

State of Wisconsin



2015 Senate Bill 546

Date of enactment: **April 19, 2016**
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2015 WISCONSIN ACT 369

AN ACT to create 20.455 (2) (hd) and 165.505 of the statutes; relating to: administrative subpoena for investigating Internet crimes against children and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1m. 20.455 (2) (hd) of the statutes is created to read:

20.455 (2) (hd) *Internet crimes against children.* All moneys transferred under 2015 Wisconsin Act ... (this act), section 12m (1) shall be credited to this appropriation account for criminal investigative operations and law enforcement relating to Internet crimes against children, prosecution of Internet crimes against children, and activities of state and local Internet crimes against children task forces.

SECTION 3. 165.505 of the statutes is created to read:

165.505 Internet crimes against children; administrative subpoena. (1) In this section, "Internet crime against a child" means the commission of, or the solicitation, conspiracy, or attempt to commit, any of the following:

(a) A violation of s. 948.05, 948.075, 948.11, or 948.12.

(b) A violation of ch. 948 that involves the use of a device that permits the transmission of wire or electronic communications or images through an electronic communications service, as defined in s. 968.27 (5), or a remote computing service, as defined in s. 968.27 (14g).

(2) The attorney general or his or her designee may issue and cause to be served a subpoena, in substantially

the form authorized under s. 885.02, upon a provider of an electronic communication service or a remote computing service to compel the production of any of the items listed in sub. (4) if all of the following apply:

(a) The information likely to be obtained is relevant to an ongoing investigation of an Internet crime against a child.

(b) The attorney general or his or her designee has reasonable cause to believe that an Internet or electronic service account provided by an electronic communication service or a remote computing service has been used in the crime.

(3) The attorney general or his or her designee issuing a subpoena under sub. (2) shall ensure that the subpoena describes each record or other information pertaining to a customer or subscriber of the service to be produced and prescribes a reasonable return date by which the person served with the subpoena must assemble each record or other information and make them available.

(4) A person who is duly served a subpoena issued under sub. (2) shall, if requested, provide the following information about the customer or subscriber:

(a) Name.

(b) Address.

(c) Duration, including the start date and end date, of the assignment of any Internet protocol address to the customer or subscriber.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

(5) A person served with a subpoena under sub. (2) may, before the return date indicated under sub. (3), petition a circuit court in the county where the subpoena was issued for an order to modify or quash the subpoena or to prohibit disclosure of information by the court.

(6) If the investigation into an Internet crime against a child specified under sub. (2) does not result in a prosecution or other proceeding against a person, the attorney general or his or her designee shall either destroy, or return to the person who produced, the records and information requested by the subpoena.

(7) The attorney general or his or her designee may order a provider of an electronic communication service or remote computing service not to notify or disclose the existence of the subpoena to the customer or subscriber or any other person, except an attorney for the purpose of obtaining legal advice or a circuit court, for a period of 90 days after the provider produces the requested records and information or files a petition under sub. (5) if the attorney general or his or her designee has reason to believe that the victim of the Internet crime against a child investigated under sub. (2) is under 18 years of age,

and that notification or disclosure of the existence of the subpoena will do any of the following:

(a) Endanger the life or physical safety of an individual.

(b) Lead to flight from prosecution.

(c) Lead to the destruction or tampering with evidence.

(d) Lead to the intimidation of a potential witness.

(e) Otherwise seriously jeopardize the investigation.

(8) Records and information produced in response to a subpoena issued under sub. (2) are not subject to inspection or copying under s. 19.35 (1), except that the attorney general or his or her designee may, upon request, disclose the records and information to another law enforcement agency, Internet crimes against children task force, or a district attorney.

SECTION 12m. Fiscal changes.

(1) INTERNET CRIMES AGAINST CHILDREN. There is transferred from the appropriation account under section 20.455 (2) (kd) of the statutes to the appropriation account under section 20.455 (2) (hd) of the statutes, as created by this act, \$1,000,000 in fiscal year 2015-16.
