

117TH CONGRESS
1ST SESSION

H. R. 4022

To amend title 18, United States Code, to regulate the use of cell-site simulators, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 21, 2021

Mr. LIEU (for himself and Mr. McCLINTOCK) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Intelligence (Permanent Select), Energy and Commerce, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 18, United States Code, to regulate the use of cell-site simulators, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Cell-Site Simulator
5 Warrant Act of 2021”.

1 **SEC. 2. PROHIBITION ON CELL-SITE SIMULATOR USE.**

2 (a) PROHIBITION.—Chapter 205 of title 18, United
3 States Code, is amended by adding at the end the fol-
4 lowing:

5 **“§ 3119. Cell-site simulators**

6 “(a) PROHIBITION OF USE.—

7 “(1) IN GENERAL.—Except as provided in sub-
8 section (d), it shall be unlawful—

9 “(A) for any individual or entity to know-
10 ingly use a cell-site simulator in the United
11 States; or

12 “(B) for an element of the intelligence
13 community to use a cell-site simulator outside
14 the United States if the subject of the surveil-
15 lance is a United States person.

16 “(2) RULE OF CONSTRUCTION.—Nothing in
17 paragraph (1) shall be construed to authorize a law
18 enforcement agency of a governmental entity to use
19 a cell-site simulator outside the United States.

20 “(b) PENALTY.—Any individual or entity that vio-
21 lates subsection (a)(1) shall be fined not more than
22 \$250,000.

23 “(c) PROHIBITION OF USE AS EVIDENCE.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), no information acquired through the use
26 of a cell-site simulator in violation of subsection

1 (a)(1), and no evidence derived therefrom, may be
2 received in evidence in any trial, hearing, or other
3 proceeding in or before any court, grand jury, de-
4 partment, officer, agency, regulatory body, legislative
5 committee, or other authority of the United States,
6 a State, or a political subdivision thereof.

7 “(2) EXCEPTION FOR ENFORCEMENT.—Infor-
8 mation acquired through the use of a cell-site simu-
9 lator in violation of subsection (a)(1) by a person,
10 and evidence derived therefrom, may be received in
11 evidence in any trial, hearing, or other proceeding
12 described in paragraph (1) of this subsection relat-
13 ing to the alleged violation of subsection (a)(1) in
14 connection with such use.

15 “(d) EXCEPTIONS.—

16 “(1) IN GENERAL.—

17 “(A) WARRANT.—

18 “(i) IN GENERAL.—Subsection (a)(1)
19 shall not apply to the use of a cell-site simu-
20 lator by a law enforcement agency of a
21 governmental entity under a warrant
22 issued—

23 “(I) in accordance with this sub-
24 paragraph; and

1 “(II) using the procedures de-
2 scribed in, and in accordance with the
3 requirements for executing and re-
4 turning a warrant under, the Federal
5 Rules of Criminal Procedure (or, in
6 the case of a State court, issued using
7 State warrant and execution and re-
8 turn procedures and, in the case of a
9 court-martial or other proceeding
10 under chapter 47 of title 10 (the Uni-
11 form Code of Military Justice), issued
12 under section 846 of that title and in
13 accordance with the requirements for
14 executing and returning such a war-
15 rant, in accordance with regulations
16 prescribed by the President) by a
17 court of competent jurisdiction.

18 “(ii) REQUIREMENTS.—A court may
19 issue a warrant described in clause (i) (ex-
20 cept, with respect to a State court, to the
21 extent use of a cell-site simulator by a law
22 enforcement agency of a governmental en-
23 tity is prohibited by the law of the State)
24 only if the law enforcement agency—

1 “(I) demonstrates that other in-
2 vestigative procedures, including elec-
3 tronic location tracking methods that
4 solely collect records of the investiga-
5 tive target—

6 “(aa) have been tried and
7 have failed; or

8 “(bb) reasonably appear to
9 be—

10 “(AA) unlikely to suc-
11 ceed if tried; or

12 “(BB) too dangerous;

13 “(II) specifies the likely area of
14 effect of the cell-site simulator to be
15 used and the time that the cell-site
16 simulator will be in operation;

17 “(III) certifies that the requested
18 area of effect and time of operation
19 are the narrowest reasonably possible
20 to obtain the necessary information;
21 and

22 “(IV) demonstrates that the re-
23 quested use of a cell-site simulator
24 would be in compliance with applica-
25 ble provisions of the Communications

1 Act of 1934 (47 U.S.C. 151 et seq.)
2 and the rules of the Federal Commu-
3 nications Commission.

4 “(iii) CONSIDERATIONS.—In consid-
5 ering an application for a warrant de-
6 scribed in clause (i), the court shall—

7 “(I) weigh the need of the gov-
8 ernment to enforce the law and appre-
9 hend criminals against the likelihood
10 and impact of any potential negative
11 side effects disclosed by the govern-
12 ment under subparagraph (C); and

13 “(II) not grant a request for a
14 warrant that would put public safety
15 at risk or unreasonably inconvenience
16 the community.

17 “(iv) PERIOD OF INITIAL AUTHORIZA-
18 TION.—No warrant described in clause (i)
19 may authorize the use of a cell site simu-
20 lator for any period longer than is nec-
21 essary to achieve the objective of the au-
22 thorization, nor in any event for longer
23 than 30 days.

24 “(v) EXTENSIONS.—

1 “(I) IN GENERAL.—A court may
2 grant extensions of a warrant de-
3 scribed in clause (i), but only upon
4 application for an extension made in
5 accordance with clause (i) and the
6 court considering the factors described
7 in clause (iii) and determining the re-
8 quirements under clause (ii) are met.

9 “(II) PERIOD OF EXTENSION.—
10 The period of an extension of a war-
11 rant shall be no longer than the au-
12 thorizing judge determines necessary
13 to achieve the purposes for which the
14 extension was granted, nor in any
15 event for longer than 30 days.

16 “(vi) TERMINATION PROVISION.—
17 Each warrant described in clause (i), and
18 each extension thereof, shall contain a pro-
19 vision that the authorization to use the cell
20 site simulator shall be executed as soon as
21 practicable and shall terminate upon at-
22 tainment of the authorized objective, or in
23 any event in 30 days.

24 “(vii) START OF 30-DAY PERIODS.—
25 The 30-day periods described in clauses

1 (iv), (v)(II), and (vi) shall begin on the
2 earlier of—

3 “(I) the date on which a law en-
4 forcement agency first begins to use
5 the cell site simulator as authorized
6 by the warrant, or extension thereof;
7 or

8 “(II) the date that is 10 days
9 after the warrant, or extension there-
10 of, is issued.

11 “(B) EMERGENCY.—

12 “(i) IN GENERAL.—Subject to clause
13 (ii), subsection (a)(1) shall not apply to the
14 use of a cell-site simulator by a law en-
15 forcement agency of a governmental entity,
16 or use of a cell-site simulator as part of as-
17 sistance provided by a component of the
18 Department of Defense or an Armed Force
19 to such a law enforcement agency, if—

20 “(I) the governmental entity rea-
21 sonably determines an emergency ex-
22 ists that—

23 “(aa) involves—

1 “(AA) immediate dan-
2 ger of death or serious phys-
3 ical injury to any person;

4 “(BB) conspiratorial
5 activities characteristic of
6 organized crime; or

7 “(CC) an immediate
8 threat to a national security
9 interest; and

10 “(bb) requires use of a cell-
11 site simulator before a warrant
12 described in subparagraph (A)
13 can, with due diligence, be ob-
14 tained; and

15 “(II) except in an instance in
16 which the governmental entity is try-
17 ing to locate a lost or missing person,
18 locate someone believed to have been
19 abducted or kidnapped, or find vic-
20 tims, dead or alive, in an area where
21 a natural disaster, terrorist attack, or
22 other mass casualty event has taken
23 place—

24 “(aa) there are grounds
25 upon which a warrant described

1 in subparagraph (A) could be en-
2 tered to authorize such use; and

3 “(bb) the governmental enti-
4 ty applies for a warrant described
5 in subparagraph (A) approving
6 such use not later than 48 hours
7 after such use begins, and takes
8 such steps to expedite the consid-
9 eration of such application as
10 may be possible.

11 “(ii) TERMINATION OF EMERGENCY
12 USE.—

13 “(I) IN GENERAL.—A law en-
14 forcement agency of a governmental
15 entity shall immediately terminate use
16 of a cell-site simulator under clause
17 (i) of this subparagraph at the earlier
18 of the time the information sought is
19 obtained or the time the application
20 for a warrant described in subpara-
21 graph (A) is denied.

22 “(II) WARRANT DENIED.—If an
23 application for a warrant described in
24 clause (i)(II)(bb) is denied—

1 “(aa) any information or
2 evidence derived from use of the
3 cell-site simulator shall be—

4 “(AA) subject to sub-
5 section (c); and

6 “(BB) promptly de-
7 stroyed by the applicable law
8 enforcement agency; and

9 “(bb) the applicable law en-
10 forcement agency shall serve an
11 inventory on each person named
12 in the application.

13 “(C) DISCLOSURES REQUIRED IN APPLICA-
14 TION.—In any application for a warrant au-
15 thorizing the use of a cell-site simulator under
16 subparagraph (A) or (B), the governmental en-
17 tity shall include the following:

18 “(i) A disclosure of any potential dis-
19 ruption of the ability of the subject of the
20 surveillance or bystanders to use commer-
21 cial mobile radio services or private mobile
22 services, including using advanced commu-
23 nications services, to make or receive, as
24 applicable—

1 “(I) emergency calls (including
2 9–1–1 calls);

3 “(II) calls to the universal tele-
4 phone number within the United
5 States for the purpose of the national
6 suicide prevention and mental health
7 crisis hotline system under designated
8 under paragraph (4) of section 251(e)
9 of the Communications Act of 1934
10 (47 U.S.C. 251(e)), as added by the
11 National Suicide Hotline Designation
12 Act of 2020 (Public Law 116–172;
13 134 Stat. 832);

14 “(III) calls to the nationwide toll-
15 free number for the poison control
16 centers established under section 1271
17 of the Public Health Service Act (42
18 U.S.C. 300d–71);

19 “(IV) calls using telecommuni-
20 cations relay services; or

21 “(V) any other communications
22 or transmissions.

23 “(ii) A certification that the specific
24 model of the cell-site simulator to be used
25 has been inspected by a third party that is

1 an accredited testing laboratory recognized
2 by the Federal Communications Commis-
3 sion to verify the accuracy of the disclosure
4 under clause (i).

5 “(iii) A disclosure of the methods and
6 precautions that will be used to minimize
7 disruption, including—

8 “(I) any limit on the length of
9 time the cell-site simulator can be in
10 continuous operation; and

11 “(II) any user-defined limit on
12 the transmission range of the cell-site
13 simulator.

14 “(iv) A disclosure as to whether the
15 cell-site simulator will primarily be used at
16 a gathering where constitutionally pro-
17 tected activity, including speech, will occur.

18 “(D) NOTICE.—

19 “(i) IN GENERAL.—Within a reason-
20 able time, but, subject to clause (ii), not
21 later than 90 days after the filing of an
22 application for a warrant authorizing the
23 use of a cell-site simulator which is denied
24 or the termination of the period of such a
25 warrant, or extensions thereof, the issuing

1 or denying judge shall cause to be served
2 on the persons named in the warrant or
3 the application, and, as the judge may de-
4 termine, in the discretion of the judge, is
5 in the interest of justice, other persons
6 about whose devices the government ob-
7 tained information with the cell site simu-
8 lator, an inventory which shall include no-
9 tice of—

10 “(I) the fact of the entry of the
11 warrant or the application;

12 “(II) the date of the entry and
13 the period of authorized, approved or
14 disapproved use of a cell-site simu-
15 lator, or the denial of the application;
16 and

17 “(III) whether, during the pe-
18 riod—

19 “(aa) information about
20 their device was, or was not, ob-
21 tained by the government;

22 “(bb) their location was, or
23 was not, tracked; and

24 “(cc) their communications
25 were, or were not, intercepted.

1 “(ii) DELAY OF NOTICE.—On an ex
2 parte showing of good cause to a court of
3 competent jurisdiction, the serving of the
4 inventory required under clause (i) may be
5 postponed.

6 “(2) FOREIGN INTELLIGENCE SURVEIL-
7 LANCE.—Use of a cell-site simulator by an element
8 of the intelligence community shall not be subject to
9 subsection (a)(1) if it is conducted in a manner that
10 is in accordance with—

11 “(A) title I of the Foreign Intelligence
12 Surveillance Act of 1978 (50 U.S.C. 1801 et
13 seq.) (including testing or training authorized
14 under paragraph (1) or (3) of section 105(g) of
15 such Act (50 U.S.C. 1805(g)) (including such
16 testing or training conducted in conjunction
17 with a component of the Department of De-
18 fense or an Armed Force), if any information
19 obtained during such testing or training (in-
20 cluding metadata) is destroyed after its use for
21 such testing or training); or

22 “(B) section 704(c)(1)(E) of such Act (50
23 U.S.C. 1881c(c)(1)(E)).

24 “(3) RESEARCH.—Subsection (a)(1) shall not
25 apply to the use of a cell-site simulator in order to

1 engage, in good-faith, in research or teaching by a
2 person that is not—

3 “(A) a law enforcement agency of a gov-
4 ernmental entity;

5 “(B) an element of the intelligence commu-
6 nity; or

7 “(C) acting as an agent thereof.

8 “(4) PROTECTIVE SERVICES.—

9 “(A) IN GENERAL.—Subsection (a)(1)
10 shall not apply to the use of a cell-site simu-
11 lator in the performance of protective duties
12 pursuant to section 3056 of this title, or as oth-
13 erwise authorized by law.

14 “(B) PROHIBITION ON USE AS EVI-
15 DENCE.—No information acquired through the
16 use of a cell-site simulator under the authority
17 under subparagraph (A), and no evidence de-
18 rived therefrom, may be received in evidence in
19 any trial, hearing, or other proceeding in or be-
20 fore any court, grand jury, department, officer,
21 agency, regulatory body, legislative committee,
22 or other authority of the United States, a State,
23 or a political subdivision thereof.

24 “(C) NO BAR TO OTHER AUTHORIZED
25 USE.—Nothing in subparagraph (A) or (B)

1 shall be construed to prohibit the United States
2 Secret Service from using a cell-site simulator
3 in accordance with a provision of this section
4 other than subparagraph (A).

5 “(5) CONTRABAND INTERDICTION BY CORREC-
6 TIONAL FACILITIES.—Subsection (a)(1) shall not
7 apply to the use of a contraband interdiction system
8 if the correctional facility or the entity operating the
9 contraband interdiction system for the benefit of the
10 correctional facility—

11 “(A) has—

12 “(i) taken reasonable steps to restrict
13 transmissions by the contraband interdic-
14 tion system to cellular devices physically lo-
15 cated within the property of the correc-
16 tional facility;

17 “(ii) posted signs around the correc-
18 tional facility informing visitors and staff
19 that the correctional facility employs such
20 a contraband interdiction system; and

21 “(iii) complied with any relevant regu-
22 lations promulgated by the Federal Com-
23 munications Commission and, as applica-
24 ble, policies issued by the National Tele-

1 communications and Information Adminis-
2 tration;

3 “(B) annually tests and evaluates compli-
4 ance with subparagraph (A) in accordance with
5 best practices, which shall be issued by the Fed-
6 eral Communications Commission; and

7 “(C) not later than 10 business days after
8 identifying an issue relating to the use of the
9 contraband interdiction system, whether in the
10 course of normal business operations or con-
11 ducting testing and evaluation, submits to the
12 Federal Communications Commission a report
13 describing the issues identified and the steps
14 taken to address the issues.

15 “(6) TESTING AND TRAINING BY LAW EN-
16 FORCEMENT.—Subsection (a)(1) shall not apply to
17 the use of a cell-site simulator by a law enforcement
18 agency of a governmental entity in the normal
19 course of official duties that is not targeted against
20 the communications of any particular person or per-
21 sons, under procedures approved by the Attorney
22 General, solely to—

23 “(A) test the capability of electronic equip-
24 ment, if—

1 “(i) it is not reasonable to obtain the
2 consent of the persons incidentally sub-
3 jected to the surveillance;

4 “(ii) the test is limited in extent and
5 duration to that necessary to determine to
6 capability of the equipment;

7 “(iii) any information obtained during
8 such testing (including metadata) is re-
9 tained and used only for the purpose of de-
10 termining the capability of the equipment,
11 is disclosed only to test personnel, and is
12 destroyed before or immediately upon com-
13 pletion of the test; and

14 “(iv) the test is for a period of not
15 longer than 90 days, unless the law en-
16 forcement agency obtains the prior ap-
17 proval of the Attorney General; or

18 “(B) train law enforcement personnel in
19 the use of electronic surveillance equipment,
20 if—

21 “(i) it is not reasonable to—

22 “(I) obtain the consent of the
23 persons incidentally subjected to the
24 surveillance;

1 “(II) train persons in the course
2 of otherwise authorized law enforce-
3 ment activities; or

4 “(III) train persons in the use of
5 such equipment without engaging in
6 surveillance;

7 “(ii) such surveillance is limited in ex-
8 tent and duration to that necessary to
9 train the personnel in the use of the equip-
10 ment; and

11 “(iii) any information obtained during
12 such training (including metadata) is de-
13 stroyed after its use for such training.

14 “(7) FCC TESTING.—Subsection (a)(1) shall
15 not apply to the use of a cell-site simulator by the
16 Federal Communications Commission, or an accred-
17 ited testing laboratory recognized by the Federal
18 Communications Commission, in order to test the
19 cell-site simulator.

20 “(8) RULE OF CONSTRUCTION.—Nothing in
21 this subsection shall be construed to exempt a State
22 or local government from complying with regulations
23 promulgated by the Federal Communications Com-
24 mission, including the requirement to obtain author-

1 ization to transmit on spectrum regulated by the
2 Federal Communications Commission.

3 “(e) LIMIT ON CERTAIN USE NOT CONDUCTED PUR-
4 SUANT TO WARRANTS AND ORDERS.—The use of a cell-
5 site simulator under subsection (d)(1)(B) of this section
6 (which shall not include such a use by a component of
7 the Department of Defense or an Armed Force providing
8 assistance to a law enforcement agency of a governmental
9 entity under such subsection (d)(1)(B)), under section
10 105(e) of the Foreign Intelligence Surveillance Act of
11 1978 (50 U.S.C. 1805(e)), or under clause (i) or (ii) of
12 section 102(a)(1)(A) of the Foreign Intelligence Surveil-
13 lance Act of 1978 (50 U.S.C. 1802(a)(1)(A)) may only
14 be carried out lawfully using a specific model of a cell-
15 site simulator for which the disclosures required under
16 clauses (i) and (ii) of subsection (d)(1)(C) were included
17 with respect to the specific model in connection with—

18 “(1) for use by an element of the intelligence
19 community under title I of the Foreign Intelligence
20 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.),
21 an application for an order under such Act that was
22 approved; or

23 “(2) for use by a law enforcement agency of a
24 governmental entity, an application for a warrant—

1 “(A) under the Federal Rules of Criminal
2 Procedure that was approved by a judge of the
3 judicial district in which the law enforcement
4 agency intends to use the cell-site simulator; or

5 “(B) using State warrant procedures that
6 was approved by a judge of the State in which
7 the law enforcement agency intends to use the
8 cell-site simulator.

9 “(f) MINIMIZATION.—

10 “(1) IN GENERAL.—The Attorney General shall
11 adopt specific procedures that are reasonably de-
12 signed to minimize the acquisition and retention,
13 and prohibit the dissemination, of information ob-
14 tained through the use of a cell-site simulator under
15 an exception under paragraph (1) or (2) of sub-
16 section (d) that pertains to any person who is not
17 an authorized subject of the use.

18 “(2) PUBLICATION.—The Attorney General
19 shall make publicly available on the website of the
20 Department of Justice the procedures adopted under
21 paragraph (1) and any revisions to such procedures.

22 “(3) USE BY AGENCIES.—If a law enforcement
23 agency of a governmental entity or element of the
24 intelligence community acquires information per-
25 taining to a person who is not an authorized subject

1 of the use of a cell-site simulator under an exception
2 under paragraph (1) or (2) of subsection (d), the
3 law enforcement agency or element of the intel-
4 ligence community shall—

5 “(A) minimize the acquisition and reten-
6 tion, and prohibit the dissemination, of the in-
7 formation in accordance with the procedures
8 adopted under paragraph (1); and

9 “(B) destroy the information (including
10 metadata) at the earliest possible opportunity.

11 “(g) DISCLOSURE TO DEFENDANT.—Any informa-
12 tion acquired through the operation of a cell-site simu-
13 lator, or derived from such information, shall be disclosed
14 to the defendant in any action in which the information
15 is introduced into evidence.

16 “(h) SCOPE OF COLLECTION.—

17 “(1) AUTHORIZED USE.—Information collected
18 under this section may only include information
19 identifying nearby electronic devices communicating
20 with the cell-site simulator and the strength and di-
21 rection of transmissions from those electronic de-
22 vices.

23 “(2) COMPLIANCE WITH WIRETAPPING RE-
24 QUIREMENTS TO OBTAIN CONTENTS.—In the case of

1 any interception of a wire or electronic communica-
2 tion by the cell-site simulator—

3 “(A) with respect to an interception by a
4 law enforcement agency of a governmental enti-
5 ty, the provisions of chapter 119 shall apply in
6 addition to the provisions of this section; and

7 “(B) with respect to an interception by an
8 element of the intelligence community, the ele-
9 ment of the intelligence community may only
10 conduct the surveillance using the cell-site sim-
11 ulator in accordance with an order authorizing
12 the use issued in accordance with title I of the
13 Foreign Intelligence Surveillance Act of 1978
14 (50 U.S.C. 1801 et seq.), in addition to com-
15 plying with the provisions of this section.

16 “(3) COMPLIANCE WITH TRACKING DEVICE RE-
17 QUIREMENTS.—

18 “(A) IN GENERAL.—If a cell-site simulator
19 is to be used by a law enforcement agency of
20 a governmental entity to locate or track the
21 movement of a person or object, the provisions
22 of section 3117 and rule 41 of the Federal
23 Rules of Criminal Procedure shall apply in ad-
24 dition to the provisions of this section.

1 “(B) COURT.—For purposes of applying
2 section 3117 and rule 41 of the Federal Rules
3 of Criminal Procedure to the use of a cell-site
4 simulator, a court may authorize such use with-
5 in the jurisdiction of the court, and outside that
6 jurisdiction if—

7 “(i) the use commences within that
8 jurisdiction; or

9 “(ii) at the time the application is
10 presented to the court, the governmental
11 entity certifies that it has probable cause
12 to believe that the target is physically lo-
13 cated within that jurisdiction.

14 “(i) CIVIL ACTION.—Any person subject to an unlaw-
15 ful operation of a cell-site simulator may bring a civil ac-
16 tion for appropriate relief (including declaratory and in-
17 junctive relief, actual damages, statutory damages of not
18 more than \$500 for each violation, and attorney fees)
19 against the person, including a governmental entity, that
20 conducted that unlawful operation before a court of com-
21 petent jurisdiction.

22 “(j) ADMINISTRATIVE DISCIPLINE.—If a court or ap-
23 propriate department or agency determines that the
24 United States or any of its departments or agencies has
25 violated any provision of this section, and the court or ap-

1 appropriate department or agency finds that the cir-
2 cumstances surrounding the violation raise serious ques-
3 tions about whether or not an officer or employee of the
4 United States acted willfully or intentionally with respect
5 to the violation, the department or agency shall, upon re-
6 ceipt of a true and correct copy of the decision and find-
7 ings of the court or appropriate department or agency
8 promptly initiate a proceeding to determine whether dis-
9 ciplinary action against the officer or employee is war-
10 ranted. If the head of the department or agency involved
11 determines that disciplinary action is not warranted, he
12 or she shall notify the Inspector General with jurisdiction
13 over the department or agency concerned and shall provide
14 the Inspector General with the reasons for such deter-
15 mination.

16 “(k) DEFINITIONS.—As used in this section—

17 “(1) the terms defined in section 2711 have, re-
18 spectively, the definitions given such terms in that
19 section;

20 “(2) the term ‘advanced communications serv-
21 ices’ has the meaning given that term in section 3
22 of the Communications Act of 1934 (47 U.S.C.
23 153);

24 “(3) the term ‘cell-site simulator’ means any
25 device that functions as or simulates a base station

1 for commercial mobile services or private mobile
2 services in order to identify, locate, or intercept
3 transmissions from cellular devices for purposes
4 other than providing ordinary commercial mobile
5 services or private mobile services;

6 “(4) the term ‘commercial mobile radio service’
7 has the meaning given that term in section 20.3 of
8 title 47, Code of Federal Regulations, or any suc-
9 cessor thereto;

10 “(5) the term ‘contraband interdiction system’
11 means any device that functions as or simulates a
12 base station for commercial mobile services or pri-
13 vate mobile services for purposes of identifying, lo-
14 cating, or intercepting transmissions from contra-
15 band cellular devices in correctional facilities;

16 “(6) the term ‘derived’ means, with respect to
17 information or evidence, that the government would
18 not have originally possessed the information or evi-
19 dence but for the use of a cell-site simulator, and re-
20 gardless of any claim that the information or evi-
21 dence is attenuated from the surveillance would in-
22 evitably have been discovered, or was subsequently
23 reobtained through other means;

24 “(7) the term ‘electronic communication’ has
25 the meaning given that term in section 2510;

1 “(8) the term ‘electronic device’ has the mean-
2 ing given the term ‘computer’ in section 1030(e);

3 “(9) the term ‘emergency call’ has the meaning
4 given that term in section 6001 of the Middle Class
5 Tax Relief and Job Creation Act of 2012 (47 U.S.C.
6 1401);

7 “(10) the term ‘intelligence community’ has the
8 meaning given that term in section 3 of the National
9 Security Act of 1947 (50 U.S.C. 3003);

10 “(11) the term ‘mitigation’ means the deletion
11 of all information collected about a person who is
12 not the subject of the warrant or investigation;

13 “(12) the term ‘private mobile service’ has the
14 meaning given that term in section 332 of the Com-
15 munications Act of 1934 (47 U.S.C. 332);

16 “(13) the term ‘telecommunications relay serv-
17 ice’ has the meaning given that term in section 225
18 of the Communications Act of 1934 (47 U.S.C.
19 225); and

20 “(14) the term ‘United States person’ has the
21 meaning given that term in section 101 of the For-
22 eign Intelligence Surveillance Act of 1978 (50
23 U.S.C. 1801).”.

1 (b) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF
2 1978 REQUIREMENTS.—The Foreign Intelligence Surveil-
3 lance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

4 (1) in section 101 (50 U.S.C. 1801), by adding
5 at the end the following:

6 “(q) ‘Cell-site simulator’ has the meaning given that
7 term in section 3119 of title 18, United States Code.”;

8 (2) in section 102(a) (50 U.S.C. 1802(a)), by
9 adding at the end the following:

10 “(5) The Government may only use a cell-site simu-
11 lator pursuant to the authority under clause (i) or (ii) of
12 paragraph (1)(A) without obtaining an order under this
13 title authorizing such use if the Government has imple-
14 mented measures that are reasonably likely to limit the
15 collection activities to—

16 “(A) means of communications used exclusively
17 between or among foreign powers, as defined in
18 paragraph (1), (2), or (3) of section 101(a); or

19 “(B) property or premises under the open and
20 exclusive control of a foreign power, as defined in
21 paragraph (1), (2), or (3) of section 101(a).”;

22 (3) in section 105 (50 U.S.C. 1805), by adding
23 at the end the following:

1 “(k)(1) A judge having jurisdiction under section 103
2 may issue an order under this section that authorizes the
3 use of a cell-site simulator only if the applicant—

4 “(A) demonstrates that other investigative pro-
5 cedures, including electronic location tracking meth-
6 ods that solely collect records of the investigative
7 target—

8 “(i) have been tried and have failed; or

9 “(ii) reasonably appear to be—

10 “(I) unlikely to succeed if tried; or

11 “(II) too dangerous;

12 “(B) specifies the likely area of effect of the
13 cell-site simulator to be used and the time that the
14 cell-site simulator will be in operation;

15 “(C) certifies that the requested area of effect
16 and time of operation are the narrowest reasonably
17 possible to obtain the necessary information; and

18 “(D) demonstrates that the requested use of a
19 cell-site simulator would be in compliance with appli-
20 cable provisions of the Communications Act of 1934
21 (47 U.S.C. 151 et seq.) and the rules of the Federal
22 Communications Commission.

23 “(2) In any application for an order under this sec-
24 tion authorizing the use of a cell-site simulator, the appli-
25 cant shall include the following:

1 “(A) A disclosure of any potential disruption of
2 the ability of the subject of the surveillance or by-
3 standers to use commercial mobile radio services or
4 private mobile services, including using advanced
5 communications services, to make or receive, as ap-
6 plicable—

7 “(i) emergency calls (including 9–1–1
8 calls);

9 “(ii) calls to the universal telephone num-
10 ber within the United States for the purpose of
11 the national suicide prevention and mental
12 health crisis hotline system under designated
13 under paragraph (4) of section 251(e) of the
14 Communications Act of 1934 (47 U.S.C.
15 251(e)), as added by the National Suicide Hot-
16 line Designation Act of 2020 (Public Law 116–
17 172; 134 Stat. 832);

18 “(iii) calls to the nationwide toll-free num-
19 ber for the poison control centers established
20 under section 1271 of the Public Health Service
21 Act (42 U.S.C. 300d–71);

22 “(iv) calls using telecommunications relay
23 services; or

24 “(v) any other communications or trans-
25 missions.

1 “(B) A certification that the specific model of
2 the cell-site simulator to be used has been inspected
3 by a third party that is an accredited testing labora-
4 tory recognized by the Federal Communications
5 Commission to verify the accuracy of the disclosure
6 under paragraph (1).

7 “(C) A disclosure of the methods and pre-
8 cautions that will be used to minimize disruption, in-
9 cluding—

10 “(i) any limit on the length of time the
11 cell-site simulator can be in continuous oper-
12 ation; and

13 “(ii) any user-defined limit on the trans-
14 mission range of the cell-site simulator.

15 “(D) A disclosure as to whether the cell-site
16 simulator will primarily be used at a gathering
17 where constitutionally protected activity, including
18 speech, will occur.

19 “(3) In considering an application for an order under
20 this section that authorizes the use of a cell-site simulator,
21 the court shall—

22 “(A) weigh the need of the Government to ob-
23 tain the information sought against the likelihood
24 and impact of any potential negative side effects dis-
25 closed by the Government under paragraph (2); and

1 “(B) not grant a request for an order that
2 would put public safety at risk or unreasonably in-
3 convenience the community.”; and

4 (4) in section 704(c)(1) (50 U.S.C.
5 1881c(e)(1))—

6 (A) in subparagraph (C), by striking
7 “and” at the end;

8 (B) in subparagraph (D), by striking the
9 period at the end and inserting “; and”; and

10 (C) by adding at the end the following:

11 “(E) if the applicant is seeking to use a
12 cell-site simulator (as defined in section 101),
13 the requirements that would apply for the use
14 of a cell-site simulator in the United States
15 under section 105(k) have been satisfied.”.

16 (c) CONFORMING AMENDMENT.—Section 3127 of
17 title 18, United States Code, is amended—

18 (1) in paragraph (3) by striking “but such term
19 does not include any” and inserting “except such
20 term does not include any cell-site simulator, as that
21 term is defined in section 3119, or”; and

22 (2) in paragraph (4) by striking “of any com-
23 munication” and inserting “of any communication,
24 except such term does not include any cell-site simu-
25 lator, as that term is defined in section 3119”.

1 (d) INSPECTOR GENERAL REPORTS.—

2 (1) DEFINITION.—In this subsection, the term
3 “covered Federal entity” means—

4 (A) a law enforcement agency of a depart-
5 ment or agency of the Federal Government; and

6 (B) an element of the intelligence commu-
7 nity (as defined in section 3 of the National Se-
8 curity Act of 1947 (50 U.S.C. 3003)).

9 (2) REPORTS.—The Inspector General of the
10 Department of Justice, the Inspector General of the
11 Department of Homeland Security, the Inspector
12 General of the Department of Defense, and the In-
13 spector General of the Intelligence Community shall
14 annually submit to Congress a joint report, and pub-
15 lish an unclassified version of the report on the
16 website of each such inspector general, on—

17 (A) the overall compliance of covered Fed-
18 eral entities with this Act and the amendments
19 made by this Act;

20 (B) the number of applications by covered
21 Federal entities for use of a cell-site simulator
22 that were applied for and the number that were
23 granted;

24 (C) the number of emergency uses of a
25 cell-site simulator under section 3119(d)(1)(B)

1 of title 18, United States Code, as added by
2 this Act;

3 (D) the number of such emergency uses
4 for which a court subsequently issued a warrant
5 authorizing the use and the number of such
6 emergency uses in which an application for a
7 warrant was denied;

8 (E) the number of devices that were tar-
9 geted with a cell-site simulator, which shall be
10 provided separately for targeting conducted
11 pursuant to a warrant or court order and tar-
12 geting conducted pursuant to an authority to
13 use a cell-site simulator without a warrant or
14 order;

15 (F) the number of devices that were not
16 the target of the use of a cell-site simulator
17 about which information was obtained with the
18 cell-site simulator, which shall—

19 (i) be provided separately for use con-
20 ducted pursuant to a warrant or court
21 order and use conducted pursuant to an
22 authority to use a cell-site simulator with-
23 out a warrant or order; and

24 (ii) include the number of such de-
25 vices about which the information was not

1 destroyed as a result of the minimization
2 requirements under section 3119(f) of title
3 18, United States Code, as added by this
4 section, which shall be provided separately
5 for use conducted pursuant to a warrant or
6 court order and use conducted pursuant to
7 an authority to use a cell-site simulator
8 without a warrant or order;

9 (G) which components of a law enforce-
10 ment agency of a department or agency of the
11 Federal Government are using cell-site simula-
12 tors and how many are available to that compo-
13 nent; and

14 (H) instances in which a law enforcement
15 agency of a department or agency of the Fed-
16 eral Government made cell-site simulators avail-
17 able to a State or unit of local government.

18 (3) FORM OF REPORTS.—Each report sub-
19 mitted under paragraph (2) shall be submitted in
20 unclassified form, but may include a classified
21 annex.

22 (e) FCC REGULATIONS.—

23 (1) IN GENERAL.—Not later than 180 days
24 after the date of enactment of this Act, the Federal
25 Communications Commission shall initiate any pro-

1 ceeding that may be necessary to promulgate or
2 modify regulations promulgated by the Federal Com-
3 munications Commission to implement this Act and
4 the amendments made by this Act.

5 (2) CONSTRUCTION.—Nothing in this Act or an
6 amendment made by this Act shall be construed to
7 expand or contract the authority of the Federal
8 Communications Commission.

9 (f) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as provided in para-
11 graph (2), subsections (a), (b), (c), and (d) of this
12 section, and the amendments made by such sub-
13 sections, shall apply on and after the date that is 2
14 years after the date of enactment of this Act.

15 (2) EXCEPTIONS.—

16 (A) DEFINITION.—In this paragraph, the
17 term “cell-site simulator” has the meaning
18 given that term in section 3119 of title 18,
19 United States Code, as added by subsection (a).

20 (B) EXTENSION FOR EXISTING CELL-SITE
21 SIMULATORS.—For any model of a cell-site sim-
22 ulator in use before the date of enactment of
23 this Act, including such use in a contraband
24 interdiction system at a correctional facility, if
25 the Attorney General certifies that additional

1 time is necessary to obtain independent tests of
2 the model of cell-site simulator, subsections (a),
3 (b), (c), and (d) of this section, and the amend-
4 ments made by such subsections, shall apply to
5 the use of the model of cell-site simulator on
6 and after the date that is 3 years after the date
7 of enactment of this Act.

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