

PUBLIC CHAPTER NO. 613

HOUSE BILL NO. 1257

By Representatives Tindell, Montgomery, Ulysses Jones, Bone, Hensley, Fincher, Sontany, Coley, Faulkner, Barker, Hackworth, Ty Cobb, Fraley, Carr, Eldridge, Hardaway, Towns, Pruitt, Bass, Moore, Curt Cobb, Shaw, McDonald, McManus, Pitts, Gilmore, Cooper, Windle, Lundberg, Harrison, Todd, Dunn, Maggart, Haynes, Yokley, Litz, Weaver, McCormick, Lynn, Lollar, Halford, Niceley, Coleman, Rich, Shepard, Maddox, Armstrong, Hawk, Dean, Kevin Brooks, Phillip Johnson, Curtis Johnson, Camper and Mr. Speaker Williams

Substituted for: Senate Bill No. 1529

By Senators Burchett, Finney, Burks, Black, Yager, Harper, Marrero, Woodson, Ketron, Overbey, Barnes, Burks, Johnson

AN ACT to amend Tennessee Code Annotated, Title 40, Chapter 17, Part 1, relative to child exploitation.

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

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 17, Part 1, as amended by adding the following as a new section:

§ 40-17-125.

(a) In any investigation relating to the offenses of sexual exploitation of a minor, as defined in § 39-17-1003, aggravated sexual exploitation of a minor, as defined in § 39-17-1004, or especially aggravated exploitation of a minor, as defined in § 39-17-1005, and upon reasonable cause to believe that an internet service account has been used in the exploitation or attempted exploitation of a minor, the district attorney general or an assistant district attorney general, may issue in writing and cause to be served a subpoena requiring the production and testimony described in subsection (b).

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

(1) Name;

(2) Address;

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

(4) Length of service (including start date) and types of service utilized;

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

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

(c) The provider of electronic communication service or remote computing service shall not disclose the following pursuant to a subpoena but may only do so pursuant to a warrant issued by a court of competent jurisdiction:

(1) In-transit electronic communications;

(2) Account memberships related to internet groups, newsgroups, mailing lists or specific areas of interest;

(3) Account passwords; and

(4) Account content to include:

(A) Electronic mail in any form;

(B) Address books, contact lists, or buddy lists;

(C) Financial records;

(D) Internet proxy content or internet history;

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

(d) At any time before the return date specified on the subpoena, the person summoned may, in the general sessions court of the county in which the person resides or does business, petition for an order modifying or quashing the subpoena, or a prohibition of disclosure by a court.

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

(f) If no case or proceeding arises from the production of records or other documentation pursuant to this section within a reasonable time after those records or documentation are produced, the district attorney general shall either destroy the records and documentation or return them to the person who produced them.

(g) A subpoena issued under this section may be served by any person who is authorized to serve process under the Tennessee rules of civil procedure and such subpoena shall be served in accordance with such rules.

(h) Each district attorney general shall annually report the following information to the judiciary committees of the senate and house of representatives no later than February 1 for the preceding calendar year:

(1) The number of requests for administrative subpoenas made under this section;

(2) The number of administrative subpoenas issued under this section;

(3) The number of administrative subpoenas issued under this section that were contested;

(4) The number of administrative subpoenas issued under this section that were quashed or modified;

(5) The number of search warrants that were issued as a consequence of the issuance of an administrative subpoena under this section; and

(6) The number of individuals who were prosecuted under § 39-17-1003, § 39-17-1004, and § 39-17-1005 following the issuance of an administrative subpoena under this section.

(i) Except as provided in subsection (h) of this section any information, records or data reported or obtained pursuant to a subpoena issued pursuant to this section shall remain confidential and shall not be further disclosed unless in connection with a criminal case related to the subpoenaed materials.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: February 1, 2010



KENT WILLIAMS, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY
SPEAKER OF THE SENATE

APPROVED this 10th day of February 2010



PHIL BREDESEN, GOVERNOR