
HOUSE BILL 1872

State of Washington

66th Legislature

2019 Regular Session

By Representatives Klippert and Dent

Read first time 02/04/19. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to protecting minors from sexual exploitation;
2 amending RCW 10.112.010; adding new sections to chapter 10.112 RCW;
3 and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The definitions in this section apply
6 throughout this chapter unless the context clearly requires
7 otherwise.

8 (1) "Electronic communication service" means any service that
9 provides to users the ability to send or receive wire or electronic
10 communications.

11 (2) "Provider" means a provider of electronic communication
12 services or remote computing services.

13 (3) "Remote computing service" means the provision to the public
14 of computer storage or processing services by means of an electronic
15 communications system.

16 NEW SECTION. **Sec. 2.** (1) In any criminal investigation of an
17 offense involving the sexual exploitation of children under chapter
18 9.68A RCW, the attorney general or a prosecuting attorney may issue
19 in writing and cause to be served a subpoena to a provider requiring
20 the production of relevant records where the attorney general or the

1 prosecuting attorney has reason to suspect a crime involving the
2 sexual exploitation of children has been committed.

3 (2) A subpoena issued under this section must describe the
4 information or records required to be produced and specify a return
5 date within a reasonable period of time within which the information
6 or records can be assembled and made available.

7 (3) A subpoena issued under this section may not require a
8 provider to produce any customer or subscriber records, content, or
9 information other than the following:

10 (a) Name;

11 (b) Address;

12 (c) Local and long distance telephone connection records, or
13 records of session times and durations;

14 (d) Length of service and types of service utilized;

15 (e) Telephone or instrument number or other subscriber number or
16 identity, including any temporarily assigned network address; and

17 (f) Means and source of payment for such service, including any
18 credit card or bank account number.

19 (4) A provider may not disclose the existence of a subpoena to
20 the subscribers or customers whose records or information are
21 requested or released under the subpoena for ninety days from the
22 date of receipt of the subpoena.

23 NEW SECTION. **Sec. 3.** At any time before the return date
24 specified in the subpoena, the provider to whom a subpoena under this
25 chapter is directed may petition the superior court for an order
26 modifying or quashing the subpoena on the grounds that it is
27 oppressive or unreasonable. A petition may be filed: (1) In the
28 county of the prosecuting attorney, if the subpoena was issued by a
29 prosecuting attorney; (2) in Thurston county superior court, if the
30 subpoena was issued by the attorney general; or (3) in the county
31 where the person subject to the subpoena resides, is found, or
32 carries on business.

33 NEW SECTION. **Sec. 4.** The attorney general or a prosecuting
34 attorney may seek an injunction from the superior court to compel
35 compliance with a subpoena. The court may issue an order requiring
36 the subpoenaed person to appear before the attorney general or
37 prosecuting attorney to produce the information or records. A person
38 who neglects or refuses to comply with a subpoena issued under this

1 chapter may be punished for contempt of the court. An injunction may
2 be filed: (1) In the county of the prosecuting attorney, if the
3 subpoena was issued by a prosecuting attorney; (2) in Thurston county
4 superior court, if the subpoena was issued by the attorney general;
5 or (3) in the county where the person subject to the subpoena
6 resides, is found, or carries on business.

7 NEW SECTION. **Sec. 5.** (1) A governmental entity receiving
8 records or information under this subsection is not required to
9 provide notice to a subscriber or customer whose information or
10 records are obtained as a result of a subpoena under this chapter.

11 (2) A provider disclosing records or information is not required
12 to provide notice to a subscriber or customer whose information or
13 records are disclosed to a governmental entity as a result of a
14 subpoena under this chapter.

15 NEW SECTION. **Sec. 6.** Any person, including his or her officers,
16 agents, and employees, receiving a subpoena under this chapter, who
17 complies in good faith with the subpoena and produces the materials
18 sought, may not be liable to any customer or other person for such
19 production or for nondisclosure of that production to the customer.

20 NEW SECTION. **Sec. 7.** Service of subpoenas under this chapter
21 must comply with the procedures of chapter 4.28 RCW.

22 **Sec. 8.** RCW 10.112.010 and 2017 c 114 s 2 are each amended to
23 read as follows:

24 (1) In a criminal investigation of an offense involving the
25 sexual exploitation of children under chapter 9.68A RCW, the
26 prosecuting attorney (~~shall~~) may use the special inquiry judge
27 process established under chapter 10.27 RCW when the prosecuting
28 attorney determines it is necessary to the investigation to subpoena
29 a provider of electronic communication services or remote computing
30 services to obtain records relevant to the investigation, including,
31 but not limited to, records or information that provide the following
32 subscriber or customer information: (a) Name and address; (b) local
33 and long distance telephone connection records, or records of session
34 times and durations; (c) length of service and types of service
35 utilized; (d) telephone or instrument number or other subscriber
36 number or identity, including any temporarily assigned network

1 address; and (e) means and source of payment for such service,
2 including any credit card or bank account number.

3 (2) A provider who receives a subpoena for records as provided
4 under subsection (1) of this section may not disclose the existence
5 of the subpoena to the subscribers or customers whose records or
6 information are requested or released under the subpoena.

7 ~~((3) For the purposes of this section:~~

8 ~~(a) "Electronic communication service" means any service that~~
9 ~~provides to users the ability to send or receive wire or electronic~~
10 ~~communications.~~

11 ~~(b) "Provider" means a provider of electronic communication~~
12 ~~services or remote computing services.~~

13 ~~(c) "Remote computing service" means the provision to the public~~
14 ~~of computer storage or processing services by means of an electronic~~
15 ~~communications system.))~~

16 NEW SECTION. **Sec. 9.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 10.** Sections 1 through 7 of this act are each
21 added to chapter 10.112 RCW.

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