

RCW 50A.05.025 Program administration—Powers. (1) In the discharge of the duties imposed by this title, the appeal tribunal and any duly authorized representative of the commissioner shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with any dispute or the administration of this title. It shall be unlawful for any person, without just cause, to fail to comply with subpoenas issued pursuant to the provisions of this section.

(2) (a) Any authorized representative of the commissioner may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

(i) State that an order is sought pursuant to this subsection;
(ii) Adequately specify the records, documents, or testimony; and
(iii) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the department to subpoena the records or testimony.

(c) Any authorized representative of the commissioner may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

(3) Subsection (2) of this section is intended to comply with the holdings of *State v. Miles*, 160 Wn.2d 236 (2007) and *State v. Reeder*, 184 Wn.2d 805 (2015), and Article I, section 7 of the state Constitution. These provisions collectively require judicial review of investigative subpoenas under certain circumstances. The department is not required to receive court approval under subsection (2) of this section unless otherwise required by law. [2020 c 125 § 18.]