



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB2343

Introduced 1/28/2016, by Sen. Daniel Biss

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Citizen Privacy Protection Act. Provides that a law enforcement agency may not use a cell site simulator device, except to locate or track the location of a communications device or to identify a communications device. Except as provided in the Freedom From Location Surveillance Act, a court order based on probable cause that a person whose location information is sought has committed, is committing, or is about to commit a crime, is required for any permitted use of a cell site simulator device. Provides that an application for a court order to use a cell site simulator device, including an emergency application under the Freedom From Location Surveillance Act, must include a description of the nature and capabilities of the cell site simulator device to be used and the manner and method of its deployment, including whether the cell site simulator device will obtain data from non-target communications devices. Provides that an application for a court order to use a cell site simulator device, including an emergency application under the Freedom From Location Surveillance Act, must also include a description of the procedures that will be followed to protect the privacy of non-targets of the investigation, including the immediate deletion of data obtained from non-target communications devices. Provides that if the court finds by a preponderance of the evidence that a law enforcement agency used a cell site simulator to gather information in violation of the limits in the Act, then the information shall be presumed to be inadmissible in any judicial or administrative proceeding. Defines "cell site simulator device", "communications device", and "law enforcement agency".

LRB099 18271 SLF 42642 b

1 AN ACT concerning the use of cell site simulator devices.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Citizen Privacy Protection Act.

6 Section 5. Definitions. As used in this Act:

7 "Cell site simulator device" means a device that transmits  
8 or receives radio waves to or from a communications device that  
9 can be used to intercept, collect, access, transfer, or forward  
10 the data transmitted or received by the communications device,  
11 or stored on the communications device, including an  
12 international mobile subscriber identity (IMSI) catcher or  
13 other cell phone or telephone surveillance or eavesdropping  
14 device that mimics a cellular base station and transmits radio  
15 waves that cause cell phones or other communications devices in  
16 the area to transmit or receive radio waves, electronic data,  
17 location data, information used to calculate location,  
18 identifying information, communications content, or metadata,  
19 or otherwise obtains this information through passive means,  
20 such as through the use of a digital analyzer or other passive  
21 interception device. "Cell site simulator device" does not  
22 include any device used or installed by an electric utility  
23 solely to the extent the device is used by that utility to

1 measure electrical usage, to provide services to customers, or  
2 to operate the electric grid.

3 "Communications device" means any electronic device that  
4 transmits signs, signals, writings, images, sounds, or data in  
5 whole or in part by a wire, radio, electromagnetic,  
6 photoelectric, or photo-optical system.

7 "Law enforcement agency" means any agency of this State or  
8 a political subdivision of this State which is vested by law  
9 with the duty to maintain public order and to enforce criminal  
10 laws.

11 Section 10. Prohibited use of cell site simulator devices.  
12 A law enforcement agency may not use a cell site simulator  
13 device, except to locate or track the location of a  
14 communications device or to identify a communications device.  
15 Except as provided in Section 15 of the Freedom From Location  
16 Surveillance Act, a court order based on probable cause that a  
17 person whose location information is sought has committed, is  
18 committing, or is about to commit a crime, is required for any  
19 permitted use of a cell site simulator device.

20 Section 15. Applications for court orders. An application  
21 for a court order to use a cell site simulator device,  
22 including an emergency application under subparagraph (B) of  
23 paragraph (6) of Section 15 of the Freedom From Location  
24 Surveillance Act, must include a description of the nature and

1 capabilities of the cell site simulator device to be used and  
2 the manner and method of its deployment, including whether the  
3 cell site simulator device will obtain data from non-target  
4 communications devices. An application for a court order to use  
5 a cell site simulator device, including an emergency  
6 application under subparagraph (B) of paragraph (6) of Section  
7 15 of the Freedom From Location Surveillance Act, must also  
8 include a description of the procedures that will be followed  
9 to protect the privacy of non-targets of the investigation,  
10 including the immediate deletion of data obtained from  
11 non-target communications devices.

12 Section 20. Admissibility. If the court finds by a  
13 preponderance of the evidence that a law enforcement agency  
14 used a cell site simulator to gather information in violation  
15 of the limits in Sections 10 and 15 of this Act, then the  
16 information shall be presumed to be inadmissible in any  
17 judicial or administrative proceeding. The State may overcome  
18 this presumption by proving the applicability of a judicially  
19 recognized exception to the exclusionary rule of the Fourth  
20 Amendment to the U.S. Constitution or Article I, Section 6 of  
21 the Illinois Constitution to the information. Nothing in this  
22 Act shall be deemed to prevent a court from independently  
23 reviewing the admissibility of the information for compliance  
24 with the aforementioned provisions of the U.S. and Illinois  
25 Constitutions.