

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.

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## 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

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## 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 sim-  
20 ulator 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

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

“(I) the date on which a law enforcement agency first begins to use the cell site simulator as authorized by the warrant, or extension thereof; or

“(II) the date that is 10 days after the warrant, or extension thereof, is issued.

“(B) EMERGENCY.—

“(i) IN GENERAL.—Subject to clause (ii), subsection (a)(1) shall not apply to the use of a cell-site simulator by a law enforcement agency of a governmental entity, or use of a cell-site simulator as part of assistance provided by a component of the Department of Defense or an Armed Force to such a law enforcement agency, if—

“(I) the governmental entity reasonably determines an emergency exists that—

“(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

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

“(A) a law enforcement agency of a governmental entity;

“(B) an element of the intelligence community; or

“(C) acting as an agent thereof.

“(4) PROTECTIVE SERVICES.—

“(A) IN GENERAL.—Subsection (a)(1) shall not apply to the use of a cell-site simulator in the performance of protective duties pursuant to section 3056 of this title, or as otherwise authorized by law.

“(B) PROHIBITION ON USE AS EVIDENCE.—No information acquired through the use of a cell-site simulator under the authority under subparagraph (A), and no evidence derived therefrom, may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof.

“(C) NO BAR TO OTHER AUTHORIZED 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(c)(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.

○