

HCS HB 403 -- WIRE COMMUNICATIONS

SPONSOR: Frederick

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Special Committee on Homeland Security by a vote of 11 to 2. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 10 to 3.

This bill provides similar prohibitions on the use of a cell site simulator device to obtain information from a communications device, such as a cell phone, tablet, or laptop. Current law prohibits the interception of oral and wire communications without prior authorization from a court. "Cell site simulator" is defined in the bill.

Currently, it is a class E felony to knowingly intercept a wire communication or oral communication. This bill adds to the crime the act of knowingly installing or using a cell site simulator device in violation of statute to obtain information from a communications device.

This bill allows a judge to issue a warrant for the use of a cell site simulator device. A law enforcement officer seeking such a warrant must submit an affidavit that specifies certain facts that are listed under this act. The warrant may only authorize the use of a cell site simulator device for a period of up to 30 days. Extensions may be granted by the court for an additional 30-day period. This bill allows the use of a cell site simulator device without a warrant when a communications device is reported stolen by the owner or possessor or in certain specified emergency situations.

This bill prohibits a law enforcement officer from using a cell site simulator device to assist an investigation conducted by a federal law enforcement agency or agency from another state without the consent of the owner or possessor of the monitored communications device or a warrant issued under this act.

This bill defines when and how the contents of any data, metadata, communication, or other information from a communications device obtained by the authorized use of a cell site simulator device may be disclosed or used.

This bill allows a motion to suppress unlawfully obtained information from a cell site simulator device and evidence derived therefrom.

Currently, courts and prosecuting attorneys must periodically

report certain information regarding orders for the interception of wire communications to the State Courts Administrator. This bill requires the courts and prosecuting attorneys to also report the same information regarding orders for the use of cell site simulator devices.

Current law also provides that intercepted wire communications and derivative evidence may not be evidence in civil or administrative proceedings except in civil actions based on allegations of unlawful interception or disclosure of wire communications.

This bill also provides that no part of information obtained from a cell site simulator device and derivative evidence may be received in evidence in a proceeding of a court, grand jury, department, officer, agency, regulatory body, legislative committee or other authority of the United States, a state, or political subdivision, if the disclosure of the information would violate the statutes governing the interception of wire communications and use of cell site simulator devices.

This bill is similar to HB 2214 (2016).

PROPONENTS: Supporters say that the bill requires use of these devices on the state level to comply with federal regulations.

Testifying for the bill were Representative Frederick and Ron Calzone.

OPPONENTS: There was no opposition voiced to the committee.