

SENATE FILE NO. SF0076

Warrants for digital records.

Sponsored by: Senator(s) Nethercott, Anselmi-Dalton, Hicks,  
Kinskey and Kost and Representative(s) Haley,  
Jennings, Pelkey, Pownall, Stith and Wilson

A BILL

for

1 AN ACT relating to criminal procedure; authorizing warrants  
2 to out-of-state providers of electronic communication  
3 services and remote computing services; providing procedures;  
4 requiring Wyoming providers to comply with out-of-state  
5 warrants as specified; providing immunity for compliance;  
6 providing definitions; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

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10 **Section 1.** W.S. 7-7-106 is created to read:

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12 **7-7-106. Warrants to out-of-state providers of**  
13 **electronic communication services and remote computing**  
14 **services; definitions; production of records to another**  
15 **state; notice; immunity.**

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2 (a) As used in this section:

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4 (i) "Electronic communication service" means any  
5 service that provides to users the ability to send or receive  
6 wire or electronic communications;

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8 (ii) "Provider" means an entity that provides  
9 electronic communication services or remote computing  
10 services to the general public;

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12 (iii) "Records relating to electronic  
13 communications services or remote computing services"  
14 includes papers, documents, records, location information,  
15 transitional records or other things whether in physical or  
16 electronic form that reveal the identity of the customers  
17 using those services, data stored by, or on behalf of, the  
18 customer, the customer's usage of those services, the  
19 recipient or destination of communications sent to or from  
20 those customers or the content of those communications;

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1           (iv) "Remote computing service" means any service  
2 that provides computer storage or processing service by means  
3 of an electronic communications system.

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5           (b) Provided that the criminal matter is triable in the  
6 state of Wyoming, any district judge may issue a warrant  
7 authorizing the seizure of, or commanding the production of,  
8 records relating to electronic communications services or  
9 remote computing services if probable cause exists to believe  
10 the records tend to show a crime has been committed or a  
11 particular person has committed a crime, or may lead to the  
12 discovery of a missing person, regardless of whether:

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14           (i) The provider is located within the state of  
15 Wyoming; or

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17           (ii) The records sought are located within the  
18 state of Wyoming.

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20           (c) A warrant issued pursuant to subsection (b) of this  
21 section may be served by:

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23           (i) Hand delivering a copy to the provider;

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(ii) Sending a copy by:

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(A) Certified or registered mail;

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(B) Express mail; or

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(C) Any other means of service specified by the provider, including facsimile, email or submission via an internet web portal that the provider has designated for the purpose of service of process; or

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(iii) Any means specified by court rule for the service of warrants authorized by this section.

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(d) When properly served with a warrant issued pursuant to subsection (b) of this section, a provider shall produce to the applicant all records sought pursuant to the warrant within ten (10) business days, except:

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(i) The warrant may require production within less than ten (10) business days if the judge finds reasonable

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1 cause in the application to believe that failure to produce  
2 records within ten (10) business days would result in:

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4 (A) Danger to the life or physical safety of  
5 an individual;

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7 (B) A flight from prosecution;

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9 (C) The destruction of or tampering with  
10 evidence;

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12 (D) The intimidation of potential witnesses;

13 or

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15 (E) Serious jeopardy to an investigation or  
16 undue delay of a trial.

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18 (ii) If the applicant consents to a request from  
19 the provider for additional time to produce the records sought  
20 by the warrant and notice is provided to the court by the  
21 consenting applicant;

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1           (iii) A provider or user may seek to quash the  
2 warrant by filing a motion seeking relief from the court that  
3 issued the warrant within the time required for production of  
4 records pursuant to this subsection. The issuing court shall  
5 hear and decide the motion not later than five (5) court days  
6 after the motion is filed.

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8           (e) A provider shall verify the authenticity of records  
9 that it produces under this section by providing an affidavit  
10 attesting to the nature and identification of the records,  
11 and by providing contact information of the custodian or other  
12 qualified person who compiled the records. When verified, the  
13 condition precedent to admissibility under Rule 901 of  
14 Wyoming Rules of Evidence shall be deemed satisfied.

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16           (f) A Wyoming provider, when served with a warrant  
17 issued from the court of another state to produce records  
18 relating to electronic communications services or remote  
19 computing services, shall produce those records as if that  
20 warrant had been issued by a Wyoming court.

21  
22           (g) Any person or entity providing records in  
23 accordance with the terms of a warrant issued under this

1 section is immune from criminal or civil liability related to  
2 the production of the records.

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4 (h) Any warrant issued under this section shall comply  
5 with federal law, including provisions prohibiting, limiting  
6 or imposing additional requirements on the use of search  
7 warrants.

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9 **Section 2.** W.S. 7-7-101(a)(intro) is amended to read:

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11 **7-7-101. Authority to issue; grounds.**

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13 (a) Any district judge, district court commissioner,  
14 circuit judge or magistrate authorized pursuant to W.S.  
15 5-9-208(a), (b) or (c)(xv) or 5-9-212(a)(ix) may issue a  
16 search warrant to search for and seize any property, except  
17 that a warrant pursuant to W.S. 7-7-106 shall be issued by a  
18 district court judge:

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20 **Section 3.** This act is effective July 1, 2019.

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(END)