

Regular Session, 2014

HOUSE BILL NO. 761

BY REPRESENTATIVE ORTEGO

CRIMINAL/SUBPOENAS: Provides relative to the time to produce certain information in response to a subpoena issued in investigations for certain offenses

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 732.1(D) and to enact Code of
3 Criminal Procedure Article 732.2, relative to subpoenas; to provide relative to the
4 issuance of subpoenas in investigations of certain offenses; to require that certain
5 information in response to the subpoena be returned within a certain period of time;
6 to exclude certain information from this requirement; and to provide for related
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Code of Criminal Procedure Article 732.1(D) is hereby amended and
10 reenacted and Code of Criminal Procedure Article 732.2 is hereby enacted to read as
11 follows:

12 Art. 732.1. Subpoena duces tecum regarding sex offenses against victims who are
13 minors

14 * * *

15 D. A subpoena issued pursuant to this Article shall describe the objects
16 required to be produced and shall prescribe a return date ~~with a reasonable period of~~
17 ~~time within which the objects can be assembled and made available~~ within twenty-
18 four hours from the time that the subpoena is served.

19 * * *

1 Art. 732.2. Subpoenas issued in investigations of certain offenses

2 A. Any subpoena lawfully issued, including any administrative subpoena
3 issued by a law enforcement agency, in investigations regarding any of the following
4 offenses and requesting any of the information provided in Paragraph B of this
5 Article shall prescribe that the information or records requested shall be returned
6 within twenty-four hours from the time that the subpoena is served:

7 (1) R.S. 14:67 (theft).

8 (2) R.S. 14:67.16 (identity theft).

9 (3) R.S. 14:69 (illegal possession of stolen things).

10 (4) R.S. 14:69.1 (illegal possession of stolen firearms).

11 B. Except as provided in Paragraph C of this Article, any subpoena issued
12 in investigations of any offense listed in Paragraph A of this Article shall comply
13 with the provisions of Paragraph A of this Article when requesting any of the
14 following records or information:

15 (1) Internet protocol address.

16 (2) Name of account holder.

17 (3) Billing and service address.

18 (4) Telephone number.

19 (5) Account status.

20 (6) Method of access to the Internet.

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

22 C. The following information shall not be subject to disclosure pursuant to
23 the provisions of this Article:

24 (1) In-transit electronic communications.

25 (2) Account memberships related to Internet groups, newsgroups, mailing
26 lists, or specific areas of interest.

27 (3) Account passwords.

1 (4) Account content, including electronic mail in any form, address books,
 2 contacts, financial records, web surfing history, Internet proxy content, or files or
 3 other digital documents stored with the account or pursuant to use of the account.

4 D. If no case or proceeding arises from the production of records or other
 5 documentation pursuant to this Section and the time limitation for initiation of
 6 prosecution has expired, the Department of Public Safety and Corrections, office of
 7 state police, the sheriff's office, or the office of the attorney general shall destroy the
 8 records and documentation.

9 E. Except as provided in this Article, any information, records, or data
 10 reported or obtained pursuant to a subpoena authorized by the provisions of this
 11 Article shall remain confidential and shall not be disclosed unless in connection with
 12 a criminal case related to the subpoenaed materials.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Ortego

HB No. 761

Abstract: Provides relative to the time to produce certain information in response to a subpoena issued in investigations for certain offenses.

Present law provides for the issuance of subpoenas for the compulsory attendance of witnesses at hearings or trials, for the issuance of subpoenas duces tecum for the production of books, papers, documents, or other tangible things, and for the issuance of administrative subpoenas issued by law enforcement for the production of certain information in the investigation of certain offenses.

With regard to the issuance of administrative subpoenas, present law provides that the subpoena shall prescribe a return date with a "reasonable period of time" within which the objects can be assembled and made available.

Proposed law amends present law to provide that the objects requested in an administrative subpoena issued by law enforcement pursuant to present law shall be produced within 24 hours of the time that the subpoena was served.

Proposed law further provides that any subpoena, including administrative subpoenas, lawfully issued in investigation of certain crimes, including theft and the possession of stolen things, that requests any of the following information shall prescribe a return date that is within 24 hours from the time that the subpoena is served: Internet protocol address, name of account holder, billing and service address, telephone number, account status, method of access to the Internet, and automatic number identification records if access is by modem.

(Amends C.Cr.P. Art. 732.1(D); Adds C.Cr.P. Art. 732.2)