**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3887**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Ott

Document Path: LC-0130HDB23.docx

Introduced in the House on February 7, 2023

Currently residing in the House Committee on **Judiciary**

Summary: Magistrates, jurisdiction

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/7/2023 House Introduced and read first time (House Journal‑page 20)

 2/7/2023 House Referred to Committee on **Judiciary** (House Journal‑page 20)

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**VERSIONS OF THIS BILL**

[02/07/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3887_20230207.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING SECTION 17‑1‑57 SO AS TO GRANT MAGISTRATES THE AUTHORITY TO HEAR AND CONSIDER MOTIONS TO RECONSIDER BOND UNTIL SUCH TIME AS A GRAND JURY INDICTMENT HAS BEEN ISSUED, OR UNLESS THE CIRCUIT COURT HAS ALREADY RULED ON THE MOTION OR SCHEDULED A HEARING ON THE MOTION; AND BY AMENDING SECTION 17‑13‑140, RELATING TO THE ISSUANCE, EXECUTION AND RETURN OF SEARCH WARRANTS, SO AS TO PERMIT MAGISTRATES TO ISSUE A SEARCH WARRANT FOR ELECTRONIC RECORDS TO A BUSINESS LOCATED IN ANOTHER COUNTY OR STATE WHEN A CIRCUIT COURT JUDGE IS NOT AVAILABLE.

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

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

 Section 17‑1‑57. A magistrate may hear and consider a motion to reconsider, amend, revoke, or modify a bond until such time as a grand jury indictment has been issued, or unless the circuit court has already ruled on the motion or has scheduled a hearing on the motion.

SECTION 2. Section 17‑13‑140 of the S.C. Code is amended to read:

 Section 17‑13‑140. (A) Any magistrate, or recorder, or city judge having the powers of magistrates, or any judge of any court of record of the State having jurisdiction over the area where the property sought is located, may issue a search warrant to search for and seize (1) stolen or embezzled property; (2) property, the possession of which is unlawful; (3) property which is being used or has been used in the commission of a criminal offense or is possessed with the intent to be used as the means for committing a criminal offense or is concealed to prevent a criminal offense from being discovered; (4) property constituting evidence of crime or tending to show that a particular person committed a criminal offense; (5) any narcotic drugs, barbiturates, amphetamines, or other drugs restricted to sale, possession, or use on prescription only, which are manufactured, possessed, controlled, sold, prescribed, administered, dispensed, or compounded in violation of any of the laws of this State or of the United States. Narcotics, barbiturates, or other drugs seized hereunder shallmust be disposed of as provided by § Section 44‑53‑520.

 (B) The property described in this section, or any part thereofof it, may be seized from any place where such the property may be located, or from the person, possession or control of any person who shall must be found to have such the property in his possession or under his control.

 (C) A warrant issued hereunder shallpursuant to this section must be issued only upon affidavit sworn to before the magistrate, municipal judicial officer, or judge of a court of record establishing the grounds for the warrant. If the magistrate, municipal judge, or other judicial officer abovementioned is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and naming or describing the person or place to be searched. In the case of a warrant issued by a magistrate or a judge of a court of record, it shall must be directed to any peace officer having jurisdiction in the county where issued, including members of the South Carolina Law Enforcement Division, and shall must be returnable to the issuing magistrate. In case of a warrant issued by a judge of a court of record, it shall must be returnable to a magistrate having jurisdiction of the area where the property is located or the person to be searched is found. If any warrant is issued by any municipal judicial officer to municipal police officers, the return shall must be made to the issuing municipal judicial officer. Any warrant issued shall must command the officer to whom it is directed to forthwith search the person or place named for the property specified.

 (D) Any warrant issued hereunder shallpursuant to this section must be executed and return made only within ten days after it is dated. The officer executing the warrant shall make and deliver a signed inventory of any articles seized by virtue of the warrant, which shall must be delivered to the judicial officer to whom the return is to be made, and if a copy of the inventory is demanded by the person from whose person or premises the property is taken, a copy of the inventory shall must be delivered to him.

 (E) This section is not intended to and does not either modify or limit any statute or other law regulating search, seizure, and the issuance and execution of search warrants in circumstances for which special provision is made.

 (F)(1) Whenever a circuit court judge is not available within the county of a law enforcement agency seeking electronic records or data from a business that has its domicile or principal place of business in a different county or state, the chief magistrate of the county has the authority to issue a search warrant, upon a proper showing of probable cause, to the business for the production of electronic records.

 (2) For purposes of this subsection, “electronic records” includes, but is not limited to, telecommunications data, cellular telephone data, electronic device data, metadata, global positioning system data, transactional records, and subscriber information.

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

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