**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3967**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. G.M. Smith

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Introduced in the House on April 23, 2009

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

Summary: Search warrants

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/23/2009 House Introduced and read first time

4/23/2009 House Referred to Committee on **Judiciary**

**VERSIONS OF THIS BILL**

[4/23/2009](file:///p:\pprever\2009-10\3967_20090423.docx)

**A** **BILL**

TO AMEND SECTION 17‑13‑140, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ISSUANCE, EXECUTION, AND RETURN OF SEARCH WARRANTS FOR PROPERTY CONNECTED WITH THE COMMISSION OF A CRIME, SO AS TO CLARIFY THE CIRCUMSTANCES BY WHICH A SUBPOENA MAY BE ISSUED TO OBTAIN CERTAIN RECORDS OF ENTITIES WHO ISSUE CREDIT CARDS AND PROVIDE OTHER SERVICES IN THIS STATE.

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

SECTION 1. Section 17‑13‑140 of the 1976 Code is amended to read:

“Section 17‑13‑140. (A) ~~Any~~ A magistrate or recorder or city judge having the powers of magistrates, or any judge of ~~any~~ a court of record of the State having jurisdiction over the area where the property sought is located or after a prima facie showing by a law enforcement officer with jurisdiction over an alleged criminal act that the act occurred in the county of the magistrate or judge’s jurisdiction, may issue a:

(1) search warrant to search for and seize:

~~(1)~~(a) stolen or embezzled property;

~~(2)~~(b) property, the possession of which is unlawful;

~~(3)~~(c) 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)~~(d) property constituting evidence of a crime or tending to show that a particular person committed a criminal offense; and

~~(5)~~(e) 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 shall~~ pursuant to this section must be disposed of as provided by Section 44‑53‑520~~.~~; or

(2) subpoena for personal financial data or records, whether electronic or paper, from an entity which transacts business or provides services in this State through the issuance of credit or other services and which may provide evidence of a crime committed in this State. For purposes of this item, personal financial data or records includes, but is not limited to:

(a) credit card records;

(b) records from automatic payment services through the Internet such as Paypal or other similar providers;

(c) cell phone records; or

(d) other telephone records.

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

(C) A warrant issued ~~hereunder shall~~ pursuant to this section may 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~~ a peace officer having jurisdiction in the county where issued, including members of the South Carolina Law Enforcement Division, and ~~shall be~~ is returnable to the issuing magistrate. In case of a warrant issued by a judge of a court of record, it ~~shall be~~ is returnable to a magistrate having jurisdiction of the area where the property is located or the person to be searched is found. If ~~any~~ a warrant is issued by ~~any~~ a municipal judicial officer to municipal police officers, the return ~~shall be~~ is made to the issuing municipal judicial officer. ~~Any~~ A 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~~ A warrant issued ~~hereunder shall~~ pursuant 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~~ a statute or other law regulating search, seizure, and the issuance and execution of search warrants in circumstances for which special provision is made.”

SECTION 2. This act takes effect upon approval by the Governor.

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