

EXISTING LAW AND PENDING LEGISLATION REVIEW

Implementation and Reconciliation Memorandum

This memorandum identifies enacted South Carolina law and pending or prior legislation that should be preserved, strengthened, reviewed, amended, conformed**, or reconciled** as the General Assembly considers statutory implementation of the framework. It is not a declaration that existing provisions are unconstitutional or that every identified gap requires a separate statute.

Law / Area	Classification	Current Role	Implementation / Reconciliation Direction
S.C. Code §17-13-142	REVIEW / AMEND	Electronic communications; federal §2703(d) orders, warrants, and specified ICAC subpoenas.	Add an express South Carolina constitutional savings rule and review process standards under Article I, §10.
Title 17, Chapter 30	MODERNIZE	Older electronic communications and interception architecture.	Modernize definitions and ensure tracking, location, metadata, modern devices, cloud services, and derived information are treated coherently.
Title 17, Chapter 29	PRESERVE / REVIEW	Pen register and trap-and-trace procedures.	Preserve useful process protections; review modern identifiers, aggregation, and technology-neutral terminology.
Title 30, Chapter 2	PRESERVE / EXPAND	Family Privacy Protection Act; privacy policies, legitimate public purpose, personal-	Use as an existing statutory foundation for minimization, purpose limitation, access, correction, and modern digital-

		information definitions.	information governance.
S.C. Code §30-2-40(C)	REVIEW	Notice/privacy-policy exception for criminal justice and judicial agencies.	Ensure exceptions do not unnecessarily displace broader accountability, security, minimization, or correction rules.
Government Data Retention and Disposition	STATUTORY REVIEW / FRAGMENTED FRAMEWORK	Retention, preservation, disposition, and records requirements arise from multiple general and program-specific authorities rather than a single technology-neutral framework governing protected digital information.	Review existing retention schedules, public-record obligations, litigation holds, evidentiary requirements, investigative needs, and other preservation duties. Establish appropriate purpose-based minimization, retention, anonymization, and disposition standards without requiring deletion where another law independently requires preservation.
Individual Access, Accuracy, and Correction	PRESERVE / EXPAND	Existing privacy, records, and program-specific laws provide portions of the framework for access to and correction of governmental information, but do not establish one comprehensive technology-neutral process for protected digital information.	Establish meaningful procedures, subject to legitimate investigative, security, confidentiality, and other legal limitations, for individuals to inspect appropriate governmental information concerning themselves, challenge demonstrably inaccurate information, seek

			timely correction, and address materially inaccurate information propagated to downstream governmental systems or recipients.
Biometric Information	PRESERVE / EXPAND	Title 30, Chapter 2 includes biometric identifiers within South Carolina's existing personal-information framework, but does not by itself establish the complete set of safeguards contemplated by the Digital Bill of Rights for governmental biometric collection, use, retention, sharing, analysis, and derived biometric information.	Preserve existing protections while evaluating enhanced, technology-neutral safeguards for facial geometry, fingerprints, palmprints, iris or retinal patterns, DNA profiles, voiceprints, gait, behavioral biometrics, templates, embeddings, vectors, and future biometric identifiers. Reconcile these protections with H.3404 and other applicable law.
Title 30, Chapter 4	CONFORM	Freedom of Information Act.	Preserve exemptions while clarifying that public-disclosure exemptions do not defeat lawful court, legislative, audit, or inspector access.
Title 11, Chapter 35	CONFORM / EXPAND	State procurement framework.	Add covered-system contract requirements for audit access, records, cybersecurity, material changes, subcontractors, remote access, data disposition, and oversight. Address, as appropriate, material hardware, software, firmware,

			commercial off-the-shelf components, update authority, cloud dependencies, authentication dependencies, and material foreign ownership, access, control, or operational dependencies. Clarify that procurement, certification, testing, accreditation, or technical approval does not itself create substantive governmental authority or conclusively establish system correctness, integrity, security, or lawful operation.
Government Technology Impact Assessments	STATUTORY GAP / NO COMPREHENSIVE FRAMEWORK	Impact-assessment requirements may exist in particular programs or contexts, but no comprehensive technology-neutral statewide framework has been identified in this review requiring governmental impact assessment for designated high-consequence digital systems or surveillance technologies.	Establish appropriate assessment triggers for deployment, renewal, material change, or other designated events. Address legal authority, constitutional and privacy implications, data sources, automated functions, human review, independent verification, cybersecurity, remote access, cloud and subcontractor dependencies, material foreign dependencies, and other risks

			appropriate to the system.
Statewide ALPR Framework	PENDING / NO COMPREHENSIVE ENACTED FRAMEWORK IDENTIFIED	No comprehensive enacted statewide ALPR statute governing ALPRs as a class. Multiple proposals in the 126th General Assembly address ALPR use, including S.447, H.3155, and H.4013.	Address through affirmative technology-neutral surveillance legislation rather than vendor-specific rules**, while reconciling compatible protections contained in pending ALPR legislation.**
High-consequence digital systems	STATUTORY GAP / NO COMPREHENSIVE FRAMEWORK	No general statewide framework combines independent verification, auditability, human accountability, procurement controls, and anti-circumvention.	Create a general statutory framework tied to function, capability, operation, and effect.
Commercial Off-the-Shelf Components / Independent Verification	STATUTORY GAP / NO COMPREHENSIVE FRAMEWORK	Governmental digital systems may incorporate hardware, software, firmware, libraries, modules, cloud services, and other commercial components supplied, updated, administered, tested, or certified by multiple entities. Existing procurement or certification processes do not necessarily provide an independent mechanism for verifying every consequential governmental outcome.	Establish appropriate traceability, material-change, remote-access, update, audit, and oversight requirements for consequential components. Preserve independent verification where required and clarify that certification, accreditation, testing, procurement acceptance, or compliance with a technical standard does not, standing alone, create a conclusive presumption of correctness, integrity, security, lawful

			operation, or statutory compliance.
S.447 (2025-2026) — License Plate Reader System	PENDING — RECONCILE	Proposes §23-1-235 governing automatic license plate reader systems and §57-3-786 concerning certain cameras on non-interstate highway rights-of-way. S.447 was introduced March 12, 2025, referred to Senate Judiciary, and received a favorable Senate Judiciary Committee report on April 9, 2026.	Reconcile its ALPR-specific authorization, use, access, retention, sharing, and right-of-way provisions with the broader technology-neutral framework. Preserve compatible safeguards while avoiding conflicting definitions or parallel compliance structures.
H. 4013 (2025-2026) - Automated License Plate Readers	PENDING - RECONCILE	Proposes §23-1-235 ALPR rules including public policy, documented law-enforcement purpose, access logs, audit schedule, visual confirmation before a stop, and 90-day retention; currently residing in the House.	Preserve compatible safeguards; reconcile retention, audit, authorization, sharing, and access rules with the technology-neutral framework rather than duplicate them.
H. 3155 (2025-2026) - Automatic license plate readers	PENDING - REVIEW	Earlier ALPR proposal referred to House Judiciary; includes permitted uses, 90-day retention, sharing limits, and a criminal penalty.	Compare definitions and permitted-use structure with S.447, H.4013, and the general framework; avoid conflicting definitions or parallel compliance regimes.
H. 4675 (2025-2026) - Video Surveillance	PENDING - RECONCILE	House Judiciary proposal addressing third-party storage, vehicle-feature recognition, 21-day retention, warrant requirements, access logging, independent audits, transparency	Reconcile overlapping surveillance, audit, retention, third-party hosting, emergency, remedy, and oversight provisions; preserve compatible protections while

		reports, penalties, and civil remedies.	avoiding technology-specific conflict.
H.3400 (2025-2026) — Child Data Privacy and Protection Act	PENDING — REVIEW / RECONCILE	Proposes legislation addressing children's personal data, including data-protection impact assessments, collection, retention, processing, sale, privacy-by-default requirements, parental access in specified circumstances, privacy policies, enforcement, and related protections. The bill was referred to House Judiciary.	Reconcile H.3400 with the Digital Bill of Rights' Children's Digital Rights initiative. Distinguish regulation of private online products from governmental collection and use of children's protected digital information, while reviewing parental authority, education, child-protection responsibilities, persistent identifiers, biometrics, profiling, automated decision-making, retention, and applicable federal requirements.
S.C. Code §50-3-420 - DNR entry onto private property	REVIEW / AMEND	Provides specified Department of Natural Resources enforcement officers and Lake Wylie Marine Commission officers immunity from criminal prosecution, while acting in official capacity within territorial jurisdiction, for entering private property whether or not posted against trespassing.	Reconcile with proposed statutory protections for governmental investigative entry onto private real property beyond curtilage. Distinguish warrants, owner consent, emergencies, lawful easement or property-management functions, and other expressly authorized governmental entry.
Open Fields / Remote Surveillance of Private Land	STATUTORY GAP / NO COMPREHENSIVE FRAMEWORK	No comprehensive statewide statutory framework in this package establishes heightened rules for	Develop technology-neutral companion legislation addressing physical entry, installation or

		governmental investigative entry or targeted technological surveillance of privately owned land beyond curtilage.	placement of surveillance equipment, unmanned aircraft and remote sensing, owner consent, warrants, emergencies, remedies, and interaction with §50-3-420 and existing constitutional doctrine.
H. 3596 (124th General Assembly, 2021-2022) - Surveillance (prior-session legislation; not enacted)	PRIOR LEGISLATIVE HISTORY	Prior proposal would have prohibited state or local law enforcement from installing surveillance equipment on farmland, timberland, fields, or other land beyond curtilage without a warrant or property-owner permission and would have excluded unlawfully obtained recordings from evidence.	Use as prior South Carolina legislative history when drafting broader, technology-neutral Open Fields and private-land surveillance reform; review scope, exceptions, remedies, and treatment of physical entry as distinct from installed surveillance equipment.
H. 3404 (2025-2026) - Ensuring Likeness, Voice, and Image Security Act	PENDING - REVIEW / RECONCILE	Proposes a property right in the use of an individual's name, photograph, voice, or likeness and civil liability for specified unauthorized uses, including certain technologies used to produce a person's photograph, voice, or likeness.	Reconcile with the Digital Bill of Rights distinction between expressive-work ownership and protected information contained in or derived from an image or recording. Review commercial exploitation, synthetic or biometric use, minors, consent, news and public-interest uses, expressive activity, and constitutional

			speech and press protections.
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Reconciliation Principle

The objective of this review is not to replace existing South Carolina protections that remain useful or to create unnecessary parallel regulatory regimes. Implementing legislation should preserve compatible protections, modernize outdated provisions, reconcile overlapping requirements, close identified gaps, and establish technology-neutral standards where existing law is fragmented, incomplete, or technology-specific.