

SENATE FILE NO. SF0010

Warrants for digital records.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to criminal procedure; authorizing warrants
2 to out-of-state providers of electronic communication
3 services and remote computing services; specifying
4 procedures; requiring Wyoming providers to comply with out-
5 of-state warrants as specified; providing immunity for
6 compliance; defining terms; making conforming amendments;
7 and providing for an effective date.

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

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11 **Section 1.** W.S. 7-7-106 is created to read:

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13 **7-7-106. Warrants to out-of-state providers of**
14 **electronic communication services and remote computing**
15 **services; definitions; production of records to another**
16 **state; notice; immunity.**

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2 (a) As used in this section:

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4 (i) "Electronic communication" means as defined
5 in W.S. 2-3-1002(a)(x);

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7 (ii) "Electronic communication service" means
8 any custodian or service that provides to users the ability
9 to send or receive wire or electronic communications;

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11 (iii) "Provider" means an entity that provides
12 electronic communication services or remote computing
13 services to the general public;

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15 (iv) "Records relating to electronic
16 communications services or remote computing services"
17 includes papers, documents, records, location information,
18 transitional records or other things whether in physical or
19 electronic form that reveal the identity of the customers
20 using those services, data stored by, or on behalf of, the
21 customer, the customer's usage of those services, the
22 recipient or destination of communications sent to or from
23 those customers or the content of those communications;

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2 (v) "Remote computing service" means any service
3 that provides computer storage or processing services by
4 means of an electronic communications system.

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6 (b) Provided that the criminal matter is triable in
7 the state of Wyoming, any district or circuit judge may
8 issue a warrant authorizing the seizure of, or compelling
9 the production of, records relating to electronic
10 communications services or remote computing services if
11 probable cause exists to believe that the records tend to
12 show that a crime has been committed or that a particular
13 person has committed a crime, or may lead to the discovery
14 of a missing person, regardless of whether:

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16 (i) The provider is located within the state of
17 Wyoming; or

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19 (ii) The records sought are located within the
20 state of Wyoming.

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22 (c) A warrant issued pursuant to subsection (b) of
23 this section may be served by:

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(i) Hand delivering a copy to the provider;

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(ii) Sending a copy by:

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(A) Certified or registered mail;

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(B) Express mail; or

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(C) Any other means of service specified by the provider, including facsimile, email or submission via an internet web portal that the provider has designated for the purpose of service of process.

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(iii) Any means specified by court rule for the service of warrants authorized by this section.

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(d) When properly served with a warrant issued pursuant to subsection (b) of this section, a provider shall produce to the applicant all records sought under the warrant within ten (10) business days, except:

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1 (i) The warrant may require production within
2 less than ten (10) business days if the judge finds
3 reasonable cause in the application to believe that failure
4 to produce the records within ten (10) business days would
5 result in:

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7 (A) Danger to the life or physical safety
8 of an individual;

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10 (B) A flight from prosecution;

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12 (C) The destruction of or tampering with
13 evidence;

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15 (D) The intimidation of potential
16 witnesses;

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18 (E) Serious jeopardy to an investigation;

19 or

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21 (F) Undue delay of a trial.

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1 (ii) If the applicant consents to a request from
2 the provider for additional time to produce the records
3 sought by the warrant and notice is provided to the court
4 by the consenting applicant;

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6 (iii) If a provider or user seeks to quash the
7 warrant by filing a motion seeking relief from the court
8 that issued the warrant within the time required for
9 production of records pursuant to this subsection. The
10 issuing court shall hear and decide the motion not later
11 than five (5) business days after the motion is filed.

12
13 (e) A provider shall verify the authenticity of
14 records that it produces under this section by providing an
15 affidavit attesting to the nature and identification of the
16 records, and by providing contact information of the
17 custodian or other qualified person who compiled the
18 records. When verified, the condition precedent to
19 admissibility under Rule 901 of the Wyoming Rules of
20 Evidence shall be deemed satisfied.

21
22 (f) A Wyoming provider, when served with a warrant
23 issued from the court of another state or the District of

1 Columbia to produce records relating to electronic
2 communications services or remote computing services, shall
3 produce those records as if that warrant had been issued by
4 a Wyoming court.

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6 (g) Any person or entity providing records in
7 accordance with the terms of a warrant issued under this
8 section or in accordance with subsection (f) of this
9 section is immune from criminal or civil liability related
10 to the production of the records.

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12 (h) Any warrant issued under this section shall
13 comply with federal law, including provisions prohibiting,
14 limiting or imposing additional requirements on the use of
15 search warrants.

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17 **Section 2.** W.S. 7-7-101(a)(intro) and by creating a
18 new subsection (b) is amended to read:

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20 **7-7-101. Authority to issue; grounds.**

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22 (a) Except as provided in subsection (b) of this
23 section, any district judge, district court commissioner,

1 circuit judge or magistrate authorized pursuant to W.S.
2 5-9-208(a), (b) or (c)(xv) or 5-9-212(a)(ix) may issue a
3 search warrant to search for and seize any property:

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5 (b) A warrant issued under W.S. 7-7-106 shall be
6 issued by a district or circuit court judge.

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8 **Section 3.** This act is effective July 1, 2020.

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(END)