

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

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

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

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

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

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 227 Engrossed

2021 Regular Session

Wheat

Abstract: Authorizes certain law enforcement agencies to issue an administrative subpoena to obtain information regarding an internet account used in the commission of human trafficking.

Proposed law authorizes the Dept. of Public Safety and Corrections, the office of state police, the office of the attorney general, the police department, or the sheriff's office with the administrative authority to issue in writing and serve a subpoena requiring the production and testimony of documentation and records upon reasonable cause that an internet service account, or online identifier has been used in the commission or attempted commission of the following:

- (1) A person is a victim of human trafficking 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 or the offender reasonably believes that the person is a minor.

Proposed law provides that the administrative subpoena may be used to obtain the electronic mail address, internet username, internet protocol address, name of the account holder, billing and service address, telephone number, account status, method of access to the internet, and the automatic number identification records if access is by modem.

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)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Add police departments to the list of entities that have administrative authority to serve subpoenas.