial records, about the parent and child which it has good reason to believe is reliable and may require the parents to provide income verification.
- (8) In cases in which past-due support is owed for a child receiving public assistance under Title IV-A of the Federal Social Security Act [FN1], the cabinet shall issue an administrative order, or seek a judicial order, requiring the obligated parent to participate in work activities, or educational or vocational training activities for at least twenty (20) hours per week, unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.
- (9) The cabinet may disclose financial records only for the purpose of establishing, modifying, or enforcing a child support obligation of an individual. A financial institution shall not be liable to any individual for disclosing any financial record of the individual to the cabinet attempting to establish, modify, or enforce a child support obligation.
- (10) The cabinet may issue both intrastate and interstate administrative subpoenas to any individual or entity for financial or other information or documents which are needed to establish, modify, or enforce a child support obligation pursuant to Title IV-D of the Social Security Act, 42 U.S.C. secs. 651 et seq. An administrative subpoena lawfully issued in another state to an individual or entity residing in this state shall be honored and enforced in the Circuit Court of the county in which the individual or entity resides.
- (11) In any case where a person or entity fails to respond to a subpoena within the specified time frame, the cabinet shall impose a penalty.

- (12) No person shall knowingly make, present, or cause to be made or presented to an employee or officer of the cabinet any false, fictitious, or fraudulent statement, representation, or entry in any application, report, document, or financial record used in determining child support or child care obligations.
- (13) If a person knowingly or by reason of negligence discloses a financial record of an individual, that individual may pursue civil action for damages in a federal District Court or appropriate state court. No liability shall arise with respect to any disclosure which results from a good faith, but erroneous, interpretation. In any civil action brought for reason of negligence of disclosure of financial records, upon finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to:
- (a) The sum of the greater of one thousand dollars (\$1,000) for each act of unauthorized disclosure of financial records; or
- (b) The sum of the actual damages sustained by the plaintiff resulting from the unauthorized disclosure; plus
- (c) If willful disclosure or disclosure was a result of gross negligence, punitive damages, plus the costs, including attorney fees, of the action.
- (14) The cabinet shall issue an administrative order or seek a judicial order requiring a parent with a delinquent child support obligation, as defined by administrative regulation promulgated under KRS 15.055, to participate in the program described in KRS 205.732 to help low-income, noncustodial parents find and keep employment unless the parent is incapacitated as defined by 42 U.S.C. sec. 607.

#### Louisiana

#### DCFS, Office of Children and Family Services, Support Enforcement Services: La. Rev. Stat. Ann. § 46:236.15 (2011). Limited administrative authority for certain paternity and child support actions

A. Genetic testing.

- (1) In cases in which the Department of Children and Family Services, office of children and family services, support enforcement services, referred to in this Section as "agency", is providing services, the agency may, in cases in which paternity is at issue, order all parties to submit to genetic testing.
- (2) To order an alleged father to submit to genetic testing, the agency shall provide the alleged father with a notice by certified mail, personal service, or domiciliary service. The notice shall advise the alleged father that he has been named as the father of one child or more and list each child, each child's date of birth, and the mother of each child. The notice shall advise the alleged father that he is being ordered to submit to genetic

testing and shall give the time and place where the genetic sample is to be taken. The date the genetic test is scheduled for shall be at least twenty days from the date of notice on the alleged father.

- (3) Genetic test results obtained under this Section shall be admissible in any subsequent paternity proceedings.
- (4) The agency shall serve both parties with the results of the genetic tests. If either party requests an additional test and pays in advance for the test, the agency shall order all the parties to submit to another genetic test.
- (5) If the genetic test excludes the alleged father, the agency shall be precluded from taking any further action against him.
- (6) The department shall take no further administrative action against an alleged father who refuses or fails to submit to genetic testing pursuant to this Subsection. However, nothing in this Subsection shall preclude the department from taking action in the appropriate court to establish paternity and requesting the court to order such party to submit to genetic testing in accordance with state law.

#### B. Subpoena authority.

The agency shall have the administrative authority to subpoena information needed to establish, modify, or enforce a support order, or to establish paternity, or to locate a non-custodial parent, and to impose penalties not to exceed twenty-five dollars for failure to respond to such a subpoena. To order such subpoena, the agency shall provide a written notice to the appropriate entity which has the information. The notice shall provide the entity with the appropriate statutory authority that allows the agency to issue the subpoena, and shall list the penalties for failure to comply. The entity shall also be given thirty days to file an appeal with the agency.

#### C. Access to information.

Notwithstanding any other provision of law, subject to the safeguards on privacy and information security, and subject to the nonliability of entities that afford such access according to this Subparagraph, the agency shall have the right to access information contained in the following records, including information maintained in automated databases, to assist in actions relating to the establishment of paternity or to the establishment, modification, or enforcement of support orders, without obtaining an order from any other judicial or administrative tribunal:

- (1) Vital records, including marriage, birth, and divorce records.
- (2) State and local tax and revenue records, including information on residence address, employer, income, and assets.

- (3) Records concerning real and titled property.
- (4) Employment security records.
- (5) Corrections records.
- (6) Records of occupational and professional licenses and records concerning the ownership and control of corporations, partnerships, and other business entities.
- (7) Records of agencies administering public assistance programs.
- (8) Records of the office of motor vehicles.
- (9) The names and addresses of individuals who owe or are owed support, or against or with respect to whom a support obligation is sought, and the names and addresses of employers of such individuals, as appearing in customer records of public utilities, cable television companies, and cellular telephone companies, pursuant to an administrative subpoena in accordance with Subsection B of this Section.
- D. Authority to seize and intercept.
- (1) In cases in which there is a child support arrearage or child support overpayment made to a custodial parent, and after notice of such arrearage or overpayment has been made by certified or regular mail, personal service, or domiciliary service, the agency shall have the administrative authority to:
- (a) Intercept, encumber, freeze, or seize periodic or lump sum payments from a state or local agency or any entity licensed or permitted by any state agency or board under Chapters 1, 4, 5, or 7 of Title 27 of the Louisiana Revised Statutes of 1950, including but not limited to unemployment compensation benefits, workers' compensation, and other benefits, judgments, settlements, lottery winnings, progressive slot machine annuities beginning with the second annuity payment, cash gaming winnings, assets held in financial institutions, and public and private retirement funds. The provisions of R.S. 13:3881 providing general exemptions from seizure are applicable to the provisions of this Subparagraph. After the agency encumbers, intercepts, or freezes any assets set out in this Subsection, it shall notify the payor that he has thirty days to advise the agency that he wishes to appeal the seizing of said assets. Upon receipt of such notice, the agency shall either release the property or schedule a hearing with the appropriate court. If the payor fails to file an appeal within thirty days, the agency may institute proceedings through administrative process to seize or sell the property in accordance with state law.
- (b) Impose liens, force sale of property, and distribute proceeds in accordance with state law.
- (2) Nothing in this Subsection shall grant administrative authority to the agency to place a lien, privilege, or legal mortgage on any licensed or titled motor vehicle.

#### E. Interstate Cases.

The provisions of this Section shall also apply to the agency's handling of interstate cases when the agency has received, by electronic or other means, a request from another state to enforce a support order. Such transmittal shall constitute a certification by the requesting state of the amount of support under the order, the amount of arrears owed and that the requesting state has complied with all procedural due process requirements applicable to the case.

# Dept. of Public Safety and Corrections, State Police, OAG, any agency member of the DOJ ICAC Task Force, or the Sheriff's Office investigating sex offenses against a believed minor: La. Code Crim. Proc. Ann. art. 732.1 (2011). Subpoena duces tecum regarding sex offenses against victims who are minors

A. The Department of Public Safety and Corrections, office of state police, the office of the attorney general, any agency that is a member of the Department of Justice Internet Crimes Against Children Task Force, or the sheriff's office investigating any sex offense as defined in R.S. 15:541 where the victim is a minor, or the offender reasonably believes that the victim is a minor, shall have the administrative authority to issue in writing and cause to be served a subpoena requiring the production and testimony described in Paragraph B of this Article upon reasonable cause to believe that an Internet service account, or online identifier as defined in R.S. 15:541(20), has been used in the commission of the offense, or in the exploitation or attempted exploitation of children.

- B. Except as provided in Paragraph C of this Article, a subpoena issued under this Article may require the production of the following records or other documentation relevant to the investigation:
- (1) Electronic mail address.
- (2) Internet username.
- (3) Internet protocol address.
- (4) Name of account holder.
- (5) Billing and service address.
- (6) Telephone number.
- (7) Account status.
- (8) Method of access to the Internet.
- (9) Automatic number identification records if access is by modem.

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- C. The following information shall not be subject to disclosure pursuant to an administrative subpoena issued pursuant to the provisions of this Article but shall be subject to disclosure pursuant to other lawful process:
- (1) In-transit electronic communications.
- (2) Account memberships related to Internet groups, newsgroups, mailing lists, or specific areas of interest.
- (3) Account passwords.
- (4) Account content, including electronic mail in any form, address books, contacts, financial records, web surfing history, Internet proxy content, or files or other digital documents stored with the account or pursuant to use of the account.
- D. A subpoena issued pursuant to this Article shall describe the objects required to be produced and shall prescribe a return date with a reasonable period of time within which the objects can be assembled and made available.
- E. If no case or proceeding arises from the production of records or other documentation pursuant to this Section and the time limitation for initiation of prosecution has expired, the Department of Public Safety and Corrections, office of state police, the sheriff's office, or the office of the attorney general shall destroy the records and documentation.
- F. Except as provided in this Article, any information, records, or data reported or obtained pursuant to a subpoena authorized by the provisions of this Article shall remain confidential and shall not be disclosed unless in connection with a criminal case related to the subpoenaed materials.
- G. Any administrative subpoena issued pursuant to this Article shall comply with the provisions of 18 U.S.C. 2703(c)(2).

#### Maine

### Securities Administrator and Designated Employees: Me. Rev. Stat. Ann. tit. 32, § 11301 (2011). Investigations

- 1. Investigations. The administrator may make investigations, within or outside this State, as the administrator finds necessary or appropriate to:
- A. Determine whether any person has violated, or is about to violate, any provision of this chapter or any rule or order of the administrator; or

- B. Aid in enforcement of this chapter.
- 2. Publication. The administrator may publish information concerning any violation of this chapter or any rule or order of the administrator.
- 3. Power of administrator. For purposes of any investigation or proceeding under this chapter, the administrator or any officer or employee designated by rule or order, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the administrator deems to be relevant or material to the inquiry.
- 4. Court order. If a person does not give testimony or produce the documents required by the administrator or a designated employee pursuant to an administrative subpoena, the administrator or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.

The request for order of compliance may be addressed to either:

- A. The Superior Court located in the County of Kennebec or the Superior Court where service may be obtained on the person refusing to testify or produce, if the person is within this State; or
- B. The appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside this State.

#### Maryland

Child Support Enforcement Administration of the Department of Human Resources: Md. Code Ann., Fam. Law § 10-108.6 (2011). Enforcement of duty to support; subpoenas to compel production of documents

#### In general

(a) In order to establish, modify, or enforce a duty of support, the Administration may issue subpoenas to compel the production of documents and other tangible items.

#### Contents of subpoena

(b) A subpoena issued under subsection (a) of this section shall:

- (1) specify the name and address of the person to be subpoenaed;
- (2) describe the items to be produced with particularity; and
- (3) include a return date for the subpoena.

Ways to serve a subpoena

- (c) The Administration may serve a subpoena by:
- (1) hand delivery; or
- (2) certified mail.

#### Compliance with subpoena

- (d) If a person fails to comply with a subpoena issued by the Administration, the Administration may:
- (1) reissue the subpoena;
- (2) exercise the Administration's authority under § 10-119.3 of this subtitle to suspend any license held by the person; or
- (3) apply, upon affidavit, to any judge of a circuit court for an order requiring the person to obey the subpoena.

#### Court to enforce order and subpoena

(e) If a person knowingly fails or refuses to obey a court order to comply with a subpoena issued under this section, the court may compel compliance with the administrative subpoena in any manner available to the court to enforce its own order or subpoena.

#### **Massachusetts**

## Child Support Enforcement Agency: Mass. Gen. Laws Ann. Ch. 119A § 15. IV-D agency powers; failure to comply with subpoena or summons issued under section; penalties; production of witnesses, books, papers and records

The IV-D agency may take testimony and proofs under oath with reference to any matter within the administrative authority of the agency and, in connection therewith, may issue subpoenas or summonses and require the attendance and testimony of witnesses and the production of books, papers, records, data and other evidence. In the case of records maintained in electronic data bases, the IV-D agency may issue a subpoena, including a subpoena in machine readable format, for access, including electronic access, to such records. In all other cases, subpoenas and summonses issued by the IV-D agency shall be served in the same manner as subpoenas or summonses issued on behalf of the

commonwealth for witnesses in civil cases. All provisions of law relative to the subpoenas or summonses shall apply to subpoenas or summonses issued hereunder. Any individual, employer, agency, institution or other entity who, without reasonable cause, fails to comply with a subpoena or summons issued under this section shall be liable for a penalty and reasonable attorneys' fees to be assessed by the IV-D agency or by a court or administrative agency of competent jurisdiction, provided, that if such penalty and attorney's fees are assessed by the IV-D agency or by such other administrative agency, the individual, employer, agency, institution or other entity against whom such penalties and fees are assessed may seek judicial review of such assessment within 45 days of notice of such assessment. The amount of such penalty shall be \$100 for the first violation, \$200 for the second violation, and \$300 for the third violation and each violation thereafter. Any license held or sought by any obligor who, without reasonable cause, fails to comply with a subpoena or summons issued under this section may also be subject to revocation, suspension, or nonissuance pursuant to section 16, provided that any individual aggrieved by a final determination to so revoke, suspend or not issue a license may seek judicial review pursuant to section 17 within 45 days of notice of such final determination. A justice of a court that has jurisdiction of child support and paternity matters may, upon the application of the IV-D agency, compel the attendance of witnesses, the production of books, papers, records, data and other evidence and the giving of testimony before the IV-D agency in the same manner and to the same extent as before such court and in accordance with the applicable rules of procedure.

## District Attorneys/OAG: Mass. Gen. Laws Ann. ch. 271 § 17B (2011). Use of electronic communications records in ongoing criminal investigations; subpoena of records

Except as otherwise prohibited under section 2703 of Title 18 of the United States Code, whenever the attorney general or a district attorney has reasonable grounds to believe that records in the possession of: (i) a common carrier subject to the jurisdiction of the department of telecommunications and cable, as provided in paragraph (d) of section 12 of chapter 159; or (ii) a provider of electronic communication service as defined in subparagraph (15) of section 2510 of Title 18 of the United States Code; or (iii) a provider of remote computing service as defined in section 2711 of Title 18 of the United States Code, are relevant and material to an ongoing criminal investigation, the attorney general or district attorney may issue an administrative subpoena demanding all such records in the possession of such common carrier or service, and such records shall be delivered to the attorney general or district attorney within 14 days of receipt of the subpoena. No such common carrier or service, or employee thereof, shall be civilly or criminally responsible for furnishing any records or information in compliance with such demand. Nothing in this section shall limit the right of the attorney general or a district attorney to otherwise obtain records from such a common carrier or service pursuant to a search warrant, a court order or a grand jury or trial subpoena.

No subpoena issued pursuant to this section shall demand records that disclose the content of electronic communications or subscriber account records disclosing internet locations which have been accessed including, but not limited to, websites, chat channels and newsgroups, but excluding servers used to initially access the internet. No recipient

of a subpoena issued pursuant to this section shall provide any such content or records accessed, in response to such subpoena.

#### Michigan

Attorney General: Mich. Comp. Laws Ann. § 324.20117 (2011). Directors, access to facility information, properties, samples; inspections, investigations; noncompliance, actions by attorney general, penalties; disclosure of information

Sec. 20117. (1) To determine the need for response activity or selecting or taking a response activity or otherwise enforcing this part or a rule promulgated under this part, the directors or their authorized representatives may upon reasonable notice require a person to furnish any information that the person may have relating to any of the following:

- (a) The identification, nature, and quantity of materials that have been or are generated, treated, stored, handled, or disposed of at a facility or transported to a facility.
- (b) The nature or extent of a release or threatened release at or from a facility.
- (2) Upon reasonable notice, a person required to furnish information pursuant to subsection (1) shall either:
- (a) Grant the directors or their authorized representatives access at all reasonable times to any place, property, or location to inspect and copy the related information.
- (b) Copy and furnish to the directors or their authorized representatives the related information.
- (3) If there is a reasonable basis to believe that there may be a release or threat of release, the directors or their authorized representatives have the right to enter at all reasonable times any public or private property for any of the following purposes:
- (a) Identifying a facility.
- (b) Investigating the existence, origin, nature, or extent of a release or threatened release.
- (c) Inspecting, testing, taking photographs or videotapes, or sampling of any of the following: soils, air, surface water, groundwater, suspected hazardous substances, or any containers or labels of suspected hazardous substances.
- (d) Determining the need for or selecting any response activity.

- (e) Taking or monitoring implementation of any response activity.
- (4) A person that enters public or private property pursuant to subsection (3) shall present credentials; make a reasonable effort to contact the person in charge of the facility or that person's designee; describe the nature of the activities authorized under subsection (3) to be undertaken; and inform the person that is in charge of the facility that he or she is entitled to participate in the collection of split samples, and is entitled to a copy of the results of any analysis of samples and a copy of any photograph or videotape taken. The person in charge or his or her agent may accompany the directors or their authorized representatives during the activities authorized under subsection (3) that take place and may participate in the collection of any split samples on the property. The absence or unavailability of the person in charge or that person's agent shall not delay or limit the authority of the directors or their authorized representatives to enter the property or proceed with the activities authorized under subsection (3).
- (5) If the directors or their authorized representatives obtain any samples, before leaving the property they shall give to the person in charge of the property from which the samples were obtained a receipt describing the sample. A copy of the results of any analysis of the samples shall upon request be furnished promptly to the person in charge. A copy of any photograph or videotape taken pursuant to subsection (3)(c) shall upon request be furnished promptly to the person in charge.
- (6) All inspections and investigations undertaken by the directors or their authorized representatives under this section shall be completed with reasonable promptness.
- (7) If refused entry or information under subsections (1) to (4), for the purposes of enforcing the information gathering and entry authority provided in this section, the attorney general, on behalf of the state, may do either of the following:
- (a) Petition the court of appropriate jurisdiction for a warrant authorizing access to property or information pursuant to this section.
- (b) Commence a civil action to compel compliance with a request for information or entry pursuant to this section, to authorize information gathering and entry provided for in this section, and to enjoin interference with the exercise of the authority provided in this section.
- (8) In a civil action brought pursuant to subsection (7), if there is a reasonable basis to believe there may be a release or a threatened release, the court shall in the case of interference or noncompliance with information requests pursuant to subsection (1), or with entry or inspection requests pursuant to subsection (3), enjoin interference with and direct compliance with the requests unless the defendant establishes that, under the circumstances of the case, the request is arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.
- (9) In a civil action brought pursuant to subsection (7), if there is a reasonable basis to

believe there may be a release or a threatened release, the court may assess a civil fine not to exceed \$25,000.00 for each day of noncompliance against a person that unreasonably fails to comply with subsection (1), (2), or (3).

- (10) Information obtained by the directors or their authorized representatives as authorized under subsection (1) or (2) shall be available to the public to the extent provided by the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. A person who provides information pursuant to subsection (1) or (2), or the person in charge of a facility at which photographs or videotapes are taken pursuant to subsection (3), may designate the information that the person believes to be entitled to protection as if the information was exempt from disclosure as being either trade secrets or information of a personal nature under section 13(1)(a) or (g) of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws, and submit that specifically designated information separately from other information required to be provided under this section.
- (11) Notwithstanding subsection (10), the following information obtained by the directors or their authorized representatives as required by this section shall be available to the public:
- (a) The trade name, common name, or generic class or category of the hazardous substance.
- (b) The physical properties of a hazardous substance, including its boiling point, melting point, flash point, specific gravity, vapor density, solubility in water, and vapor pressure at 20 degrees Celsius.
- (c) The hazards to the public health, safety, or welfare, or the environment posed by a hazardous substance, including physical hazards, such as explosion, and potential acute and chronic health hazards.
- (d) The potential routes of human exposure to the hazardous substance at the facility being investigated, entered, or inspected under this section.
- (e) The location of disposal of any waste stream released or threatened to be released from the facility.
- (f) Monitoring data or analysis of monitoring data pertaining to disposal activities related to the facility.
- (g) Hydrogeologic data.
- (h) Groundwater monitoring data.
- (12) To collect information for the purpose of identifying persons who are liable under

section 20126 [FN1] or to otherwise enforce this part or a rule promulgated under this part, the attorney general may by administrative subpoena require the attendance and testimony of witnesses and production of papers, reports, documents, answers to questions, and other information the attorney general considers necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of this state. If a person fails or refuses to obey the administrative subpoena, the circuit court for the county of Ingham or for the county in which that person resides has jurisdiction to order that person to comply with the subpoena. A failure to obey the order of the court is punishable by the court as contempt.

(13) As used in this section, "information" includes, but is not limited to, documents, materials, records, photographs, and videotapes.

# Director of the Office of Child Support: Mich. Comp. Laws Ann. § 400.234 (2011). Information from other agencies; administrative subpoena; liability, good faith compliance; refusal or failure to comply with subpoena

- Sec. 4. (1) Upon request of the office or the state agency of another state that administers a program under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b, a governmental department, board, commission, bureau, agency, or council; a public or private entity; or a financial institution shall provide any information or record that assists in implementing this act. The information and records include, but are not limited to, all of the following:
- (a) Information on the current employment, compensation, and benefits of an individual employed as an employee or an independent contractor of the entity including a forprofit, nonprofit, and governmental employer.
- (b) A state or local government agency record including, but not limited to, all of the following:
- (i) Vital statistics.
- (ii) State or local tax and revenue records including information on residence address, employer, income, and assets.
- (iii) A real and titled personal property record.
- (iv) An occupational, professional, recreational, or sporting license record.
- (v) A record on the ownership and control of a corporation, partnership, or other business entity.
- (vi) An employment security agency record.
- (vii) A record of an agency administering a public assistance program.

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- (viii) A motor vehicle record.
- (ix) A corrections record.
- (x) A worker's compensation record.
- (c) Information from the law enforcement information network.
- (d) Information from a financial institution as provided in section 4a. [FN1]
- (e) A public utility or cable television company record.
- (2) The director of the office or his or her designee may issue an administrative subpoena to require an entity to furnish information or a record in the possession of the entity that pertains to a parent or putative father who is or was employed by or an independent contractor of the entity and that is demanded by the office for the purpose of administering or providing services pursuant to part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b. The entity's officers or employees shall furnish the information or record within 15 days after the subpoena is received by the entity. This subsection does not abrogate a confidentiality privilege established by law.
- (3) An entity is not liable under a federal or state law to any person for a disclosure of information to the office or the designee of the office under this act or for another action taken in good faith to comply with this act.
- (4) A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is not liable for a wrongful disclosure of information or records if the governmental department, board, commission, bureau, agency, or council or public or private entity or financial institution acted in good faith. A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is liable for a negligent wrongful disclosure of or records in an amount of the damages incurred of \$1,000.00, whichever is greater. A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is liable for a willful wrongful disclosure of information or records in an amount of 3 times the damages incurred or \$3,000.00, whichever is greater, together with all costs and reasonable attorney's fees incurred. For the purposes of this subsection, each violation gives rise to a separate cause of action for which separate damages may be awarded. For the purposes of this subsection, damages include reasonable attorney fees.
- (5) If an entity does not comply with a subpoena or request for information or records, the director of the office or his or her designee may petition the circuit court in the county in which the inquiry is being made to require the production of books, papers, and documents. In the case of refusal to comply with a subpoena or request for information,

the circuit court may issue an order requiring the person to appear and to produce books, records, and papers. The court may punish a failure to comply with the court order as contempt.

## Friend of the Court: Mich. Comp. Laws. Ann. § 552.518 (2011). Provision of information by employer or former employer regarding custodial or absent parent

Sec. 18. (1) Subject to subsections (3) and (4), upon the request of the office of the friend of the court, any employer or former employer of a parent as defined in section 1 of the office of child support act, 1971 PA 174, MCL 400.231, who is or was employed by the employer as an employee or independent contractor shall provide all of the following information relative to the parent:

- (a) Full name and address.
- (b) Social security number. The requirement of this subdivision to provide a social security number with the information does not apply if the parent is exempt under federal law from obtaining a social security number or is exempt under federal or state law from disclosure of his or her social security number under these circumstances. The friend of the court shall inform the parent of this possible exemption.
- (c) Date of birth.
- (d) Amount of wages earned by or other income due the custodial parent or absent parent. Both net and gross income shall be reported, regardless of method of payment.
- (e) The following information concerning the person's current and former employment status: whether or not the custodial parent or absent parent is currently employed, laid off, on sick, disability, or other leave of absence, or retired, and amount of income due from an employment related benefit plan, if any.
- (f) Dependent health care coverage available to the custodial parent or absent parent as a benefit of employment.
- (2) The friend of the court or his or her designee may issue an administrative subpoena to require any public or private entity doing business in the state that employs or has employed a parent to furnish any current employment information in the possession of the entity that pertains to the parent and that is needed to establish, modify, or enforce a support order. The entity's officers or employees shall furnish the information within 15 days after the subpoena is received by the entity. This subsection does not abrogate a confidentiality privilege established by law.
- (3) A request or subpoena for information under this section shall certify that the information obtained will be treated as confidential and shall not be used or released except for the purposes of administering, enforcing, and complying with state and federal laws governing child support.

- (4) A former employer is not required to provide information concerning a person who was last employed by the former employer more than 3 years before the date of the request or subpoena for information under this section.
- (5) This section does not require the creation or maintenance of records not otherwise required to be created or maintained, or require an employer or former employer to discover information not contained in records of, or otherwise known to, the employer or former employer.
- (6) A copy of information provided to the office under this section shall be made available to the parent, upon his or her request.
- (7) In the case of disobedience of a request or subpoena for information under this section, the friend of the court or his or her designee may petition the circuit court in the county in which the inquiry is being made to require the production of books, papers, and documents. In the case of refusal to obey a subpoena or request for information under this section, a circuit court may issue an order requiring the person or other entity to appear and to produce books, records, and papers if so ordered. Failure to obey the order of the court may be punished by the court as a contempt.
- (8) An employer, former employer, or other entity is not liable under federal or state law to a person or governmental entity for a disclosure of information to the office under this section or for any other action taken by the employer, former employer, or other entity in good faith to comply with the requirements of this section.

#### **Minnesota**

### Attorney General: Minn. Stat. Ann. § 8.16 (2011). Attorney general; administrative subpoenas

Subdivision 1. Authority. The attorney general, or any deputy, assistant, or special assistant attorney general whom the attorney general authorizes in writing, has the authority in any county of the state to subpoena and require the production of any records of telephone companies, cellular phone companies, paging companies, subscribers of private computer networks including Internet service providers or computer bulletin board systems, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, pawn shops, airlines, buses, taxis, and other entities engaged in the business of transporting people, and freight companies, self-service storage facilities, warehousing companies, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery, and records of the existence of safe deposit box account numbers and customer savings and checking account numbers maintained by financial institutions and safe deposit companies. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation.

- **Subd. 1a. Subpoenas**. The attorney general may in any county of the state subpoena and require the production of any records relating to the location of a debtor or the assets of a debtor, as that term is defined in <u>section 16D.02</u>, <u>subdivision 4</u>. Subpoenas may be issued only for records that are relevant to an investigation related to debt collection and exclude the power to subpoena personal appearance of witnesses unless the attorney general is so authorized by other statute or court rule.
- **Subd. 2. Enforcement**. The subpoena shall be enforceable through the district court.
- **Subd. 3. Expenses**. The person directed to produce the records must be paid reasonable expenses incurred in producing the records.
- **Subd. 4. Disclosure prohibited**. The subpoena must state that the person to whom the subpoena is directed may not disclose the fact that the subpoena was issued or the fact that the requested records have been produced except:
- (1) insofar as the disclosure is necessary to find and disclose the records; or
- (2) pursuant to court order.
- **Subd. 5. Penalty**. The willful failure to produce the documents required by the subpoena is a misdemeanor.
- **Subd. 6. Ex parte order**. Upon the ex parte request of the attorney issuing the subpoena, the district court may issue an order directing the production of the records. It is not necessary for either the request or the order to be filed with the court administrator. Failure to comply with the court order subjects the person who fails to comply to civil or criminal contempt of court, or both.

### Commissioner of Department of Revenue: Minn. Stat. Ann. § 270C.32 (2011). Subpoenas

- **Subdivision 1. Authority to issue subpoenas.** In addition to the authority to examine and investigate granted under <u>section 270C.31</u>, and to carry out that authority, the commissioner may issue subpoenas to compel a person, at a time and place reasonable under the circumstances, to appear and give testimony, and to produce relevant books, records, papers, documents, and other data, in whatever form, for inspection and copying.
- **Subd. 2. Request by taxpayer for subpoena**. When the commissioner has the authority to issue a subpoena, the commissioner shall honor a reasonable request by a taxpayer to issue a subpoena.
- **Subd. 3. Third-party subpoena where taxpayer's identity is known**. (a) An examination or investigation may extend to a person that the commissioner determines has access to information that may be relevant to the examination or investigation. When a subpoena requiring the production of records as described in subdivision 1 is served on a third-party record keeper, written notice of the subpoena must be mailed to the taxpayer

- and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. The notice required by this subdivision is sufficient if it is mailed to the last known address of the addressee.
- (b) The provisions of this subdivision regarding notice to the taxpayer or other parties identified in the subpoena do not apply if there is reasonable cause to believe that the giving of notice may lead to attempts to conceal, destroy, or alter records or assets relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.
- **Subd. 4. Third-party subpoena where taxpayer's identity is not known**. (a) The commissioner may issue a subpoena that does not identify the person or persons with respect to whose liability the subpoena is issued, but only if:
- (1) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons;
- (2) there is a reasonable basis to believe that the person or group or class of persons may fail or may have failed to comply with a state revenue law;
- (3) the information sought to be obtained from the examination of the records, and the identity of the person or persons with respect to whose liability the subpoena is issued, is not readily available from other sources;
- (4) the subpoena is clear and specific as to the information sought to be obtained; and
- (5) the information sought to be obtained is limited solely to the scope of the investigation.
- (b) The party served with a subpoena that does not identify the person or persons with respect to whose tax liability the subpoena is issued shall, within 20 days after service of the subpoena, petition the district court for the judicial district of the county in which that party is located for a determination as to whether the commissioner has complied with all the requirements in paragraph (a), clauses (1) to (5), and thus, whether the subpoena is enforceable. If no petition is made by the party served within the time prescribed, the subpoena shall have the force and effect of a court order.
- **Subd. 5.** Access to records in connection with examination of businesses located outside the state. (a) In order to determine whether a business located outside the state of Minnesota is required to file a return under a law administered by the commissioner, the commissioner may examine the relevant records and files of the business. To the full extent permitted by the Minnesota and United States Constitutions, the commissioner may compel production of those relevant records and files by subpoena. The subpoena may be served on the secretary of state along with the address to which service of the subpoena is to be sent and a fee of \$50. The secretary of state shall forward a copy of the

subpoena to the business using the procedures for service of process in section 5.25, subdivision 6.

- (b) The commissioner shall pay the reasonable cost of producing records subject to subpoena under this subdivision if:
- (1) the subpoenaed party cannot produce the records without undue burden; and
- (2) the examination made pursuant to paragraph (a) shows that the subpoenaed party is not required to file a return under a law administered by the commissioner.
- **Subd. 6. Demand for court administrator's subpoena**. In addition to administrative subpoenas of the commissioner, upon demand of the commissioner or an agent of the commissioner, the court administrator of any district court shall issue a subpoena for a witness to appear before the agent, or for the production of relevant books, records, papers, documents, and other data, in whatever form, to the agent for inspection and copying.
- **Subd. 7. Enforcement of subpoenas**. Failure to comply with a subpoena shall be punished in the same manner as contempt of the district court in the following venues:
- (1) the district court of the district in which a court administrator's subpoena is issued under subdivision 6;
- (2) the district court of the district in which the party served with a subpoena is located, when the subpoena is issued by the commissioner or the commissioner's agent; and
- (3) the District Court for Ramsey County, when a subpoena is issued under subdivision 5. In addition to contempt remedies, the court may issue any order it deems reasonable to enforce compliance with a subpoena issued under subdivision 5.
- **Subd. 8. Penalty for violating court order to comply with subpoena**. In addition to sanctions imposed under subdivision 7, a penalty of \$250 per day is imposed on any business that is in violation of a court order to comply with a subpoena that is seeking information necessary for the commissioner to be able to determine whether the business is required to file a return or pay a tax. The maximum penalty is \$25,000. Upon the request of the commissioner, the court shall determine the amount of the penalty and enter it as a judgment in favor of the commissioner. The penalty is not payable until the judgment is entered.
- **Subd. 9. Cost of production of records**. The cost of producing records of a third party required by a subpoena must be paid by the taxpayer, if the taxpayer requests the subpoena to be issued, or if the taxpayer has the records available but has refused to provide them to the commissioner. In other cases where the taxpayer cannot produce records and the commissioner then issues a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner

may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax against the taxpayer.

**Subd. 10. Limitation of authority**. The authority granted in this section to the commissioner and the commissioner's agents does not apply to a matter that has been appealed to Tax Court.

### Chief Administrative Officer of the Pension Plan: Minn. Stat. Ann. § 356.401 (2011). Exemption from process

**Subdivision 1. Exemption; exceptions**. None of the money, annuities, or other benefits provided for in the governing law of a covered retirement plan is assignable either in law or in equity or subject to state estate tax, or to execution, levy, attachment, garnishment, or other legal process, except as provided in subdivision 2 or <u>section 518.58</u>, <u>518.581</u>, or 518A.53.

- **Subd. 2. Automatic deposits**. (a) The chief administrative officer of a covered retirement plan may remit, through an automatic deposit system, annuity, benefit, or refund payments only to a financial institution associated with the National Automated Clearinghouse Association or a comparable successor organization that is trustee for a person who is eligible to receive the annuity, benefit, or refund.
- (b) Upon the request of a retiree, disabilitant, survivor, or former member, the chief administrative officer of a covered retirement plan may remit the annuity, benefit, or refund payment to the applicable financial institution for deposit in the person's individual account or the person's joint account. If an overpayment of benefits is paid after the death of the annuitant or benefit recipient, the chief administrative officer of the pension plan is authorized to issue an administrative subpoena consistent with the requirements of <a href="section 13A.02">section 13A.02</a>, requiring the applicable financial institution to disclose the names of all joint and co-owners of the account and a description of all deposits to, and withdrawals from, the account which take place on or after the death of the annuitant or benefit recipient. An overpayment to a joint account after the death of the annuitant or benefit recipient must be repaid to the fund of the applicable covered retirement plan by the joint tenant if the overpayment is not repaid to that fund by the financial institution associated with the National Automated Clearinghouse Association or its successor. The governing board of the covered retirement plan may prescribe the conditions under which these payments may be made.

#### **Subd. 3. Covered retirement plans.** The provisions of this section apply to the

- (1) the legislators retirement plan, established by chapter 3A;
- (2) the general state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;
- (3) the correctional state employees retirement plan of the Minnesota State Retirement System, established by chapter 352;

- (4) the State Patrol retirement plan, established by chapter 352B;
- (5) the elective state officers retirement plan, established by chapter 352C;
- (6) the unclassified state employees retirement program, established by chapter 352D;
- (7) the general employees retirement plan of the Public Employees Retirement Association, established by chapter 353, including the MERF division of the Public Employees Retirement Association;
- (8) the public employees police and fire plan of the Public Employees Retirement Association, established by chapter 353;
- (9) the public employees defined contribution plan, established by chapter 353D;
- (10) the local government correctional service retirement plan of the Public Employees Retirement Association, established by chapter 353E;
- (11) the voluntary statewide lump-sum volunteer firefighter retirement plan, established by chapter 353G;
- (12) the Teachers Retirement Association, established by chapter 354;
- (13) the Duluth Teachers Retirement Fund Association, established by chapter 354A;
- (14) the St. Paul Teachers Retirement Fund Association, established by chapter 354A;
- (15) the individual retirement account plan, established by chapter 354B;
- (16) the higher education supplemental retirement plan, established by chapter 354C;
- (17) the Minneapolis Police Relief Association, established by chapter 423B;
- (18) the Minneapolis Firefighters Relief Association, established by chapter 423C; and
- (19) the judges retirement fund, established by chapter 490.

### County Attorney: Minn. Stat. Ann. § 388.23 (2011). County attorney; administrative subpoenas

**Subdivision 1. Authority**. The county attorney, or any deputy or assistant county attorney whom the county attorney authorizes in writing, has the authority to subpoena and require the production of any records of telephone companies, cellular phone companies, paging companies, subscribers of private computer networks including Internet service providers or computer bulletin board systems, electric companies, gas companies, water utilities, chemical suppliers, hotels and motels, pawn shops, airlines,

buses, taxis, and other entities engaged in the business of transporting people, and freight companies, warehousing companies, self-service storage facilities, package delivery companies, and other entities engaged in the businesses of transport, storage, or delivery, and records of the existence of safe deposit box account numbers and customer savings and checking account numbers maintained by financial institutions and safe deposit companies, insurance records relating to the monetary payment or settlement of claims, the banking, credit card, and financial records of a subject of an identity theft investigation or a vulnerable adult, whether held in the name of the vulnerable adult or a third party, including but not limited to safe deposit, loan and account applications and agreements, signature cards, statements, checks, transfers, account authorizations, safe deposit access records and documentation of fraud, and wage and employment records of an applicant or recipient of public assistance who is the subject of a welfare fraud investigation relating to eligibility information for public assistance programs. Subpoenas may only be issued for records that are relevant to an ongoing legitimate law enforcement investigation. Administrative subpoenas may only be issued in welfare fraud and identity theft cases if there is probable cause to believe a crime has been committed. This provision applies only to the records of business entities and does not extend to private individuals or their dwellings.

- **Subd. 2. Enforcement**. The subpoena shall be enforceable through the district court.
- **Subd. 3. Expenses**. The person directed to produce the records shall be paid reasonable expenses incurred in producing the records.
- **Subd. 4. Disclosure prohibited**. The subpoena must state that the person to whom the subpoena is directed may not disclose the fact that the subpoena was issued or the fact that the requested records have been given to law enforcement personnel except:
- (1) insofar as the disclosure is necessary to find and disclose the records; or
- (2) pursuant to court order.
- **Subd. 5. Penalty**. The willful failure to produce the documents required by the subpoena is a misdemeanor.
- **Subd. 6. Ex parte order**. Upon the ex parte request of the attorney issuing the subpoena, the district court may issue an order directing the production of the records. It is not necessary for either the request or the order to be filed with the court administrator. Failure to comply with the court order subjects the person who fails to comply to civil or criminal contempt of court, or both.

#### Mississippi

#### Child Support Unit: Miss. Code Ann. § 43-19-45 (West 2010). Parent locator service

<Text of section effective until July 1, 2011>

(1) The Child Support Unit shall establish a state parent locator service for the purpose of locating absent and nonsupporting parents and alleged parents, which will utilize all appropriate public and private locator sources. In order to carry out the responsibilities imposed under Sections 43-19-31 through 43-19-53, the Child Support Unit may secure by administrative subpoena from the customer records of public utilities and cable television companies the names and addresses of individuals and the names and addresses of employers of such individuals that would enable the location of parents or alleged parents who have a duty to provide support and maintenance for their children. The Child Support Unit may also administratively subpoena any and all financial information, including account numbers, names and social security numbers of record for assets, accounts, and account balances from any individual, financial institution, business or other entity, public or private, needed to establish, modify or enforce a support order. No entity complying with an administrative subpoena to supply the requested information of whatever nature shall be liable in any civil action or proceeding on account of such compliance. Full faith and credit shall be given to all uniform administrative subpoenas issued by other state child support units. The recipient of an administrative subpoena shall supply the Child Support Unit, other state and federal IV-D agencies, its attorneys, investigators, probation officers, county or district attorneys in this state, all information relative to the location, employment, employment related benefits including, but not limited to, availability of medical insurance, income and property of such parents and alleged parents and with all information on hand relative to the location and prosecution of any person who has, by means of a false statement or misrepresentation or by impersonation or other fraudulent device, obtained Temporary Assistance for Needy Families (TANF) to which he or she was not entitled, notwithstanding any provision of law making such information confidential. The Mississippi Department of Information Technology Services and any other agency in this state using the facilities of the Mississippi Department of Information Technology Services are directed to permit the Child Support Unit access to their files, inclusive of those maintained for other state agencies, for the purpose of locating absent and nonsupporting parents and alleged parents, except to the extent that any such access would violate any valid federal statute or regulation issued pursuant thereto. The Child Support Unit, other state and federal IV-D agencies, its attorneys, investigators, probation officers, or county or district attorneys, shall use such information only for the purpose of investigating or enforcing the support liability of such absent parents or alleged parents or for the prosecution of other persons mentioned herein. Neither the Child Support Unit nor those authorities shall use the information, or disclose it, for any other purpose. All records maintained pursuant to the provisions of Sections 43-19-31 through 43-19-53 shall be confidential and shall be available only to the Child Support Unit, other state and federal IV-D agencies, the attorneys, investigators and other staff employed or under contract under Sections 43-19-31 through 43-19-53, district or county attorneys, probation departments, child support units in other states, and courts having jurisdiction in paternity, support or abandonment proceedings. The Child Support Unit may release to the public the name, photo, last known address, arrearage amount and other necessary information of a parent who has a

judgment against him for child support and is currently in arrears in the payment of this support. Such release may be included in a "Most Wanted List" or other media in order to solicit assistance.

- (2) The Child Support Unit shall have the authority to secure information from the records of the Mississippi Department of Employment Security that may be necessary to locate absent and nonsupporting parents and alleged parents under the provisions of Sections 43-19-31 through 43-19-53. Upon request of the Child Support Unit, all departments, boards, bureaus and agencies of the state shall provide to the Child Support Unit verification of employment or payment and the address and social security number of any person designated as an absent or nonsupporting parent or alleged parent. In addition, upon request of the Child Support Unit, the Mississippi Department of Employment Security, or any private employer or payor of any income to a person designated as an absent or nonsupporting parent or alleged parent, shall provide to the Child Support Unit verification of employment or payment and the address and social security number of the person so designated. Full faith and credit shall be given to such notices issued by child support units in other states. All such records and information shall be confidential and shall not be used for any purposes other than those specified by Sections 43-19-31 through 43-19-53. The violation of the provisions of this subsection shall be unlawful and any person convicted of violating the provisions of this subsection shall be guilty of a misdemeanor and shall pay a fine of not more than Two Hundred Dollars (\$200.00).
- (3) Federal and state IV-D agencies shall have access to the state parent locator service and any system used by the Child Support Unit to locate an individual for purposes relating to motor vehicles or law enforcement. No employer or other source of income who complies with this section shall be liable in any civil action or proceeding brought by the obligor or obligee on account of such compliance.

### Secretary of State: Miss. Code Ann. § 75-89-19 (2010). Investigation and enforcement by administrator

- (1) The administrator may conduct investigations, within or without this state, as he finds necessary or appropriate to:
- (a) Determine whether any person has violated, or is about to violate, any provision of this chapter or any rule or order of the administrator; or
- (b) Aid in enforcement of this chapter.
- (2) The administrator may publish information concerning any violation of this chapter or any rule or order of the administrator.
- (3) For purposes of any investigation or proceeding under this chapter, the administrator or any officer or employee designated by rule or order, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the administrator finds to be relevant or material to the

inquiry.

- (4)(a) If a person does not give testimony or produce the documents required by the administrator or a designated employee pursuant to an administrative subpoena, the administrator or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.
- (b) The request for order of compliance may be addressed to either:
- (i) The Chancery Court of the First Judicial District of Hinds County, Mississippi, if the person is within this state; or
- (ii) The appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside this state.

#### Missouri

### Director of Finance: Mo. Ann. Stat. § 361.070 (2011). Director and employees--oath--bond--prohibited acts

- 1. The director of finance and all employees of the division of finance, which term shall, for purposes of this section and section 361.080, include special agents, shall, before entering upon the discharge of their duties, take the oath of office prescribed by the constitution, and, in addition, take an oath that they will not reveal the conditions or affairs of any financial institution or any facts pertaining to the same, that may come to their knowledge by virtue of their official positions, unless required by law to do so in the discharge of the duties of their offices or when testifying in any court proceeding. For purposes of this section and section 361.080, "financial institution" shall mean any entity subject to chartering, licensing, or regulation by the division of finance.
- 2. The director of finance and all employees of the division of finance shall further execute to the State of Missouri good and sufficient bonds with corporate surety, to be approved by the governor and attorney general, conditioned that they will faithfully and impartially discharge the duties of their offices, and pay over to the persons entitled by law to receive it, all money coming into their hands by virtue of their offices. The principal amount of bond applicable to each employee shall be determined by the state banking and savings and loan board. The bond, after approval by the governor and attorney general, shall be filed with the secretary of state for safekeeping. The bond premiums, not to exceed one percent on the amount thereof, shall be paid out of the state treasury in the same manner as other expenses of the division.
- 3. Neither the director of finance nor any employees of the division of finance who participate in the examination of any bank or trust company, or who may be called upon to make any official decision or determination affecting the operation of any bank or trust company, other than the members of the state banking and savings and loan board who are required to have experience managing a bank or association as defined in chapter 369, shall be an officer, director, attorney, owner, or holder of stock in any bank or trust

company or any bank holding company as that term is defined in <u>section 362.910</u>, nor shall they receive, directly or indirectly, any payment or gratuity from any such organization, nor engage in the negotiation of loans for others with any state bank or trust company, nor be indebted to any state bank or trust company.

4. The director of finance, in connection with any examination or investigation of any person, company, or event, shall have the authority to compel the production of documents, in whatever form they may exist, and shall have the authority to compel the attendance of and administer oaths to any person having knowledge of any issue involved with the examination or investigation. The director may seek judicial enforcement of an administrative subpoena by application to the appropriate court. An administrative subpoena shall be subject to the same defenses or subject to a protective order or conditions as provided and deemed appropriate by the court in accordance with the Missouri Supreme Court Rules.

### Director of the Division of Credit Unions: Mo. Ann. Stat. § 370.101 (2011). Confidentiality of knowledge

- 1. The director of the division of credit unions and all employees of the division of credit unions, which term shall, for purposes of this section, include special agents, shall, before entering upon the discharge of their duties, take an oath that they will not reveal the conditions or affairs of any credit union or any facts pertaining to the same, that may come to their knowledge by virtue of their official positions, unless required by law to do so in the discharge of the duties of their offices or when testifying in any court proceeding. For purposes of this section, "credit union" shall mean any entity subject to chartering, licensing, or regulation by the division of credit unions.
- 2. Neither the director of the division of credit unions nor any employees of the division of credit unions who participate in the examination of any credit union, or who may be called upon to make any official decision or determination affecting the operation of any credit union, other than the members of the credit union commission, shall be an officer or director of any credit union the division of credit unions regulates, nor shall they receive, directly or indirectly, any payment or gratuity from any such organization, nor engage in the negotiation of loans for others with any state-chartered credit union, nor shall be indebted to any state-chartered credit union.
- 3. The director of the division of credit unions, in connection with any examination or investigation of any person, company, or event, shall have the authority to compel the production of documents, in whatever form they may exist, and shall have the authority to compel the attendance of and administer oaths to any person having knowledge of any issue involved with the examination or investigation. The director may seek judicial enforcement of an administrative subpoena by application to the appropriate court. An administrative subpoena shall be subject to the same defenses or subject to a protective order or conditions as provided and deemed appropriate by the court in accordance with the Missouri supreme court rules.

# Commissioner of Trade and Commerce: Mo. Ann. Stat. § 409.820 (2011). Investigations by commissioner, subpoena powers-judicial enforcement

- 1. The commissioner may make investigations, within or without this state, as he finds necessary or appropriate to:
- (1) Determine whether any person has violated, or is about to violate, any provision of sections 409.800 to 409.863 or any rule or order of the commissioner; or
- (2) Aid in enforcement of sections 409.800 to 409.863.
- 2. The commissioner may publish information concerning any violations of <u>sections</u> 409.800 to 409.863 or any rule or order issued or promulgated under <u>sections</u> 409.800 to 409.863.
- 3. For purposes of any investigation or proceeding under sections 409.800 to 409.863, the commissioner, or any officer or employee designated by rule or order of the commissioner, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner finds to be relevant or material to the inquiry. If a person does not give testimony or produce the documents required by the commissioner, or a designated employee, pursuant to an administrative subpoena, the commissioner, or his designated employee, may apply for a court order compelling compliance with the subpoena or the giving of the required testimony. The request for order of compliance may be addressed to either:
- (1) The circuit court of Cole County or the circuit court where service may be obtained on the person refusing to testify or produce, if the person is within this state; or
- (2) The appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside this state.

#### **Montana**

# Department of Public Health and Human Services: Mont. Code Ann. § 40-5-206 (2011). Central unit for information and administration--cooperation enjoined--availability of records

(1) The department shall establish a central unit to serve as a registry for the receipt of information, for answering IV-D inquiries concerning deserting parents, for receiving and answering requests for information made by consumer reporting agencies under 40-5-261, to coordinate and supervise departmental activities in relation to deserting parents, and to ensure effective cooperation with law enforcement agencies.

- (2) During or in anticipation of a delinquency, enforcement, or modification proceeding, a proceeding to establish child or medical support or paternity, an attempt to locate an obligor, or a contested case, the department or other IV-D agency may request and, notwithstanding any statute making the information confidential, all state, county, and city agencies, officers, and employees shall provide on request information, if known, concerning an obligor or obligee or as an aid to the operation of the IV-D program, including:
- (a) name;
- (b) residential and mailing addresses;
- (c) date of birth;
- (d) social security number;
- (e) wages or other income;
- (f) number of dependents claimed for state and federal income tax withholding purposes;
- (g) employer's name, address, federal employer identification number, North American industry classification system code, active or inactive status of the business and status date, phone number, facsimile number, address type, child support withholding address, and e-mail address:
- (h) state and local tax and revenue records of the obligor or obligee or an entity in which the obligor or obligee directly or indirectly has full or partial ownership with rights to participate in general management and control that are derived from the full or partial ownership interest;
- (i) penal corrections records;
- (j) address, location, and description of any real property or titled personal property;
- (k) any other asset in which the obligor or obligee may have an interest, including its location and the extent, nature, and value of the interest; and
- (1) the information listed in subsection (2)(g) for all Montana employers for the operation of the directory of new hires established under  $\underline{40-5-922}$ , including information received by electronic transmission.
- (3) Upon service of an administrative subpoena from the department or another IV-D agency during or in anticipation of a delinquency, enforcement, or modification proceeding, a proceeding to establish child or medical support or paternity, an attempt to locate an obligor, or a contested case, public utilities, cable television companies, and financial institutions shall, with regard to an obligor or obligee, provide the department or the requesting IV-D agency with the name and address of the obligor or obligee, the name and address of the obligor's or obligee's employer, and any information on the obligor's or obligee's assets and liabilities contained in customer records.
- (4) Any information obtained by the department during the course of a child support investigation that is confidential at the source must be treated by the department as confidential and must be safeguarded accordingly. Absent a specific statutory prohibition to the contrary and subject to subsection (6), the department may release information obtained from nonconfidential public and private sources, including information

regarding support orders, judgments, and payment records.

- (5) Absent a specific statutory prohibition or rule to the contrary and subject to subsection sources or any information maintained by the department in its records, including the names, addresses, and social security numbers of obligors and obligees, is limited to:
- (a) purposes directly related to the provision of services under this chapter;
- (b) government attorneys and courts having jurisdiction in support and abandonment proceedings and IV-D agencies engaged in the enforcement of support of minor children under the federal Social Security Act; and
- (c) any other use permitted or required by the federal Social Security Act.
- (6) The department may not disclose information regarding the whereabouts of a party to another party if:
- (a) the department received notice that a protective order with respect to the party has been entered against the other party; or
- (b) the department has reason to believe that the release of information may result in physical or emotional harm to the party.
- (7) A person or private entity that discloses information to the department in compliance with this section is not liable to the obligor or obligee for negligent disclosure.
- (8) An entity failing to comply with this section is subject to the contempt authority of the department under 40-5-226.

#### Nebraska

# Governmental Entities: Neb. Rev. Stat. § 86-2,106 (2010). Electronic communication service; remote computing service; disclosure; government access

- (1) A governmental entity may require the disclosure by a provider of electronic communication service of the contents of an electronic communication, that is in electronic storage in an electronic communications system for one hundred eighty days or less, only pursuant to a warrant. A governmental entity may require the disclosure by a provider of the contents of an electronic communication that has been in electronic storage in an electronic communications system for more than one hundred eighty days by the means available under subsection (2) of this section.
- (2)(a) A governmental entity may require a provider of remote computing service to disclose the contents of any electronic communication to which this subsection is made applicable by subdivision (2)(b) of this section (i) without required notice to the subscriber or customer if the governmental entity obtains a warrant or (ii) with prior notice from the governmental entity to the subscriber or customer if the governmental entity (A) uses an administrative subpoena or (B) obtains a court order for such

disclosure under subsection (4) of this section, except that delayed notice may be given pursuant to <u>section 86-2,108</u>.

- (b) Subdivision (2)(a) of this section shall apply to any electronic communication that is held or maintained on that service (i) on behalf of, and received by means of electronic transmission from or created by means of computer processing of communications received by means of electronic transmission from, a subscriber to or customer of such remote computing service and (ii) solely for the purpose of providing storage or computer processing services to such subscriber or customer, if the provider is not authorized to access the contents of any such communications for purposes of providing any services other than storage or computer processing.
- (3)(a)(i) Except as provided in subdivision (3)(a)(ii) of this section, a provider of electronic communication service or remote computing service may disclose a record or other information pertaining to a subscriber to or customer of such service not including the contents of communications covered by subsection (1) or (2) of this section to any person other than a governmental entity.
- (ii) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of such service not including the contents of communications covered by subsection (1) or (2) of this section to a governmental entity only when the governmental entity (A) uses an administrative subpoena, (B) obtains a warrant, (C) obtains a court order for such disclosure under subsection (4) of this section, or (D) has the consent of the subscriber or customer to such disclosure.
- (b) A governmental entity receiving records or information under this subsection is not required to provide notice to a subscriber or customer.
- (4) A court order for disclosure under subsection (2) or (3) of this section shall issue only if the governmental entity shows that there is reason to believe the contents of a wire or electronic communication or the records or other information sought are relevant to a legitimate law enforcement inquiry. A court issuing an order pursuant to this section, on a motion made promptly by the provider, may quash or modify such order if the information or records requested are unusually voluminous in nature or compliance with such order would otherwise cause an undue burden on such provider.
- (5) No cause of action shall lie in any court against any provider, its officers, employees, or agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, or certification under sections 86-2,104 to 86-2,110.

# Administrator of the Securities Division of the Office of the Secretary of State: Neb. Rev. Stat. § 91.300 (2010). Investigations and subpoenas

1. The Administrator may make investigations, within or outside of this State, as the Administrator finds necessary or appropriate to:

- (a) Determine whether any person has violated, or is about to violate, any provision of this chapter or any regulation or order of the Administrator; or
- (b) Aid in the enforcement of this chapter.
- 2. The Administrator may publish information concerning any violation of this chapter or any regulation or order of the Administrator.
- 3. For the purposes of any investigation or proceeding under this chapter, the Administrator, or an officer or employee designated by the Administrator, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other records which the Administrator finds to be relevant or material to the inquiry.
- 4. If a person does not give testimony or produce the records required by the Administrator or a designated officer or employee pursuant to an administrative subpoena, the Administrator or designated officer or employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.
- 5. The request for an order of compliance may be addressed to either:
- (a) The District Court for the First Judicial District;
- (b) The district court for any judicial district where service may be obtained on the person refusing to testify or produce, if the person is within this State; or
- (c) The appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside of this State.
- 6. If the activities constituting an alleged violation for which the information is sought would be a violation of this chapter had the activities occurred in this State, the Administrator may issue and apply to enforce subpoenas, in the manner set forth in subsection 5, in this State at the request of a securities agency or administrator of another state.

#### Nevada

Attorney General, DAs, Sheriffs, Police Department Heads, and Heads of any Department of the State Engaged in Criminal Law Enforcement: Nev. Rev. Stat. Ann. § 193.340 (2010). Required disclosure of certain information by provider of Internet service;

#### penalty; issuance and enforcement of administrative subpoena; fee for information

- 1. A provider of Internet service who violates the provisions of <u>18 U.S.C. § 2703</u> is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 or more than \$500 for each violation.
- 2. In investigating criminal activity that involves or may involve the use of a computer, the Attorney General, a district attorney, the sheriff of any county in this State, the head of any organized police department of any municipality in this State, the head of any department of this State engaged in the enforcement of any criminal law of this State and any sheriff or chief of police of a municipality may, if there is reasonable cause to believe that an individual subscriber or customer of a provider of Internet service has committed an offense through the use of the services of the provider of Internet service, issue a subpoena to carry out the procedure set forth in 18 U.S.C. § 2703 to compel the provider of Internet service to provide information concerning the individual subscriber or customer that the provider of Internet service is required to disclose pursuant to 18 U.S.C. § 2703.
- 3. If a person who has been issued a subpoena pursuant to subsection 2 charges a fee for providing the information, the fee must not exceed the actual cost for providing the information.
- 4. If a person who has been issued a subpoena pursuant to subsection 2 refuses to produce any information that the subpoena requires, the person who issued the subpoena may apply to the district court for the judicial district in which the investigation is being carried out for the enforcement of the subpoena in the manner provided by law for the enforcement of a subpoena in a civil action.
- 5. As used in this section, "provider of Internet service" has the meaning ascribed to it in NRS 205.4758, but does not include a public library when it is engaged in providing access to the Internet.

#### **New Hampshire**

#### Attorney GeneralN.H. Rev. Stat. Ann. § 7:6-b (2011). Certain Records of Communications Common Carriers.

I. Every communications common carrier, as defined in <u>RSA 570-A:1</u>, IX, upon the written demand of the attorney general that the attorney general has reasonable grounds for belief that the service furnished to a person or to a location by such communications common carrier has been, is being, or may be used for an unlawful purpose, shall furnish to the attorney general:

- (a) The names and addresses of persons to whom stated listed or unlisted telephone numbers are assigned.
- (b) The names and addresses of persons to whom any stated or identified services are provided.
- (c) Any local and long distance billing records for any subscriber to, or customer of telephone service or wireless telephone service as defined in RSA 638:21, XI.
- (d) The length of service provided to a subscriber or customer by the communications common carrier.
- (e) The types of services provided to the subscriber or customer by the communications common carrier, and
- (f) The telephone number or other subscriber number or identity.
- II. No such communications common carrier nor any agent, servant, or employee thereof, shall be civilly or criminally responsible or liable for furnishing or delivering any records or information in compliance with said demand and the attorney general shall not disclose any information obtained as a result of said demand except as it is essential to the proper discharge of the attorney general's duties. Any such written demand by the attorney general shall be understood to constitute an administrative subpoena for purposes of determining compliance with federal law.
- III. The attorney general may delegate authority under this section to any assistant attorney general. Where the offense under investigation is defined in RSA 318-B or RSA 649-B, the attorney general may delegate authority under this section to a county attorney. A county attorney may further delegate authority under this section to any assistant county attorney in the county attorney's office. The county attorney may exercise this authority only in cases within the jurisdiction of that county attorney. The attorney general shall adopt rules, pursuant to RSA 541-A, relative to:
- (a) Circumstances under which an assistant attorney general, a county attorney, or an assistant county attorney may issue such demands to communications common carriers under this section.
- (b) The procedures for applying for such demands.
- (c) The records of such demands which shall be kept and maintained.

# Commissioner of the New Hampshire Department of Health and Human Services: N.H. Rev. Stat. Ann. § 161-C:3-a (2010). Confidentiality of Records and Information; Information From Financial Institutions.

I. Notwithstanding the provisions of RSA 359-C or any other law to the contrary, the commissioner is hereby authorized to request, on an individually-named basis, and receive, on the same basis, from any bank, trust company, savings and loan association, credit union, or other financial institution doing business in this state information with respect to the transactions with any institution and the assets of any delinquent obligor or individual against whom the department is seeking to establish or enforce an obligation of support. The institution shall furnish the information within 15 days of the department's request. After such time, an institution which fails to comply with these

provisions shall be liable for an administrative fine of \$50 per day.

- II. The commissioner is hereby authorized to request and receive from any former or current employer, including for-profit, nonprofit, and governmental employers, information necessary to the establishment or enforcement of child support orders, including, but not limited to, the dates of employment, number of hours worked, rate of pay, date of birth, available health insurance, current address, payroll deductions, and social security number of any delinquent obligor or individual against whom the department is seeking to establish or enforce an obligation of support. The institution shall furnish the information within 15 days of the department's request. After such time, an employer who fails to comply with these provisions shall be liable for an administrative fine of \$50 per day.
- III. The department and any financial institution or employer who discloses financial or employment records under this section shall not be subject to civil liability or criminal prosecution which is based upon its disclosure under this section, or for any other action taken in good faith to comply with the requirements of this section. A financial institution shall not be liable under federal or state law to any person for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the department.
- IV. Any records established or information collected pursuant to the provisions of this chapter shall be made available only to the commissioner and the attorney general and their authorized designees, attorneys employed by the office of child support, attorneys responsible for the administration of RSA 546-B, attorneys employed by the department in RSA 169-C proceedings, the client or the client's authorized representative and courts or agencies in other states engaged in the enforcement of support of minor children as authorized by the rules of the department. Such records and information shall be available and used only for purposes directly connected with the establishment, enforcement, or modification of child support, the location and notification of parents in RSA 169-C proceedings, and the administration of this chapter. The records and information made available to the client or the client's authorized representative shall not include information provided to the department that is prohibited from release by federal law, state statute, state case law, or by contract or agreement between the department and another entity if such contract or agreement prohibits release of such information.
- IV-a. Notwithstanding paragraph IV or any other provision of law, custodial parents, guardians, and caretakers are authorized to request and receive from any responsible parent's former or current employer doing business in this state health insurance information necessary for the enforcement and establishment of medical support orders, including the availability of coverage.
- V. Any financial institution or employer who does not comply with the requirements under this section shall be guilty of a misdemeanor.
- VI. The department is authorized to obtain access to certain records held by public

utilities, cellular mobile radio communications companies, Internet service providers, and cable or satellite television companies with respect to individuals who owe or are owed support, or against or with respect to whom a support obligation is sought, consisting of the names and addresses, including email addresses, of such individuals and the names and addresses of the employers of such individuals, pursuant to an administrative subpoena issued by the commissioner.

VII. The department is authorized to enter into agreements with financial institutions doing business in the state:

- (a) To develop and operate, in coordination with such financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each obligor who maintains an account at the financial institution and who owes past-due support, as identified by the state by name and social security number or other taxpayer identification number.
- (b) In response to a notice of lien or levy, to encumber or surrender, as the case may be, assets held by such institution on behalf of any obligor who is subject to a child support lien pursuant to RSA 161-C.

VIII. The department shall pay a reasonable fee to a financial institution for conducting the data match provided for in paragraph VII(a), not to exceed actual costs incurred by such financial institution.

#### **New Mexico**

### State Title IV-D Agency: N.M. Stat. Ann. § 27-1-11 (2011). Expedited procedure

The state Title IV-D agency shall have the authority to take the following actions relating to establishment of paternity or to establishment, modification or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of state Title IV-D agencies of other states to take the following actions:

A. to order genetic testing for the purpose of paternity establishments;

B. to subpoena any financial or other information needed to establish, modify or enforce a support order and to impose penalties for failure to respond to such a subpoena. A subpoena issued by the state Title IV-D agency under this section shall be served upon the person to be subpoenaed or, at the option of the secretary of human services or the secretary's authorized representative, by certified mail addressed to the person at his last known address. The service of the subpoena shall be at least ten days prior to the required production of the information. If the subpoena is served by certified mail, proof of service

is the affidavit of mailing. After service of a subpoena upon a person, if the person neglects or refuses to comply with the subpoena, the state Title IV-D agency may apply to the district court of the county where the subpoena was served or the county where the subpoena was responded to for an order compelling compliance. Failure of the person to comply with the district court's order shall be punishable as contempt;

C. to require all entities in the state, including for-profit, nonprofit and governmental employers to provide promptly, in response to a request by the state Title IV-D agency of that or any other state administering a program under this part, information on the employment compensation, and benefits of any person employed by such entity as an employee or contractor and to sanction failure to respond to any such request;

- D. to obtain access, subject to safeguards on privacy and information security, and subject to the nonliability of entities that afford such access, to information contained in the following records, including automated access in the case of records maintained in automated databases:
- (1) records of other states and local government agencies, including:
- (a) vital statistics, including records of marriage, birth and divorce;
- (b) state and local tax and revenue records, including information on residence address, employer, income and assets;
- (c) records concerning real and titled personal property;
- (d) records of occupational and professional licenses and records concerning the ownership and control of corporations, partnerships and other business entities;
- (e) employment security records;
- (f) records of agencies administering public assistance programs;
- (g) records of the motor vehicle division of the taxation and revenue department; and
- (h) corrections records; and
- (2) certain records held by private entities with respect to persons who owe or are owed support, or against or with respect to whom a support obligation is sought, consisting of:
- (a) the names and addresses of such persons and the names and addresses of the employers of such persons, as appearing in customer records of public utilities and cable television companies, pursuant to an administrative subpoena; and
- (b) information including information on assets and liabilities on such individuals held by financial institutions;

E. in cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to temporary assistance for needy families or medicaid, or to a requirement to pay through the state disbursement unit established pursuant to Section 454B of the Social Security Act, [FN1] upon providing notice to obligor and obligee to direct the obligor or other payor to change the payee to the appropriate government entity;

- F. to order income withholding;
- G. in cases in which there is a support arrearage, to secure assets to satisfy the arrearage by:
- (1) intercepting or seizing periodic or lump-sum payments from:
- (a) a state or local agency, including unemployment compensation, workers' compensation and other benefits; and
- (b) judgments, settlements and lotteries;
- (2) attaching and seizing assets of the obligor held in financial institutions;
- (3) attaching public and private retirement funds; and
- (4) imposing liens and, in appropriate cases, to force sale of property and distribution of proceeds;
- H. for the purpose of securing overdue support, to increase the amounts for arrearages, subject to such conditions or limitations as the state Title IV-D agency may provide;
- I. the expedited procedures required shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify or enforce support orders:
- (1) each party to any paternity or child support proceeding is required, subject to privacy safeguards, to file with the tribunal and the state case registry upon entry of an order, and to update, as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number and driver's license number, and name, address and telephone number of employer; and
- (2) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the tribunal may deem state due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the tribunal;
- J. procedures under which:

- (1) the state agency and administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and
- (2) in a state in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the state without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties; and

K. the authority of the Title IV-D agency with regard to Subsections A through J of this section shall be subject to due process safeguards, including, as appropriate, requirements for notice, opportunity to contest the action and opportunity for an appeal on the record to an independent administrative or judicial tribunal. Such due process safeguards shall be developed and implemented by the Title IV-D agency in accordance with the administrative office of the courts and other affected agencies and individuals consistent with current policies and procedures for implementation of the human services department's regulations.

# Chief of the Securities Bureau of the Financial Institutions Division of the Regulation and Licensing Department: N.M. Stat. Ann. § 58-13A-11 (2011). Investigations

- A. The director may make investigations, within or without this state, as he finds necessary or appropriate to:
- (1) determine whether any person has violated, or is about to violate, any provision of the Model State Commodity Code or any rule or order of the director; or
- (2) aid in enforcement of that code.
- B. The director may publish information concerning any violation of the Model State Commodity Code or any rule or order of the director.
- C. For purposes of any investigation or proceeding under the Model State Commodity Code, the director or any officer or employee designated by rule or order may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the director finds to be relevant or material to the inquiry.
- D. (1) If a person does not give testimony or produce the documents required by the director or a designated employee pursuant to an administrative subpoena, the director or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.
- (2) The request for order of compliance may be addressed to either:

- (a) the district court for the county of Santa Fe or the district court where service may be obtained on the person refusing to testify or produce, if the person is within this state; or
- (b) the appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside this state.

#### **New York**

# Department of Public Welfare, Child Support Enforcement Unit Coordinator, Support Collection Unit Supervisor, or other Title IV-D State Child Support Enforcement Agency: N.Y. Soc. Serv. Law § 111-p (2011). Authority to issue subpoenas

The department or the child support enforcement unit coordinator or support collection unit supervisor of a social services district, or his or her designee, or another state's child support enforcement agency governed by title IV-D of the social security act, shall be authorized, whether or not a proceeding is currently pending, to subpoena from any person, public or private entity or governmental agency, and such person, entity or agency shall provide any financial or other information needed to establish paternity and to establish, modify or enforce any support order. If a subpoena is served when a petition is not currently pending, the supreme court or a judge of the family court may hear and decide all motions relating to the subpoena. If the subpoena is served after a petition has been served, the court in which the petition is returnable shall hear and decide all motions relating to the subpoena. Any such person, entity, or agency shall provide the subpoenaed information by the date as specified in the subpoena. Such subpoena shall be subject to the provisions of article twenty-three of the civil practice law and rules. The department or district may impose a penalty for failure to respond to such information subpoenas pursuant to section twenty-three hundred eight of the civil practice law and rules.

#### **North Carolina**

### Attorney General: N.C. Gen. Stat. Ann. § 1-614 (2010). Civil investigative demand

(a) A civil investigative demand is an administrative subpoena. Whenever the Attorney General has reason to believe that a person has information or is in possession, custody, or control of any document or other object relevant to an investigation or that would lead to the discovery of relevant information in an investigation of a violation of <u>G.S. 1-607</u>, the Attorney General may issue in writing and cause to be served upon the person, before bringing or intervening or making an election in an action under <u>G.S. 1-608</u> or other false claims law, a civil investigative demand requiring the person to produce any documents or objects for their inspection and copying.

- (b) The civil investigative demand shall comply with all of the following:
- (1) Be served upon the person in the manner required for service of process in civil actions and may be served by the Attorney General or investigator assigned to the North Carolina Department of Justice.
- (2) Describe the nature of the conduct constituting the violation under investigation.
- (3) Describe the class or classes of any documents or objects to be produced with sufficient definiteness to permit them to be fairly identified.
- (4) Prescribe a reasonable date and time at which the person shall produce any document or object.
- (5) Advise the person that objections to or reasons for not complying with the demand may be filed with the Attorney General on or before that date and time.
- (6) Designate a person to whom any document or object shall be produced.
- (7) Contain a copy of subsections (b) and (c) of this section.
- (c) The date within which any document or object must be produced shall be more than 30 days after the civil investigative demand has been served upon the person.
- (d) A civil investigative demand may include an express demand for any product of discovery. A product of discovery includes the original or duplicate of any deposition, interrogatory, document, thing, examination, or admission, that is obtained by any method of discovery in any judicial or administrative proceeding of an adversarial nature, and any digest, compilation, and index of any product of discovery. Whenever a civil investigative demand is an express demand for any product of discovery, a copy of the demand shall be served on the person from whom the discovery was obtained, and the Attorney General shall notify the person to whom the demand is issued of the date on which the copy was served. A demand for a product of discovery shall not be returned or returnable until 30 days after a copy of the demand has been served on the person from whom the discovery was obtained. Within 30 days after service of the demand, the person from whom the discovery was obtained or the person on whom the demand was served will serve on the Attorney General a copy of any protective order that prevents or restrains disclosure of the product of discovery to the Attorney General. The Attorney General may petition the court that issued the protective order to modify the order to allow compliance with the demand. Disclosure of any product of discovery pursuant to any express demand does not constitute a waiver of any right or privilege that the person making the disclosure may be entitled to invoke to resist discovery of trial preparation materials.
- (e) The production of documents and objects in response to a civil investigative demand served under this section shall be made under a sworn certificate by the person to whom the demand is directed, or in the case of a person other than a natural person, a person having knowledge of the facts and circumstances relating to the production and authorized to act on behalf of the person. The certificate shall state that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available.

Upon written agreement between the person served with the civil investigative demand and the Attorney General, the person may substitute copies for originals of all or any part of the documents requested.

- (f) If a person objects to or otherwise fails to comply with a civil investigative demand served upon the person under subsection (a) of this section, the Attorney General may file an action in superior court for an order to enforce the demand. Venue for the action to enforce the demand shall be in either Wake County or the county in which the person resides, is found, or transacts business. Notice of a hearing on the action to enforce the demand and a copy of the action shall be served upon the person in the same manner as prescribed in the Rules of Civil Procedure. If the court finds that the demand is proper, that there is reasonable cause to believe that there may have been a violation of G.S. 1-607, and that the information sought or document or object demanded is relevant to the violation, the court shall order the person to comply with the demand, subject to modifications the court may prescribe.
- (g) If the person fails to comply with an order entered pursuant to subsection (f) of this section, the court may do any of the following:
- (1) Adjudge the person to be in contempt of court.
- (2) Grant injunctive relief against the person to whom the demand is issued to restrain the conduct which is the subject of the investigation.
- (3) Grant any other relief as the court may deem proper.
- (h) A petition for an order of the court to modify or set aside a civil investigative demand issued under this section may be filed by any person who has received a civil investigative demand or in the case of an express demand for any product of discovery, the person on whom the discovery was obtained. The petition may be filed in superior court in either Wake County or the county in which the person resides, is found, or transacts business, or, in the case of a petition to modify an express demand for any product of discovery, the petition shall be filed in the court in which the proceeding was pending when the product of discovery was obtained. Any petition under this subsection must be filed within 30 days after the date of service of the civil investigative demand or before the return date specified in the demand, whichever date is earlier, or within a longer period as may be prescribed in writing by the investigator identified in the demand. The petition shall specify each ground upon which the petitioner relies in seeking relief and may be based upon any failure to comply with the provisions of this section or upon any constitutional or other legal right or privilege of the person. During the pendency of the petition in the court, the court may stay, as it deems proper, the running of the time allowed for compliance with the demand, in whole or in part, except that the person filing the petition shall comply with any portions of the demand not sought to be modified or set aside.
- (i) Any documents and objects produced pursuant to this section may be used in connection with any civil action brought under <u>G.S. 1-608</u> and for any use that is consistent with the law, and the regulations and policies of the Attorney General,

including use in connection with internal Attorney General memoranda and reports; communications between the Attorney General and a federal, State, or local governmental agency, or a contractor of a federal, State, or local governmental agency, undertaken in furtherance of an Attorney General investigation or prosecution of a case; interviews of any qui tam relator or other witness; oral examinations; depositions; preparation for and response to civil discovery requests; introduction into the record of a case or proceeding applications, motions, memoranda, and briefs submitted to a court or other tribunal; and communications with government investigators, auditors, consultants and experts, the counsel of other parties, arbitrators and mediators, concerning an investigation, case, or proceeding. Any documents and objects obtained by the Attorney General under this section may be shared with any qui tam relator if the Attorney General determines it is necessary as part of any false claims act investigation. Before using or sharing documents and objects obtained by the Attorney General under this section with any person, the Attorney General may require that the person agree to an order of the court protecting the documents or objects, or any information contained in the documents or objects, from disclosure by that person. In the case of documents or objects the producing party has designated as a trade secret or other confidential research, development, or commercial information, the Attorney General shall either (i) require that the person with whom documents or objects are shared be prohibited from disclosing the documents or objects, or any information contained in the documents or objects, or (ii) petition the court for an order directing the producing party to either appear and support the designation or withdraw the designation.

- (j) The Attorney General may designate an employee of the North Carolina Department of Justice to serve as a custodian of documents and objects.
- (k) Except as otherwise provided in this section, no documents or objects, or copies thereof, while in the possession of the North Carolina Department of Justice, shall be available for examination by any person other than an employee of the North Carolina Department of Justice. The prohibition in the preceding sentence on the availability of documents or objects shall not apply if consent is given by the person who produced the documents or objects, or, in the case of any product of discovery produced pursuant to an express demand, consent is given by the person from whom the discovery was obtained, or prevent disclosure to any other federal or State agency for use by that agency in furtherance of its statutory responsibilities upon application made by the Attorney General to the superior court showing substantial need for the use of the documents or objects by any agency in furtherance of its statutory responsibilities.
- (l) While in the possession of the custodian and under reasonable terms and conditions as the Attorney General shall prescribe, documents or objects shall be available for examination by the person who produced the documents or objects, or by a representative of that person authorized by that person to examine the documents or objects.
- (m) If any documents or objects have been produced by any person in the course of any investigation pursuant to a civil investigative demand under this section, and any case or proceeding before any court arising out of the investigation, or any proceeding before any

agency involving the documents or objects, has been completed, or no case or proceeding in which the documents or objects may be used has been commenced within a reasonable time after completion of the investigation, the custodian shall, upon written request of the person who produced the documents or objects, return to the person any documents or objects that have not passed into the control of any court or agency.

(n) The North Carolina Rules of Civil Procedure shall apply to this section to the extent that the rules are not inconsistent with the provisions of this section.

### Director of the State Bureau of Investigation: N.C. Gen. Stat. Ann. § 15A-298 (2010). Subpoena authority

Pursuant to rules issued by the Attorney General, the Director of the State Bureau of Investigation or the Director's designee may issue an administrative subpoena to a communications common carrier or an electronic communications service to compel production of business records if the records:

- (1) Disclose information concerning local or long-distance toll records or subscriber information; and
- (2) Are material to an active criminal investigation being conducted by the State Bureau of Investigation.

### Secretary of State: N.C. Gen. Stat. Ann. § 78D-21 (2010). Investigations

- (a) The Administrator may make investigations, within or without this State, as it finds necessary or appropriate to:
- (1) Determine whether any person has violated, or is about to violate, any provision of this Chapter or any rule or order of the Administrator; or
- (2) Aid in enforcement of this Chapter.
- (b) The Administrator may publish information concerning any violation of this Chapter or any rule or order of the Administrator.
- (c) For purposes of any investigation or proceeding under this Chapter, the Administrator or any officer or employee designated by rule or order, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the Administrator finds to be relevant or material to the inquiry.
- (d)(1) If a person does not give testimony or produce the documents required by the Administrator or a designated employee pursuant to an administrative subpoena, the Administrator or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.

- (2) The request for order of compliance may be addressed to either:
- a. The Superior Court of Wake County where service may be obtained on the person refusing to testify or produce, if the person is within this State; or
- b. The appropriate court of the State having jurisdiction over the person refusing to testify or produce, if the person is outside this State.
- (e) The Administrator in his discretion may appoint commodities law enforcement agents and other enforcement personnel.
- (1) Subject Matter Jurisdiction.--The responsibility of an agent shall be enforcement of this Chapter.
- (2) Territorial Jurisdiction.--A commodities law enforcement agent is a State officer with jurisdiction throughout the State.
- (3) Service of Orders of the Administrator.--Commodities law enforcement agents may serve and execute notices, orders, or demands issued by the Administrator for the surrender of registrations or relating to any administrative proceeding. While serving and executing such notices, orders, or demands, commodities law enforcement agents shall have all the power and authority possessed by law enforcement officers when executing an arrest warrant.

#### **North Dakota**

### Governmental and Law Enforcement Agencies: N.D. Cent. Code § 6-08.1-05 (2009). Government access

- 1. A governmental agency or law enforcement agency may obtain customer information from a financial institution pursuant to either of the following:
- a. The consent of the customer, in accordance with this chapter.
- b. Valid legal process, in accordance with this section.
- 2. A governmental agency or law enforcement agency may obtain customer information from a financial institution pursuant to a judicial or administrative subpoena duces tecum served on the financial institution, if there is reason to believe that the customer information sought is relevant to a proper law enforcement objective or is otherwise authorized by law.
- 3. A governmental agency or law enforcement agency may obtain customer information from a financial institution pursuant to a search warrant if it obtains the search warrant pursuant to the rules of criminal procedure of this state. Examination of the customer

information may occur as soon as it is reasonably practicable after the warrant is served on the financial institution.

# Attorney General: N.D. Cent. Code § 12-60-08.1 (2009). Power of the attorney general to issue subpoenas in bureau investigations

The attorney general may issue an administrative subpoena compelling the recipient to provide records or information to an agent of the bureau of criminal investigation in any criminal matter being investigated by the bureau.

### Attorney General: N.D. Cent. Code § 12.1-20-05.1 (2009). Luring minors by computer or other electronic means

- 1. An adult is guilty of luring minors by computer or other electronic means when:
- a. The adult knows the character and content of a communication that, in whole or in part, implicitly or explicitly discusses or depicts actual or simulated nudity, sexual acts, sexual contact, sadomasochistic abuse, or other sexual performances and uses any computer communication system or other electronic means that allows the input, output, examination, or transfer of data or programs from one computer or electronic device to another to initiate or engage in such communication with a person the adult believes to be a minor; and
- b. By means of that communication the adult importunes, invites, or induces a person the adult believes to be a minor to engage in sexual acts or to have sexual contact with the adult, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for the adult's benefit, satisfaction, lust, passions, or sexual desires.
- 2. A violation of this section is a class A misdemeanor if the adult is less than twenty-two years of age and reasonably believes the minor is age fifteen to seventeen. If the adult is less than twenty-two years of age and reasonably believes the minor is under age fifteen, or the adult is twenty-two years of age or older and the adult reasonably believes the minor is age fifteen to seventeen, violation of this section is a class C felony. If the adult is twenty-two years of age or older and the adult reasonably believes the minor is under the age of fifteen, violation of this section is a class B felony. The court shall sentence an adult convicted of a class B or class C felony under this section to serve a term of imprisonment of at least one year, except the court may sentence an individual to less than one year if the individual did not take a substantial step toward meeting with the minor.
- 3. The attorney general may issue an administrative subpoena compelling an internet service provider or cellular phone company to provide subscriber information to a law enforcement agency investigating a possible violation of this section.

### North Dakota Department of Human Services: N.D. Cent. Code § 50-09-08.2 (2009). Power of state agency, child support agency,

#### and employees and agents

- 1. In implementing programs under title IV-D, the state agency, and the officials, employees, and agents of the agency may:
- a. Conduct examinations;
- b. Require by subpoena the attendance of witnesses and the production of books, records, and papers;
- c. Compensate witnesses and individuals producing books, records, including records maintained in automated data bases, and papers in amounts determined by the state agency, not to exceed actual reasonable costs incurred and not to include any costs incurred by a financial institution that has not entered into an agreement under subdivision h nor costs incurred by any person that reflects the difference between responding to a subpoena and providing information under subdivision g or k;
- d. Impose a fiscal sanction of no more than twenty-five dollars for each day against a person who fails to attend as a witness or produce books, records, or papers;
- e. Require genetic testing of appropriate individuals when necessary in disputed paternity cases, to determine the relationship of parent and child, and:
- (1) Pay the costs of such testing, subject to recoupment from the alleged father if paternity is established; and
- (2) Obtain additional testing in any case if an initial test result is contested, upon request and advance payment by the contestant;
- f. Make application to the district court to compel participation in genetic testing, the attendance of witnesses, the production of books, records, and papers, and the payment of fiscal sanctions imposed under this section;
- g. Notwithstanding any provision of this code making the records confidential, in addition to or in lieu of a subpoena, obtain access, including automated access in the case of records maintained in automated data bases, to:
- (1) Records of other state and local government agencies, including:
- (a) Vital statistics, including records of marriage, birth, and divorce;
- (b) Local tax and revenue records, including information on residence address, employer, income, and assets;
- (c) Records concerning real and titled personal property;

- (d) Records of occupational and professional licenses and records concerning the ownership and control of corporations, partnerships, and other business entities;
- (e) Employment security records;
- (f) Workforce safety and insurance records identifying the last-known address of a person who owes or who is owed support, the wage-loss benefits, permanent partial impairment benefits, death benefits, or additional benefits that person has received or is entitled to receive from the organization, and whether and where that person is currently employed;
- (g) Records of all agencies administering public assistance programs;
- (h) Records of the department of transportation, which access is not subject to the requirements in <u>section 39-16-03</u>;
- (i) Corrections records;
- (j) Law enforcement records; and
- (k) Subject to an agreement with the state tax commissioner, state tax and revenue records, including information on residence address, employer, income, and assets; and
- (2) Certain information contained in records held by private entities with respect to individuals who owe or are owed child support, or against or with respect to whom a child support obligation is sought, subject to safeguards on privacy and information security, consisting of:
- (a) The names, addresses, social security numbers, and other requested relevant income or asset information of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities, including cellular and wireless telephone service providers, and cable television companies, pursuant to an administrative subpoena if requested; and
- (b) Information on assets and liabilities on those individuals held by financial institutions; h. Enter into agreements with financial institutions doing business in the state, and with the assistance, or through the agency, of the secretary, with financial institutions doing business in two or more states:
- (1) To develop and operate, in coordination with those financial institutions, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide in each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such financial institution and who owes past-due support, as identified by the state agency by name and social security number or other taxpayer number; and

- (2) Under which such financial institution, in response to a notice of lien or an execution, will encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a lien for unpaid child support; i. For purposes of locating parents or alleged parents of children receiving services under title IV-D, provide all federal and state agencies conducting activities under title IV-D with access to:
- (1) Records of the department of transportation; and
- (2) Law enforcement records;
- j. Notwithstanding any provision of law making the records confidential:
- (1) Provide access to information identifying the amount of payment necessary to obtain the release of a lien taken by the state agency in any property to secure the payment of child support; and
- (2) Upon payment of a sufficient amount, satisfy and release that lien; and
- k. Upon agreement, exchange information, including social security numbers, with a person listed in subdivision g for the purpose of identifying individuals who owe or are owed child support, or against or with respect to whom a child support obligation is sought, and any income, assets, or liabilities of those individuals.
- 2. All information received under this section, if confidential under some other provision of law, is subject to the penalties under <a href="section 50-06-15">section 50-06-15</a> and is confidential, except that the information may be used in the administration of any program administered by or under the supervision and direction of the department and as specifically authorized by the rules of the department. Any information received under this section, if not subject to <a href="section 44-04-18">section 44-04-18</a> and <a href="section 6">section 6</a> of article XI of the Constitution of North Dakota</a> in the possession of the person providing the information, is exempt from <a href="section 44-04-18">section 44-04-18</a> and <a href="section 6">section 6</a> of article XI of the Constitution of North Dakota</a>. Any person acting under the authority of the state agency who pursuant to this subsection obtains information from the office of the state tax commissioner, the confidentiality of which is protected by law, may not divulge such information except to the extent necessary for the administration of the child support enforcement program or when otherwise directed by judicial order or otherwise provided by law.
- 3. a. As provided in title IV-D, a person is immune from suit or any liability under any federal or state law:
- (1) For any disclosure of information, in any form, made under this section, to the state agency, a county agency, or an official, employee, or agent of either;

- (2) For encumbering or surrendering any assets held by a financial institution in response to a notice of lien or an execution issued by the state agency as provided in <u>section 28-21-05.2</u> and chapter 35-34; or
- (3) For any other action taken in good faith to comply with the requirements of this section.
- b. The court shall award reasonable attorney's fees and costs against any person who commences an action that is subsequently dismissed by reason of the immunity granted by this section.
- 4. The officers and employees designated by the county agencies or the state agency may administer oaths and affirmations.
- 5. All employing or contracting entities within this state, including for-profit, nonprofit, and governmental employers, shall provide information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor within ten days of a request made under subsection 1 or made by the agency of any other jurisdiction charged with administration of programs under title IV-D. An entity that receives a request for which a response is required by this section is subject to a fiscal sanction of twenty-five dollars for each day, beginning on the eleventh day after the request is made and not complied with.

### State Securities Commissioner: N.D. Cent. Code § 51-23-11 (2009). Investigations

- 1. The commissioner may make investigations, within or without this state, as the commissioner finds necessary or appropriate to:
- a. Determine whether any person has violated, or is about to violate, any provision of this chapter or any rule or order of the commissioner.
- b. Aid in enforcement of this chapter.
- 2. The commissioner may publish information concerning any violation of this chapter or any rule or order of the commissioner.
- 3. For purposes of any investigation or proceeding under this chapter, the commissioner or any officer or employee designated by rule or order, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner finds to be relevant or material to the inquiry.
- 4. a. If a person does not give testimony or produce the documents required by the commissioner or a designated employee pursuant to an administrative subpoena, the

commissioner or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.

- b. The request for order of compliance may be addressed to either:
- (1) The district court of Burleigh County, North Dakota, or the district court of any county in this state, where service may be obtained on the person refusing to testify or produce, if the person is within this state; or
- (2) The appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside this state.

#### Oklahoma

#### Insurance Commissioner: Okla. Stat. Ann. tit. 36 § 317 (2011). Witnesses or evidence

A. The Insurance Commissioner may take depositions, subpoena witnesses or documentary evidence, administer oaths, and examine under oath any individual relative to the affairs of any person being examined, or relative to the subject of any hearing or investigation.

B. All administrative subpoenas shall be served in the same manner as if issued from a district court or in accordance with the Administrative Procedures Act [FN1]. If any person fails to obey a subpoena lawfully served, the Commissioner may forthwith report such disobedience, together with a copy of the subpoena and proof of service thereof, to the district court of the county in which the person was required to appear, and such court shall forthwith cause such person to be produced and shall impose penalties as though the person had disobeyed a subpoena issued out of such court.

#### **Oregon**

### Attorney General; Department of Justice: O.R.S. § 180.073 (2011). Subpoena authority.

(1) In any criminal investigation conducted by the Attorney General, the Attorney General may execute in writing and serve a subpoena or subpoena duces tecum upon any person the Attorney General believes to have information or material relevant to the investigation. A subpoena may require that the person appear at a reasonable time and place stated in the subpoena and give oral testimony under oath concerning matters relevant to the investigation. A subpoena duces tecum may require, in addition to or in

lieu of giving testimony, that the person produce designated books, papers, documents or tangible items that constitute or contain materials relevant to the investigation for examination, copying or reproduction. A subpoena duces tecum that only requires the production of materials must inform the person subpoenaed if the person must personally appear at the time and place designated in the subpoena.

- (2) A resident of this state may be required by subpoena to personally appear only in the county in which the person resides, is employed or personally transacts business. A person who is not a resident of this state may be required by subpoena to personally appear only:
- (a) In a county of this state in which the person is served with the subpoena; or
- (b) In the state, territory, insular possession subject to the dominion of the United States or foreign country in which the person resides. Any circuit court may issue a letter rogatory for the examination as provided in ORCP 38 B.
- (3) A person subpoenaed under this section may move to quash or modify the subpoena if it is oppressive or unreasonable. The motion must be made before the time specified in the subpoena for appearance or production of materials. The motion may be made in:
- (a) The circuit court for the county in which the person is required to appear or produce materials;
- (b) The circuit court for the county in which the subpoenaed person resides or has a principal office; or
- (c) The circuit court for the county in which materials to be produced under a subpoena duces tecum are located.
- (4) A person who is subpoenaed under this section and who fails to appear or produce materials as required by the subpoena, or who refuses to be sworn or give testimony, may be found to be in contempt of court. Proceedings to hold a person in contempt under this subsection may be brought in any county where the person could be required to personally appear under subsection (2) of this section.
- (5) ORS 136.585 to 136.600 apply to any subpoena issued pursuant to this section.

### Attorney General; Department of Justice: O.R.S. § 180.075 (2011). Information obtained by subpoena.

Except as provided in this section, the Attorney General may not disclose any testimony or materials obtained under the provisions of <u>ORS</u> 180.073. The Attorney General may disclose testimony or materials only if:

- (1) The disclosure is to a federal, state or local law enforcement agency or prosecutor and the purpose of the disclosure is to facilitate a criminal investigation or prosecution;
- (2) The disclosure is to a state or federal grand jury; or
- (3) A circuit court concludes upon application and affidavit by the Attorney General that there is a particularized need for disclosure of the testimony or materials in a civil, administrative, disciplinary or personnel investigation or proceeding.

#### **Pennsylvania**

### Investigative or Law Enforcement Officers: Pa. Cons. Stat. Ann. § 5743 (2011). Requirements for governmental access

- (a) Contents of electronic communications in electronic storage.—Investigative or law enforcement officers may require the disclosure by a provider of electronic communication service of the contents of an electronic communication which is in electronic storage in an electronic communication system for:
- (1) One hundred eighty days or less only pursuant to a warrant issued under the Pennsylvania Rules of Criminal Procedure.
- (2) More than 180 days by the means available under subsection (b).
- (b) Contents of electronic communications in a remote computing service.--
- (1) Investigative or law enforcement officers may require a provider of remote computing service to disclose the contents of any electronic communication to which this paragraph is made applicable by paragraph (2):
- (i) without required notice to the subscriber or customer if the investigative or law enforcement officer obtains a warrant issued under the Pennsylvania Rules of Criminal Procedure; or
- (ii) with prior notice from the investigative or law enforcement officer to the subscriber or customer if the investigative or law enforcement officer:
- (A) uses an administrative subpoena authorized by a statute or a grand jury subpoena; or
- (B) obtains a court order for the disclosure under subsection (d);

except that delayed notice may be given pursuant to <u>section 5745</u> (relating to delayed notice).

- (2) Paragraph (1) is applicable with respect to an electronic communication which is held or maintained on that service:
- (i) On behalf of and received by means of electronic transmission from, or created by means of computer processing of communications received by means of electronic transmission from, a subscriber or customer of the remote computing service.
- (ii) Solely for the purpose of providing storage or computer processing services to the subscriber or customer, if the provider is not authorized to access the contents of any such communication for the purpose of providing any services other than storage or computer processing.
- (c) Records concerning electronic communication service or remote computing service.--
- (1) Deleted by 2008, Oct. 9, P.L. 1403, No. 111, § 3, effective in 60 days [Dec. 8, 2008].
- (2) A provider of electronic communication service or remote computing service shall disclose a record or other information pertaining to a subscriber to or customer of the service, not including the contents of communications covered by subsection (a) or (b), to an investigative or law enforcement officer only when the investigative or law enforcement officer:
- (i) uses an administrative subpoena authorized by a statute or a grand jury subpoena;
- (ii) obtains a warrant issued under the Pennsylvania Rules of Criminal Procedure;
- (iii) obtains a court order for the disclosure under subsection (d); or
- (iv) has the consent of the subscriber or customer to the disclosure.
- (3) An investigative or law enforcement officer receiving records or information under paragraph (2) is not required to provide notice to the customer or subscriber.
- (d) Requirements for court order.--A court order for disclosure under subsection (b) or (c) shall be issued only if the investigative or law enforcement officer shows that there are specific and articulable facts showing that there are reasonable grounds to believe that the contents of a wire or electronic communication, or the records or other information sought, are relevant and material to an ongoing criminal investigation. A court issuing an order pursuant to this section, on a motion made promptly by the service provider, may quash or modify the order if the information or records requested are unusually voluminous in nature or compliance with the order would otherwise cause an undue burden on the provider.
- (e) No cause of action against a provider disclosing information under this subchapter.--No cause of action shall lie against any provider of wire or electronic

communication service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order, warrant, subpoena or certification under this subchapter.

### Department of Public Welfare: PA. Cons. Stat. Ann. § 4377 (2011). Power to expedite support cases

- (a) Administrative powers.--The department shall have Statewide jurisdiction to issue the following administrative orders to expedite the establishment and enforcement of support on behalf of any assistance recipient or nonrecipient receiving Title IV-D services:
- (1) To order any individual to submit to genetic testing for the purpose of paternity establishment.
- (2) To issue administrative subpoenas against any entity within this Commonwealth, including for-profit, not-for-profit and governmental employers, to require production of information regarding the employment, compensation and benefits of any individual employed by such entity as an employee or contractor.
- (3) To access records of all State and local government agencies, including vital statistic records (including records of marriage, birth and divorce), State and local tax and revenue records (including information on residence address, employer, income and assets), records of real and titled personal property, records of occupational and professional licenses, records of the ownership and control of corporations, partnerships and other business entities, employment security records, records of agencies administering public assistance programs, motor vehicle records, probation and parole records and corrections records.
- (4) To issue administrative subpoenas for the records of public utilities and cable television companies with respect to individuals who owe or are owed support or against whom or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of their employers.
- (5) To issue administrative subpoenas for the records held by financial institutions with respect to individuals who owe or are owed support or against whom or with respect to whom a support obligation is sought.
- (6) To issue administrative subpoenas for financial or other information needed to establish, modify or enforce a support order.
- (7) To issue orders directing an obligor or other payor to change the payee of a support order.
- (8) To order income withholding.

- (9) To increase the amount of monthly support payments for the payment of arrearages, as may be provided by general rule.
- (10) To issue administrative orders in cases where there is a support arrearage to secure assets to satisfy any current support obligation and the arrearage by:
- (i) Intercepting or seizing periodic or lump sum payments from a government agency, including unemployment compensation, workers' compensation and other benefits.
- (ii) Intercepting or seizing judgments or settlements.
- (iii) Attaching and seizing assets of the obligor held in financial institutions.
- (iv) Attaching public and private retirement funds.
- (v) Imposing liens on property.
- (vi) Directing the sheriff to levy and sell other real or personal property.
- (11) To transmit to another state, electronically or by other methods, a request for assistance in a case involving the enforcement of a support order containing [FN1] sufficient information as will enable the state to which the request is transmitted to compare the information to the information in the data bases of the state. The transmittal shall serve as a certification of arrears and a certification that the state has complied with all procedural due process requirements applicable to the case.
- (12) To respond to a request for assistance received from another state. The response, which may be transmitted electronically or by other methods, shall confirm the receipt of the request, the action taken and the amount of support collected and specify any additional information or action required of the requesting tribunal to obtain enforcement of the child support obligation.
- (13) To prohibit the issuance or renewal of a license of an obligor or other individual under <u>section 4355(a)</u> (relating to denial or suspension of licenses) or to require the suspension of the license of an obligor or other individual pursuant to <u>section 4355(d.1)</u>.
- **(b) Enforcement authority.**—The department may administratively assess a civil penalty of up to \$5,000 per violation upon any person or entity that fails to comply with an order, subpoena or request for information issued under subsection (a). The department may make application to any court of common pleas or to the Commonwealth Court for purposes of enforcing any subpoena or final administrative order.
- (c) Appeals.--Any person aggrieved by an action of the department under this section shall have a right to appeal. An appeal of an action under subsection (a) shall be taken to an independent hearing officer designated by the department unless the appellant is challenging the validity or amount of the underlying support obligation, in which case the

court having jurisdiction over the support obligation shall hear the appeal. An appeal from imposition of a civil penalty imposed under subsection (b) must be taken to the Bureau of Hearing and Appeals in the department. An appeal which is filed in the wrong tribunal shall be transferred to the correct tribunal. If no appeal is timely filed from the department action or under subsection (a) or (b), the department's action or order shall be final. An action or order of the department under this section shall remain in effect pending any appeal unless stayed for good cause shown.

(d) Immunity.--The department and its employees shall be immune from civil or criminal liability for any good faith action taken under this section. The immunity provided by this subsection shall not apply to any individual who intentionally misuses the authority of the department for a purpose other than securing the lawful establishment or enforcement of support.

#### Rhode Island

# Department of Administration, Division of Taxation, and any Agency Taking Action to Establish Paternity, Establish or Modify Child Support or Medical Orders, Enforce Child Support Orders or Locate Individuals Involved in the Preceding: R.I. Gen. Laws § 15-22-3 (2010). Administrative subpoena

- (a) The department of administration, division of taxation, and any other state or federal agency taking action to establish paternity, establish or modify child support or medical orders, enforce child support orders or location of individuals for the above, shall be authorized to issue subpoenas as appropriate to the individuals and entities named in this chapter to secure financial and other information relating to the obligor for the purpose of and to the extent necessary for the administration of the child support enforcement program.
- (b) Any entity or individual who fails to reply to an administrative subpoena shall be liable for a civil penalty of one hundred dollars (\$100) for the violation, to be assessed by the department of administration, division of taxation, child support enforcement, or the Rhode Island family court, and shall be required to provide the information and/or comply with the request.

### Fraud Prevention Unit: R.I. Gen. Laws § 42-16.1-13 (2010). Investigative powers of the fraud prevention unit

The unit is authorized to investigate allegations of workers' compensation fraud and abuse. In furtherance of any investigation, the unit has the power to:

(a) Administrative subpoena. The unit may request, through an administrative subpoena, the attendance and testimony of witnesses and the production of books, records, and other evidence relevant to an investigation. The subpoena shall specify the time, date, and place

where the witness is to respond. Within twenty (20) days after the service of the subpoena or at anytime before the return date specified in the subpoena, whichever period is shorter, the person served may file in a state superior court and serve upon the unit and the attorney general a civil petition for an order of the court modifying or setting aside the subpoena. The petition shall specify each ground upon which the petitioner is seeking relief. If a person neglects or refuses to comply with any request to provide testimony or produce books, records, and other evidence relevant to an investigation, the attorney general may petition the superior court for an order compelling the person to answer the request. Books, records, and other evidence obtained through an administrative subpoena that are not used in a court proceeding shall be destroyed as soon as practicable.

(b) Service of process. Unit investigators have the authority to serve criminal and civil process.

#### South Carolina

Officer of the Court Employed by the South Carolina Law Enforcement Division after the Attorney General signs off on the Administrative Subpoena: S.C. Code Ann. § 17-30-125 (2010). On-scene orders to cut or divert telephone lines; grounds; administrative subpoena for production of certain subscriber or customer information; regulations; good faith reliance as defense.

- (A) For purposes of this section:
- (1) "Attorney General" means the Attorney General of the State of South Carolina or the Attorney General's designee who is employed by the Attorney General and is an officer of the court.
- (2) "SLED" means the South Carolina Law Enforcement Division.
- (B) The supervising agent of SLED or the supervising law enforcement officer of a political subdivision of this State at the scene of an incident where there is reasonable cause to believe that:
- (1) the incident involves immediate danger of death or serious bodily injury to a person or the danger of a prisoner's escape;
- (2) a person is holding one or more hostages;
- (3) the probability exists that a subject about to be arrested will resist with the use of weapons;
- (4) a person has barricaded himself, is armed, and is threatening to commit suicide; or (5) a threat has been made against a critical infrastructure in South Carolina as defined by federal law, pursuant to 42 U.S.C. 5195c(e); may order law enforcement or telephone company personnel to cut, reroute, or divert telephone lines solely for the purpose of

preventing telephone communications between the suspect and any person other than a law enforcement officer or the law enforcement officer's designee, if the cutting, rerouting, or diverting of telephone lines is technically feasible and can be performed without endangering the lives of telephone company or other utility personnel.

- (C) An officer of the court who is employed by SLED may issue an administrative subpoena to a telephone company, Internet service provider, or communications entity for the production of subscriber or customer information as described in subsection (F), not including the contents of any communications, if:
- (1) SLED has reasonable cause to believe that the information is material to an active emergency incident involving at least one of the following situations:
- (a) a threat of death or serious bodily injury to a person;
- (b) the danger of a prisoner's escape;
- (c) a person who is holding one or more hostages;
- (d) the probability exists that a person about to be arrested will resist arrest with the use of weapons;
- (e) a person who has barricaded himself, is armed, and is threatening to commit suicide; or
- (f) a threat against a critical infrastructure in South Carolina as defined by federal law, pursuant to 42 U.S.C. Section 5195c(e); and
- (2) SLED is not otherwise able to obtain a warrant or subpoena for the information from a court due to:
- (a) the court not being able to issue a warrant or subpoena in a timely fashion and the immediate need to obtain the information; or
- (b) SLED having reasonable cause to believe that obtaining a warrant or subpoena from the court could result in perpetuating an emergency incident that the warrant or subpoena is intended to prevent.
- (D)(1) An administrative subpoena must be made in writing upon oath or affirmation of the officer of the court who is employed by SLED. The officer must sign the administrative subpoena affirming that SLED has reasonable cause to believe that the information is material to an active emergency incident involving at least one of the situations listed in subsection (C)(1), and that SLED is not otherwise able to obtain a warrant or subpoena for the information from a court due to one of the reasons listed in subsection (C)(2).
- (2) The officer must submit the administrative subpoena to the Attorney General for review prior to issuing the administrative subpoena to a telephone company, Internet service provider, or communications entity. The officer must not issue the administrative subpoena without authorization by the Attorney General, pursuant to subsection (E). The officer may submit the administrative subpoena with signature to the Attorney General in person, by mail, by facsimile, or by other electronic means. If the officer, after a good

faith effort, is not able to submit the administrative subpoena with signature to the Attorney General in person, by mail, by facsimile, or by other electronic means, the officer may orally or electronically explain and affirm the administrative subpoena to the Attorney General.

- (E)(1) The Attorney General must authorize an officer of the court who is employed by SLED to issue an administrative subpoena to a telephone company, Internet service provider, or communications entity, if, after review, the Attorney General determines that SLED has reasonable cause to believe that the information is material to an active emergency incident involving at least one of the situations listed in subsection (C)(1), and that SLED is not otherwise able to obtain a warrant or subpoena for the information from a court due to one of the reasons listed in subsection (C)(2).
- (2) If the Attorney General authorizes the officer of the court who is employed by SLED to issue the administrative subpoena, the Attorney General must sign and return the administrative subpoena to SLED. The Attorney General may return the administrative subpoena with signature to SLED in person, by mail, by facsimile, or by other electronic means.
- (3) If the Attorney General, after a good faith effort, is not able to return the administrative subpoena with signature to SLED in person, by mail, by facsimile, or by other electronic means, or the officer of the court employed by SLED was not able to submit the administrative subpoena with signature to the Attorney General and had to orally or electronically explain and affirm the administrative subpoena, the Attorney General may orally or electronically confirm authorization of the administrative subpoena. The Attorney General must return the administrative subpoena with signature to SLED within forty-eight hours after the Attorney General authorizes the administrative subpoena, or by the next business day if the time period falls on a weekend or holiday, whichever is later.
- (4) The good faith reliance by the Attorney General as to the information affirmed by SLED to obtain an administrative subpoena constitutes a complete defense to any civil, criminal, or administrative action arising out of the administrative subpoena. The Attorney General is not responsible for any costs related to the defense of any civil, criminal, or administrative action arising out of the administrative subpoena.
- (F)(1) Upon receipt of an administrative subpoena from SLED, a telephone company, Internet service provider, or communications entity shall disclose, as applicable, the subscriber's or customer's:
- (a) name;
- (b) address:
- (c) local and long distance telephone connection or electronic communication records, or records of session times and durations;
- (d) length of service, including the start date, and types of service utilized;

- (e) telephone or instrument number or other customer or subscriber number of identity, including any temporarily assigned network addresses; and
- (f) means and source of payment for such service, including any credit card or bank account numbers.
- (2) If a telephone company, Internet service provider, or communications entity fails to obey an administrative subpoena without lawful excuse, SLED may apply to a circuit court having jurisdiction for an order compelling compliance. The telephone company, Internet service provider, or communications entity may object to the administrative subpoena on the grounds that the administrative subpoena fails to comply with this section, or upon any constitutional or other legal right or privilege. The court may issue an order modifying or setting aside the administrative subpoena or directing compliance with the original administrative subpoena.
- (G) Information obtained by SLED pursuant to an administrative subpoena must not be made public and is not subject to the Freedom of Information Act.
- (H)(1) SLED is authorized to promulgate permanent regulations, pursuant to the Administrative Procedures Act in Chapter 23, Title 1, to define the procedures and guidelines needed to issue an administrative subpoena as provided in this section.
- (2) Pursuant to Section 1-23-130, SLED is authorized to promulgate emergency regulations to define the procedures and guidelines needed to issue an administrative subpoena as provided in this section until such time as permanent regulations are promulgated. The provisions of Section 1-23-130(A), (B), (D), and (E) are applicable to emergency regulations promulgated pursuant to this item. The provisions of Section 1-23-130(C) are not applicable to emergency regulations promulgated pursuant to this item. An emergency regulation promulgated pursuant to this item becomes effective upon issuance and continues for one year unless terminated sooner by SLED or concurrent resolution of the General Assembly.
- (I) An administrative subpoena must comply with the provisions of federal law  $\underline{18 \text{ U.S.C.}}$  Section 2703(c)(2).
- (J) The good faith reliance by a telephone company on an oral or written order to cut, reroute, divert, or intercept telephone lines given by a supervising law enforcement officer pursuant to subsection (B), or the good faith reliance by a telephone company, Internet service provider, or communications entity to provide information to SLED pursuant to an administrative subpoena, constitutes a complete defense to any civil, criminal, or administrative action arising out of the order or administrative subpoena.

Officer of the Court Employed by the South Carolina Law Enforcement Division after the Attorney General signs off on the Administrative Subpoena: S.C. Code Ann. § 23-3-75 (2010). Administrative subpoena to a financial institution, public or private utility, or communications provider; disclosure; privacy

#### of information; regulations; applicable federal law.

- (A) For purposes of this section:
- (1) "Attorney General" means the Attorney General of the State of South Carolina or the Attorney General's designee who is employed by the Attorney General and is an officer of the court.
- (2) "SLED" means the South Carolina Law Enforcement Division.
- (B) An officer of the court who is employed by SLED may issue an administrative subpoena to a financial institution, public or private utility, or communications provider for the production of subscriber or customer information as described in subsection (E), not including the contents of any communications, if:
- (1) SLED has reasonable cause to believe that the information is material to an active investigation of at least one of the following financial crimes:
- (a) breach of trust with fraudulent intent (Section 16-13-230);
- (b) obtaining a signature or property by false pretenses (Section 16-13-240);
- (c) financial identity fraud (Section 16-13-510 et seq);
- (d) financial transaction card or number theft (Section 16-14-20 et seq);
- (e) financial transaction card fraud (Section 16-14-60 et seq);
- (f) computer crimes (Section 16-16-10 et seq); or
- (g) crimes against a federally chartered or insured financial institution (Section 34-3-110); and
- (2) SLED is not otherwise able to obtain a warrant or subpoena for the information from a court due to:
- (a) the court not being able to issue a warrant or subpoena in a timely fashion and the immediate need to obtain the information; or
- (b) SLED having reasonable cause to believe that obtaining a warrant or subpoena from the court could result in the subscriber or customer, or an agent of the subscriber or customer, destroying, erasing, transferring, or otherwise changing the information in order to knowingly conceal evidence material to an investigation.
- (C)(1) An administrative subpoena must be made in writing upon oath or affirmation of the officer of the court who is employed by SLED. The officer must sign the administrative subpoena affirming that SLED has reasonable cause to believe that the information is material to an active investigation of at least one of the financial crimes listed in subsection (B)(1), and that SLED is not otherwise able to obtain a warrant or subpoena for the information from a court due to one of the reasons listed in subsection (B)(2).
- (2) The officer must submit the administrative subpoena to the Attorney General for review prior to issuing the administrative subpoena to a financial institution, public or

private utility, or communications provider. The officer must not issue the administrative subpoena without authorization by the Attorney General pursuant to subsection (D). The officer may submit the administrative subpoena with signature to the Attorney General in person, by mail, by facsimile, or by other electronic means. If the officer, after a good faith effort, is not able to submit the administrative subpoena with signature to the Attorney General in person, by mail, by facsimile, or by other electronic means, the officer may orally or electronically explain and affirm the administrative subpoena to the Attorney General.

- (D)(1) The Attorney General must authorize an officer of the court who is employed by SLED to issue an administrative subpoena to a financial institution, public or private utility, or communications provider if, after review, the Attorney General determines that SLED has reasonable cause to believe that the information is material to an active investigation of at least one of the financial crimes listed in subsection (B)(1), and that SLED is not otherwise able to obtain a warrant or subpoena for the information from a court due to one of the reasons listed in subsection (B)(2).
- (2) If the Attorney General authorizes the officer of the court who is employed by SLED to issue the administrative subpoena, the Attorney General must sign and return the administrative subpoena to SLED. The Attorney General may return the administrative subpoena with signature to SLED in person, by mail, by facsimile, or by other electronic means.
- (3) If the Attorney General, after a good faith effort, is not able to return the administrative subpoena with signature to SLED in person, by mail, by facsimile, or by other electronic means, or the officer of the court employed by SLED was not able to submit the administrative subpoena with signature to the Attorney General and had to orally or electronically explain and affirm the administrative subpoena, the Attorney General may orally or electronically confirm authorization of the administrative subpoena. The Attorney General must return the administrative subpoena with signature to SLED within forty-eight hours after the Attorney General authorizes the administrative subpoena, or by the next business day, if the time period falls on a weekend or holiday, whichever is later.
- (4) The good faith reliance by the Attorney General as to the information affirmed by SLED to obtain an administrative subpoena constitutes a complete defense to any civil, criminal, or administrative action arising out of the administrative subpoena. The Attorney General is not responsible for any costs related to the defense of any civil, criminal, or administrative action arising out of the administrative subpoena.
- (E)(1) Upon receipt of an administrative subpoena from SLED, a financial institution, public or private utility, or communications provider shall disclose, as applicable, the subscriber's or customer's:
- (a) name;
- (b) address;

- (c) local and long distance telephone connection or electronic communication records, or records of session times and durations;
- (d) length of service, including the start date, and types of service utilized;
- (e) telephone or instrument number or other customer or subscriber number of identity, including any temporarily assigned network addresses; and
- (f) means and source of payment for such service, including any credit card or bank account numbers.
- (2) If a financial institution, public or private utility, or communications provider fails to obey an administrative subpoena without lawful excuse, SLED may apply to a circuit court having jurisdiction for an order compelling compliance. The financial institution, public or private utility, or communications provider may object to the administrative subpoena on the grounds that the administrative subpoena fails to comply with this section, or upon any constitutional or other legal right or privilege. The court may issue an order modifying or setting aside the administrative subpoena or directing compliance with the original administrative subpoena.
- (3) The good faith reliance by a financial institution, public or private utility, or communications provider to provide information to SLED pursuant to an administrative subpoena, constitutes a complete defense to any civil, criminal, or administrative action arising out of the administrative subpoena.
- (F) Information obtained by SLED pursuant to an administrative subpoena must not be made public and is not subject to the Freedom of Information Act.
- (G)(1) SLED is authorized to promulgate permanent regulations, pursuant to the Administrative Procedures Act in Chapter 23, Title 1, to define the procedures and guidelines needed to issue an administrative subpoena.
- (2) Pursuant to Section 1-23-130, SLED is authorized to promulgate emergency regulations to define the procedures and guidelines needed to issue an administrative subpoena until such time as permanent regulations are promulgated. The provisions of Section 1-23-130(A), (B), (D), and (E) are applicable to emergency regulations promulgated pursuant to this subitem. The provisions of Section 1-23-130(C) are not applicable to emergency regulations promulgated pursuant to this subitem. An emergency regulation promulgated pursuant to this subitem becomes effective upon issuance and continues for one year unless terminated sooner by SLED or concurrent resolution of the General Assembly.
- (H) An administrative subpoena must comply with the provisions of federal law  $\underline{18}$   $\underline{\text{U.S.C. Section } 2703(c)(2)}$ .

Secretary of State: S.C. Code Ann.§ 39-73-310 (2010). Authority of administrator to investigate; publication of information concerning violation; powers and procedures regarding investigations; court order to compel compliance.

- (A) The administrator may make investigations, within or without this State, as it finds necessary or appropriate to:
- (1) determine whether a person has violated or is about to violate this chapter or a regulation of the administrator; or
- (2) aid in enforcement of this chapter.
- (B) The administrator may publish information concerning a violation of this chapter or a regulation of the administrator.
- (C) For purposes of an investigation or a proceeding under this chapter the administrator or an officer or employee designated by regulation may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator finds to be relevant or material to the inquiry.
- (D)(1) If a person does not give testimony or produce the documents required by the administrator or a designated employee pursuant to an administrative subpoena, the administrator or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.
- (2) The request for order of compliance may be addressed to:
- (a) the circuit court of Richland County or the circuit court of the county where service may be obtained on the person refusing to testify or produce if the person is within this State: or
- (b) the appropriate court of the state having jurisdiction over the person refusing to testify or produce if the person is outside this State.

Director of the Long Term Care Ombudsman Program, the Adult Protective Services Program in the Department of Social Services, the Vulnerable Adults Investigations Unit of the South Carolina Law Enforcement Division, or the Medicaid Fraud Control Unit of the Office of the Attorney General: S.C. Code Ann. § 43-35-20 (2010). Additional powers of investigative entities.

In addition to all other powers and duties that an investigative entity is given in this article, the investigative entity may:

- (1) have access to facilities for the purpose of conducting investigations, as otherwise permitted by law;
- (2) request and receive written statements, documents, exhibits, and other items pertinent to an investigation including, but not limited to, hospital records of a vulnerable adult

which the hospital is authorized to release upon written request of the investigative entity without obtaining patient authorization;

- (3) issue, through its director, administrative subpoenas for the purpose of gathering information and documents;
- (4) institute proceedings in a court of competent jurisdiction to seek relief necessary to carry out the provisions of this chapter;
- (5) require all persons, including family members of a vulnerable adult and facility staff members, to cooperate with the investigative entity in carrying out its duties under this chapter including, but not limited to, conducting investigations and providing protective services;
- (6) require all officials, agencies, departments, and political subdivisions of the State to assist and cooperate within their jurisdictional power with the court and the investigative entity in furthering the purposes of this chapter;
- (7) conduct studies and compile data regarding abuse, neglect, and exploitation;
- (8) issue reports and recommendations.

# Director of the Child Support Enforcement Division of the State Department of Social Services: S.C. Code Ann. § 63-17-730 (2010). Notice of financial responsibility; order of default.

The director shall issue a notice of financial responsibility to an obligor who owes a child support debt or who is responsible for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the division pursuant to Title IV-D of the Social Security Act. The notice shall state that:

- (1) the obligor is required to appear at the time and location indicated in the notice for a negotiation conference to determine the obligor's duty of support;
- (2) the division may issue an order of default setting forth the amount of the obligor's duty of support, if the obligor:
- (a) fails to appear for the negotiation conference as scheduled in the notice;
- (b) fails to reschedule a negotiation conference before the date and time stated in the notice or within thirty days of service of the notice of financial responsibility, whichever is later; or
- (c) fails to send the division a written request for a court hearing before the time scheduled for the negotiation conference or within thirty days of service of the notice of financial responsibility, whichever is later;
- (3) the obligor may request a court hearing within thirty days after the receipt of the notice of financial responsibility pursuant to <u>Section 63-17-780</u>;

- (4) the order of default must be filed with the clerk of court of the county in which the obligor resides or, if the obligor does not reside in the State, with the clerk of court of the county in which the obligee resides; that as soon as the order of the default is filed, it shall have all the force, effect, and remedies of an order of the court including, but not limited to, income withholding or contempt of court; and that execution may be issued on the order in the same manner and with the same effect as if it were an order of the court:
- (5) no court order for judgment nor verified entry of judgment may be required in order for the clerk of court and division to certify past due amounts of child support to the Internal Revenue Service or Department of Revenue for purposes of intercepting a federal or state tax refund;
- (6) the name of the custodian of the child on whose behalf support is being sought and the name and birth date of the child;
- (7) the amount of the monthly support obligation must be based upon the child support guidelines as set forth in Sections 63-17-470 and 43-5-580;
- (8) the division may issue an administrative subpoena to obtain income information from the obligor;
- (9) the amount of any arrearage which has accrued under an administrative or court order from support;
- (10) the costs of collections may be assessed against and collected from the obligor;
- (11) the obligor may assert the following objections in the negotiation conference and that, if the objections are not resolved, the division shall schedule a court hearing pursuant to Section 63-17-750(C):
- (a) that the dependent child has been adopted by a person other than the obligor;
- (b) that the dependent child is emancipated; or
- (c) that there is an existing court or administrative order for support as to the monthly support obligation;
- (12) the duty to provide medical support must be established under this article in accordance with the state child support guidelines;
- (13) an order issued pursuant to this article or an existing order of a court also may be modified under this article in accordance with the Uniform Interstate Family Support Act;
- (14) the obligor is responsible for notifying the division of any change of address or employment within ten days of the change;
- (15) if the obligor has any questions, the obligor should telephone or visit the division;

- (16) the obligor has the right to consult an attorney and the right to be represented by an attorney at the negotiation conference;
- (17) other information as set forth in regulations promulgated pursuant to the Administrative Procedures Act.

## Department of Social Services: S.C. Code Ann. § 63-17-850 (2010). Issuance of subpoenas.

When necessary in the discharge of the duties of the department to establish, modify, or enforce a child support order, the department may issue an administrative subpoena or subpoena duces tecum to a state, county, or local agency, board or commission, or to any private entity or individual or to any representative of a state, county, or local agency, board or commission, or private entity to compel the production of documents, books, papers, correspondence, memoranda, and other records relevant to the discharge of the department's duties. The department may assess a civil fine of one hundred dollars per occurrence for failure to obey a subpoena or subpoena duces tecum issued pursuant to this section, in addition to any other remedies as permitted by law. A subpoena or subpoena duces tecum issued under this section may be enforced pursuant to Section 63-3-530.

#### South Dakota

## Any Title IV-D Agency: S.D. Codified Laws § 25-7A-56.6 (2011). Title IV-D agency records access

For purposes of child support enforcement activities, any Title IV-D agency is hereby granted access to information contained in the following records including, if applicable, automated access to case records maintained in automated data bases:

- (1) Records of other state and local government agencies, including:
- (a) Vital statistics, including records of marriage, birth, death, or divorce;
- (b) State and local tax revenue records, including information on residence address, employer, income, and assets;
- (c) Records concerning real and titled personal property;
- (d) Records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;
- (e) Employment security records;
- (f) Records of agencies administering public assistance programs;
- (g) Records of the Division of Motor Vehicles; and
- (h) Records of the Department of Corrections.

- (2) Records held by private entities with respect to individuals who owe or are owed support or against whom a support obligation is sought, consisting of:
- (a) The names, addresses, and telephone numbers of individuals, and the names and addresses of the employers of the individuals, as appearing in the customer records of public utilities and cable television companies, which shall be provided pursuant to an administrative subpoena issued by the department;
- (b) Information, including information on assets and liabilities related to the individuals and held by any financial institution.

Any information obtained by the department pursuant to this section is confidential in nature, and may be used or disclosed only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation. Any entity which provides information to the department is not subject to civil or criminal liability for releasing or disclosing the requested information.

# Department of Social Services Investigators: S.D. Codified Laws § 28-1-78 (2011). Program of recoveries and fraud investigations-Debt collection and fraud allegation investigations--Authority of investigators

The department shall have a program of recoveries and fraud investigations to collect debts owed the department and to investigate allegations of fraud in all department assistance programs. Any fraud investigator for this program may:

- (1) Initiate and conduct any investigation if the program has cause to believe that a fraudulent act has been committed by a recipient of assistance from department programs;
- (2) Review any report or complaint of an alleged fraudulent act to determine whether such report requires further investigation and conduct such investigation;
- (3) Obtain access to any record related to residence, household composition, employment, finances and resources, and medical records as authorized by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), PL 104-199, as amended through January 1, 2005, to assist in investigation of an alleged fraudulent act and may require by administrative subpoena the production of any book, record, or other information; and
- (4) Cooperate with federal, state, and local law enforcement, prosecuting attorneys, and the attorney general in the investigation and prosecution of any fraudulent act where public assistance has been granted or applied for under the welfare laws of this state.

#### **Tennessee**

## Commissioner or Contractors of the Department of Human Services: Tenn. Code Ann. § 36-5-801 (2011). Access to records for child support enforcement

- (a) For the purpose of establishing paternity, or for the establishment, modification or enforcement of orders of support under the child support program established under Title IV-D of the Social Security Act, the department of human services shall have the authority to:
- (1) Subpoena, by an administrative subpoena issued by the commissioner, by any authorized representative of the commissioner, or by any contractor of the department, any financial or other information needed to establish, modify, or enforce an order of support;
- (2) Require all entities in the state, including, but not limited to, for-profit, non-profit and governmental employers, to provide promptly, in response to a request or administrative subpoena from the department, its Title IV-D contractor, or by the Title IV-D agency or contractor of any other state, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or as a contractor;
- (3)(A) Obtain upon request, or by administrative subpoena if necessary, and notwithstanding any other law to the contrary, access, including automated access if available, to the following records of any state or local agency:
- (i) Vital statistics, including records of voluntary acknowledgments, marriages, births, deaths and divorces;
- (ii) State and local tax records and revenue records, including information about the residence address, employer of any individual, and the individual's income and assets;
- (iii) Records of real and titled personal property;
- (iv) Records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;
- (v) Employment security records;
- (vi) All records of any state or local agency administering any form of public assistance;
- (vii) Records relating to the registration and titling of motor vehicles;
- (viii) Records of state, county, or municipal correctional agencies;
- (4) Obtain pursuant to an administrative subpoena, and notwithstanding any other law to the contrary, access to certain records held by private entities with respect to individuals who owe or are owed support or against or with respect to whom a support obligation is sought, consisting of the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities, including all electric, gas, telephone and water companies and cable television companies;

- (5) Obtain upon request, and by administrative subpoena if necessary, and notwithstanding any other law to the contrary, information, including, but not limited to, information on assets and liabilities held by any financial institution regarding any individuals who owe, are owed or against or with respect to whom a support obligation is owed; and
- (6)(A) Notwithstanding the provisions of any other law to the contrary, the department of human services, and any of its Title IV-D child support contractors, or the Title IV-D agency of any other state or territory, or any of their Title IV-D child support contractors and any federal agency conducting activities under Title IV-D of the Social Security Act, shall have access to any information maintained by any agency of the state of Tennessee that maintains any system used to locate any individual for any purpose relating to registration of any motor vehicles or law enforcement activities.
- (B) For purposes of this subdivision (a)(6), "system" shall be defined as any automated, computerized or electronic system used by any state law enforcement agency, or any state agency that otherwise maintains any records of motor vehicles, in which any information relative to the location or address of any individual persons are maintained by such agencies.
- (C) The department of human services shall have rulemaking authority to prescribe the information required by the provisions of this subdivision (a)(6).
- (b) No administrative subpoena shall issue to individuals or entities, other than the obligor or obligee, pursuant to this part without prior review and approval of the necessity for its issuance by a licensed attorney employed by the department or its contractor.
- (c) A request or administrative subpoena pursuant to this section may be contested by filing an appeal pursuant to the provisions of part 10 of this chapter.

# Department of Child Support Enforcement: Tenn. Code Ann. § 36-5-812 (2011). Enforcement of requests, administrative orders and administrative subpoenas

- (a) The department may enforce an administrative order or subpoena, or the civil penalties authorized in § 36-5-811, by filing a motion for such purpose in the chancery, circuit, juvenile court, or other domestic relations court, having jurisdiction over the support order, or at the option of the department or its Title IV-D contractor, in the county of the residence of the person or of the location of the entity against whom the request, administrative order or administrative subpoena was issued.
- (b) The court may enforce any of its orders pursuant to this section by contempt orders.
- (c) The department may also enforce such administrative orders, subpoenas or requests by directing the revocation, denial, or suspension of any license, as defined in § 36-5-701, of any person or entity.

(d) Such enforcement methods shall be cumulative, and not exclusive, of any other remedies provided by law for the enforcement of any orders by the court or by the department.

# District Attorney General or Assistant District Attorney General: Tenn. Code Ann. § 40-17-125 (2011). Sexual exploitation of a minor; subpoena for production of records related to Internet and computer use

- (a) In any investigation relating to the offenses of sexual exploitation of a minor, as defined in § 39-17-1003, aggravated sexual exploitation of a minor, as defined in § 39-17-1004, or especially aggravated sexual exploitation of a minor, as defined in § 39-17-1005, and upon reasonable cause to believe that an Internet service account has been used in the exploitation or attempted exploitation of a minor, the district attorney general or an assistant district attorney general may issue in writing and cause to be served a subpoena requiring the production and testimony described in subsection (b).
- (b) Except as provided in subsection (c), a subpoena issued under this section is authorized to require the production of any records or other documentation relevant to the investigation including:
- (1) Name;
- (2) Address;
- (3) Local and long distance telephone connection records, or records of session times and durations;
- (4) Length of service, including start date, and types of service utilized;
- (5) Telephone or instrument number or other subscriber number of identity, including any temporarily assigned network address; and
- (6) Means and source of payment for such service, including any credit card or bank account number.
- (c) The provider of electronic communication service or remote computing service shall not disclose the following pursuant to a subpoena but may only do so pursuant to a warrant issued by a court of competent jurisdiction:
- (1) In-transit electronic communications;
- (2) Account memberships related to internet groups, newsgroups, mailing lists or specific areas of interest:
- (3) Account passwords; and

- (4) Account content to include:
- (A) Electronic mail in any form;
- (B) Address books, contact lists, or buddy lists;
- (C) Financial records;
- (D) Internet proxy content or internet history; and
- (E) Files or other digital documents stored within the account or pursuant to use of the account.
- (d) At any time before the return date specified on the subpoena, the person summoned may, in the general sessions court of the county in which the person resides or does business, petition for an order modifying or quashing the subpoena, or a prohibition of disclosure by a court.
- (e) A subpoena under this section shall describe the objects required to be produced and shall prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.
- (f) If no case or proceeding arises from the production of records or other documentation pursuant to this section within a reasonable time after those records or documentation are produced, the district attorney general shall either destroy the records and documentation or return them to the person who produced them.
- (g) A subpoena issued under this section may be served by any person who is authorized to serve process under the Tennessee Rules of Civil Procedure and such subpoena shall be served in accordance with such rules.
- (h) Each district attorney general shall annually report the following information to the judiciary committees of the senate and house of representatives no later than February 1 for the preceding calendar year:
- (1) The number of requests for administrative subpoenas made under this section;
- (2) The number of administrative subpoenas issued under this section;
- (3) The number of administrative subpoenas issued under this section that were contested;
- (4) The number of administrative subpoenas issued under this section that were quashed or modified:
- (5) The number of search warrants that were issued as a consequence of the issuance of an administrative subpoena under this section; and
- (6) The number of individuals who were prosecuted under §§ 39-17-1003, 39-17-1004, and 39-17-1005 following the issuance of an administrative subpoena under this section.

(i) Except as provided in subsection (h), any information, records or data reported or obtained pursuant to a subpoena issued pursuant to this section shall remain confidential and shall not be further disclosed unless in connection with a criminal case related to the subpoenaed materials.

## Commissioner of Human Services: Tenn. Code Ann. § 71-6-103 (2011). Rules and regulations; reports; investigations; providing protection

- (a) The commissioner has the discretion to adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this part insofar as such action is reasonably calculated to serve the public interest.
- (b)(1) Any person, including, but not limited to, a physician, nurse, social worker, department personnel, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this part. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death. However, unless the report indicates that there are other adults in the same or similar situation and that an investigation and provision of protective services are necessary to prevent their possible abuse, neglect or exploitation, it shall not be necessary for the department to make an investigation of the circumstances surrounding the death; provided, that the appropriate law-enforcement agency is notified.
- (2) If a hospital, clinic, school, or any other organization or agency responsible for the care of adults has a specific procedure, approved by the director of adult protective services for the department, or the director's designee, for the protection of adults who are victims of abuse, neglect, or exploitation, any member of its staff whose duty to report under the provisions of this part arises from the performance of the staff member's services as a member of the staff of the organization may, at the staff member's option, fulfill that duty by reporting instead to the person in charge of the organization or the organization head's designee who shall make the report in accordance with the provisions of this chapter.
- (c) An oral or written report shall be made immediately to the department upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: the name and address of the adult, or of any other person responsible for the adult's care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation. Each report of known or suspected abuse of an adult involving a sexual offense that is a violation of §§ 39-13-501-- 39-13-506 that occurs in a facility licensed by the department of mental health as defined in § 33-5-402, or any hospital shall also be made to the local law enforcement agency in the jurisdiction where such offense

occurred.

- (d) Upon receipt of the report, the department shall take the following action as soon as practical:
- (1) Notify the appropriate law enforcement agency in all cases in which the report involves abuse, neglect, or exploitation of the adult by another person or persons;
- (2) Notify the appropriate licensing authority if the report concerns an adult who is a resident of, or at the time of any alleged harm is receiving services from, a facility that is required by law to be licensed or the person alleged to have caused or permitted the harm is licensed under title 63. The commissioner of health, upon becoming aware through personal knowledge, receipt of a report or otherwise, of confirmed exploitation, abuse, or neglect of a nursing home resident, shall report such instances to the Tennessee bureau of investigation for a determination by the bureau as to whether the circumstances reported constitute abuse of the medicaid program or other criminal violation;
- (3) Initiate an investigation of the complaint;
- (4) Make a written report of the initial findings together with a recommendation for further action, if indicated; and
- (5) After completing the evaluation, the department shall notify the person making the report of its determination.
- (e) Any representative of the department may enter any health facility or health service licensed by the state at any reasonable time to carry out its responsibilities under this part.
- (f) Any representative of the department may, with consent of the adult or caretaker, enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this part. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the department to proceed with the investigation.
- (g) If a determination has been made that protective services are necessary when indicated by the investigation, the department shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.
- (h) In the event the adult elects to accept the protective services to be provided by the department, the caretaker shall not interfere with the department when rendering such services.
- (i) If the adult does not consent to the receipt of protective services, or if the adult

withdraws consent, the services shall be terminated, unless the department determines that the adult lacks capacity to consent, in which case it may seek court authorization to provide protective services.

- (j)(1) Any representative of the department actively involved in the conduct of an abuse, neglect, or exploitation investigation under this part shall be allowed access to the mental and physical health records of the adult that are in the possession of any individual, hospital, or other facility if necessary to complete the investigation mandated by this chapter.
- (2) To complete the investigation required by this part, any authorized representative of the department actively involved in the conduct of an investigation pursuant to this part shall be allowed access to any law enforcement records or personnel records, not otherwise specifically protected by statute, of any person who is:
- (A) A caretaker of the adult, or
- (B) The alleged perpetrator of abuse, neglect or exploitation of the adult, who is the subject of the investigation.
- (3)(A) If refused any information pursuant to subdivisions (j)(1) and (2), any information from any records necessary for conducting investigations pursuant to this part may be obtained upon motion by the department to the circuit, chancery or general sessions court of the county where such records are located, or in the court in which any proceeding concerning the adult may have been initiated or in the court in the county in which the investigation is being conducted.
- (B) The order on the department's motion may be entered ex parte upon a showing by the department of an immediate need for such information.
- (C) The court may enter such orders as may be necessary to ensure that the information sought is maintained pending any hearing on the motion, and to protect the information obtained from further disclosure if the information is made available to the department pursuant to the court's order.
- (4)(A) The department may be allowed access to financial records that are contained in any financial institution, as defined by § 45-10-102(3) regarding:
- (i) The person who is the subject of the investigation;
- (ii) Any caretaker of such person; and
- (iii) Any alleged perpetrator of abuse, neglect or exploitation of such person;
- (B) By the issuance of an administrative subpoena in the name of the commissioner or an authorized representative of the commissioner that is:
- (i) Directed to the financial institution, and

- (ii) Complies with the provisions of  $\S\S45-10-106$  and 45-10-107; or
- (C) By application, as otherwise required pursuant to § 45-10-117, to the circuit or chancery court in the county in which the financial institution is located, or in the court in which any proceeding concerning the adult may have been initiated or in which the investigation is being conducted, for the issuance of a judicial subpoena that complies with the requirements of § 45-10-107; provided that the department shall not be required to post a bond pursuant to § 45-10-107(a)(4).
- (D) Nothing in this subdivision (j)(4) shall be construed to supersede the provision of financial records pursuant to the permissible acts allowed pursuant to § 45-10-103.
- (5) Any records received by the department, the confidentiality of which is protected by any other statute or regulation, shall be maintained as confidential pursuant to the provisions of such statutes or regulations, except for such use as may be necessary in the conduct of any proceedings pursuant to its authority pursuant to this part or title 33 or 34.
- (k)(1) If, as a result of its investigation, the department determines that an adult who is a resident or patient of a facility owned or operated by an administrative department of the state is in need of protective services, and the facility is unable or unwilling to take action to protect the resident or patient, the department shall make a report of its investigation, along with any recommendations for needed services to the commissioner of the department having responsibility for the facility. It shall then be the responsibility of the commissioner for that department and not the department of human services to take such steps as may be necessary to protect the adult from abuse, neglect, or exploitation and, in such cases, the affected administrative department of the state shall have standing to petition the court.
- (2)(A) Notwithstanding subdivision (k)(1) or any other provision of this part to the contrary, the department of human services shall not be required to investigate and the department of mental health or the department of intellectual and developmental disabilities, or their successor agencies, shall not be required to report to the department of human services any allegations of abuse, neglect or exploitation involving any person that arise from conduct occurring in any institutions operated directly by either the department of mental health or the department of intellectual and developmental disabilities.
- (B) Allegations of abuse, neglect or exploitation of individuals occurring in the circumstances described in subdivision (k)(2)(A) shall be investigated, respectively, by investigators of the department of mental health and the department of intellectual and developmental disabilities, or their successor agencies, who have been assigned to investigate the allegations.
- (1) In the event the department, in the course of its investigation, is unable to determine to its satisfaction that sufficient information is available to determine whether an adult is in imminent danger or lacks the capacity to consent to protective services, an order may be

issued, upon a showing of probable cause that an adult lacks capacity to consent to protective services and is being abused, neglected, or exploited, to require the adult to be examined by a physician, a psychologist in consultation with a physician or a psychiatrist in order that such determination can be made. An order for examination may be issued ex parte upon affidavit or sworn testimony if the court finds that there is cause to believe that the adult may be in imminent danger and that delay for a hearing would be likely to substantially increase the adult's likelihood of irreparable physical or mental harm, or both, and/or the cessation of life.

#### Texas

### Any Title IV-D Agency: Tex. Fam. Code Ann. § 231.303 (2011). Title IV-D Administrative Subpoena

- (a) The Title IV-D agency of this state or another state may issue an administrative subpoena to any individual or private or public entity in this state to furnish information necessary to carry out the purposes of child support enforcement under 42 U.S.C. Section 651 et seq. or this chapter.
- (b) An individual or entity receiving an administrative subpoena under this section shall comply with the subpoena. The Title IV-D agency may impose a fine in an amount not to exceed \$500 on an individual or entity that fails without good cause to comply with an administrative subpoena. An alleged or presumed father or a parent who fails to comply with a subpoena without good cause may also be subject to license suspension under Chapter 232.
- (c) A court may compel compliance with an administrative subpoena and with any administrative fine for failure to comply with the subpoena and may award attorney's fees and costs to the Title IV-D agency in enforcing an administrative subpoena on proof that an individual or organization failed without good cause to comply with the subpoena.
- (d) An individual or organization may not be liable in a civil action or proceeding for disclosing financial or other information to a Title IV-D agency under this section. The Title IV-D agency may disclose information in a financial record obtained from a financial institution only to the extent necessary:
- (1) to establish, modify, or enforce a child support obligation; or
- (2) to comply with <u>Section 233.001</u>, as added by Chapter 420, Acts of the 75th Legislature, Regular Session, 1997.

Attorney General, Prosecuting Attorneys, ICAC Task Force Officers: Tex. Gov't Code Ann. § 422.003 (2011). ADMINISTRATIVE SUBPOENA

- (a) The attorney general shall assist persons authorized under this section in obtaining administrative subpoenas to investigate and prosecute offenses that involve the Internet-based sexual exploitation of a minor.
- (b) A prosecuting attorney or an officer of an ICAC task force may issue and cause to be served an administrative subpoena that requires the production of records or other documentation as described by Subsection (d) if:
- (1) the subpoena relates to an investigation of an offense that involves the sexual exploitation of a minor; and
- (2) there is reasonable cause to believe that an Internet or electronic service account provided through an electronic communication service or remote computing service has been used in the sexual exploitation or attempted sexual exploitation of the minor.
- (c) A subpoena under Subsection (b) must:
- (1) describe any objects or items to be produced; and
- (2) prescribe a reasonable return date by which those objects or items must be assembled and made available.
- (d) Except as provided by Subsection (e), a subpoena issued under Subsection (b) may require the production of any records or other documentation relevant to the investigation, including:
- (1) a name;
- (2) an address;
- (3) a local or long distance telephone connection record, satellite-based Internet service provider connection record, or record of session time and duration;
- (4) the duration of the applicable service, including the start date for the service and the type of service used;
- (5) a telephone or instrument number or other number used to identify a subscriber, including a temporarily assigned network address; and
- (6) the source of payment for the service, including a credit card or bank account number.
- (e) A provider of an electronic communication service or remote computing service may not disclose the following information in response to a subpoena issued under Subsection (b):
- (1) an in-transit electronic communication;

- (2) an account membership related to an Internet group, newsgroup, mailing list, or specific area of interest;
- (3) an account password; or
- (4) any account content, including:
- (A) any form of electronic mail;
- (B) an address book, contact list, or buddy list;
- (C) a financial record;
- (D) Internet proxy content or Internet history; or
- (E) a file or other digital document stored in the account or as part of the use of the account.
- (f) A provider of an electronic communication service or remote computing service shall disclose the information described by Subsection (e) if that disclosure is required by court order.
- (g) A person authorized to serve process under the Texas Rules of Civil Procedure may serve a subpoena issued under Subsection (b). The person shall serve the subpoena in accordance with the Texas Rules of Civil Procedure.
- (h) Before the return date specified on a subpoena issued under Subsection (b), the person receiving the subpoena may, in an appropriate court located in the county where the subpoena was issued, petition for an order to modify or quash the subpoena or to prohibit disclosure of applicable information by a court.
- (i) If a criminal case or proceeding does not result from the production of records or other documentation under this section within a reasonable period, the prosecuting attorney or ICAC task force shall, as appropriate:
- (1) destroy the records or documentation; or
- (2) return the records or documentation to the person who produced the records or documentation.

## Inspector General: Tex. Gov't Code Ann. § 493.0191 (2011). Administrative Subpoenas

(a) The inspector general may issue an administrative subpoena to a communications common carrier or an electronic communications service provider to compel the

production of the carrier's or service provider's business records that:

- (1) disclose information about:
- (A) the carrier's or service provider's customers; or
- (B) users of the services offered by the carrier or service provider; and
- (2) are material to a criminal investigation of an escape or a potential escape or a violation of Section 38.11, Penal Code.
- (b) In this section:
- (1) "Communications common carrier" means a person that:
- (A) for a fee, provides directly to the public or to certain members of the public the ability to transmit between or among points specified by the person who uses that ability, regardless of the technology used, information of the person's choosing without change in the form or content of the information transmitted; or
- (B) a provider that bills customers for services described by Paragraph (A).
- (2) "Electronic communications service provider" means a service provider that provides to users of the service the ability to send or receive wire or electronic communications, as those terms are defined by Article 18.20, Code of Criminal Procedure.

### Department of Public Safety: Tex. Occ. Code Ann. § 1702.367 (2011). Complaint Investigation; Subpoena; Witness

- (a) For an investigation conducted under this chapter, if necessary to enforce this chapter or the board's rules, the department may issue an administrative subpoena to any person in this state compelling:
- (1) the production of information or documents; or
- (2) the attendance and testimony of a witness.
- (b) A witness is not privileged to refuse to testify to a fact or to produce a record or document with respect to which the witness is properly examined by the hearings officer.
- (c) A person required to testify or to produce a record or document on any matter properly under inquiry by the board who refuses to testify or to produce the record or document on the ground that the testimony or the production of the record or document would incriminate or tend to incriminate the person is nonetheless required to testify or to produce the record or document. A person who is required to testify or to produce a record or document under this subsection is not subject to indictment or prosecution for a transaction, matter, or thing concerning which the person truthfully testifies or produces evidence.

- (d) If a witness refuses to obey a subpoena or to give evidence relevant to proper inquiry by the board, the board may petition a district court of the county in which the hearing is held to compel the witness to obey the subpoena or to give the evidence. The court shall immediately issue process to the witness and shall hold a hearing on the petition as soon as possible.
- (e) An investigator employed by the board may take statements under oath in an investigation of a matter covered by this chapter.
- (f) A person licensed or otherwise regulated under this chapter who fails without good cause to comply with a subpoena issued under this section may be subject to suspension of a license under <u>Section 1702.361</u>.
- (g) If a subpoena issued under this section relates to an ongoing criminal investigation by the department and the department determines that disclosure could significantly impede the investigation, the subpoena may provide that the person to whom the subpoena is directed may not:
- (1) disclose that the subpoena has been issued;
- (2) identify or describe any records requested by the subpoena; or
- (3) disclose whether records have been furnished in response to the subpoena.

#### Utah

### Adult Protective Services: Utah Code Ann. § 62A-3-303 (2011). Powers and duties of Adult Protective Services

In addition to all other powers and duties that Adult Protective Services is given under this part, Adult Protective Services:

- (1) shall maintain an intake system for receiving and screening reports;
- (2) shall investigate reports;
- (3) shall perform protective needs assessments;
- (4) may coordinate with, or make referrals to, community resources;
- (5) may provide limited services to a vulnerable adult, on a temporary basis, when family or community resources are not available to provide for the protective needs of the vulnerable adult:
- (6) shall have access to facilities licensed by, or contracting with, the department or the

Department of Health for the purpose of conducting investigations;

- (7) shall be given access to, or provided with, written statements, documents, exhibits, and other items related to an investigation, including medical or financial records of a vulnerable adult who is the subject of an investigation if:
- (a) for a vulnerable adult who does not lack the capacity to consent, the vulnerable adult signs a release of information; or
- (b) for a vulnerable adult who lacks the capacity to consent, an administrative subpoena is issued by Adult Protective Services;
- (8) may institute proceedings in a court of competent jurisdiction to seek relief necessary to carry out the provisions of this chapter;
- (9) may require all persons, including family members of a vulnerable adult and any caretaker, to cooperate with Adult Protective Services in carrying out its duties under this chapter, including conducting investigations and providing protective services;
- (10) may require all officials, agencies, departments, and political subdivisions of the state to assist and cooperate within their jurisdictional power with the court, the division, and Adult Protective Services in furthering the purposes of this chapter;
- (11) may conduct studies and compile data regarding abuse, neglect, and exploitation; and
- (12) may issue reports and recommendations.

# Prosecutors: Utah Code Ann. § 77-22-2.5 (2011). Administrative subpoenas for criminal investigations for records concerning an electronic communications system or service or remote computing service--Content--Fee for providing information

- (1) As used in this section:
- (a)(i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.
- (ii) "Electronic communication" does not include:
- (A) any wire or oral communication;
- (B) any communication made through a tone-only paging device;
- (C) any communication from a tracking device; or

- (D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.
- (b) "Electronic communications service" means any service which provides for users the ability to send or receive wire or electronic communications.
- (c) "Electronic communications system" means any wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications, and any computer facilities or related electronic equipment for the electronic storage of the communication.
- (d) "Internet service provider" has the same definition as in <u>Section 76-10- 1230</u>.
- (e) "Prosecutor" has the same definition as in <u>Section 77-22-2</u>.
- (f) "Sexual offense against a minor" means:
- (i) sexual exploitation of a minor as defined in <u>Section 76-5b-201</u> or attempted sexual exploitation of a minor;
- (ii) a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses; or
- (iii) dealing in or attempting to deal in material harmful to a minor in violation of <u>Section</u> 76-10-1206.
- (g) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.
- (2) When a law enforcement agency is investigating a sexual offense against a minor, an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or service or remote computing service has been used in the commission of a criminal offense, the prosecutor may issue an administrative subpoena, consistent with 18 U.S.C. 2703 and 18 U.S.C. 2702, to the electronic communications system or service or remote computing service provider that owns or controls the Internet protocol address, websites, email address, or service to a specific telephone number, requiring the production of the following information, if available, upon providing in the subpoena the Internet protocol address, email address, telephone number, or other identifier, and the dates and times the address, telephone number, or other identifier was suspected of being used in the commission of the offense:
- (a) names;
- (b) addresses;

- (c) local and long distance telephone connections;
- (d) records of session times and durations;
- (e) length of service, including the start date and types of service utilized;
- (f) telephone or other instrument subscriber numbers or other subscriber identifiers, including any temporarily assigned network address; and
- (g) means and sources of payment for the service, including any credit card or bank account numbers.
- (3) A subpoena issued under this section shall state that the electronic communications system or service or remote computing service provider shall produce any records under Subsections (2)(a) through (g) that are reasonably relevant to the investigation of the suspected criminal activity or offense as described in the subpoena.
- (4)(a) An electronic communications system or service or remote computing service provider that provides information in response to a subpoena issued under this section may charge a fee, not to exceed the actual cost, for providing the information.
- (b) The law enforcement agency conducting the investigation shall pay the fee.
- (5) The electronic communications system or service or remote computing service provider served with or responding to the subpoena may not disclose the subpoena to the account holder identified pursuant to the subpoena.
- (6) If the electronic communications system or service or remote computing service provider served with the subpoena does not own or control the Internet protocol address, websites, or email address, or provide service for the telephone number that is the subject of the subpoena, the provider shall:
- (a) notify the investigating law enforcement agency that it does not have the information; and
- (b) provide to the investigating law enforcement agency any information the provider knows, through reasonable effort, that it has regarding how to locate the Internet service provider that does own or control the Internet protocol address, websites, or email address, or provide service for the telephone number.
- (7) There is no cause of action against any provider or wire or electronic communication service, or its officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of the administrative subpoena issued under this section or statutory authorization.
- (8)(a) An administrative subpoena issued under this section is subject to the provisions of

Title 77, Chapter 23b, Access to Electronic Communications.

- (b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b, Access to Electronic Communications, apply to providers and subscribers subject to an administrative subpoena issued under this section.
- (9) Every prosecutorial agency shall annually on or before June 30 report to the Commission on Criminal and Juvenile Justice the number of administrative subpoenas issued by the agency during the previous calendar year.
- (10) State and local prosecutorial and law enforcement agencies shall annually on or before June 30 report to the Commission on Criminal and Juvenile Justice the number of administrative subpoenas the agency requested that any federal law enforcement agency issue during the prior calendar year.

# Attorney General or a Deputy or Assistant Attorney General, County Attorney or a Deputy County Attorney, or District Attorney or Deputy District Attorney: Utah Code Ann. § 77-22a-1 (2011). Administrative subpoenas--Controlled substances investigations-- Procedures--Witness fees

- (1)(a) The administrative subpoena process of this chapter may be used only to obtain third party information under circumstances where it is clear that the subpoenaed information is not subject to a claim of protection under the Fourth, Fifth, or Sixth Amendment, United States Constitution, or a similar claim under <a href="Article I, Sec. 12">Article I, Sec. 12</a> and Sec. 14, Utah Constitution.
- (b) A party subpoenaed under this chapter shall be advised by the subpoena that he has a right to challenge the subpoena by motion to quash filed in the appropriate district court named in the subpoena before compliance is required.
- (2) In any investigation relating to his functions under this chapter regarding controlled substances, the attorney general or a deputy or assistant attorney general the county attorney or a deputy county attorney, or the district attorney or deputy district attorney may subpoena witnesses, compel the attendance and testimony of witnesses, or require the production of any records including books, papers, documents, and other tangible things that constitute or contain evidence found by the attorney general or a deputy or assistant attorney general or the county attorney or district attorney as provided under Sections 17-18-1 and 17-18-1.7 or his deputy to be relevant or material to the investigation. The attendance of witnesses or the production of records may be required from any place within the state.
- (3) Witnesses subpoenaed under this section shall be paid the same fees and mileage costs as witnesses in the state district courts.
- (4) If the attorney general or a deputy or assistant attorney general or the county attorney or district attorney or his deputy determine that disclosure of the existence of an

administrative subpoena or of the information sought or of the existence of the investigation under which it is issued would pose a threat of harm to a person or otherwise impede the investigation, the subpoena shall contain language on its face directing that the witness not disclose to any person the existence or service of the subpoena, the information being sought, or the existence of an investigation.

### Virginia

# Attorneys for the Commonwealth: Ca. Code Ann. § 19.2-10.2 (2011). Administrative subpoena issued for record from provider of electronic communication service or remote computing service

- A. A provider of electronic communication service or remote computing service that is transacting or has transacted any business in the Commonwealth shall disclose a record or other information pertaining to a subscriber to or customer of such service, excluding the contents of electronic communications as required by § 19.2-70.3, to an attorney for the Commonwealth pursuant to an administrative subpoena issued under this section.
- 1. In order to obtain such records or other information, the attorney for the Commonwealth shall certify on the face of the subpoena that there is reason to believe that the records or other information being sought are relevant to a legitimate lawenforcement investigation concerning violations of §§ 18.2-374.1; 18.2-374.1:1, former § 18.2-374.1:2, [FN1] and § 18.2-374.3.
- 2. On a motion made promptly by the electronic communication service or remote computing service provider, a court of competent jurisdiction may quash or modify the administrative subpoena if the records or other information requested are unusually voluminous in nature or if compliance with the subpoena would otherwise cause an undue burden on the service provider.
- B. All records or other information received by an attorney for the Commonwealth pursuant to an administrative subpoena issued under this section shall be used only for a reasonable length of time not to exceed 30 days and only for a legitimate lawenforcement purpose. Upon completion of the investigation the records or other information held by the attorney for the Commonwealth shall be destroyed if no prosecution is initiated.
- C. No cause of action shall lie in any court against an electronic communication service or remote computing service provider, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of an administrative subpoena issued under this section.
- D. Records or other information pertaining to a subscriber to or customer of such service

means name, address, local and long distance telephone connection records, or records of session times and durations, length of service, including start date, and types of service utilized, telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address, and means and source of payment for such service.

E. Nothing in this section shall require the disclosure of information in violation of any federal law.

#### Washington

# Director of Financial Institutions: Wash. Rev. Code Ann. § 21.30.110 (2011). Investigations--Evidence--Subpoenas--Court orders of compliance

- (1) For purposes of any investigation or proceeding under this chapter, the director or any officer or employee designated by the director, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director finds to be relevant or material to the inquiry.
- (2) If a person does not give testimony or produce the documents required by the director or a designated employee pursuant to a lawfully issued administrative subpoena, the director or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony. The request for an order of compliance may be addressed to either: (a) The superior court of Thurston county or the superior court where service may be obtained on the person refusing to testify or produce, if the person is within this state; or (b) the appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside the state.

# Division of Child Support, Washington State Support Registry, Agency or Firm Providing Child Support Enforcement Services for Another State Under Title IV-D: Wash. Rev. Code Ann. 74.20A.360 (2011). Records access--Confidentiality--Nonliability--Penalty for noncompliance

- (1) Notwithstanding any other provision of Washington law, the division of child support, the Washington state support registry, or the agency or firm providing child support enforcement services for another state under Title IV-D of the federal social security act may access records of the following nature, in the possession of any agency or entity listed in this section:
- (a) Records of state and local agencies, including but not limited to:

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- (i) The state registrar, including but not limited to records of birth, marriage, and death;
- (ii) Tax and revenue records, including, but not limited to, information on residence addresses, employers, and assets;
- (iii) Records concerning real and titled personal property;
- (iv) Records of occupational, professional, and recreational licenses and records concerning the ownership and control of corporations, partnerships, and other business entities;
- (v) Employment security records;
- (vi) Records of agencies administering public assistance programs; and
- (vii) Records of the department of corrections, and of county and municipal correction or confinement facilities;
- (b) Records of public utilities and cable television companies relating to persons who owe or are owed support, or against whom a support obligation is sought, including names and addresses of the individuals, and employers' names and addresses pursuant to RCW 74.20.225 and RCW 74.20A.120; and
- (c) Records held by financial institutions, pursuant to <u>RCW 74.20A.370</u>.
- (2) Upon the request of the division of child support, the Washington state support registry, or the agency or firm providing child support enforcement services for another state under Title IV-D of the social security act, any employer shall provide information as to the employment, earnings, benefits, and residential address and phone number of any employee.
- (3) Entities in possession of records described in subsection (1)(a) and (c) of this section must provide information and records upon the request of the division of child support, the Washington state support registry, or the agency or firm providing child support enforcement services for another state under Title IV-D of the federal social security act. The division of child support may enter into agreements providing for electronic access to these records.
- (4) Public utilities and cable television companies must provide the information in response to a judicial or administrative subpoena issued by the division of child support, the Washington state support registry, or the agency or firm providing child support enforcement services for another state under Title IV-D of the federal social security act.
- (5) Entities responding to information requests and subpoenas under this section are not liable for disclosing information pursuant to the request or subpoena.

- (6) The division of child support shall maintain all information gathered under this section confidential and shall only disclose this information as provided under <a href="RCW">RCW</a> 26.23.120.
- (7) The division of child support may impose fines for noncompliance with this section using the notice of noncompliance under RCW 74.20A.350.

### **West Virginia**

## Secretary of the Department of Health and Human Resources: W.Va. Code Ann. § 9-6-16 (2011). Compelling production of information

- (a)(1) In order to obtain information regarding the location of an adult who is the subject of an allegation of abuse or neglect, the secretary of the department of health and human resources may serve, by certified mail, personal service or facsimile, an administrative subpoena on any corporation, partnership, business or organization for production of information leading to determining the location of the adult. In case of disobedience to the subpoena, adult protective services may petition any circuit court to require the production of information.
- (2) In case of disobedience to the subpoena, in compelling the production of information the secretary may invoke the aid of: (A) The circuit court with jurisdiction over the served party, if the entity served is located in this state; or (B) the circuit court of the county in which the local protective services office conducting the investigation is located, if the entity served is a nonresident.
- (3) A circuit court shall not enforce an administrative subpoena unless it finds that: (A) The investigation is one the division of adult protective services is authorized to make and is being conducted pursuant to a legitimate purpose; (B) the inquiry is relevant to that purpose; (C) the inquiry is not too broad or indefinite; (D) the information sought is not already in the possession of the division of adult protective services; and (E) any administrative steps required by law have been followed.
- (4) If circumstances arise where the secretary, or his or her designee, determines it necessary to compel an individual to provide information regarding the location of an adult who is the subject of an allegation of abuse or neglect, the secretary, or his or her designee, may seek a subpoena from the circuit court with jurisdiction over the individual from whom the information is sought.

### Auditor of the State of West Virginia: W.Va. Code Ann. § 32B-2-1 (2011). Investigations

(a) The commissioner may make investigations, within or without this state, as it finds

necessary or appropriate to:

- (1) Determine whether any person has violated, or is about to violate, any provision of this chapter or any rule or order of the commissioner; or
- (2) Aid in enforcement of this chapter.
- (b) The commissioner may publish information concerning any violation of this chapter or any rule or order of the commissioner.
- (c) For purposes of any investigation or proceeding under this chapter, the commissioner or any officer or employee designated by rule or order may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda, agreements or other documents or records which the commissioner finds to be relevant or material to the inquiry.
- (d)(1) If a person does not give testimony or produce the documents required by the commissioner or a designated employee pursuant to an administrative subpoena, the commissioner or designated employee may apply for a court order compelling compliance with the subpoena or the giving of the required testimony.
- (2) The request for order of compliance may be addressed to either:
- (A) The circuit court of Kanawha county or the circuit court for the respective judicial circuit where service may be obtained on the person refusing to testify or produce, if the person is within this state; or
- (B) The appropriate court of the state having jurisdiction over the person refusing to testify or produce, if the person is outside this state.

# The Bureau for Child Support Enforcement or any out-of-state Title IV-D Agency: W.Va. Code Ann. § 48-18-123 (2011). Subpoenas

In order to obtain financial and medical insurance or other information pursuant to the establishment, enforcement and modification provisions set forth in this chapter, the bureau for child support enforcement or any out-of-state agency administering a program under Title IV-D of the Social Security Act [FN1] may serve, by certified mail or personal service, an administrative subpoena on any person, corporation, partnership, financial institution, labor organization or state agency for an appearance or for production of financial or medical insurance or other information. In case of disobedience to the subpoena, the bureau for child support enforcement may invoke the aid of any family court in requiring the appearance or production of records and financial documents. The bureau for child support enforcement may assess a civil penalty of no more than one hundred dollars for the failure of any person, corporation, financial institution, labor organization or state agency to comply with requirements of this section.

# Secretary of the Department of Health and Human Resources: W.Va. Code Ann. § 49-6A-9 (2011). Establishment of child protective services; general duties and powers; immunity from civil liability; cooperation of other state agencies

- (a) The state department shall establish or designate in every county a local child protective services office to perform the duties and functions set forth in this article.
- (b) The local child protective services office shall investigate all reports of child abuse or neglect: Provided, That under no circumstances shall investigating personnel be relatives of the accused, the child or the families involved. In accordance with the local plan for child protective services, it shall provide protective services to prevent further abuse or neglect of children and provide for or arrange for and coordinate and monitor the provision of those services necessary to ensure the safety of children. The local child protective services office shall be organized to maximize the continuity of responsibility, care and service of individual workers for individual children and families: Provided, however, That under no circumstances may the secretary or his or her designee promulgate rules or establish any policy which restricts the scope or types of alleged abuse or neglect of minor children which are to be investigated or the provision of appropriate and available services.

Each local child protective services office shall:

- (1) Receive or arrange for the receipt of all reports of children known or suspected to be abused or neglected on a 24-hour, seven-day-a-week basis and cross-file all such reports under the names of the children, the family and any person substantiated as being an abuser or neglecter by investigation of the Department of Health and Human Resources, with use of such cross-filing of such person's name limited to the internal use of the department;
- (2) Provide or arrange for emergency children's services to be available at all times;
- (3) Upon notification of suspected child abuse or neglect, commence or cause to be commenced a thorough investigation of the report and the child's environment. As a part of this response, within fourteen days there shall be a face-to-face interview with the child or children and the development of a protection plan, if necessary for the safety or health of the child, which may involve law-enforcement officers or the court;
- (4) Respond immediately to all allegations of imminent danger to the physical well-being of the child or of serious physical abuse. As a part of this response, within seventy-two hours there shall be a face-to-face interview with the child or children and the development of a protection plan, which may involve law-enforcement officers or the court; and
- (5) In addition to any other requirements imposed by this section, when any matter regarding child custody is pending, the circuit court or family law master may refer

allegations of child abuse and neglect to the local child protective services office for investigation of the allegations as defined by this chapter and require the local child protective services office to submit a written report of the investigation to the referring circuit court or family law master within the time frames set forth by the circuit court or family law master.

- (c) In those cases in which the local child protective services office determines that the best interests of the child require court action, the local child protective services office shall initiate the appropriate legal proceeding.
- (d) The local child protective services office shall be responsible for providing, directing or coordinating the appropriate and timely delivery of services to any child suspected or known to be abused or neglected, including services to the child's family and those responsible for the child's care.
- (e) To carry out the purposes of this article, all departments, boards, bureaus and other agencies of the state or any of its political subdivisions and all agencies providing services under the local child protective services plan shall, upon request, provide to the local child protective services office such assistance and information as will enable it to fulfill its responsibilities.
- (f)(1) In order to obtain information regarding the location of a child who is the subject of an allegation of abuse or neglect, the Secretary of the Department of Health and Human Resources may serve, by certified mail or personal service, an administrative subpoena on any corporation, partnership, business or organization for the production of information leading to determining the location of the child.
- (2) In case of disobedience to the subpoena, in compelling the production of documents, the secretary may invoke the aid of: (A) The circuit court with jurisdiction over the served party if the person served is a resident; or (B) the circuit court of the county in which the local child protective services office conducting the investigation is located if the person served is a nonresident.
- (3) A circuit court shall not enforce an administrative subpoena unless it finds that: (A) The investigation is one the Division of Child Protective Services is authorized to make and is being conducted pursuant to a legitimate purpose; (B) the inquiry is relevant to that purpose; (C) the inquiry is not too broad or indefinite; (D) the information sought is not already in the possession of the Division of Child Protective Services; and (E) any administrative steps required by law have been followed.
- (4) If circumstances arise where the secretary, or his or her designee, determines it necessary to compel an individual to provide information regarding the location of a child who is the subject of an allegation of abuse or neglect, the secretary, or his or her designee, may seek a subpoena from the circuit court with jurisdiction over the individual from whom the information is sought.

(g) No child protective services caseworker may be held personally liable for any professional decision or action thereupon: arrived at in the performance of his or her official duties as set forth in this section or agency rules promulgated thereupon: Provided, That nothing in this subsection protects any child protective services worker from any liability arising from the operation of a motor vehicle or for any loss caused by gross negligence, willful and wanton misconduct or intentional misconduct.

#### Wisconsin

## Department of Children and Families: Wis. Stat. Ann. § 49.22 (2011). Child and spousal support; establishment of paternity; medical liability

- (1) There is created a child and spousal support and establishment of paternity and medical support liability program in the department. The purpose of this program is to establish paternity when possible, to establish or modify support obligations, to enforce support obligations owed by parents to their children and maintenance obligations owed to spouses or former spouses with whom the children reside in this state or owed in other states if the support order was issued in this state or owed in other states if the parent, spouse, or former spouse resides in this state, to locate persons who are alleged to have taken their child in violation of <u>s. 948.31</u> or of similar laws in other states, and to locate and value property of any person having a support duty. To accomplish the objectives of this program and of other assistance programs under this chapter, county and state agencies will cooperate with one another to implement a child and spousal support and paternity establishment and medical support liability program in accordance with state and federal laws, regulations, and rules and to assure proper distribution of benefits of all assistance programs authorized under this chapter.
- (2) The department shall constitute the state location service which shall assist in locating parents who have deserted their children and other persons liable for support of dependents or persons who are alleged to have taken their child in violation of <u>s. 948.31</u> or of similar laws in another state, and in locating and valuing property of any person having a support duty.
- (2m)(a) The department may request from any person in this state information it determines appropriate and necessary for the administration of this section, <u>ss. 49.141</u> to <u>49.161</u>, <u>49.19</u>, <u>49.46</u>, <u>49.468</u>, <u>49.47</u>, and <u>49.471</u> and programs carrying out the purposes of <u>7 USC 2011</u> to <u>2029</u>. Unless access to the information is prohibited or restricted by law, or unless the person has good cause, as determined by the department in accordance with federal law and regulations, for refusing to cooperate, the person shall make a good faith effort to provide this information within 7 days after receiving a request under this paragraph. Except as provided in subs. (2p) and (2r) and subject to sub. (12), the department or the county child support agency under <u>s. 59.53(5)</u> may disclose information obtained under this paragraph only in the administration of this section, <u>ss.</u> 49.141 to 49.161, 49.19, 49.46, 49.47, and 49.471 and programs carrying out the

- purposes of  $\underline{7 \text{ USC } 2011}$  to  $\underline{2029}$ . Employees of the department or a county child support agency under  $\underline{s. 59.53(5)}$  are subject to  $\underline{s. 49.83}$ .
- (am) In conjunction with any request for information under par. (a), including a request made by subpoena under par. (b), the department or county child support agency under <u>s.</u> <u>59.53 (5)</u> shall advise the person of the time by which the information must be provided and of any consequences to the person under par. (d) that may result from a failure to respond or comply with the request.
- (b) The department or county child support agency under <u>s. 59.53(5)</u> may issue a subpoena, in substantially the form authorized under <u>s. 885.02</u>, to compel the production of financial information and other documentary evidence in the administration of this section, <u>ss. 49.145</u>, <u>49.19</u>, <u>49.46</u>, <u>49.47</u>, and <u>49.471</u> and programs carrying out the purposes of <u>7 USC 2011</u> to <u>2029</u>.
- (bc) A person in this state shall comply with an administrative subpoena that is issued from another state to compel the production of financial information or other documentary evidence for purposes comparable to those specified in par. (b).
- (c) A person is not liable to any person for any of the following:
- 1. Allowing access to financial or other records by the department or a county child support agency under <u>s. 59.53 (5)</u> in response to a request under par. (a) or a subpoena described in par. (bc).
- 2. Disclosing information from financial or other records to the department or a county child support agency under <u>s. 59.53 (5)</u> in response to a request under par. (a) or a subpoena described in par. (bc).
- 3. Any other action taken in good faith to comply with this section or a subpoena described in par. (bc) or to comply with a request for information or access to records from the department or a county child support agency under s. 59.53(5) in the administration of this section, <u>ss. 49.145</u>, <u>49.19</u>, <u>49.46</u>, <u>49.47</u>, and <u>49.471</u> and programs carrying out the purposes of <u>7 USC 2011</u> to <u>2029</u>.
- (d) Any person who fails to respond to or comply with a subpoena described in par. (bc) or a request under par. (a) by the department or a county child support agency under <u>s.</u> <u>59.53 (5)</u> may be required to pay a forfeiture in an amount determined by the department by rule.
- (2p) Except as provided in sub. (12), the department or a county child support agency under <u>s. 59.53(5)</u> may disclose to a parent with legal custody of a child, upon the parent's request, the last-known address, and the name and address of the last-known employer, of the child's other parent if that other parent owes a support obligation to the child and is in arrears in the payment of the support.

- (2r) The department or a county child support agency under <u>s. 59.53 (5)</u> may, to the extent permitted under federal law, disclose information obtained under sub. (2m) to the department of revenue for the purposes of locating persons, or the assets of persons, who have failed to file tax returns, who have underreported their taxable income or who are delinquent taxpayers, identifying fraudulent tax returns or providing information for tax-related prosecutions.
- (3) The department, acting as a state location service, shall furnish all services under sub. (2) to any similarly appointed agency of another state which by its laws is authorized to furnish such services to this state or its agencies.
- (3m) The department, acting as a state location service, shall furnish services under sub. (2) upon request to the department of health services, a county department under <u>s.</u> 46.215, 46.22 or 46.23 or a child welfare agency that is administering a program operated under 42 USC 620 to 628b or 42 USC 670 to 679a.
- (4) Except as provided in this section, no person may use or disclose information obtained by the state location service. Any person violating this subsection may be fined not less than \$25 nor more than \$500 or imprisoned for not more than one year in the county jail or both.
- (6) The department shall establish, pursuant to federal and state laws, rules and regulations, a uniform system of fees for services provided under this section to individuals not receiving aid under <u>s. 48.645</u>, <u>49.19</u>, <u>49.47</u>, or <u>49.471</u>; benefits under <u>s. 49.148</u>, <u>49.155</u>, or <u>49.79</u>; foster care maintenance payments under <u>42 USC 670</u> to <u>679a</u>; or kinship care payments under <u>s. 48.57(3m)</u> or long-term kinship care payments under <u>s. 48.57(3n)</u>. The system of fees may take into account an individual's ability to pay. Any fee paid and collected under this subsection may be retained by the county providing the service except for the fee specified in <u>42 USC 653(e)(2)</u> for federal parent locator services.
- (7) The department may represent the state in any action to establish paternity or to establish or enforce a support or maintenance obligation. The department may delegate its authority to represent the state in any action to establish paternity or to establish or enforce a support or maintenance obligation under this section to an attorney responsible for support enforcement under <u>s. 59.53(6)(a)</u> pursuant to a contract entered into under <u>s. 59.53(5)</u>. The department shall ensure that any such contract is for an amount reasonable and necessary to assure quality service. The department may, by such a contract, authorize a county to contract with any attorney, collection agency or other person to collect unpaid child support or maintenance. If a county fails to fully implement the programs under <u>s. 59.53(5)</u>, the department may implement them and may contract with any appropriate person to obtain necessary services. The department shall establish a formula for disbursing funds appropriated under s. 20.437(2)(md) to carry out a contract under this subsection.
- (7g) The department shall provide all of the following:

- (a) Training to hospital staff members concerning the form that is prescribed by the state registrar under <u>s. 69.15 (3)(b)</u>3. and concerning the significance and benefits of, and alternatives to, of establishing paternity.
- (b) The written information that is required to be provided to parents under  $\underline{s. 69.14}$  (1)(cm).
- (7m) The department may contract with or employ a collection agency or other person to enforce a support obligation of a parent who is delinquent in making support payments and may contract with or employ an attorney to appear in an action in state or federal court to enforce such an obligation. To pay for the department's administrative costs of implementing this subsection, the department may charge a fee to counties, use federal matching funds or funds retained by the department under s. 49.24(2)(c), or use up to 30% of this state's share of a collection made under this subsection on behalf of a recipient of aid to families with dependent children or a recipient of kinship care payments under s. 48.57(3m) or long-term kinship care payments under s. 48.57(3n).
- (8) The department may charge other states and counties seeking collection of child and spousal support for any administrative costs it incurs in providing services related to interstate child support collections, the federal parent locator service under 42 USC 653, the interception of unemployment compensation under 42 USC 654 or the withholding of state and federal income tax refunds under 8. 49.855 and 42 USC 664.
- (9) The department shall promulgate rules that provide a standard for courts to use in determining a child support obligation based upon a percentage of the gross income and assets of either or both parents. The rules shall provide for consideration of the income of each parent and the amount of physical placement with each parent in determining a child support obligation in cases in which a child has substantial periods of physical placement with each parent.
- (11)(a) The department, shall disclose to a consumer reporting agency, as defined under 45 CFR 303.105 (a), the amount of overdue child support owed by a parent. At least 20 business days before disclosing the information to the consumer reporting agency, the department shall notify the parent and inform the parent of the methods available for contesting the accuracy of the information.
- (b) The department shall notify a consumer reporting agency within 30 days if any amounts reported to the consumer reporting agency under par. (a) were erroneous. Within 30 days of notification under this paragraph, the consumer reporting agency shall correct the erroneous amount in its records.
- (c) The department shall notify a consumer reporting agency within 30 days if any amounts reported to the consumer reporting agency under par. (a) are paid in full. Within 30 days of notification under this paragraph, the consumer reporting agency shall indicate the payment in full in its records.

- (12) The department or a county child support agency under <u>s. 59.53(5)</u> may not release information to a person about the whereabouts of another person if any of the following applies:
- (a) The person seeking the information is subject to a temporary restraining order or injunction under <u>s. 813.12</u>, <u>813.122</u>, <u>813.123</u>, <u>813.125</u> or <u>813.127</u> with respect to the person about whom the information is sought; and the department or county child support agency under <u>s. 59.53(5)</u> has notice of the temporary restraining order or injunction.
- (b) The department or county child support agency under <u>s. 59.53(5)</u> has reason to believe that releasing the information may result in physical or emotional harm to the person about whom the information is sought.

### **Wyoming**

# Attorney General: Wyo. Stat. Ann. § 9-1-640 (2011). Administrative subpoena authority for investigations of child exploitation

- (a) In any investigation relating to a state offense involving sexual exploitation of children under W.S. 6-4-303, and upon reasonable cause to believe that an Internet service account has been used in the exploitation or attempted exploitation of children, the attorney general or his chief deputy may issue in writing and cause to be served a subpoena requiring the production and testimony described in subsection (b) of this section.
- (b) Except as provided in subsection (c) of this section, a subpoena issued under this section may require the production of any records or other documentation relevant to the investigation including:
- (i) Electronic mail address;
- (ii) Internet username;
- (iii) Internet protocol address;
- (iv) Name of account holder;
- (v) Billing and service address;
- (vi) Telephone number;
- (vii) Account status;
- (viii) Method of access to the Internet;
- (ix) Automatic number identification records if access is by modem.
- (c) The provider of electronic communication service or remote computing service shall not disclose the following except pursuant to a warrant:
- (i) In-transit electronic communications;

- (ii) Account memberships related to Internet groups, newsgroups, mailing lists or specific areas of interest;
- (iii) Account passwords;
- (iv) Account content to include:
- (A) Electronic mail in any form;
- (B) Address books or contact/"buddy" lists;
- (C) Financial records;
- (D) Internet proxy content or "Web surfing" history;
- (E) Files or other digital documents stored within the account or pursuant to use of the account.
- (d) At any time before the return date specified on the subpoena, the person summoned may, in the district court in which the person resides or does business, petition for an order modifying or setting aside the subpoena, or a prohibition of disclosure by a court.
- (e) A subpoena under this section shall describe the objects required to be produced and shall prescribe a return date within a reasonable period of time within which the objects can be assembled and made available.
- (f) If no case or proceeding arises from the production of records or other documentation pursuant to this section within a reasonable time after those records or documentation are produced, the attorney general shall either destroy the records and documentation or return them to the person who produced them.
- (g) A subpoena issued under this section may be served by any person who is at least eighteen (18) years of age and who is designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a corporation or partnership or other unincorporated association which is subject to suit under the common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena together with a true copy thereof shall be proof of service.
- (h) The attorney general shall annually report the following information to the joint judiciary interim committee no later than February 1 for the preceding calendar year:
- (i) The number of requests for administrative subpoenas made under this section;
- (ii) The number of administrative subpoenas issued under this section;
- (iii) The number of administrative subpoenas issued under this section that were contested;
- (iv) The number of administrative subpoenas issued under this section that were suppressed;
- (v) The number of search warrants that were issued as a consequence of the issuance of an administrative subpoena under this section;

- (vi) The number of individuals who were prosecuted under <u>W.S. 6-4-303</u> following the issuance of an administrative subpoena under this section.
- (j) Except as provided in subsection (h) of this section any information, records or data reported or obtained pursuant to subpoena under this section shall remain confidential and shall not be further disclosed unless in connection with a criminal case related to the subpoenaed materials.

# Department of Family Services: Wyo. Stat. Ann. § 20-6-106 (2011). Powers and duties of department regarding collection of support

- (a) By signing an application for, or being a recipient of, aid under the personal opportunities with employment responsibilities (POWER) program, a support obligee assigns to the department, by operation of law, all rights that person and all other members of the household have to child and spousal support, whether accrued, present or future, and their right to medical support.
- (b) Repealed by <u>Laws 2000</u>, ch. 53, § 2.
- (c) The department has the power of attorney to act in the name of any recipient of public assistance in endorsing and cashing all drafts, checks, money orders or other negotiable instruments received by the department representing support payments for children on whose behalf public assistance has been previously paid.
- (d) For purposes of prosecuting any civil action under this act or other applicable state statutes relating to the enforcement of child support obligations, the department is the assignee of support rights to the extent of any public assistance provided to an obligee. No act of the obligee shall prejudice the rights of the department or the dependent child in any action or proceeding related to enforcement of child support services hereunder.
- (e) No agreement between any obligee and any obligor purporting to relieve the obligor of any duty of support or to settle past, present or future support or obligations either as settlement or prepayment will reduce or terminate any rights of the department to recover from the obligor for support provided by the department unless the department has consented to the agreement in writing or unless it has been approved by the court with notice to the department.
- (f) The department, in its own name, or on behalf of an obligee, obligor or a child may petition a court for modification of any court order establishing a support obligation.
- (g) If a court orders support to be paid by an obligor, the department shall be subrogated to the debt created by the order. This subrogation interest shall apply to all orders of support including child support orders, medical support orders, temporary spouse support orders, family maintenance and alimony orders. The subrogation shall extend to the amounts paid by the department in public assistance to or for the benefit of a dependent child and the amount of medical support provided by or through another division of the

department of family services or the department of health.

- (h) The department may enforce, or, subject to the approval of the court, may compromise or settle any claim or judgment for a support obligation owed to or assigned to the department as may be in the best interest of the dependent child and the public.
- (j) The department may offer each county a cooperative agreement relating to the services to be provided by clerks of district court or child support authorities in child support enforcement cases. The department shall enter into a cooperative agreement with the department of employment to recover sums owed under a support order from unemployment benefits awarded to an obligor.
- (k) The department may contract with private vendors for services necessary to carry out its responsibilities under Title IV-D, applicable federal regulations, this act and its rules and regulations as they relate to child support enforcement.
- (m) The department may:
- (i), (ii) Repealed by Laws 2000, ch. 53, § 2.
- (iii) Seek collection of child, medical and spousal support arrears, through the federal offset program under Title IV-D and all applicable federal regulations;
- (iv) Repealed by Laws 1997, ch. 193, § 3.
- (v) Request a consumer report from a consumer reporting agency pursuant to section 604 of the Fair Credit Reporting Act, <u>15 U.S.C. 1681b</u>, provided the individual named in consumer report is associated with a IV-D support case, the report received by the department is kept confidential except to the extent needed to accomplish the purposes of this paragraph and the report is needed to:
- (A) Locate the individual's whereabouts;
- (B) Establish the individual's capacity to pay child support; or
- (C) Establish, enforce or modify the appropriate level of child support payments.
- (vi) In appropriate circumstances, petition the court to order the child, mother or alleged father to submit to genetic tests to establish paternity, or, in the alternative, to require the testing on its own order;
- (vii) Issue subpoenas for information requested under paragraph (v) of this subsection and impose administrative penalties not to exceed twenty-five dollars (\$25.00) for any person failing to respond;
- (viii) Require all persons, including government, private for-profit employers and not-for-profit employers and public utility companies to respond to a request by the department for information on social security number, address, employment, compensation and benefits of any individual for any individual who owes or is owed support, or against or with respect to whom a support obligation is sought, and who is employed by the person as an employee or contractor, in accordance with rules adopted by the department. Any person who fails to respond to any request for information may be sanctioned by the

department by imposing administrative penalties not to exceed twenty- five dollars (\$25.00). The department shall enter the employer information into the state directory of new hires within five (5) business days after receipt of the employer information. The department may issue administrative subpoenas for financial or other information needed to establish, modify or enforce a support order and impose administrative penalties not to exceed twenty-five dollars (\$25.00) for any person failing to respond. The department may administratively subpoena the customer records of public utility companies for the names and addresses of individuals who owe or are owed support, or against or with respect to whom a support obligation is sought. The department shall notify the supervisor of any employee of a governmental agency if the employee fails to respond to a request under this paragraph. Any person who, acting in good faith, provides information to the department under this paragraph shall not be liable for civil damages as a result of the information provided. The department shall deposit any penalties collected under this paragraph in the public school fund of the respective counties; (ix) Repealed by Laws 2000, ch. 53, § 2.

- (x) Issue an income withholding order, if an income withholding order has not previously been issued. The department shall file the order with the clerk of court who shall mail copies of the order as provided by W.S. 20-6-204(c);
- (xi) Seize assets when an arrearage exists by:
- (A) Intercepting or seizing periodic or lump sum payments from a state or local government agency, including unemployment compensation, workers' compensation and other benefits or judgments, settlements and lottery winnings;
- (B) Attaching and, pursuant to a court order, seizing assets owned solely by the obligor that are held in financial institutions or national chartered credit unions;
- (C) Attaching public and private retirement funds pursuant to state law; and
- (D) Imposing liens and, in appropriate cases, petitioning a court to force the sale of property and distribution of the proceeds.
- (xii) Repealed by Laws 2000, ch. 53, § 2.
- (xiii) In any case where there exists child support arrearages and for which payments are allowed or required, petition the district court for an increase or decrease in the required payments due on the arrearages;
- (xiv) Petition a court to void fraudulent transfers, or obtain a settlement in the best interests of a child support creditor when a prima facie case is established that the obligor has transferred income or property to avoid payment to the child support creditor;
- (xv) Appear in any judicial proceeding on behalf of the state when any obligee or obligor makes application for IV-D services, in order to establish, enforce or modify a child support order, medical support order or a spousal support order, if the spousal support issue is considered in conjunction with the child support or medical support issues, provided the department shall not be required to participate in visitation, custody, property settlement or other issues between the parties. The department shall certify that the obligee, obligor or child has applied for or is receiving Title IV-D services. Initial pleadings filed by the department or its contractors shall state that the action is being taken pursuant to this act or Title IV-D;

- (xvi) If an obligee receives child support which has been assigned to the department, recover the child support payments out of current or future child support payments due to the obligee which are unassigned until the assigned sums have been fully paid; (xvii) Allocate and distribute child, medical and spousal support whether accrued, present or future pursuant to regulations.
- (n) The department shall adopt reasonable rules and regulations to carry out the provision of this act, including rules and regulations governing:
- (i) The provision of services pursuant to the program;
- (ii) The distribution of child support collected by the department;
- (iii) Due process safeguards;
- (iv) The administration of child support income;
- (v) Requirements for adequate record keeping;
- (vi) Tracking and monitoring of program statistics and support payments.
- (o) If a court, on its own motion or pursuant to a request from the department, orders an able-bodied obligor who is unemployed and otherwise unable to fulfill his court-ordered child support obligation to participate in the personal opportunities with employment responsibilities program administered by the department, the department shall permit the obligor to participate pursuant to the court order without regard to the program eligibility requirements under title 42 or the department rules and regulations promulgated thereunder.
- (p) to (r) Repealed by <u>Laws 2000</u>, ch. 53, § 2.
- (s) The department shall not enforce any administrative procedures contained in this act until it has implemented rules providing due process safeguards, including requirements for notice, opportunity to contest the action and an opportunity to appeal to the district court. Any obligor may recover costs and reasonable attorney fees from the department or its child support collection contractor for costs incurred in any administrative hearing or subsequent court appeal if:
- (i) It is found that the obligor did not owe an arrearage and had paid all required support to the clerk.
- (ii) Repealed by Laws 2000, ch. 53, § 2.
- (t) The department of health and the department of family services shall through rules and regulations develop procedures to allow the sharing of birth and paternity records for purposes of establishing paternity and child support obligations.
- (u) The department shall, to the extent required by federal law, have access to any information used by the state to locate an individual for purposes relating to motor vehicle laws or law enforcement and enter into agreements with financial institutions, national chartered credit unions, benefit associations, insurance companies, safe deposit companies, money market mutual funds or similar entities authorized to do business in

the state as provided in <u>W.S. 13-1-205</u> to develop and operate an automated data match system to obtain identifying information for each obligor who maintains an account at the institution and who owes past due child support in an amount equal to at least triple the current monthly child support obligation and to allow assets to be encumbered as provided by law.

- (w) The department shall report to any consumer reporting agency as defined in section 603(f) of the Fair Credit Reporting Act, <u>15 U.S.C. 1681a(f)</u> information regarding the amount of overdue support owed by an obligor.
- (y) The department shall, to the extent an obligor is resident in the state or owns real or personal property in the state, have a lien by operation of law against that real or personal property. After an obligor is in arrears at least triple the current monthly child support obligation, the department shall perfect and enforce a lien authorized by this section in the same manner as liens are perfected for the specific type of real or personal property upon which the lien is claimed. In the event there are competing liens or encumbrances on any property upon which a lien is attached pursuant to this section, the priority of the competing liens or encumbrances shall date from the date of filing or perfection. The state of Wyoming shall accord full faith and credit to a lien arising in another state as a result of child support arrearages when the other state or an agency thereof seeks to enforce such lien, provided the lien was properly filed and recorded under the laws of the state in which the lien was created.
- (z) Repealed by Laws 2000, ch. 53, § 2.

### Wyoming State Board of Nursing: Wyo. Stat. Ann. § 33-21-122 (2011). Board of nursing; powers and duties

- (a) The responsibility for enforcement of the provisions of this act [§§ 33-21-119] through 33-21-156] is vested in the board of nursing. The board shall have all of the duties, powers and authority specifically granted by and necessary to the enforcement of this act.
- (b) The board of nursing may make, adopt, amend, repeal and enforce reasonable rules and regulations necessary for the proper administration and enforcement of this act.
- (c) Without limiting the foregoing, the board of nursing may do the following:
- (i) Develop by rules and regulations uniform and reasonable standards for nursing practice;
- (ii) Appoint advisory committees to provide expertise in specific areas of education or practice under consideration by the board;
- (iii) Publish advisory opinions relative to whether the nursing procedures, policies and other practices of any agency, facility, institution or other organization that employs individuals licensed under this act complies with the standards of nursing practice as defined in this act and board rules and regulations. The board may submit comments, register complaints or file charges with the appropriate advisory, certifying or regulatory

- body governing the agency, facility, institution or organization that authorizes and condones violations of this act or board rules and regulations;
- (iv) Report alleged violations of this act to the district attorney of the county where the violation occurred;
- (v) Examine, license, renew, relicense and reactivate the licenses of duly qualified individuals, may grant individuals a temporary permit to engage in the practice of professional and practical nursing in this state within the limits imposed in this act and may develop, by board rules and regulations, standards for continued competency of licensees continuing in or returning to practice;
- (vi) Deny any applicant a license or temporary permit to practice professional or practical nursing, whether by examination, licensure, endorsement, renewal, relicensure or reactivation, if the applicant fails to meet the requirements of this act or board rules and regulations;
- (vii) Conduct surveys and collect data related to licensure and educational enrollments and report to the public;
- (viii) Conduct investigations, hearings and proceedings concerning alleged violations of this act and board rules and regulations and shall request criminal history background information on license or certificate applicants as authorized under <u>W.S. 7-19-106(a)(viii)</u>;
- (ix) Notwithstanding any other provision of law, the board may issue administrative subpoenas for the testimony of any license, certificate or temporary permit holder or other witness and may issue administrative subpoenas for the production of evidence relating to any matter under investigation. The board may compel attendance of witnesses and administer oaths to those testifying at hearings;
- (x) Determine and administer appropriate disciplinary action against all individuals found guilty of violating this act and board rules and regulations. The board retains jurisdiction over the person issued a license, certificate or temporary permit pursuant to this act, regardless of whether the license, certificate or permit expired, lapsed or was relinquished during or after the alleged occurrence of conduct proscribed by this act.
- (xi) Develop and enforce uniform and reasonable standards for nursing education programs as stated in board rules and regulations;
- (xii) Approve nursing education programs that meet the prescribed standards of the board;
- (xiii) Deny or withdraw approval of nursing education programs that fail to meet the prescribed standards of the board;
- (xiv) Regulate by board rules and regulations the qualifications of advanced practice registered nurses;
- (xv) Maintain records of proceedings as required by state law;
- (xvi) Conduct conferences, forums, studies and research on nursing practice and education:
- (xvii) Maintain nursing statistics for purposes of nursing manpower planning and nursing education:
- (xviii) Appoint and employ a registered nurse qualified by nursing experience and a minimum of a master's degree in nursing to serve as executive director, approve additional staff positions as may be necessary in the opinion of the board to administer and enforce the provisions of this act and determine qualifications for such positions;

- (xix) Participate in and pay membership fees to organizations that develop and regulate the national nursing licensure examinations and exclusively promote the improvement of the uniform and reasonable standards for the practice of nursing for protection of the public health, safety and welfare;
- (xx) Submit an annual report to the governor, summarizing the board's proceedings and activities;
- (xxi) Determine and collect reasonable fees not to exceed five hundred dollars (\$500.00) as established by board rules and regulations;
- (xxii) Receive and expend funds for the pursuit of the authorized objectives of the board of nursing. Funds shall be maintained in a separate account and periodic reports of the receipt and expenditure of funds shall be submitted to the governor;
- (xxiii) Adopt a seal which shall be in the care of the executive director and which shall be affixed only in a manner as prescribed by the board; and
- (xxiv) By board rule and regulation, regulate the qualifications, certification, recertification, examination and discipline of nursing assistants and nurse aides. For purposes of carrying out this paragraph, fingerprints and other information necessary for a criminal history record background check pursuant to <a href="W.S. 7-19-201">W.S. 7-19-201</a> shall be provided to the board.
- (d) Notwithstanding any other provision of this act, the board shall not, by rule or otherwise, limit the right of licensed nurses to practice with other health professionals or in an association, partnership, corporation or other lawful entity, nor limit the right of licensed nurses to practice under the name "nursing clinic", "nursing center" or other descriptive terms, provided the term is not misleading regarding the nature of services provided.
- (e) This act does not require the board of nursing to act upon violations of the provisions of the act whenever, in the board's opinion, the public interest will be served adequately by a suitable written notice of warning to affected parties.

## Wyoming State Board of Medicine: Wyo. Stat. Ann. § 33-26-401. Board duties; investigation; interview

- (a) The board shall investigate, upon a written and signed complaint or by its own motion, any information that if proven would fall within the jurisdiction of the board and would constitute a violation of this act.
- (b) Before holding a contested case hearing, the board shall conduct an informal interview with the licensee unless the licensee waives an interview.
- (c) Notwithstanding any other provision of law the board may require, by administrative subpoena, the testimony of licensees and witnesses and the production of evidence relating to any matter under investigation.
- (d) All evidence admitted into the record of any contested case hearing held before the board shall be subject to the confidentiality provisions set forth in <u>W.S. 33-26-408</u> unless waived by the licensee.

(e) The board retains jurisdiction over only those licensees to whom temporary or full licenses were granted and who are subject to ongoing investigation by the board, regardless of whether the license expired, lapsed or was relinquished during or after the alleged occurrence of conduct proscribed by <u>W.S. 33-26-402</u> by the licensee.

#### **Puerto Rico**

#### Secretary of Health: PR Stat. tit. 24 § 2507 (2010). Subpoenas

- (a) The subpoena issued in accordance with the provisions of this section may be served by any person designated in the subpoena to serve it. Service upon a natural person shall be made by personal delivery of the subpoena to him. Service to an juridical person, domestic or foreign corporation shall be made by delivering the subpoena to an officer, to a managing or general agent, or to any other person authorized by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.
- (b) In the case of contumacy or refusal to obey a subpoena, the Secretary of Health may invoke the aid of any court of justice to compel, under contempt of court, compliance with the subpoena.

### **US Virgin Islands**

## Director of the Paternity and Child Support Division: V.I. Code Ann. tit. 3 § 119 (2010). Paternity and Child Support Division

- (a) There is established within the Department of Justice a Paternity and Child Support Division. This Division is the designated state agency of the approved State Plan under Title IV-D of the Social Security Act, and is responsible for the administration and operation of the State Plan within the Virgin Islands. The Division is also responsible for and shall ensure compliance with the requirements of the State Plan, the Title IV-D program and any other program as may be required by <a href="Public Law 93-647">Public Law 93-647</a>, as amended from time to time. The Attorney General shall effect an administrative procedure to establish paternity and to establish, modify and enforce support orders in Virgin Islands and interstate cases within the Paternity and Child Support Division, so that, in Title IV-D cases requiring the establishment of a support order, regardless of whether paternity has been established, actions to establish support obligations or actions to dismiss same are completed within time frames established by rules and regulations and as otherwise required by applicable federal law and regulation. The Attorney General shall make and promulgate rules and regulations necessary to carry out its functions.
- (b) The Director of the Paternity and Child Support Division, or his or her designee,

notwithstanding any law to the contrary, shall have the authority to take the following actions, in both intrastate and interstate child support enforcement cases, without the necessity of obtaining an order from either the Superior Court or the Administrative Hearing Office, or from any other judicial or administrative tribunal of another state, and all entities identified below, without exception, shall recognize the authority of Title IV-D agencies of other states to take the following actions:

- (1) To order genetic testing for the purpose of establishing paternity;
- (2) To issue subpoenas for any financial or other information needed to establish, modify or enforce a support order;
- (3) To require all entities in the Virgin Islands, and, if the Division issues the request, those of any other state, (including for-profit, nonprofit and governmental employers) to provide promptly, in response to a request by the Division or any other state Title IV-D agency, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor. For purposes of this subsection, 'employee' means an individual who is an employee within the meaning of chapter 24 of the Internal Revenue Code of 1986:
- (4) To obtain access to the following information for the sole purpose of fulfilling Title IV-D functions, subject to the nonliability of entities that provide the access, and subject to all safeguards on privacy and information security as established by applicable territorial or federal law and regulations:
- (A) records maintained by all Virgin Islands Government agencies, and, if the Division requests access, substantially similar agencies in other states, including, but not limited to, vital statistics, the Bureau of Internal Revenue, records related to real and titled property, records of occupational and professional licenses, records concerning ownership and control of corporations, partnerships and other businesses, employment security records, records of all agencies administering public assistance programs, records of the motor vehicle department, and corrections records.
- (B) pursuant to subpoena, certain records held by private entities, such as public utilities, cable television companies and financial institutions, whether located in the Virgin Islands, and, if the Division issues the subpoena, any other state, with respect to individuals who are subject to a pending or existing child support action, consisting of the names and addresses of such individuals, and, with respect to financial institutions, information on assets and liabilities.
- (5) In any support action, whether issued by the Superior Court, the Administrative Hearing Office or any other authorized tribunal, upon notice to the obligor and obligee, and whenever otherwise appropriate, to direct the obligor or other payor to change the payee to the Division or to another appropriate government entity;
- (6) To order income withholding pursuant to Title 16, section 355 of this Code or, if

ordered by another state, pursuant to that state's applicable law or pursuant to Title 16, Chapter 13, Subchapter II of this code, and, in cases in which there is a support arrearage, to include an amount up to 30% of current support in addition to current support for the purpose of securing overdue support;

- (7) In cases in which there is a support arrearage, to secure assets in the Virgin Islands and, if initiated by the Division, any other state, in order to satisfy the arrearage by:
- (A) issuing an order to intercept or seize periodic or lump-sum payments from the unemployment agency, from the Workers Compensation agency, from judgments, settlements and lotteries, and by issuing an order to attach and seize assets of the obligor held in financial institutions or to attach and seize an obligor's public and private retirement funds; and
- (B) imposing liens in accordance with Title 16, section 375 of this code to force the sale of property and the distribution of proceeds.
- (c) Administrative enforcement actions taken pursuant to subsection (b), paragraphs (1), (5), (6) and (7) of this section shall be subject to notice to the affected parties, and such notice shall provide notice of the right to file an appeal with the Administrative Hearing Office based on mistake of fact. 'Mistake of fact', for purposes of this section, shall mean an error in the amount of the current or overdue support or in the identity of the alleged obligor.
- (d) Whoever willfully disobeys or fails to comply with a subpoena or request issued by the Paternity and Child Support Division, pursuant to Title 4, section 601 of this code, and pursuant to subsections (a)(2), (3), and (4) of this section, or whoever willfully disobeys or fails to comply with a subpoena issued by any other state's Title IV-D Child Support Enforcement Agency pursuant to this section, shall be guilty of contempt and subject to the penalties as provided in Title 14, section 585 of this code, and subject to the issuance of a warrant for arrest pursuant to Title 5, section 654 of this code. Subpoenas issued pursuant to this section, if in conformance with subpoenas mandated by federal law for use in interstate child support actions, shall be deemed to be substantially in the form required by Title 4, section 602 of this code. The Division shall enforce the authority of other states to act pursuant to subsection (a) of this section, whenever appropriate.
- (e) Administrative enforcement actions in interstate cases, taken pursuant to subsection (a) of this section, with respect to income withholding, imposition of liens, and issuance of administrative subpoenas in interstate child support cases, shall be on forms as provided for in rules and regulations, and as required by 42 U.S.C. 652(a)(11), and shall, whenever applicable, be in conformance with the provisions of Title 16, Chapter 13, Subchapter III, Administrative Enforcement In Interstate Cases of this code.
- (f) The Paternity and Child Support Division shall, to the extent feasible, use its automated child support enforcement system, known as VIPERS, or any substantially

similar system, to implement the expedited administrative procedures required by this section.

### Commissioner of Health: V.I. Code Ann. tit. 19 § 618 (2010) Subpoenas

- (a) In any investigation relating to his functions under this chapter with respect to controlled substances, the Commissioner may subpoena witnesses, compel the attendance and testimony of witnesses, and require the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Commissioner finds relevant or material to the investigation.
- (b) A subpoena issued under this section may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy thereof by the person serving it shall be proof of service.
- (c) In the case of contumacy by or refusal to obey a subpoena issued to any person, the Commissioner may invoke the aid of the District Court.