

RCW 18.44.425 Subpoena authority—Application—Contents—Notice—

Fees. (1) The director or authorized assistants 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 documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made 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, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(2) When an application under this section 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 agency to subpoena the documents, records, evidence, or testimony.

(3) The director or authorized assistants may seek approval and a court may issue an order under this section 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. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3). [2011 c 93 § 2.]

Finding—Intent—2011 c 93: "The legislature finds that in the case of *State v. Miles*, the state supreme court held that Article I, section 7 of the state Constitution requires judicial review of a subpoena under some circumstances. The legislature intends to provide a process for the department to apply for court approval of an agency investigative subpoena that is authorized under law in cases when the agency seeks approval, or when court approval is required by Article I, section 7 of the state Constitution. The legislature does not intend to require court approval except when otherwise required by law or Article I, section 7 of the state Constitution." [2011 c 93 § 1.]