

2021 Regular Session

HOUSE BILL NO. 227

BY REPRESENTATIVE WHEAT

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

CRIMINAL/PROCEDURE: Provides relative to subpoena duces tecum when investigating sex offenses involving human trafficking

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

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

11 Art. 732.2. Subpoena duces tecum regarding human trafficking offenses

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

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

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

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

9 (1) Electronic mail address.

10 (2) Internet username.

11 (3) Internet protocol address.

12 (4) Name of account holder.

13 (5) Billing and service address.

14 (6) Telephone number.

15 (7) Account status.

16 (8) Method of access to the internet.

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

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

21 (1) In-transit electronic communications.

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

24 (3) Account passwords.

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

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.

Proposed law provides that administrative subpoenas used pursuant to proposed law shall comply with federal laws governing records concerning an electronic communication service or remote computing service.

(Adds C.Cr.P. Art. 732.2)