

## **S.C. Code Ann. § 39-8-100**

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*South Carolina Code of Laws Annotated by LexisNexis® > Title 39. Trade and Commerce (Chs. 1 — 79) > Chapter 8. Trade Secrets (§§ 39-8-1 — 39-8-130)*

### **§ 39-8-100. Criminal proceedings; finding of disclosure of trade secrets; issuance of protective order.**

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(A) If the court finds that a trade secret may be disclosed during a criminal proceeding, the court must issue a protective order limiting the use and dissemination of the trade secret including, but not limited to, articles disclosing that secret, provided that the issuance of a protective order would not conceal fraud or work an injustice. The protective order may, in the court's discretion, include the following provisions:

- (1) that the information produced pursuant to this section may be disclosed only to persons identified in the written protective order of the court and may be used or disclosed only in the action in which it is produced;
- (2) that the defendant may view the secret only in the presence of his counsel or at counsel's office;
- (3) that a party seeking to show the trade secret, or articles containing the trade secret, to a person not designated by the protective order must first obtain court approval to do so.
  - (a) The court must require that the person receiving the trade secret do so only in the presence of counsel for the party requesting protection.
  - (b) The court must require the person receiving the trade secret to sign a copy of the protective order and a confidentiality agreement with the trade secret owner and to agree to be bound by its terms. The order may include a provision recognizing the owner of the trade secret to be a third-party beneficiary of that agreement.
  - (c) The court shall require a party seeking disclosure to an expert to provide that expert's name, employment history, and any other relevant information to the court for examination. The court must evaluate the expert and determine whether the expert poses a significant risk of compromise.
- (4) that no articles disclosing the trade secret may be filed or otherwise made a part of the court record available to the public without approval of the court and prior notice to the owner of the secret. The owner of the secret may give permission to accept the notice on the owner's behalf;
- (5) other orders as the court considers necessary to protect the integrity of the trade secret.

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**(B)** During proceedings where trade secrets may be disclosed, the court may, in its discretion, take other appropriate measures to protect against disclosure of trade secrets.

## History

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1997 Act No. 38, § 1, eff May 21, 1997.

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