**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3825**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Wooten, Gilliam, Hewitt, Anderson, Hyde, McGinnis, Moss, Lawson, Haddon, Gagnon, Taylor, Hixon, Oremus, Ligon, Felder, M.M. Smith, Guffey, O'Neal, Thayer, Erickson, Bradley, Herbkersman, Hager, Connell, Pope, Forrest, Trantham, West and Vaughan

Companion/Similar bill(s): 954

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Introduced in the House on January 26, 2023

Currently residing in the House

Summary: Electronic records

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/26/2023 House Introduced and read first time (House Journal‑page 7)

 1/26/2023 House Referred to Committee on **Judiciary** (House Journal‑page 7)

 3/1/2023 House Member(s) request name added as sponsor: Hewitt,
 Anderson, Hyde, McGinnis, Moss, Lawson,
 Haddon, Gagnon, Taylor, Hixon, Oremus,
 Ligon, Felder, M.M. Smith, Guffey, O'Neal,
 Thayer, Erickson, Bradley, Herbkersman,
 Hager, Connell, Pope, Forrest

 3/2/2023 House Member(s) request name added as sponsor:
 Trantham, West, Vaughan

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**VERSIONS OF THIS BILL**

[01/26/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3825_20230126.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 17‑13‑142 SO AS TO AUTHORIZE A LAW ENFORCEMENT OFFICER, A PROSECUTOR, OR THE ATTORNEY GENERAL TO REQUIRE THE DISCLOSURE OF ELECTRONIC COMMUNICATIONS AND OTHER RELATED RECORDS BY A PROVIDER OF AN ELECTRONIC COMMUNICATION SERVICE OR REMOTE COMPUTING SERVICE UNDER CERTAIN CIRCUMSTANCES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 13, Title 17 of the S.C. Code is amended by adding:

 Section 17‑13‑142. (A) A law enforcement officer, a prosecutor, or the Attorney General may require the disclosure of stored wire, digital, or electronic communications, as well as transactional records and subscriber information pertaining to them, to the extent and under the procedures and conditions provided for by federal law.

 (B) A provider of electronic communication service or remote computing service shall provide subscriber information as well as the contents of, and transactional records pertaining to, wire, digital, or electronic communications in its possession or reasonably accessible when a requesting law enforcement officer, a prosecutor, or the Attorney General complies with the provisions for access pursuant to federal law.

 (C) This section specifically authorizes a court of competent jurisdiction in this State, as defined by 18 U.S.C. Section 2711, to issue appropriate orders pursuant to the requirements and procedures of 18 U.S.C. Section 2703(d) for production of stored wire, digital, or electronic transactional records or subscriber information. These orders have statewide application and application to the extent provided by federal law.

 (D) This section specifically authorizes a court of competent jurisdiction in this State, as defined by 18 U.S.C. Section 2711, to issue search warrants pursuant to the procedures established by Section 17‑13‑140, notwithstanding any jurisdictional limitations contained in that section, for production of stored wire, digital, or electronic communications and transactional records pertaining to them. Search warrants have statewide application and application to the extent provided by federal law.

 (E) This section specifically authorizes the Attorney General, a prosecutor, or the State Law Enforcement Division to issue a subpoena to compel disclosure or production of any stored electronic records or other information pertaining to a subscriber or customer pursuant to 18 U.S.C. Section 2703(c)(2), or any successor statute. The subpoena only may be issued upon a showing that the requested material is relevant to an ongoing criminal investigation.

 (F) A South Carolina corporation or business entity that provides electronic communication services or remote computing services to the general public, when served with a warrant issued by another state to produce records that could reveal the identity of the customers using those services, data stored by or on behalf of the customer, the customer’s usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, shall produce those records as if that warrant had been issued by a court of competent jurisdiction in this State.

 (G) An intentional violation of this section is punishable as contempt of court. However, a provider of electronic communication service or remote computing service is immune from any civil, criminal, or other proceeding against a communications service provider or its directors, officers, employees, agents, or vendors for providing information in good faith in response to a warrant, order, or subpoena issued pursuant to this section.

 (H) All terms used in this section must be defined consistent with 18 U.S.C. Section 2510, 18 U.S.C. Section 2711, and Section 17‑30‑15.

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide.  After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect upon approval by the Governor.

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