

1                                   **SUBPOENAS FOR RECORDS IN CERTAIN**  
2                                   **CRIMINAL INVESTIGATIONS**

3                                   2009 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Bradley M. Daw**

6                                   Senate Sponsor: \_\_\_\_\_

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8 **LONG TITLE**

9 **Committee Note:**

10           The Law Enforcement and Criminal Justice Interim Committee recommended this bill.

11 **General Description:**

12           This bill modifies the Criminal Code to allow investigative subpoenas of Internet  
13 service providers in the investigation of sexual offenses against minors.

14 **Highlighted Provisions:**

15           This bill:

- 16           ▶ allows prosecutors to issue subpoenas for information regarding the Internet  
17 information related to the investigation of a sexual offense against a minor;  
18           ▶ specifies the information that can be subpoenaed;  
19           ▶ allows the provider to charge a reasonable fee for providing the information; and  
20           ▶ provides definitions.

21 **Monies Appropriated in this Bill:**

22           None

23 **Other Special Clauses:**

24           This bill provides an immediate effective date.

25 **Utah Code Sections Affected:**

26 ENACTS:

27           77-22-2.5, Utah Code Annotated 1953



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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **77-22-2.5** is enacted to read:

**77-22-2.5. Subpoenas for investigation of Internet sexual offenses against minors.**

(1) As used in this section:

(a) "Internet service provider" has the same definition as in Section 76-10-1230.

(b) "Prosecutor" has the same definition as in Section 77-22-2.

(c) "Sexual offense against a minor" means sexual exploitation of a minor as defined in Section 76-5a-3, attempted sexual exploitation of a minor, or a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses.

(2) When a prosecutorial agency is investigating a sexual offense against a minor and has reasonable cause to believe that an Internet protocol address has been used in the commission of the offense, the prosecutor may issue a subpoena requiring the production of the following information upon providing in the subpoena the Internet service provider's address and a date and time the address was used by the account holder:

(a) the existence of an account related to the Internet protocol address on the specified date and time;

(b) the opening and closing dates of the account;

(c) the name under which the account is held;

(d) the name, address, and telephone number of the account holder;

(e) any other Internet protocol addresses used by the account holder within the past 90 days;

(f) any electronic mail addresses used by the account holder; and

(g) the status of the account concerning any unpaid billing or inactivity.

(3) A subpoena issued under this section shall state that the Internet service provider shall produce any records under Subsection (2) that are reasonably relevant to the investigation of a sexual offense against a minor.

(4) An Internet service provider that provides information in response to a subpoena issued under Subsection (3) may charge a fee for providing the information, but not to exceed the actual cost for providing the information.

59           (5) The Internet service provider producing the records may not disclose the subpoena  
60 to the subscriber.

61           (6) (a) Every prosecutorial agency that has issued any subpoenas under this section  
62 shall prepare a written report at the end of each fiscal year listing the number of administrative  
63 subpoenas issued.

64           (b) The report shall be submitted to the Utah Commission on Criminal and Juvenile  
65 Justice.

66           Section 2. **Effective date.**

67           If approved by two-thirds of all the members elected to each house, this bill takes effect  
68 upon approval by the governor, or the day following the constitutional time limit of Utah  
69 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
70 the date of veto override.

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**Legislative Review Note**  
as of 11-20-08 8:49 AM

**Office of Legislative Research and General Counsel**

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**H.B. 59 - Subpoenas for Records in Certain Criminal Investigations**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals. Businesses and local governments may be impacted by reporting requirements and associated fees included in the bill.

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