

111TH CONGRESS
2^D SESSION

S. _____

To amend the Foreign Intelligence Surveillance Act of 1978 to specify the circumstances in which the Government may acquire geolocation information for foreign intelligence purposes and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to specify the circumstances in which the Government may acquire geolocation information for foreign intelligence purposes and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLES.**

4 This Act may be cited as the “Geolocational Privacy
5 and Surveillance Act” or the “GPS Act”.

1 **TITLE I—AMENDMENTS TO THE**
2 **FOREIGN INTELLIGENCE**
3 **SURVEILLANCE ACT OF 1978**

4 **SEC. 101. REFERENCE TO THE FOREIGN INTELLIGENCE**
5 **SURVEILLANCE ACT OF 1978.**

6 Except as otherwise expressly provided, whenever in
7 this title an amendment or repeal is expressed in terms
8 of an amendment to, or repeal of, a section or other provi-
9 sion, the reference shall be considered to be made to a
10 section or other provision of the Foreign Intelligence Sur-
11 veillance Act of 1978 (50 U.S.C. 1801 et seq.).

12 **SEC. 102. DEFINITIONS.**

13 (a) **GEOLOCATION INFORMATION.**—Section 101 (50
14 U.S.C. 1801) is amended by adding at the end the fol-
15 lowing:

16 “(q) **GEOLOCATION INFORMATION.**—The term
17 ‘geolocation information’ means, with respect to a
18 person, any information concerning the location of a
19 wireless communication device or tracking device (as
20 that term is defined section 3117 of title 18, United
21 States Code) that, in whole or in part, is generated
22 by or derived from the operation of that device and
23 that could be used to determine information regard-
24 ing the location of the person.

1 “(r) GEOLOCATION INFORMATION SERVICE.—

2 The term ‘geolocation information service’ means the
3 provision of a global positioning service or other
4 mapping, locational, or directional information serv-
5 ice to the public, or to such class of users as to be
6 effectively available to the public, by or through the
7 operation of any wireless communication device, in-
8 cluding any mobile telephone, global positioning sys-
9 tem receiving device, mobile computer, or other simi-
10 lar or successor device.

11 “(s) WIRELESS COMMUNICATION DEVICE.—

12 The term ‘wireless communication device’ means any
13 device that enables access to, or use of, an electronic
14 communication system or service, remote computing
15 service, or geolocation information service, if that de-
16 vice utilizes a radio or other wireless connection to
17 access such system or service.”.

18 (b) COLLECTION FOR GEOLOCATION INFORMATION
19 AS ELECTRONIC SURVEILLANCE.—Section 101(f) (50
20 U.S.C. 1801(f)) is amended—

21 (1) in paragraph (3), by striking “or” at the
22 end;

23 (2) in paragraph (4), by striking the period at
24 the end and inserting a semicolon and “or”; and

25 (3) by adding at the end the following:

1 “(5) the installation or use of an elec-
2 tronic, mechanical, or other surveillance device
3 to acquire geolocation information of a person
4 who is in the United States or of a United
5 States person.”.

6 (c) MINIMIZATION PROCEDURES.—Section 101(h)(4)
7 (50 U.S.C. 1801(h)(4)) is amended by inserting “or any
8 geolocation information of a United States person” after
9 “party”.

10 (d) AGGRIEVED PERSON.—Section 101(k) (50 U.S.C.
11 1801(k)) is amended by inserting “, geolocation informa-
12 tion,” after “communications”.

13 **SEC. 103. AUTHORIZATION FOR ELECTRONIC SURVEIL-**
14 **LANCE FOR FOREIGN INTELLIGENCE PUR-**
15 **POSES.**

16 (a) AUTHORIZATION WITHOUT COURT ORDER.—Sec-
17 tion 102(a)(1)(B) (50 U.S.C. 1802(a)(1)(B)) is amend-
18 ed—

19 (b) by inserting “(i)” after “(B)”; and

20 (c) by adding at the end the following:

21 “(ii) there is no substantial likelihood that the
22 surveillance will acquire geolocation information of a
23 United States person; and”.

24 (d) COLLECTION BY COMMERCIAL ENTITIES.—Sec-
25 tion 102(a)(4) (50 U.S.C. 1802(a)(4)) is amended—

1 (1) in the matter preceding subparagraph (A),
2 by inserting “or, if appropriate, a commercial entity
3 that collects, has access to, or stores geolocation in-
4 formation” after “carrier”;

5 (2) in subparagraph (A), by inserting “or enti-
6 ty” after “carrier”;

7 (3) in subparagraph (B), by inserting “or enti-
8 ty” after “carrier”; and

9 (4) in the undesignated paragraph following
10 subparagraph (B), by inserting “or entity” after
11 “carrier”.

12 **SEC. 104. STATEMENT OF EXCLUSIVE MEANS FOR COLLEC-**
13 **TION OF GEOLOCATION INFORMATION.**

14 Section 112 (50 U.S.C. 1812) is amended—

15 (1) in subsection (a)—

16 (A) by inserting “120,” after “119,”;

17 (B) by inserting “the Geolocational Privacy
18 and Surveillance Act,” after “Code,”;

19 (C) by striking “surveillance and” and in-
20 serting “surveillance,”; and

21 (D) by inserting “, and the acquisition of
22 geolocation information” after “communica-
23 tions”; and

24 (2) in subsection (b)—

1 (A) by striking “surveillance or” and in-
2 serting “surveillance,”;

3 (B) by inserting “or the acquisition of
4 geolocation information,” after “communica-
5 tions,”;

6 (C) by striking “Act or” and inserting
7 “Act,”;

8 (D) by inserting “120,” after “119,”; and

9 (E) by inserting “or in the Geolocational
10 Privacy and Surveillance Act,” after “Code,”.

11 **SEC. 105. PROHIBITION ON COLLECTION OR ACQUISITION**
12 **OF GEOLOCATION INFORMATION USING PEN**
13 **REGISTER OR TRAP AND TRACE DEVICES.**

14 (a) IN GENERAL.—At the end of title IV (50 U.S.C.
15 1841 et seq.) add the following:

16 **“SEC. 407. PROHIBITION ON COLLECTION OR ACQUISITION**
17 **OF GEOLOCATION INFORMATION.**

18 “The authority under this title does not include the
19 authority to collect or acquire geolocation information (as
20 that term is defined in section 101) of any person through
21 the installation or use of a pen register or trap and trace
22 device.”.

23 (b) TABLE OF CONTENTS AMENDMENT.—The table
24 of contents is amended by adding after the item relating
25 to section 406 the following:

“Sec. 407. Prohibition on collection or acquisition of geolocation information.”.

1 **SEC. 106. PROHIBITION ON COLLECTION OR ACQUISITION**
2 **OF GEOLOCATION INFORMATION AS BUSI-**
3 **NESS RECORDS.**

4 (a) IN GENERAL.—At the end of title V (50 U.S.C.
5 1861 et seq.) add the following:

6 **“SEC. 503. PROHIBITION ON COLLECTION OR ACQUISITION**
7 **OF GEOLOCATION INFORMATION.**

8 “The authority under this title does not include the
9 authority to collect or acquire geolocation information (as
10 that term is defined in section 101) of any person as part
11 of an order requiring the production of any tangible
12 things.”.

13 (b) TABLE OF CONTENTS AMENDMENT.—The table
14 of contents is amended by adding after the item relating
15 to section 502 the following:

“Sec. 503. Prohibition on collection or acquisition of geolocation information.”.

16 **SEC. 107. REPORTING REQUIREMENTS.**

17 Section 601(a)(1)(A) (50 U.S.C. 1871(a)(1)(A)) is
18 amended by striking “105;” and inserting “105, including
19 a breakdown of the number of persons targeted to acquire
20 geolocation information regarding the location of such per-
21 sons;”.

22 **SEC. 108. DEFINITIONS FOR PROCEDURES FOR TARGETING**
23 **PERSONS OUTSIDE THE UNITED STATES.**

24 Section 701 (50 U.S.C. 1881) is amended—

1 (1) in subsection (a), by inserting “‘geolocation
2 information’,” after “‘foreign power’,”; and

3 (2) in paragraph (4)—

4 (A) by redesignating subparagraph (E) as
5 subparagraph (F);

6 (B) in subparagraph (D), by striking “or”
7 at the end; and

8 (C) by inserting after subparagraph (D)
9 the following:

10 “(D) a commercial entity that collects or
11 has access to geolocation information either as
12 such information is transmitted or as such in-
13 formation is stored; or”; and

14 (D) in subparagraph (F), as redesignated
15 by subparagraph (A), by striking “or (D).” and
16 inserting “(D), or (E)”.

17 **SEC. 109. PROCEDURES FOR TARGETING CERTAIN PER-**
18 **SONS OUTSIDE THE UNITED STATES OTHER**
19 **THAN UNITED STATES PERSONS.**

20 Section 702 (50 U.S.C. 1881a) is amended—

21 (1) in subsection (a), by striking the period at
22 the end and inserting “, including through the tar-
23 geting of such person to acquire geolocation infor-
24 mation.”; and

1 **“CHAPTER 120—GEOLOCATION**
2 **INFORMATION**

“Sec.

“2601. Definitions.

“2602. Interception and disclosure of geolocation information.

“2603. Prohibition of use as evidence of intercepted geolocation information.

“2604. Emergency situation exception.

“2605. Recovery of civil damages authorized.

3 **“§ 2601. Definitions**

4 “In this chapter:

5 “(1) ELECTRONIC COMMUNICATION SERVICE.—

6 The term ‘electronic communication service’ has the
7 meaning given that term in section 2510.

8 “(2) ELECTRONIC SURVEILLANCE.—The term
9 ‘electronic surveillance’ has the meaning given that
10 term in section 101 of the Foreign Intelligence Sur-
11 veillance Act of 1978 (50 U.S.C. 1801).

12 “(3) GEOLOCATION INFORMATION;
13 GEOLOCATION INFORMATION SERVICE.—The terms
14 ‘geolocation information’ and ‘geolocation informa-
15 tion service’ have the meaning given those terms in
16 section 101 of the Foreign Intelligence Surveillance
17 Act of 1978 (50 U.S.C. 1801).

18 “(4) INTERCEPT.—The term ‘intercept’ means
19 the acquisition of geolocation information through
20 the use of any electronic, mechanical, or other de-
21 vice.

1 “(5) INVESTIGATIVE OR LAW ENFORCEMENT
2 OFFICER.—The term ‘investigative or law enforce-
3 ment officer’ means any officer of the United States
4 or of a State or political subdivision thereof, who is
5 empowered by law to conduct investigations of, or to
6 make arrests for, offenses enumerated in this chap-
7 ter, and any attorney authorized by law to prosecute
8 or participate in the prosecution of such offenses.

9 “(6) PERSON.—The term ‘person’ means any
10 employee or agent of the United States, or any State
11 or political subdivision thereof, and any individual,
12 partnership, association, joint stock company, trust,
13 or corporation.

14 “(7) STATE.—The term ‘State’ means any
15 State of the United States, the District of Columbia,
16 the Commonwealth of Puerto Rico, and any territory
17 or possession of the United States.

18 **“§ 2602. Interception and disclosure of geolocation in-**
19 **formation**

20 “(a) IN GENERAL.—

21 “(1) PROHIBITION ON DISCLOSURE OR USE.—
22 Except as otherwise specifically provided in this
23 chapter, it shall be unlawful for any person to—

24 “(A) intentionally intercept, endeavor to
25 intercept, or procure any other person to inter-

1 cept or endeavor to intercept, geolocation infor-
2 mation pertaining to another person;

3 “(B) intentionally disclose, or endeavor to
4 disclose, to any other person geolocation infor-
5 mation pertaining to another person, knowing
6 or having reason to know that the information
7 was obtained through the interception of such
8 information in violation of this paragraph;

9 “(C) intentionally use, or endeavor to use,
10 any geolocation information, knowing or having
11 reason to know that the information was ob-
12 tained through the interception of such infor-
13 mation in violation of this paragraph; or

14 “(D)(i) intentionally disclose, or endeavor
15 to disclose, to any other person the geolocation
16 information pertaining to another person inter-
17 cepted by means authorized by subsections (b)
18 through (i), except as provided in such sub-
19 sections;

20 “(ii) knowing or having reason to know
21 that the information was obtained through the
22 interception of such information in connection
23 with a criminal investigation;

1 “(iii) having obtained or received the infor-
2 mation in connection with a criminal investiga-
3 tion; and

4 “(iv) with intent to improperly obstruct,
5 impede, or interfere with a duly authorized
6 criminal investigation.

7 “(2) PENALTY.—Any person who violates para-
8 graph (1) shall be fined under this title, imprisoned
9 not more than five years, or both.

10 “(b) EXCEPTION FOR INFORMATION ACQUIRED IN
11 THE NORMAL COURSE OF BUSINESS.—It shall not be un-
12 lawful under this chapter for an officer, employee, or agent
13 of a provider of electronic communication service or of
14 geolocation information service, whose facilities are used
15 in the transmission of geolocation information, to inter-
16 cept, disclose, or use that information in the normal course
17 of the officer, employee, or agent’s employment while en-
18 gaged in any activity which is a necessary incident to the
19 rendition of service or to the protection of the rights or
20 property of the provider of that service, except that a pro-
21 vider of a geolocation information service to the public
22 shall not utilize service observing or random monitoring
23 except for mechanical or service quality control checks.

24 “(c) EXCEPTION FOR PROVISION OF FOREIGN IN-
25 TELLIGENCE SURVEILLANCE INFORMATION.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 law, a provider of electronic communication service
3 or of geolocation information service, an officer, em-
4 ployee, or agent of such provider, a landlord, a cus-
5 todian, or other person is authorized to provide in-
6 formation, facilities, or technical assistance to a per-
7 son authorized by law to intercept geolocation infor-
8 mation or to conduct electronic surveillance, if such
9 provider, officer, employee, agent, landlord, custo-
10 dian, or other specified person has been provided
11 with a court order pursuant to section 703 or 704
12 of the Foreign Intelligence Surveillance Act of 1978
13 (50 U.S.C. 1881b and 1881c) signed by the author-
14 izing judge or another court order directing such as-
15 sistance.

16 “(2) REQUIREMENTS FOR ORDER.—A court
17 order referred to in paragraph (1) shall set forth the
18 period of time during which the provision of the in-
19 formation, facilities, or technical assistance is au-
20 thorized and specifying the information, facilities, or
21 technical assistance required.

22 “(3) PROHIBITION ON DISCLOSURE.—

23 “(A) IN GENERAL.—No provider of a elec-
24 tronic communication service or of a geolocation
25 information service, officer, employee, or agent

1 thereof, or landlord, custodian, or other speci-
2 fied person shall disclose the existence of any
3 interception or surveillance or the device used
4 to accomplish the interception or surveillance
5 with respect to which the person has been fur-
6 nished an order under this subsection, except as
7 may otherwise be required by legal process and
8 then only after prior notification to the Attor-
9 ney General or to the principal prosecuting at-
10 torney of a State or any political subdivision of
11 a State, as may be appropriate.

12 “(B) LIMITATION ON LIABILITY.—No
13 cause of action shall lie in any court against
14 any provider of a electronic communication
15 service or of a geolocation information service,
16 its officers, employees, or agents, landlord, cus-
17 todian, or other specified person for providing
18 information, facilities, or assistance in accord-
19 ance with the terms of a court order or a statu-
20 tory authorization.

21 “(d) EXCEPTION FOR CONDUCTING FOREIGN INTEL-
22 LIGENCE SURVEILLANCE.—Notwithstanding any other
23 provision of this chapter, it shall not be unlawful for an
24 officer, employee, or agent of the United States in the nor-
25 mal course of the official duty of the officer, employee,

1 or agent to conduct electronic surveillance, as authorized
2 by the Foreign Intelligence Surveillance Act of 1978 (50
3 U.S.C. 1801 et seq.).

4 “(e) EXCEPTION FOR CONSENT.—It shall not be un-
5 lawful under this chapter for a person to intercept
6 geolocation information pertaining to another person if
7 such other person has given prior consent to such intercep-
8 tion unless such information is intercepted for the purpose
9 of committing any criminal or tortious act in violation of
10 the Constitution or laws of the United States or of any
11 State.

12 “(f) EXCEPTION FOR PUBLIC INFORMATION.—It
13 shall not be unlawful under this chapter for any person
14 to intercept or access geolocation information relating to
15 another person through any system that is configured so
16 that such information is readily accessible to the general
17 public.

18 “(g) EXCEPTION FOR EMERGENCY INFORMATION.—
19 It shall not be unlawful under this chapter for any inves-
20 tigative or law enforcement officer or other emergency re-
21 sponder to intercept or access geolocation information re-
22 lating to a person if such information is used—

23 “(1) to respond to a request made by such per-
24 son for assistance; or

1 such a court) or any United States court
2 of appeals that—

3 “(I) has jurisdiction over the of-
4 fense being investigated;

5 “(II) is in or for a district in
6 which the provider of a geolocation in-
7 formation service is located or in
8 which the geolocation information is
9 stored; or

10 “(III) is acting on a request for
11 foreign assistance pursuant to section
12 3512 of this title; or

13 “(ii) a court of general criminal juris-
14 diction of a State authorized by the law of
15 that State to issue search warrants.

16 “(B) GOVERNMENTAL ENTITY.—The term
17 ‘governmental entity’ means a department or
18 agency of the United States or any State or po-
19 litical subdivision thereof.

20 “(2) WARRANT.—A governmental entity may
21 require the disclosure by a provider of electronic
22 communication service or geolocation information
23 service of geolocation information only pursuant to
24 a warrant issued using the procedures described in
25 the Federal Rules of Criminal Procedure (or, in the

1 case of a State court, issued using State warrant
2 procedures) by a court of competent jurisdiction, or
3 as otherwise provided in this chapter or the Foreign
4 Intelligence Surveillance Act of 1978 (50 U.S.C.
5 1801 et seq.).

6 “(j) PROHIBITION ON DIVULGING GEOLOCATION IN-
7 FORMATION.—

8 “(1) IN GENERAL.—Except as provided in para-
9 graph (2), a person providing electronic communica-
10 tion service or geolocation information service shall
11 not intentionally divulge geolocation information per-
12 taining to another person.

13 “(2) EXCEPTIONS.—A person providing elec-
14 tronic communication service or geolocation service
15 may divulge geolocation information—

16 “(A) as otherwise authorized in subsections
17 (b) through (i);

18 “(B) with the lawful consent of such other
19 person;

20 “(C) to another person employed or au-
21 thorized, or whose facilities are used, to forward
22 such geolocation information to its destination;
23 or

24 “(D) which was inadvertently obtained by
25 the service provider and which appears to per-

1 tain to the commission of a crime, if such divul-
2 gence is made to a law enforcement agency.

3 **“§ 2603. Prohibition of use as evidence of intercepted**
4 **geolocation information**

5 “Whenever any geolocation information has been
6 intercepted, no part of such information and no evidence
7 derived therefrom may be received in evidence in any trial,
8 hearing, or other proceeding in or before any court, grand
9 jury, department, officer, agency, regulatory body, legisla-
10 tive committee, or other authority of the United States,
11 a State, or a political subdivision thereof if the disclosure
12 of that information would be in violation of this chapter.

13 **“§ 2604. Emergency situation exception**

14 “(a) EMERGENCY SITUATION EXCEPTION.—Not-
15 withstanding any other provision of this chapter, any in-
16 vestigative or law enforcement officer, specially designated
17 by the Attorney General, the Deputy Attorney General,
18 the Associate Attorney General, or by the principal pros-
19 ecuting attorney of any State or subdivision thereof acting
20 pursuant to a statute of that State, may intercept
21 geolocation information if—

22 “(1) such officer reasonably determines that an
23 emergency situation exists that—

24 “(A) involves—

1 “(i) immediate danger of death or se-
2 rious physical injury to any person;

3 “(ii) conspiratorial activities threat-
4 ening the national security interest; or

5 “(iii) conspiratorial activities char-
6 acteristic of organized crime; and

7 “(B) requires geolocation information be
8 intercepted before an order authorizing such
9 interception can, with due diligence, be ob-
10 tained;

11 “(2) there are grounds upon which an order
12 could be entered to authorize such interception; and

13 “(3) an application for an order approving such
14 interception is made within 48 hours after the inter-
15 ception has occurred or begins to occur.

16 “(b) FAILURE TO OBTAIN COURT ORDER.—

17 “(1) TERMINATION OF ACQUISITION.—In the
18 absence of an order, an interception of geolocation
19 information carried out under subsection (a) shall
20 immediately terminate when the information sought
21 is obtained or when the application for the order is
22 denied, whichever is earlier.

23 “(2) PROHIBITION ON USE AS EVIDENCE.—In
24 the event such application for approval is denied, or
25 in any other case where the interception is termi-

1 nated without an order having been issued, the
2 geolocation information shall be treated as having
3 been obtained in violation of this chapter and an in-
4 ventory shall be served on the person named in the
5 application.

6 **“§ 2605. Recovery of civil damages authorized**

7 “(a) IN GENERAL.—Any person whose geolocation
8 information is intercepted, disclosed, or intentionally used
9 in violation of this chapter may in a civil action recover
10 from the person, other than the United States, which en-
11 gaged in that violation such relief as may be appropriate.

12 “(b) RELIEF.—In an action under this section, ap-
13 propriate relief includes—

14 “(1) such preliminary and other equitable or
15 declaratory relief as may be appropriate;

16 “(2) damages under subsection (c) and punitive
17 damages in appropriate cases; and

18 “(3) a reasonable attorney’s fee and other liti-
19 gation costs reasonably incurred.

20 “(c) COMPUTATION OF DAMAGES.—The court may
21 assess as damages under this section whichever is the
22 greater of—

23 “(1) the sum of the actual damages suffered by
24 the plaintiff and any profits made by the violator as
25 a result of the violation; or

1 “(2) statutory damages of whichever is the
2 greater of \$100 a day for each day of violation or
3 \$10,000.

4 “(d) DEFENSE.—It is a complete defense against any
5 civil or criminal action brought against an individual for
6 conduct in violation of this chapter if such individual acted
7 in a good faith reliance on—

8 “(1) a court warrant or order, a grand jury
9 subpoena, a legislative authorization, or a statutory
10 authorization;

11 “(2) a request of an investigative or law en-
12 forcement officer under section 2604; or

13 “(3) a good-faith determination that an excep-
14 tion under section 2602 permitted the conduct com-
15 plained of.

16 “(e) LIMITATION.—A civil action under this section
17 may not be commenced later than two years after the date
18 upon which the claimant first has a reasonable oppor-
19 tunity to discover the violation.

20 “(f) ADMINISTRATIVE DISCIPLINE.—If a court or ap-
21 propriate department or agency determines that the
22 United States or any of its departments or agencies has
23 violated any provision of this chapter, and the court or
24 appropriate department or agency finds that the cir-
25 cumstances surrounding the violation raise serious ques-

1 tions about whether or not an officer or employee of the
 2 United States acted willfully or intentionally with respect
 3 to the violation, the department or agency shall, upon re-
 4 ceipt of a true and correct copy of the decision and find-
 5 ings of the court or appropriate department or agency
 6 promptly initiate a proceeding to determine whether dis-
 7 ciplinary action against the officer or employee is war-
 8 ranted. If the head of the department or agency involved
 9 determines that disciplinary action is not warranted, such
 10 head shall notify the Inspector General with jurisdiction
 11 over the department or agency concerned and shall provide
 12 the Inspector General with the reasons for such deter-
 13 mination.

14 “(g) IMPROPER DISCLOSURE IS VIOLATION.—Any
 15 willful disclosure or use by an investigative or law enforce-
 16 ment officer or governmental entity of information beyond
 17 the extent permitted by this chapter is a violation of this
 18 chapter for purposes of this section.”.

19 (b) CLERICAL AMENDMENT.—The table of chapters
 20 for part 1 of title 18, United States Code, is amended by
 21 inserting after the item relating to chapter 119 the fol-
 22 lowing:

“120. Geolocation information 2601”.

23 (c) CONFORMING AMENDMENT.—Section 3512 of
 24 title 18, United States Code, is amended—

25 (1) in paragraph (2)—

1 (A) by redesignating subparagraphs (B),
2 (C), and (D) as subparagraphs (C), (D), and
3 (E), respectively; and

4 (B) by inserting after subparagraph (A)
5 the following:

6 “(B) a warrant or order for geolocation in-
7 formation or records related thereto, as pro-
8 vided under section 2602 of this title;”.

9 **SEC. 202. REQUIREMENT FOR SEARCH WARRANTS TO AC-**
10 **QUIRE GEOLOCATION INFORMATION.**

11 Rule 41(a) of the Federal Rules of Criminal Proce-
12 dure is amended—

13 (1) in paragraph (2)(A), by striking the period
14 at the end and inserting a comma and “including
15 geolocation information.”; and

16 (2) by adding at the end the following:

17 “(F) ‘Geolocation information’ has the
18 meaning given that term in section 101 of the
19 Foreign Intelligence Surveillance Act of 1978
20 (50 U.S.C. 1801).”.

21 **SEC. 203. FRAUD AND RELATED ACTIVITY IN CONNECTION**
22 **WITH OBTAINING GEOLOCATION INFORMA-**
23 **TION.**

24 (a) **CRIMINAL VIOLATION.**—Section 1039(h) of title
25 18, United States Code, is amended—

1 (1) in paragraph (2)—

2 (A) in subparagraph (A), by striking
3 “and” at the end;

4 (B) in subparagraph (B), by striking the
5 period at the end and inserting a semicolon and
6 “and”; and

7 (C) by adding at the end the following new
8 subparagraph:

9 “(C) includes any geolocation information
10 service.”;

11 (2) by redesignating paragraph (4) as para-
12 graph (5); and

13 (3) by inserting after paragraph (3) the fol-
14 lowing:

15 “(4) GEOLOCATION INFORMATION SERVICE.—
16 The term ‘geolocation information service’ has the
17 meaning given that term in section 101 of the For-
18 eign Intelligence Surveillance Act of 1978 (50
19 U.S.C. 1801).”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) DEFINITION AMENDMENTS.—Section
22 1039(h)(1) of title 18, United States Code, is
23 amended—

24 (A) in the paragraph heading, by inserting
25 “OR GPS” after “PHONE”; and

1 (B) in the matter preceding subparagraph
2 (A), by inserting “or GPS” after “phone”.

3 (2) CONFORMING AMENDMENTS.—Section 1039
4 of title 18, United States Code, is amended—

5 (A) in the section heading by inserting “**or**
6 **GPS**” after “**phone**”;

7 (B) in subsection (a)—

8 (i) in the matter preceding paragraph
9 (1), by inserting “or GPS” after “phone”;
10 and

11 (ii) in paragraph (4), by inserting “or
12 GPS” after “phone”;

13 (C) in subsection (b)—

14 (i) in the subsection heading, by in-
15 serting “OR GPS” after “PHONE”;

16 (ii) in paragraph (1), by inserting “or
17 GPS” after “phone” both places that term
18 appears; and

19 (iii) in paragraph (2), by inserting “or
20 GPS” after “phone”; and

21 (D) in subsection (c)—

22 (i) in the subsection heading, by in-
23 serting “OR GPS” after “PHONE”;

1 (ii) in paragraph (1), by inserting “or
2 GPS” after “phone” both places that term
3 appears; and

4 (iii) in paragraph (2), by inserting “or
5 GPS” after “phone”.

6 (3) CHAPTER ANALYSIS.—The table of sections
7 for chapter 47 of title 18, United States Code, is
8 amended by striking the item relating to section
9 1039 and inserting the following:

“1039. Fraud and related activity in connection with obtaining confidential
phone or GPS records information of a covered entity.”.

10 (c) SENTENCING GUIDELINES.—

11 (1) REVIEW AND AMENDMENT.—Not later than
12 180 days after the date of enactment of this Act, the
13 United States Sentencing Commission, pursuant to
14 its authority under section 994 of title 28, United
15 States Code, and in accordance with this section,
16 shall review and, if appropriate, amend the Federal
17 sentencing guidelines and policy statements applica-
18 ble to persons convicted of any offense under section
19 1039 of title 18, United States Code, as amended by
20 this section.

21 (2) AUTHORIZATION.—The United States Sen-
22 tencing Commission may amend the Federal sen-
23 tencing guidelines in accordance with the procedures
24 set forth in section 21(a) of the Sentencing Act of

