



Sen. Daniel Biss

Filed: 3/11/2016

09900SB2343sam001

LRB099 18271 SLF 46131 a

1 AMENDMENT TO SENATE BILL 2343

2 AMENDMENT NO. _____. Amend Senate Bill 2343 by replacing
3 everything after the enacting clause with the following:

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,

1 location data, information used to calculate location,
2 identifying information, communications content, or metadata,
3 or otherwise obtains this information through passive means,
4 such as through the use of a digital analyzer or other passive
5 interception device. "Cell site simulator device" does not
6 include any device used or installed by an electric utility
7 solely to the extent the device is used by that utility to
8 measure electrical usage, to provide services to customers, or
9 to operate the electric grid.

10 "Communications device" means any electronic device that
11 transmits signs, signals, writings, images, sounds, or data in
12 whole or in part by a wire, radio, electromagnetic,
13 photoelectric, or photo-optical system.

14 "Law enforcement agency" means any agency of this State or
15 a political subdivision of this State which is vested by law
16 with the duty to maintain public order and to enforce criminal
17 laws.

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

1 permitted use of a cell site simulator device.

2 Section 15. Application for court order.

3 (a) An application for a court order to use a cell site
4 simulator device, including an emergency application under
5 subparagraph (B) of paragraph (6) of Section 15 of the Freedom
6 From Location Surveillance Act, must include:

7 (1) a description of the nature and capabilities of the
8 cell site simulator device that will be used and the manner
9 and method of its deployment, including whether the cell
10 site simulator device will obtain data from non-target
11 communications devices; and

12 (2) a description of the procedures that will be
13 followed to protect the privacy of non-targets during the
14 investigation, including the deletion of data obtained
15 from non-target communications devices.

16 (b) If the cell site simulator device is used to locate or
17 track a known communications device, all non-target data must
18 be deleted as soon as reasonably practicable, but no later than
19 once every 24 hours.

20 (c) If the cell site simulator device is used to identify
21 an unknown communications device, all non-target data must be
22 deleted as soon as reasonably practicable, but no later than
23 within 72 hours of the time that the unknown communications
24 device is identified, absent a court order preserving the
25 non-target data and directing that it be filed under seal with

1 the court. The court may retain data obtained from a non-target
2 communications device under a court order showing good cause
3 for no longer than the period required under Supreme Court
4 Rules. The law enforcement agency is prohibited from accessing
5 data obtained from a non-target communications device for the
6 purpose of any investigation not authorized by the original
7 warrant.

8 (d) A court order issued under this Section may be sealed
9 upon a showing of need, but for no more than 180 days, with any
10 extensions to be granted upon a certification that an
11 investigation remains active or a showing of exceptional
12 circumstances.

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

1 Constitutions."