

SB0431/928873/1

BY: Judicial Proceedings Committee

AMENDMENTS TO SENATE BILL 431

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in lines 4 and 8, in each instance, strike “device”; strike beginning with “requiring” in line 5 down through the second “information;” in line 6; in line 10, strike “certain information” and substitute “cell site simulator use”; in line 11, strike “to be obtained”; strike beginning with “obtain” in line 23 down through “information” in line 24 and substitute “use a cell site simulator”; and strike beginning with “requiring” in line 24 down through “circumstances;” in line 26.

On pages 1 and 2, strike beginning with “requiring” in line 27 on page 1 down through “date;” in line 3 on page 2.

On page 2, in line 3, strike “certain terms” and substitute “a certain term”.

AMENDMENT NO. 2

On pages 2 and 3, strike beginning with “**(I)**” in line 15 on page 2 down through “**GRID**” in line 13 on page 3 and substitute ““**CELL SITE SIMULATOR**” MEANS A DEVICE THAT MIMICS A CELL TOWER AND CAPTURES IDENTIFYING INFORMATION OF ELECTRONIC DEVICES IN THE RANGE OF THE DEVICE”.

On page 4, in line 8, strike “**DEVICE**”; in line 9, strike “**ONLY**”; in line 14, strike “**OBTAINED**” and substitute “**SOUGHT**”; in line 15, strike “**DEVICE**”; in line 22, strike the brackets; and strike in their entirety lines 23 through 31, inclusive.

On page 5, in line 1, strike the brackets; in the same line, strike “**(IV)**”; in line 3, strike the brackets; strike beginning with the semicolon in line 5 down through “**DEVICES**” in line 11; in line 12, after “order” insert “**TO OBTAIN LOCATION**”.

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INFORMATION"; and strike beginning with "WITH" in line 13 down through "SECTION," in line 14.

On pages 5 and 6, strike in their entirety the lines beginning with line 25 on page 5 through line 28 on page 6, inclusive.

On page 6, in line 29, strike the brackets; in the same line, strike "(III)"; and in line 30, strike "INFORMATION OBTAINED BY THE CELL SITE SIMULATOR DEVICE OR THE".

On pages 6 and 7, strike beginning with "INFORMATION" in line 32 on page 6 down through "THE" in line 1 on page 7.

On page 7, in lines 2 and 5, strike the brackets; in line 2, strike "(IV)"; strike beginning with "INFORMATION" in line 2 down through the second "THE" in line 3; and in line 5, strike "(V)".

On pages 7 and 8, strike in their entirety the lines beginning with line 12 on page 7 through line 5 on page 8, inclusive, and substitute:

"(4) AN ORDER AUTHORIZING USE OF A CELL SITE SIMULATOR ISSUED UNDER THIS SECTION SHALL:

(i) NAME OR DESCRIBE WITH REASONABLE PARTICULARITY:

1. THE TYPE OF ELECTRONIC DEVICE ASSOCIATED WITH THE USE OF THE CELL SITE SIMULATOR;

2. THE USER OF THE ELECTRONIC DEVICE, IF KNOWN, OR THE IDENTIFYING NUMBER OF THE ELECTRONIC DEVICE;

3. THE OWNER, IF KNOWN AND IF THE OWNER IS A PERSON OR AN ENTITY OTHER THAN THE USER, OF THE ELECTRONIC DEVICE;

4. THE GROUNDS FOR USING THE CELL SITE SIMULATOR; AND

5. THE NAME OF THE APPLICANT ON WHOSE APPLICATION THE ORDER WAS ISSUED;

(II) AUTHORIZE THE EXECUTING LAW ENFORCEMENT OFFICER TO USE A CELL SITE SIMULATOR WITHOUT GIVING NOTICE TO THE OWNER OR USER OF THE ELECTRONIC DEVICE OR TO THE INDIVIDUAL ABOUT WHOM INFORMATION IS BEING SOUGHT FOR THE DURATION OF THE ORDER;

(III) SPECIFY THE PERIOD OF TIME FOR WHICH USE OF A CELL SITE SIMULATOR IS AUTHORIZED;

(IV) REQUIRE THAT ANY THIRD-PARTY OR NONTARGET DATA BE RETAINED FOR NO MORE THAN 10 DAYS, AND BE PERMANENTLY DESTROYED AFTER THE 10-DAY PERIOD;

(V) REQUIRE THAT NO CONTENT DATA BE OBTAINED;

(VI) RESTRICT THE INVESTIGATIVE USE OF ANY THIRD-PARTY OR NONTARGET DATA WITHOUT FURTHER COURT ORDER; AND

(VII) REQUIRE THAT A COPY OF THE APPLICATION AND ORDER BE PROVIDED IN DISCOVERY.”.

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On page 8, in lines 6 and 25, in each instance, strike the brackets; in line 6, strike “(D)”; strike beginning with “INFORMATION” in line 6 down through “DEVICE” in line 7 and substitute “A CELL SITE SIMULATOR MAY BE USED”; strike beginning with “INFORMATION” in line 11 down through “DEVICE” in line 12 and substitute “CELL SITE SIMULATOR USE SHALL BEGIN”; in line 19, after “to” insert “USE A CELL SITE SIMULATOR OR”; strike beginning with “INFORMATION” in line 19 down through “OR” in line 20; in line 25, strike “(E)”; strike beginning with “INFORMATION” in line 25 down through “OR” in line 26 and substitute an opening bracket; in line 26, after “information” insert “I COURT’S”; in line 28, before “from” insert an opening bracket; strike beginning with “INFORMATION” in line 28 down through “OR” in line 29; in line 29, after “sought” insert “I AT ISSUE”; and strike beginning with “INFORMATION” in line 33 down through “OR” in line 34 and substitute “A CELL SITE SIMULATOR WAS USED OR THAT”.

On page 9, in line 4, after “dates” insert “DURING WHICH THE CELL SITE SIMULATOR WAS USED OR”; strike beginning with “INFORMATION” in line 4 down through “OR” in line 5; in line 31, strike the brackets; and in the same line, strike “(F)”.

On pages 9 and 10, strike beginning with “INFORMATION” in line 31 on page 9 down through “OR” in line 2 on page 10 and substitute an opening bracket.

On page 10, in line 2, after “information” insert a closing bracket; in lines 8 and 14, in each instance, after “PROCEEDING” insert “EXCEPT IN ACCORDANCE WITH THE EXCLUSIONARY PRINCIPLES APPLICABLE FOR ILLEGALLY OBTAINED EVIDENCE UNDER STATE AND FEDERAL LAW”; in lines 15, 18, 19, and 32, in each instance, strike the brackets; in line 15, strike “(G) (1)”; in line 16, after “may” insert “USE A CELL SITE SIMULATOR OR”; strike beginning with “INFORMATION” in line 16 down through “OR” in line 17; in lines 18 and 19, strike “(I)” and “(II)”, respectively; strike in their entirety lines 21 through 31, inclusive; in line 32, strike “(H)”; and in line 33, strike “INFORMATION OBTAINED BY A CELL SITE SIMULATOR DEVICE OR”.

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On page 11, strike in their entirety lines 1 through 9, inclusive.