



ADMINISTRATIVE RULES OF MONTANA

37.62.933 INVESTIGATIVE SUBPOENA

- (1) The CSSD may issue an investigative subpoena whenever the CSSD has a right or duty to investigate any matter relating to the location of an obligor, the establishment of paternity and support orders, and the enforcement or modification of a support order. A contested case as defined in ARM 37.62.303 need not be initiated before an investigative subpoena is issued.
- (2) The investigative subpoena is used to obtain information leading to the determination of an obligor or obligee's:
 - (a) prior and current residential and mailing addresses;
 - (b) social security number;
 - (c) past and present employment and dates of employment; and
 - (d) real or personal property, including but not limited to, wages, salaries, earnings, tips, bonuses, profits, draws and advances against earnings, severance pay, trust income, pensions, workers compensation benefits, unemployment benefits, commissions, disability payments, distributions from retirement plans, alimony or spousal maintenance, contract proceeds, rents received, interest earned, royalties, dividends, accounts as defined by 40-5-924, MCA, loan applications made, and any other similar information, regardless of source, related to the obligor's or obligee's assets and liabilities as may be contained in the records and files of the subpoenaed person or entity.
- (3) The investigative subpoena may be directed to, but not limited to, public utility companies, financial institutions as defined by 40-5-904, MCA, accountants and bookkeepers, cable television providers, unions, and payors as defined by 40-5-403, MCA.
- (4) In addition to (3), when a person with a support order requests the CSSD to review that order for a possible modification, the CSSD may direct an investigative subpoena to a parent for the purpose of determining during the review process whether there is a sufficient change of circumstances to warrant commencement of formal modification proceedings.
- (5) The investigative subpoena shall order the subpoenaed person or representative of the subpoenaed entity to appear before the CSSD at a set time and produce the requested information and, if necessary, to permit the pertinent parts of the record and files to be inspected and copied. By mutual agreement between the CSSD and the subpoenaed person or entity, the time, place and method for production of the information may be modified.
- (6) The CSSD shall issue an investigative subpoena only when the person who is the subject of the investigation fails to voluntarily provide the information and the information is otherwise unavailable to the CSSD through less intrusive means.

- (7) If the person or entity to whom an investigative subpoena is directed objects to the subpoena before the time specified for compliance with the subpoena, that person or entity may contact the OALJ in writing concerning the objection. The OALJ will refer the matter to an ALJ for resolution. After providing the parties with an opportunity to present argument, the ALJ may, in writing or at a hearing:
- (a) sustain the subpoena;
 - (b) quash or modify the subpoena if it is unreasonable, or unduly burdensome; or
 - (c) impose additional conditions as may be just and reasonable.
- (8) Investigative subpoenas issued under this rule may be enforced as provided by 2-4-102(2) and 40-5-226(13), MCA.

Authorizing statute(s): 17-4-105, 40-5-202, 40-5-262, 40-5-272, 40-5-273, 40-5-405, 40-5-713, 40-5-825, 40-5-906, MCA

Implementing statute(s): 17-4-105, 40-5-157, 40-5-202, 40-5-208, 40-5-226, 40-5-233, 40-5-261, 40-5-271, 40-5-273, 40-5-414, 40-5-431, 40-5-703, 40-5-710, 40-5-821, 40-5-822, 40-5-823, 40-5-824, 40-5-906, MCA

History: NEW, 2000 MAR p. 3547, Eff. 12/22/00; AMD, 2020 MAR p. 966, Eff. 5/30/20.