H-1294.2

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**HOUSE BILL 1872**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Klippert and Dent

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

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

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

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

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

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

NEW SECTION. **Sec.**  (1) In any criminal investigation of an offense involving the sexual exploitation of children under chapter 9.68A RCW, the attorney general or a prosecuting attorney may issue in writing and cause to be served a subpoena to a provider requiring the production of relevant records where the attorney general or the prosecuting attorney has reason to suspect a crime involving the sexual exploitation of children has been committed.

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

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

(a) Name;

(b) Address;

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

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

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

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

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

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

NEW SECTION. **Sec.**  The attorney general or a prosecuting attorney may seek an injunction from the superior court to compel compliance with a subpoena. The court may issue an order requiring the subpoenaed person to appear before the attorney general or prosecuting attorney to produce the information or records. A person who neglects or refuses to comply with a subpoena issued under this chapter may be punished for contempt of the court. An injunction may be filed: (1) In the county of the prosecuting attorney, if the subpoena was issued by a prosecuting attorney; (2) in Thurston county superior court, if the subpoena was issued by the attorney general; or (3) in the county where the person subject to the subpoena resides, is found, or carries on business.

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

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

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

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

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

(1) In a criminal investigation of an offense involving the sexual exploitation of children under chapter 9.68A RCW, the prosecuting attorney ((~~shall~~)) may use the special inquiry judge process established under chapter 10.27 RCW when the prosecuting attorney determines it is necessary to the investigation to subpoena a provider of electronic communication services or remote computing services to obtain records relevant to the investigation, including, but not limited to, records or information that provide the following subscriber or customer information: (a) Name and address; (b) local and long distance telephone connection records, or records of session times and durations; (c) length of service and types of service utilized; (d) telephone or instrument number or other subscriber number or identity, including any temporarily assigned network address; and (e) means and source of payment for such service, including any credit card or bank account number.

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

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

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

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

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

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

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

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