

PRIMARY AUTHORITIES AND SOURCE NOTES

Constitutional, Statutory, Legislative, and Case Authorities

South Carolina Constitution

- S.C. Const. art. I, §2 - speech, religion, assembly, and petition.
- S.C. Const. art. I, §3 - due process and equal protection.
- S.C. Const. art. I, §10 - unreasonable searches and seizures, unreasonable invasions of privacy, probable cause, and particularity as to information to be obtained.
- S.C. Const. art. I, §22 - administrative due process and judicial review.
- S.C. Const. art. I, §23 - mandatory and prohibitory character of constitutional provisions.

South Carolina Code

- S.C. Code Title 30, Chapter 2 - Family Privacy Protection Act.
- S.C. Code §30-2-20 — requires state entities to develop privacy policies and procedures and limits collection of personal information to information required and necessary to accomplish a legitimate public purpose.
- S.C. Code §30-2-30 — defines personal information for purposes of the Family Privacy Protection Act, including specified identifying, financial, medical, photographic, and biometric information.
- S.C. Code Title 30, Chapter 4 - Freedom of Information Act.
- S.C. Code Title 11, Chapter 35 - South Carolina Consolidated Procurement Code.
- S.C. Code §17-13-142 - electronic communications; warrants, orders, and subpoenas.
- S.C. Code Title 17, Chapter 29 - pen registers and trap-and-trace devices.
- S.C. Code Title 17, Chapter 30 - interception of wire, electronic, and oral communications.
- S.C. Code §50-3-420 - specified enforcement-officer immunity from criminal prosecution for entering private property, whether or not posted, while acting within official authority.

South Carolina Appellate Authorities

- State v. Forrester, 343 S.C. 637, 541 S.E.2d 837 (2001) — addresses South Carolina's express constitutional privacy protection in the search-and-seizure context and recognizes that the South Carolina Constitution may afford protections beyond the federal

constitutional minimum, while declining to require police to advise an individual of the right to refuse consent before a consensual search.

- *State v. Weaver*, 374 S.C. 313, 649 S.E.2d 479 (2007) — applies Article I, §10's privacy protection in the warrantless vehicle-search context and examines the reasonableness of the governmental intrusion under South Carolina law.
- *State v. Counts*, 413 S.C. 153, 776 S.E.2d 59 (2015) — discusses South Carolina's express constitutional privacy protection in the investigative “knock and talk” context and South Carolina's authority to provide protections beyond the federal constitutional baseline.
- *Planned Parenthood South Atlantic v. State*, 438 S.C. 188, 882 S.E.2d 770 (2023) — contains extensive and differing judicial analyses concerning the history and scope of Article I, §10's “unreasonable invasions of privacy” language. Use with care for propositions extending beyond the decision's specific holding.
- *State v. Michael Lindsay Faile*, Unpublished Opinion No. 2026-UP-323 (S.C. Ct. App. July 1, 2026) — unpublished, nonprecedential opinion addressing limited warrantless use of two Flock Safety images; see Rule 268(d)(2), SCACR.

Current / Pending South Carolina Legislation

Automated License Plate Readers

- S. 447 (126th General Assembly) — License Plate Reader System; current-session ALPR legislation that received a favorable Senate Judiciary Committee report in 2026.
- H. 4013 (126th General Assembly) - Automated License Plate Readers.
- H. 3155 (126th General Assembly) - Automatic license plate readers.

Surveillance

- H. 4675 (126th General Assembly) - Video Surveillance / South Carolina Community Data Protection and Responsible Surveillance Act

Image, Voice, and Likeness

- H. 3404 (126th General Assembly) - Ensuring Likeness, Voice, and Image Security Act.

Children's Digital Privacy

- H. 3400 (126th General Assembly) — Child Data Privacy and Protection Act; addresses collection, retention, processing, sale, privacy protections, parental rights, data-protection impact assessments, and related protections concerning children's personal data.

Prior South Carolina Legislative History

- H. 3596 (124th General Assembly, 2021-2022) - Surveillance; proposed warrant or owner-permission requirements for state or local law-enforcement installation of surveillance equipment on farmland, timberland, fields, or other land beyond curtilage, with an evidentiary exclusion remedy. This prior-session bill is distinct from H. 3596 of the 126th General Assembly (2025-2026), the unrelated Kingston Act concerning children's access to firearms.

Federal Constitutional Authorities

- U.S. Const. amends. I, IV, V, IX, and XIV.
- *Kyllo v. United States*, 533 U.S. 27 (2001) — use of sense-enhancing technology to obtain information regarding the interior of a home that could not otherwise have been obtained without physical intrusion.
- *United States v. Jones*, 565 U.S. 400 (2012) — GPS tracking involving physical installation of a tracking device; concurring opinions provide important analysis concerning prolonged technological monitoring and aggregation.
- *Riley v. California*, 573 U.S. 373 (2014) — recognizes the extraordinary quantity and qualitative character of personal information stored on modern digital devices in requiring a warrant before searching a cell phone seized incident to arrest.
- *Carpenter v. United States*, 585 U.S. 296 (2018) — addresses governmental acquisition of historical cell-site location information and declines to mechanically extend traditional third-party doctrine to the detailed location history at issue.

Federal Statutory Authorities

- 18 U.S.C. §§2510 et seq. — Wiretap Act / Title III; federal definitions and requirements governing interception of wire, oral, and electronic communications.
- 18 U.S.C. §§2701-2713 — Stored Communications Act; governs access to stored electronic communications and certain provider records, including governmental process for compelled disclosure under §2703.
- 18 U.S.C. §§3121-3127 — Pen Register and Trap and Trace Device Statute; establishes federal requirements governing installation and use of pen registers and trap-and-trace devices.
- 18 U.S.C. §§2721-2725 — Driver's Privacy Protection Act; governs disclosure and permissible uses of personal information obtained from state motor-vehicle records.

Research and Citation Caution

The authorities identified in this section establish important constitutional, statutory, and doctrinal principles but do not resolve every modern surveillance, digital-data, automated-decision, biometric, artificial-intelligence, or governmental-technology question addressed by the proposed framework. Holdings should be cited only for propositions they actually decide, and unpublished opinions should be identified according to their precedential status. Committee materials should distinguish existing constitutional requirements from statutory protections the General Assembly may choose to enact above the constitutional floor and should account for applicable federal preemption or other federal-law limitations.