

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1728

Chapter 114, Laws of 2017

65th Legislature
2017 Regular Session

SEXUAL EXPLOITATION OF CHILDREN--SUBPOENAS--SPECIAL INQUIRY JUDGE

EFFECTIVE DATE: 7/23/2017

Passed by the House March 1, 2017
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 5, 2017
Yeas 48 Nays 0

CYRUS HABIB

President of the Senate

Approved April 25, 2017 10:45 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1728** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

April 25, 2017

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1728

Passed Legislature - 2017 Regular Session

State of Washington

65th Legislature

2017 Regular Session

By Representatives Sawyer, Smith, Caldier, Jenkins, Fey, Kloba, Ortiz-Self, Stanford, and Frame

Read first time 01/27/17. Referred to Committee on Judiciary.

1 AN ACT Relating to protecting minors from sexual exploitation;
2 amending RCW 10.27.170; adding a new chapter to Title 10 RCW; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature must continue to act to
6 aid law enforcement in their efforts to prevent the unthinkable acts
7 of sexual abuse of children and the horrendous social and emotional
8 trauma experienced by victims of child pornography by expanding the
9 tools available for law enforcement. The legislature finds that the
10 expansion of the internet and computer-related technologies have led
11 to a dramatic increase in the production and availability of child
12 pornography by simplifying how it can be created, distributed, and
13 collected. Between 2005 and 2009, the national center for missing and
14 exploited children's child victim identification program has seen a
15 four hundred thirty-two percent increase in child pornography films
16 and files submitted for identification of the children depicted. The
17 United States department of justice estimates that pornographers have
18 recorded the abuse of more than one million children in the United
19 States alone. Furthermore, there is a direct correlation between
20 individuals who possess, download, and trade graphic images of child
21 pornography and those who molest children. A well-known study

1 conducted by crimes against children research center for the national
2 center for missing and exploited children concluded that an estimated
3 forty percent of those who possess child pornography have also
4 directly victimized a child and fifteen percent have attempted to
5 entice a child over the internet.

6 Victims of child pornography often experience severe and lasting
7 harm from the permanent memorialization of the crimes committed
8 against them. Child victims endure depression, withdrawal, anger, and
9 other psychological disorders. Each and every time such an image is
10 viewed, traded, printed, or downloaded, the child in that image is
11 victimized again.

12 Investigators and prosecutors report serious challenges with
13 combating child pornography because offenders can act anonymously on
14 the internet. Investigators track the trading of child pornography by
15 using internet protocol addresses, which are unique identifiers that
16 each computer is assigned when it accesses the internet. Under
17 federal law, if an internet service provider is presented with a
18 subpoena and an internet protocol address by law enforcement, the
19 provider must turn over the names and addresses of account holders
20 matched to it. Access to such information allows investigators to
21 efficiently evaluate investigative leads and determine whether to
22 request a warrant for a specific internet user. The legislature finds
23 that in investigations of child exploitation, the use of a special
24 inquiry judge is the appropriate process for obtaining subpoenas for
25 the production of records from electronic communications providers
26 under a less than probable cause standard while maintaining judicial
27 oversight.

28 NEW SECTION. **Sec. 2.** (1) In a criminal investigation of an
29 offense involving the sexual exploitation of children under chapter
30 9.68A RCW, the prosecuting attorney shall use the special inquiry
31 judge process established under chapter 10.27 RCW when the
32 prosecuting attorney determines it is necessary to the investigation
33 to subpoena a provider of electronic communication services or remote
34 computing services to obtain records relevant to the investigation,
35 including, but not limited to, records or information that provide
36 the following subscriber or customer information: (a) Name and
37 address; (b) local and long distance telephone connection records, or
38 records of session times and durations; (c) length of service and
39 types of service utilized; (d) telephone or instrument number or

1 other subscriber number or identity, including any temporarily
2 assigned network address; and (e) means and source of payment for
3 such service, including any credit card or bank account number.

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

8 (3) For the purposes of this section:

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

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

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

17 **Sec. 3.** RCW 10.27.170 and 1971 ex.s. c 67 s 17 are each amended
18 to read as follows:

19 (1) When any public attorney, corporation counsel or city
20 attorney has reason to suspect crime or corruption, within the
21 jurisdiction of such attorney, and there is reason to believe that
22 there are persons who may be able to give material testimony or
23 provide material evidence concerning such suspected crime or
24 corruption, such attorney may petition the judge designated as a
25 special inquiry judge pursuant to RCW 10.27.050 for an order directed
26 to such persons commanding them to appear at a designated time and
27 place in said county and to then and there answer such questions
28 concerning the suspected crime or corruption as the special inquiry
29 judge may approve, or provide evidence as directed by the special
30 inquiry judge.

31 (2) Upon petition of a prosecuting attorney for the establishment
32 of a special inquiry judge proceeding in an investigation of sexual
33 exploitation of children under section 2 of this act, the court shall
34 establish the special inquiry judge proceeding, if appropriate, as
35 soon as practicable but no later than seventy-two hours after the
36 filing of the petition.

37 NEW SECTION. **Sec. 4.** Section 2 of this act constitutes a new
38 chapter in Title 10 RCW.

Passed by the House March 1, 2017.
Passed by the Senate April 5, 2017.
Approved by the Governor April 25, 2017.
Filed in Office of Secretary of State April 25, 2017.

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