

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, HAZEL, 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

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, any agency that is a member of the Department of  
15 Justice Internet Crimes Against Children Task Force, or the sheriff's office  
16 investigating any sex offense as defined in R.S. 15:541 where the victim is a minor,  
17 or the offender reasonably believes that the victim is a minor, shall have the  
18 administrative authority to issue in writing and cause to be served a subpoena  
19 requiring the production and testimony described in Paragraph B of this Article upon

1 reasonable cause to believe that an Internet service account, or online identifier as  
 2 defined in R.S. 15:541(20), has been used in the commission of the offense, or in the  
 3 exploitation or attempted exploitation of children.

4 B. Except as provided in Paragraph C of this Article, a subpoena issued  
 5 under this Article may require the production of the following records or other  
 6 documentation relevant to the investigation:

- 7 (1) Electronic mail address.
- 8 (2) Internet username.
- 9 (3) Internet protocol address.
- 10 (4) Name of account holder.
- 11 (5) Billing and service address.
- 12 (6) Telephone number.
- 13 (7) Account status.
- 14 (8) Method of access to the Internet.
- 15 (9) Automatic number identification records if access is by modem.

16 C. The following information shall not be subject to disclosure pursuant to  
 17 an administrative subpoena issued pursuant to the provisions of this Article but shall  
 18 be subject to disclosure pursuant to other lawful process:

- 19 (1) In-transit electronic communications.
- 20 (2) Account memberships related to Internet groups, newsgroups, mailing  
 21 lists, or specific areas of interest.
- 22 (3) Account passwords.
- 23 (4) Account content, including electronic mail in any form, address books,  
 24 contacts, financial records, web surfing history, Internet proxy content, or files or  
 25 other digital documents stored with the account or pursuant to use of the account.

26 D. A subpoena issued pursuant to this Article shall describe the objects  
 27 required to be produced and shall prescribe a return date with a reasonable period of  
 28 time within which the objects can be assembled and made available.

29 E. If no case or proceeding arises from the production of records or other  
 30 documentation pursuant to this Section and the time limitation for initiation of

1           prosecution has expired, the Department of Public Safety and Corrections, office of  
2           state police, the sheriff's office, or the office of the attorney general shall destroy the  
3           records and documentation.

4           F. Except as provided in this Article, any information, records, or data  
5           reported or obtained pursuant to a subpoena authorized by the provisions of this  
6           Article shall remain confidential and shall not be disclosed unless in connection with  
7           a criminal case related to the subpoenaed materials.

8           G. Any administrative subpoena issued pursuant to this Article shall comply  
9           with the provisions of 18 U.S.C. §2703(c)(2).

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_