

SENATE FILE NO. SF0026

Child exploitation-administrative subpoenas.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to crimes and offenses; authorizing
2 administrative subpoenas to investigate sexual exploitation
3 of children by way of the Internet; specifying items that
4 may be required to be produced under the subpoena;
5 providing limitations on items that are required to be
6 produced; providing for the destruction or return of items
7 as specified; specifying the process for the issuance and
8 service of, and challenge to, the subpoena; providing for
9 confidentiality of subpoenaed materials as specified; and
10 providing for an effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 9-1-640 is created to read:

15

16 **9-1-640. Administrative subpoena authority for**
17 **investigations of child exploitation.**

1

2 (a) In any investigation relating to a state offense
3 involving sexual exploitation of children under W.S.
4 6-4-303, and upon reasonable cause to believe that an
5 Internet service account has been used in the exploitation
6 or attempted exploitation of children, the attorney general
7 or his chief deputy may issue in writing and cause to be
8 served a subpoena requiring the production and testimony
9 described in subsection (b) of this section.

10

11 (b) Except as provided in subsection (c) of this
12 section, a subpoena issued under this section may require
13 the production of any records or other documentation
14 relevant to the investigation including:

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16 (i) Electronic mail address;

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18 (ii) Internet username;

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20 (iii) Internet protocol address;

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22 (iv) Name of account holder;

23

24 (v) Billing and service address;

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2 (vi) Telephone number;

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4 (vii) Account status;

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6 (viii) Method of access to the Internet;

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8 (ix) Automatic number identification records if
9 access is by modem.

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11 (c) The provider of electronic communication service
12 or remote computing service shall not disclose the
13 following except pursuant to a warrant:

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15 (i) In-transit electronic communications;

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17 (ii) Account memberships related to Internet
18 groups, newsgroups, mailing lists or specific areas of
19 interest;

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21 (iii) Account passwords;

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23 (iv) Account content to include:

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1 (A) Electronic mail in any form;

2

3 (B) Address books or contact/"buddy" lists;

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5 (C) Financial records;

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7 (D) Internet proxy content or "Web surfing"
8 history;

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10 (E) Files or other digital documents stored
11 within the account or pursuant to use of the account.

12

13 (d) At any time before the return date specified on
14 the subpoena, the person summoned may, in the district
15 court in which the person resides or does business,
16 petition for an order modifying or setting aside the
17 subpoena, or a prohibition of disclosure by a court.

18

19 (e) A subpoena under this section shall describe the
20 objects required to be produced and shall prescribe a
21 return date within a reasonable period of time within which
22 the objects can be assembled and made available.

23

1 (f) If no case or proceeding arises from the
2 production of records or other documentation pursuant to
3 this section within a reasonable time after those records
4 or documentation are produced, the attorney general shall
5 either destroy the records and documentation or return them
6 to the person who produced them.

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8 (g) A subpoena issued under this section may be
9 served by any person who is at least eighteen (18) years of
10 age and who is designated in the subpoena to serve it.
11 Service upon a natural person may be made by personal
12 delivery of the subpoena to him. Service may be made upon
13 a corporation or partnership or other unincorporated
14 association which is subject to suit under the common name,
15 by delivering the subpoena to an officer, to a managing or
16 general agent, or to any other agent authorized by
17 appointment or by law to receive service of process. The
18 affidavit of the person serving the subpoena together with
19 a true copy thereof shall be proof of service.

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21 (h) The attorney general shall annually report the
22 following information to the joint judiciary interim
23 committee no later than February 1 for the preceding
24 calendar year:

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2 (i) The number of requests for administrative
3 subpoenas made under this section;

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5 (ii) The number of administrative subpoenas
6 issued under this section;

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8 (iii) The number of administrative subpoenas
9 issued under this section that were contested;

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11 (iv) The number of administrative subpoenas
12 issued under this section that were suppressed;

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14 (v) The number of search warrants that were
15 issued as a consequence of the issuance of an
16 administrative subpoena under this section;

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18 (vi) The number of individuals who were
19 prosecuted under W.S. 6-4-303 following the issuance of an
20 administrative subpoena under this section.

21

22 (j) Any information, records or data reported or
23 obtained pursuant to subpoena under this section shall
24 remain confidential and shall not be further disclosed

1 unless in connection with a criminal case related to the
2 subpoenaed materials.

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4 **Section 2.** This act is effective immediately upon
5 completion of all acts necessary for a bill to become law
6 as provided by Article 4, Section 8 of the Wyoming
7 Constitution.

8

9

(END)