**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 4212**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Stavrinakis, McCoy, Sottile, Cogswell, Gilliard, Bernstein, Brown and Mack

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Companion/Similar bill(s): 154, 341, 640, 3248

Introduced in the House on March 7, 2019

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

Summary: Magistrates

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/7/2019 House Introduced and read first time ([House Journal‑page 76](file:///h:\hj\20190307.docx))

3/7/2019 House Referred to Committee on **Judiciary** ([House Journal‑page 76](file:///h:\hj\20190307.docx))

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4212&session=123&summary=B) at the website

**VERSIONS OF THIS BILL**

[3/7/2019](file:///p:\pprever\2019-20\4212_20190307.docx)

**A** **BILL**

TO AMEND SECTION 14‑17‑325, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE REQUIREMENT THAT CLERKS OF COURT REPORT DISPOSITIONS OF CASES IN GENERAL SESSIONS COURT, SO AS TO REQUIRE THAT EVERY CLERK OF COURT SHALL REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CASE IN GENERAL SESSIONS, AND TO REPORT WITHIN FORTY‑EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT, AND ORDERS FOR BOND WITH ANY LIMITATIONS LISTED IN THIS SECTION; BY ADDING SECTION 22‑1‑200 SO AS TO REQUIRE MAGISTRATES TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CRIMINAL CASE, AND TO REPORT WITHIN FORTY‑EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT, AND ORDERS FOR BOND WITH ANY LIMITATIONS LISTED IN THIS SECTION; BY ADDING SECTION 14‑25‑250 SO AS TO REQUIRE MAGISTRATES TO REPORT TO THE SOUTH CAROLINA LAW ENFORCEMENT DIVISION WITHIN TEN DAYS, WEEKENDS AND HOLIDAYS EXCLUDED, THE DISPOSITION OF EACH CRIMINAL CASE, AND TO REPORT WITHIN FORTY‑EIGHT HOURS THE ISSUANCE OF A RESTRAINING ORDER, ORDER OF PROTECTION, ORDER FOR THE PREVENTION OF POSSESSION OF A FIREARM, CONVICTIONS OR ORDERS RELATED TO DOMESTIC VIOLENCE, AND CONVICTIONS OR ORDERS RELATED TO STALKING, INTIMIDATION, OR HARASSMENT, AND ORDERS FOR BOND WITH ANY LIMITATIONS LISTED IN THIS SECTION; BY ADDING SECTION 23‑1‑250 SO AS TO REQUIRE EACH LAW ENFORCEMENT AGENCY TO REPORT TO SLED WITHIN TWENTY‑FOUR HOURS, THE FILING OF EACH INCIDENT REPORT, ORDER OF PROTECTION, RESTRAINING ORDER, ANY ORDER OR REPORT RELATING TO AN INCIDENT OF DOMESTIC VIOLENCE, OR ANY INCIDENT IN WHICH A PERSON MAY BE PROHIBITED FROM OBTAINING OR POSSESSING A FIREARM BY STATE OR FEDERAL LAW; BY ADDING ARTICLE 9 TO CHAPTER 23, TITLE 16 SO AS TO DEFINE NECESSARY TERMS, TO REQUIRE THAT NO GUN TRANSFER PRECEDED BY A CRIMINAL BACKGROUND CHECK MAY PROCEED, UNLESS THE CRIMINAL BACKGROUND CHECK HAS CONCLUDED THAT THE SALE MAY PROCEED, OR UNTIL AT LEAST FIVE DAYS HAVE PASSED FROM THE INITIATION OF THE BACKGROUND CHECK AND THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM HAS NOT REPORTED THAT THE SALE WOULD VIOLATE STATE OR FEDERAL LAW, AND TO PROVIDE FOR CRIMINAL PENALTIES FOR VIOLATIONS OF THIS ARTICLE; AND TO PROVIDE FOR THE SUN SETTING OF THE FIVE‑DAY BACKGROUND CHECK PROVISIONS UPON THE FULL IMPLEMENTATION OF THE REPORTING REQUIREMENTS OF THIS ACT BUT NOT LATER THAN TWO YEARS FROM THE EFFECTIVE DATE OF THE ACT.

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

SECTION 1. Section 14‑17‑325 of the 1976 Code is amended to read:

“Section 14‑17‑325. (A) Every clerk of court shall report the disposition of each case in the Court of General Sessions to the ~~State~~ South Carolina Law Enforcement Division (SLED) within ~~thirty~~ ten days of disposition, weekends and holidays excluded.

(B) The clerk of court shall report to SLED, within forty-eight hours, the issuance of any:

(1) restraining orders;

(2) orders of protection;

(3) orders preventing a person from possessing a firearm;

(4) convictions related to or orders issued to prevent acts of domestic violence against another person;

(5) orders issued related to the stalking, intimidation, or harassment of another person; or

(6) orders for bond with any limitations listed in this section.

(C) The ~~disposition report~~ reports required by this section must be in a format approved by representatives of ~~the State Law Enforcement Division~~ SLED and ~~the office of court administration~~ South Carolina Court Administration. With the approval of ~~the State Law Enforcement Division~~ SLED and ~~the office of court administration~~ Court Administration, this reporting requirement may be satisfied by use of General Sessions docket information transmitted to ~~the office of the court administration~~ Court Administration.”

SECTION 2. Chapter 1, Title 22 of the 1976 Code is amended by adding:

“Section 22‑1‑200. (A) Magistrates shall report the disposition of each criminal case to the South Carolina Law Enforcement Division (SLED) within ten days, weekends and holidays excluded.

(B) Magistrates shall report to SLED within forty-eight hours, the issuance of any:

(1) restraining orders;

(2) orders of protection;

(3) orders preventing a person from possessing a firearm;

(4) convictions related to or orders issued to prevent acts of domestic violence against another person;

(5) orders issued or convictions related to, or to prevent, the stalking, intimidation, or harassment of another person; or

(6) orders for bond with any limitations listed in this section.

(C) The report must be made in a format approved by representatives of SLED and Court Administration. With the approval of SLED and South Carolina Court Administration, this reporting requirement may be satisfied by use of docket information transmitted to Court Administration.”

SECTION 3. Article 1, Chapter 25, Title 14 of the 1976 Code is amended by adding:

“Section 14‑25‑250. (A) Each municipal judge shall report the disposition of each criminal case to the South Carolina Law Enforcement Division (SLED) within ten days, weekends and holidays excluded.

(B) A municipal judge shall report to SLED within forty-eight hours, the issuance of any:

(1) restraining orders;

(2) orders of protection;

(3) orders preventing a person from possessing a firearm;

(4) convictions related to or orders issued to prevent acts of domestic violence against another person;

(5) convictions related to or orders issued to prevent, the stalking, intimidation, or harassment of another person; or

(6) orders for bond with any limitations listed in this section.

(C) The report must be made in a format approved by representatives of SLED and Court Administration. With the approval of SLED and South Carolina Court Administration, this reporting requirement may be satisfied by use of docket information transmitted to Court Administration.”

SECTION 4. Chapter 1, Title 23 of the 1976 Code is amended by adding:

“Section 23‑1‑250. (A) Each law enforcement agency must report to the South Carolina Law Enforcement Division (SLED) within twenty‑four hours:

(1) the filing of an incident report for each criminal case;

(2) the filing of an order of protection, restraining order, or any order or report relating to an incident of domestic violence;

(3) any incident in which a person may be prohibited from obtaining or possessing a firearm by state or federal law;

(B) The report must be made in a format approved by representatives of SLED.”

SECTION 5. Chapter 23, Title 16 of the 1976 Code is amended by adding:

“Article 9

Background Checks for Firearm Sales and Transfers

Section 16‑23‑910. As used in this article:

(1) ‘Firearm’ means a weapon, including a starter gun, that will, is designed to, or may readily be converted to expel a projectile by the action of an explosive, the frame or receiver of such weapon, a firearm muffler or firearm silencer, or a destructive device. The term does not include an antique firearm.

(2) ‘Licensed dealer’ means the holder of any federal firearms license under 18 U.S.C. Section 923(a).

(3) ‘Transfer’ means to sell, furnish, give, lend, deliver, or otherwise provide, with or without consideration.

(4) ‘Transferee’ means a person who receives or intends to receive a firearm in a sale or transfer.

Section 16‑23‑920. For any sale or transfer of a firearm for which a licensed dealer contacts the National Instant Criminal Background Check System (NICS) to conduct a background check, a licensed gun dealer may not deliver a firearm to any transferee unless the NICS provides the licensed dealer with a unique identification number or five days have elapsed from the date the licensed dealer contacted the NICS and the NICS has not notified the licensed dealer that a sale or transfer to such person would violate state or federal law.

Section 16‑23‑930. A person who violates the provisions of this article is guilty of a misdemeanor and, upon conviction, must be imprisoned not more than three years or fined not more than one thousand dollars, or both.”

SECTION 6. 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 7. This act takes effect upon approval by the Governor.

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