

500.120 Subpoena power of Attorney General in cases involving use of an Internet service account in the exploitation of children and other cases.

- (1) In any investigation relating to an offense involving KRS 510.155, 530.064(1)(a), 531.030, 531.040, 531.310, 531.320, 531.335, 531.340, 531.350, 531.360, or 531.370, and upon reasonable cause to believe that an Internet service account has been used in the exploitation or attempted exploitation of children, or in any investigation of a violation of KRS 17.546, 508.140, 508.150, 525.070, or 525.080 where there is reasonable cause to believe that an Internet service account has been used in the commission of the offense, the Attorney General may issue in writing and cause to be served a subpoena requiring the production and testimony described in subsection (2) of this section.
- (2) Except as provided in subsection (3) of this section, a subpoena issued under this section may require the production of any records or other documentation relevant to the investigation including:
 - (a) Electronic mail address;
 - (b) Internet username;
 - (c) Internet protocol address;
 - (d) Name of account holder;
 - (e) Billing and service address;
 - (f) Telephone number;
 - (g) Account status;
 - (h) Method of access to the Internet; and
 - (i) Automatic number identification records if access is by modem.
- (3) The provider of electronic communication service or remote computing service shall not disclose the following pursuant to a subpoena issued under this section but shall disclose the information in obedience to a warrant:
 - (a) In-transit electronic communications;
 - (b) Account memberships related to Internet groups, newsgroups, mailing lists or specific areas of interest;
 - (c) Account passwords; and
 - (d) Account content including:
 1. Electronic mail in any form;
 2. Address books, contacts, or buddy lists;
 3. Financial records;
 4. Internet proxy content or Web surfing history; and
 5. Files or other digital documents stored with the account or pursuant to use of the account.
- (4) At any time before the return date specified on the subpoena, the person summoned may, in the District Court in which the person resides or does business, petition for an order modifying or setting aside the subpoena, or a prohibition of disclosure by a

court.

- (5) A subpoena under this section shall describe the objects required to be produced and shall prescribe a return date with a reasonable period of time within which the objects can be assembled and made available.
- (6) 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 is produced, the Attorney General shall either destroy the records and documentation or return them to the person who produced them.
- (7) A subpoena issued under this section may be served by any person who is at least eighteen (18) years of age and who is designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him. Service may be made upon a corporation or partnership or other unincorporated association which is subject to suit under its common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena together with a true copy thereof shall be proof of service.
- (8) Except as provided in this section any information, records or data reported or obtained pursuant to subpoena under this section shall remain confidential and shall not be further disclosed unless in connection with a criminal case related to the subpoenaed materials.

Effective: June 25, 2009

History: Created 2009 Ky. Acts ch. 100, sec. 11, effective June 25, 2009.

Legislative Research Commission Note (6/25/2009). Under the authority of KRS 7.136, the Reviser of Statutes has renumbered the paragraphs of subsection (2) of this section.