Regular Session, 2010

HOUSE BILL NO. 193

BY REPRESENTATIVES LOPINTO, ANDERS, ARNOLD, BOBBY BADON,
BALDONE, BARRAS, BILLIOT, BROSSETT, BURFORD, HENRY BURNS, TIM
BURNS, CARTER, CHAMPAGNE, CHANEY, CONNICK, CROMER, DOERGE,
DOVE, HARDY, HENDERSON, HENRY, HINES, HOFFMANN, HUTTER,
JOHNSON, LABRUZZO, LAMBERT, LEGER, LIGI, LORUSSO, MILLS,
MONICA, PEARSON, PUGH, RICHARD, ROBIDEAUX, SCHRODER, SIMON,
SMILEY, JANE SMITH, ST. GERMAIN, TALBOT, TEMPLET, THIERRY,
WHITE, WILLIAMS, AND WILLMOTT AND SENATORS ALARIO, AMEDEE,
APPEL, BROOME, CROWE, DUPLESSIS, HEITMEIER, KOSTELKA, LONG,
MARTINY, MICHOT, MOUNT, SHAW, AND THOMPSON

CRIME/SEX OFFENSES: Authorizes the use of administrative subpoenas when
investigating sex offenses involving children through use of a computer

1   AN ACT

2   To enact Code of Criminal Procedure Article 732.1, relative to subpoenas; to authorize the

3   use of administrative subpoenas for the production of information in investigations

4   of certain sex offenses or in the exploitation of children; to provide for the types of

5   information which may be disclosed pursuant to an administrative subpoena; to

6   provide for information which may not be disclosed pursuant to an administrative

7   subpoena; and to provide for related matters.

8   Be it enacted by the Legislature of Louisiana:

9   Section 1. Code of Criminal Procedure Article 732.1 is hereby enacted to read as

10   follows:

11   Art. 732.1. Subpoena duces tecum regarding sex offenses against victims who are

12   minors

13   A. The Department of Public Safety and Corrections, office of state police,

14   the office of the attorney general, or the sheriff's office investigating any sex offense

15   as defined in R.S. 15:541 where the victim is a minor, or the offender reasonably

1   believes that the victim is a minor, shall have the administrative authority to issue in

2   writing and cause to be served a subpoena requiring the production and testimony

3   described in Paragraph B of this Article upon reasonable cause to believe that an

4   Internet service account, or online identifier as defined in R.S. 15:541(20), has been

5   used in the commission of the offense, or in the exploitation or attempted

6   exploitation of children.

7   B. Except as provided in Paragraph C of this Article, a subpoena issued

8   under this Article may require the production of any records or other documentation

9   relevant to the investigation, including all of the following:

10   (1) Electronic mail address.

11   (2) Internet username.

12   (3) Internet protocol address.

13   (4) Name of account holder.

14   (5) Billing and service address.

15   (6) Telephone number.

16   (7) Account status.

17   (8) Method of access to the Internet.

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

19   C. The following information shall not be subject to disclosure pursuant to

20   an administrative subpoena issued pursuant to the provisions of this Article, but shall

21   be subject to disclosure pursuant to other lawful process:

22   (1) In-transit electronic communications.

23   (2) Account memberships related to Internet groups, newsgroups, mailing

24   lists, or specific areas of interest.

25   (3) Account passwords.

26   (4) Account content, including electronic mail in any form, address books,

27   contacts, financial records, web surfing history, Internet proxy content, or files or

28   other digital documents stored with the account or pursuant to use of the account.

1   D. A subpoena issued pursuant to this Article shall describe the objects

2   required to be produced and shall prescribe a return date with a reasonable period of

3   time within which the objects can be assembled and made available.

4   E. If no case or proceeding arises from the production of records or other

5   documentation pursuant to this Section and the time limitation for initiation of

6   prosecution has expired, the Department of Public Safety and Corrections, office of

7   state police, the sheriff's office, or the office of the attorney general shall destroy the

8   records and documentation.

9   F. Except as provided in this Article, any information, records, or data

10   reported or obtained pursuant to a subpoena authorized by the provisions of this

11   Article shall remain confidential and shall not be disclosed unless in connection with

12   a criminal case related to the subpoenaed materials.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Lopinto   HB No. 193

Abstract: Authorizes certain law enforcement agencies to issue an administrative subpoena to obtain information regarding an Internet account used in the commission of a sex offense or in the exploitation of children.

Proposed law provides that the office of state police, the attorney general's office, or the sheriff investigating a sex offense where the victim is a minor, or the offender reasonably believes the victim is a minor, and upon reasonable cause to believe that an Internet service account or online identifier has been used in the commission of the offense, or in the exploitation or attempted exploitation of children, may issue an administrative subpoena to obtain certain information related to the Internet account or online identifier.

Proposed law provides that the administrative subpoena may be used to obtain the electronic mail address, Internet username, Internet protocol address, name of the account holder, billing and service address, telephone number, account status, method of access to the Internet, and the automatic number identification records if access is by modem.

Proposed law provides that any additional information has to be obtained through other lawful process.

Proposed law provides for the destruction of any of the information upon expiration of time limitations for prosecution.

(Adds C.Cr.P. Art. 732.1)

CODING: Words in struck through type are deletions from existing law; words underscored are additions.