

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 383

(Senator Cassilly)

Judicial Proceedings

**Court Order to Use a Cell Site Simulator or Obtain Location Information From
an Electronic Device - Procedures**

This bill (1) specifies the ways in which an application for a court order authorizing or directing a law enforcement officer to use a cell site simulator or obtain location information from an electronic device (as authorized under existing statute) may be submitted to a judge; (2) specifies the ways in which an applicant for the court order and a judge may converse about the application; and (3) specifies the ways in which a judge may issue the court order.

Fiscal Summary

State Effect: The bill is procedural and does not materially affect State finances or operations.

Local Effect: The bill is procedural and does not materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Under current law, a “cell site simulator” is a device that mimics a cell tower and captures identifying information of electronic devices in the range of the device. Section 1-203.1 of the Criminal Procedure Article authorizes a court to issue an order authorizing or directing a law enforcement officer to use a cell site simulator or obtain location information from an electronic device if there is probable cause to believe that (1) a misdemeanor or felony has been, is being, or will be committed by the owner or

user of the electronic device or the individual about whom electronic location information is being sought and (2) the information sought by the cell site simulator or the location information being sought is evidence of, or will lead to evidence of, the misdemeanor or felony being investigated or will lead to the apprehension of an individual for whom an arrest warrant has previously been issued.

Pursuant to existing statute, an application from law enforcement for a court order must be in writing, be accompanied by an affidavit setting forth the basis of the probable cause, and meet specified content and procedural requirements.

The bill specifies that an application for a court order may be submitted to a judge in person, by secure fax, or by secure electronic mail. The submitted application must be accompanied by the affidavit described above and a proposed court order, as specified. The applicant and judge may converse about the application in person, via telephone, or via video.

Under the bill, a judge may issue a court order by signing the court order, indicating or writing the date and time of issuance of the order, and delivering the signed and dated court order, the application, and the affidavit to the applicant via in-person delivery, secure fax, or secure electronic mail, as specified.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 477 (Delegate Pippy) - Judiciary.

Information Source(s): Harford, Montgomery, and Wicomico counties; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of State Police; Department of Legislative Services

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an/jkb

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