

SENATE FILE NO. \_\_\_\_\_

Child exploitation-administrative subpoenas.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to crimes and offenses; authorizing  
 2 administrative subpoenas to investigate sexual exploitation  
 3 of children by way of the Internet; specifying items that  
 4 may be required to be produced under the subpoena;  
 5 providing limitations on items that are required to be  
 6 produced; providing for the return of items as specified;  
 7 specifying the process for the issuance and service of, and  
 8 challenge to, the subpoena; and providing for an effective  
 9 date.

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

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13 **Section 1.** W.S. 9-1-640 is created to read:

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15 **9-1-640. Administrative subpoena authority for**  
 16 **investigations of child exploitation.**

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1           (a) In any investigation relating to a state offense  
2 involving sexual exploitation of children under W.S.  
3 6-4-303, and upon reasonable cause to believe that an  
4 Internet service account has been used in the exploitation  
5 or attempted exploitation of children, the attorney general  
6 or his chief deputy may issue in writing and cause to be  
7 served a subpoena requiring the production and testimony  
8 described in subsection (b) of this section.

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10           (b) Except as provided in subsection (c) of this  
11 section, a subpoena issued under this section may require  
12 the production of any records or other documentation  
13 relevant to the investigation including:

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15                   (i) Electronic mail address;

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17                   (ii) Internet username;

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19                   (iii) Internet protocol address;

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21                   (iv) Name of account holder;

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23                   (v) Billing and service address;

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1 (vi) Telephone number;

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3 (vii) Account status;

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5 (viii) Method of access to the Internet;

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7 (ix) Automatic number identification records if  
8 access is by modem.

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10 (c) A subpoena issued under this section with respect  
11 to the provider of electronic communication service or  
12 remote computing service shall not require the production  
13 of:

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15 (i) In-transit electronic communications;

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17 (ii) Account memberships related to Internet  
18 groups, newsgroups, mailing lists or specific areas of  
19 interest;

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21 (iii) Account passwords;

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23 (iv) Account content to include:

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1 (A) Electronic mail in any form;

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3 (B) Address books or contact/"buddy" lists;

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5 (C) Financial records;

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7 (D) Internet proxy content or "Web surfing"  
8 history;

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10 (E) Files or other digital documents stored  
11 within the account or pursuant to use of the account.

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13 (d) At any time before the return date specified on  
14 the subpoena, the person summoned may, in the district  
15 court in which the person resides or does business,  
16 petition for an order modifying or setting aside the  
17 subpoena, or a prohibition of disclosure by a court.

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19 (e) A subpoena under this section shall describe the  
20 objects required to be produced and shall prescribe a  
21 return date within a reasonable period of time within which  
22 the objects can be assembled and made available.

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1           (f) If no case or proceeding arises from the  
2 production of records or other documentation pursuant to  
3 this section within a reasonable time after those records  
4 or documentation are produced, the attorney general shall,  
5 upon written demand by the person producing those records  
6 or items, return them to that person, except where the  
7 production required was only of copies rather than  
8 originals.

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10           (g) A subpoena issued under this section may be  
11 served by any person who is at least eighteen (18) years of  
12 age and who is designated in the subpoena to serve it.  
13 Service upon a natural person may be made by personal  
14 delivery of the subpoena to him. Service may be made upon  
15 a corporation or partnership or other unincorporated  
16 association which is subject to suit under the common name,  
17 by delivering the subpoena to an officer, to a managing or  
18 general agent, or to any other agent authorized by  
19 appointment or by law to receive service of process. The  
20 affidavit of the person serving the subpoena together with  
21 a true copy thereof shall be proof of service.

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23           (h) The attorney general shall annually report the  
24 following information to the joint judiciary interim

1 committee no later than February 1 for the preceding  
2 calendar year:

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4 (i) The number of requests for administrative  
5 subpoenas made under this section;

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7 (ii) The number of administrative subpoenas  
8 issued under this section;

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10 (iii) The number of administrative subpoenas  
11 issued under this section that were contested;

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13 (iv) The number of administrative subpoenas  
14 issued under this section that were suppressed;

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16 (v) The number of search warrants that were  
17 issued as a consequence of the issuance of an  
18 administrative subpoena under this section;

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20 (vi) The number of individuals who were  
21 prosecuted under W.S. 6-4-303 following the issuance of an  
22 administrative subpoena under this section.

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1           **Section 2.**   This act is effective immediately upon  
2 completion of all acts necessary for a bill to become law  
3 as provided by Article 4, Section 8 of the Wyoming  
4 Constitution.

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(END)