

2021 Regular Session

ACT No. 18

HOUSE BILL NO. 227

BY REPRESENTATIVE WHEAT AND SENATORS ABRAHAM, BARROW, CARTER,
FOIL, AND MIZELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

Provides relative to subpoena duces tecum when investigating sex offenses involving human trafficking

AN ACT

To enact Code of Criminal Procedure Article 732.2, relative to subpoenas; to authorize the use of administrative subpoenas for the production of information in investigations of human trafficking offenses; to provide for the types of information which may be disclosed pursuant to an administrative subpoena; to provide for information which may not be disclosed pursuant to an administrative subpoena; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Criminal Procedure Article 732.2 is hereby enacted to read as follows:

Art. 732.2. Subpoena duces tecum regarding human trafficking offenses

A. The Department of Public Safety and Corrections, office of state police, the office of the attorney general, the police department, or the sheriff's office investigating any offense or attempt to commit any offense described in Subparagraphs (1) and (2) of this Paragraph shall have the administrative authority to issue in writing and cause to be served a subpoena requiring the production and testimony described in Paragraph B of this Article upon reasonable cause to believe that an internet service account, or online identifier as defined in R.S. 15:541, has been used in the commission or attempted commission of the following:

(1) A person is a victim of human trafficking pursuant to R.S. 14:46.2, or the offender reasonably believes that the person is a victim of human trafficking.

(2) A person is a victim of trafficking of children for sexual purposes pursuant to R.S. 14:46.3, or the offender reasonably believes that the person is a minor.

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

(1) Electronic mail address.

(2) Internet username.

(3) Internet protocol address.

(4) Name of account holder.

(5) Billing and service address.

(6) Telephone number.

(7) Account status.

(8) Method of access to the internet.

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

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

(1) In-transit electronic communications.

(2) Account memberships related to internet groups, newsgroups, mailing lists, or specific areas of interest.

(3) Account passwords.

(4) Account content, including electronic mail in any form, address books, contacts, financial records, web surfing history, internet proxy content, or files or other digital documents stored with the account or pursuant to use of the account.

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

E. If no case or proceeding arises from the production of records or other documentation pursuant to this Section and the time limitation for initiation of prosecution has expired, the Department of Public Safety and Corrections, office of state police, the office of the attorney general, or the sheriff's office shall destroy the records and documentation.

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

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____