

HOUSE BILL NO. HB0028

Investigative subpoenas.

Sponsored by: Representative(s) Zwonitzer, Dv., Brown and Pownall and Senator(s) Hicks

A BILL

for

1 AN ACT relating to criminal procedure; providing for the  
2 issuance of investigative subpoenas for internet fraud;  
3 providing for confidentiality; providing definitions; and  
4 providing for an effective date.

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

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8 **Section 1.** W.S. 7-7-201 is created to read:

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10

ARTICLE 2

11

INVESTIGATIVE SUBPOENAS

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**7-7-201. Investigative subpoenas.**

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1           (a) In any investigation relating to internet fraud,  
2 a peace officer, with probable cause to believe that an  
3 internet fraud has been committed, may apply for an  
4 investigative subpoena as provided in this section to  
5 require the production of any records including electronic  
6 records or data, books, papers, documents or other tangible  
7 things that constitute or contain evidence relevant and  
8 material to the investigation. Copies may be provided  
9 unless originals are specified.

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11           (b) An investigative subpoena may be issued under  
12 this section by any district judge, district court  
13 commissioner, circuit judge or magistrate authorized  
14 pursuant to W.S. 5-9-208(a), (b) or (c)(xv) or  
15 5-9-212(a)(ix).

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17           (c) The issuance of any investigative subpoena to a  
18 telecommunication, broadband or internet service provider  
19 shall be in compliance with 47 U.S.C. 222, 47 U.S.C. 551,  
20 the Electronics Communications Privacy Act, 18 U.S.C. 2510  
21 et seq., the Stored Communications Act, 18 U.S.C. 2701 et  
22 seq., and other applicable federal law.

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1           (d) An investigative subpoena shall describe the  
2 objects required, the reason the information is needed and  
3 when the information should be provided, not to exceed  
4 fourteen (14) days from the date of issuance of the  
5 subpoena within which the objects shall be assembled and  
6 made available. The court may extend the time period for  
7 good cause shown. At any time before the return date  
8 specified on the subpoena, the person subpoenaed may  
9 petition the issuing court to set aside or modify the  
10 subpoena. A person subpoenaed under this section shall be  
11 advised by the subpoena that he has a right to challenge  
12 the subpoena.

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14           (e) The reasonable costs of production shall be borne  
15 by the party who applied for the subpoena.

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17           (f) If no case or proceeding arises from the  
18 production of records or other documentation pursuant to  
19 this section within one (1) year after those records or  
20 documentation are produced, the custodian of the records  
21 shall return the records and documentation to the person  
22 who produced them and shall destroy all copies, including  
23 electronic copies.

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2 (g) Records or data reported or obtained pursuant to  
3 a subpoena under this section shall remain confidential and  
4 shall not be further disclosed unless in connection with a  
5 criminal case related to the subpoenaed materials.

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7 (h) If a person issued an investigative subpoena  
8 under this section asserts a privilege under Wyoming law to  
9 the production of the information requested in the  
10 investigative subpoena and a process for compulsory  
11 production of the information exists in state or federal  
12 law, the process for compulsory production shall supersede  
13 the provisions for production under this section.

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15 (j) As used in this section:

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17 (i) "Internet" means as defined in W.S.  
18 9-2-1035(a)(iii);

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20 (ii) "Internet fraud" means the use of the  
21 internet to commit an offense specified in W.S. 6-3-501  
22 through 6-3-902;

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1                   (iii) "Peace officer" means as defined in W.S.  
2 7-2-101(a)(iv)(A) through (D).

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4                   **Section 2.** This act is effective July 1, 2015.

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(END)