

28 REPEALS AND REENACTS:

29 **36-14-5**, as last amended by Laws of Utah 2013, First Special Session, Chapter 1



31 *Be it enacted by the Legislature of the state of Utah:*

32 Section 1. Section **36-14-5** is repealed and reenacted to read:

33 **36-14-5. Legislative subpoenas -- Enforcement.**

34 (1) A legislative subpoena:

35 (a) is an order issued by the legislative branch of state government, backed by the
36 power vested in the Legislature under the Utah Constitution, and backed by the authority of
37 state law, to enable the Legislature to fulfill its constitutional and statutory duties and exercise
38 its constitutional and statutory power, to the fullest extent, in the interests of the citizens of
39 Utah; and

40 (b) is not a mere discovery device.

41 (2) (a) If a person disobeys or fails to comply with a legislative subpoena, or if a person
42 appears pursuant to a subpoena and refuses to testify to a matter upon which the person may be
43 lawfully interrogated, that person is in contempt of the Legislature.

44 (b) Contempt of the Legislature is a class A misdemeanor.

45 (3) If a person disobeys or fails to comply with a legislative subpoena, or appears
46 pursuant to a legislative subpoena and refuses to testify to a matter upon which the person may
47 be lawfully interrogated, the issuer may do any or all of the following:

48 (a) file a motion for an order to compel obedience to the subpoena with the district
49 court;

50 (b) refer the matter for criminal prosecution by the attorney general, the Salt Lake
51 County district attorney, or a county attorney or district attorney where the person resides or
52 has a business presence; or

53 (c) pursue any other legal remedy.

54 (4) If a person files a motion to quash a legislative subpoena, files a motion for a
55 protective order, or takes other legal action to challenge, delay, or limit a legislative subpoena:

56 (a) the person is not relieved from the duty to timely comply with the portions of the
57 legislative subpoena that are not challenged by the motion or other legal action; and

58 (b) the issuer may do one or both of the following:

59 (i) file a motion for an order to compel obedience to the subpoena with the district
60 court; or

61 (ii) pursue any other legal remedy.

62 (5) (a) Upon receipt of any motion relating to a legislative subpoena, and in defense of
63 the Legislature's power to investigate as an independent branch of government, the court shall
64 expedite the hearing and decision on the motion.

65 (b) A court shall take immediate action to enforce a legislative subpoena to the full
66 extent permitted by law and to the full extent described in the legislative subpoena.

67 (c) A court shall enforce a legislative subpoena by:

68 (i) ordering the person named in the subpoena to comply with the subpoena; and

69 (ii) taking the action described in Sections [78B-6-311](#) and [78B-6-312](#).

70 (6) (a) There is a presumption that a legislative subpoena is valid and enforceable.

71 (b) A court may not quash a legislative subpoena, limit the scope or breadth of a
72 legislative subpoena, or place any other restriction or limitation on a legislative subpoena,
73 unless, and only to the extent that, a person challenging the subpoena overcomes the
74 presumption described in Subsection (6)(a) by proving, by clear and convincing evidence, that
75 the legislative subpoena requires disclosure of:

76 (i) a trade secret; or

77 (ii) information that is privileged, unless an exception to, or waiver of, the privilege
78 applies.

79 (7) Nothing in this section prevents an issuer from seeking an extraordinary writ to
80 enforce a legislative subpoena.

81 (8) Any party aggrieved by a decision of a court under this section may appeal the
82 decision directly to the Utah Supreme Court.

83 (9) (a) The issuer of a legislative subpoena may, in order to enforce or increase the
84 likelihood of enforcement of a legislative subpoena outside of the state, petition a court to issue
85 the legislative subpoena as a court-issued subpoena.

86 (b) Upon receipt of a petition described in Subsection (9)(a), a court may issue the
87 legislative subpoena as a court-ordered subpoena.

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Office of Legislative Research and General Counsel