

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
93rd General Assembly
Regular Session, 2021

As Engrossed: S2/23/21
A Bill

SENATE BILL 256

By: Senator Irvin

By: Representative Cavanaugh

For An Act To Be Entitled

AN ACT CONCERNING THE USE OF AN ADMINISTRATIVE
SUBPOENA BY THE DIVISION OF ARKANSAS STATE POLICE IN
AN INVESTIGATION CONCERNING AN INTERNET CRIME AGAINST
A MINOR; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE USE OF AN ADMINISTRATIVE
SUBPOENA BY THE DIVISION OF ARKANSAS
STATE POLICE IN AN INVESTIGATION
CONCERNING AN INTERNET CRIME AGAINST A
MINOR.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 12, Chapter 8, Subchapter 1, is amended to add an additional section to read as follows:

12-8-126. Administrative subpoena for internet offenses against minor.

(a) The Director of the Division of Arkansas State Police or his or her designee may issue a subpoena requiring the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to an investigation of internet crimes against a minor if:

(1) The subpoena relates to an investigation of an offense that involves the sexual exploitation of a minor; and

(2) There is reasonable cause to believe that an internet or electronic service account provided through an electronic communication



service or remote computing service has been used in the sexual exploitation or attempted sexual exploitation of the minor.

(b) A subpoena under this section shall:

(1) Describe any objects or items to be produced; and

(2) Prescribe a reasonable return date by which those objects or items must be assembled and made available.

(c) Except as provided by subsection (d) of this section, a subpoena issued under this section may require the production of any records or other documentation relevant to the investigation including without limitation:

(1) A name;

(2) An address;

(3) A local or long distance telephone connection record, satellite-based internet service provider connection record, or record of session time and duration;

(4) The duration of the applicable service, including the start date for the service and the type of service used;

(5) A telephone or instrument number or other number used to identify a subscriber, including a temporarily assigned network address; and

(6) The source of payment for the service, including a credit card or bank account number.

(d) A provider of an electronic communication service or remote computing service may not disclose the following information in response to a subpoena issued under this section:

(1) An in-transit electronic communication;

(2) An account membership related to an Internet group, newsgroup, mailing list, or specific area of interest;

(3) An account password; or

(4) Any account content, including without limitation:

(A) Any form of electronic mail;

(B) An address book, contact list, or buddy list;

(C) A financial record;

(D) Internet proxy content or internet history; or

(E) A file or other digital document stored in the account or as part of the use of the account.

(e) A provider of an electronic communication service or remote

computing service shall disclose the information described under subsection (d) of this section if that disclosure is required by court order.

(f) A person authorized to serve process under the Arkansas Rules of Civil Procedure may serve a subpoena issued under this section and shall serve the subpoena in accordance with the Arkansas Rules of Civil Procedure.

(g) Before the return date specified on a subpoena issued under this section, the person receiving the subpoena may, in an appropriate court located in the county where the subpoena was issued, petition for an order to modify or quash the subpoena or to prohibit disclosure of applicable information by a court.

(h) If a criminal case or proceeding does not result from the production of any books, papers, correspondence, memoranda, agreements, or other documents or records under this section within a reasonable period, the director or his or her designee shall, as appropriate:

(1) Destroy the any books, papers, correspondence, memoranda, agreements, or other documents or records; or

(2) Return the any books, papers, correspondence, memoranda, agreements, or other documents or records to the person who produced the any books, papers, correspondence, memoranda, agreements, or other documents or records.

/s/Irvin