

Calendar No. 166

111TH CONGRESS }
1st Session }

SENATE

{ REPORT
111-79

SAFE PRISONS COMMUNICATION ACT OF
2009

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 251



SEPTEMBER 24, 2009.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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SAFE PRISONS COMMUNICATION ACT OF 2009

SEPTEMBER 24, 2009.—Ordered to be printed

Mr. ROCKEFELLER, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 251]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 251) to allow certain entities that oversee correctional facilities to use wireless communications jamming systems, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 251, the Safe Prisons Communications Act of 2009, as reported, is to establish a process by which a supervisory authority of a correctional facility may petition the Federal Communications Commission (FCC) for permission to operate commercial wireless jamming equipment in order to prevent the use of contraband cell phones in a prison.

BACKGROUND AND NEEDS

In recent years, there has been an increase in the smuggling and use of contraband cell phones in prisons. For example, in Texas, the number of cell phones confiscated from prisoners has doubled over the past two years. In 2008, California prison officials confiscated about 2,800 cell phones statewide, which is approximately twice the number confiscated in 2007. As cell phones get smaller, smuggling and hiding phones has become easier.

Prison officials fear that inmates can use cell phones to help orchestrate prison-breaks, conduct illegal activity, and harass or intimidate former victims. According to the Council of State Governments Justice Center, escape attempts have been orchestrated in

at least two States through the use of contraband cell phones, and a witness to criminal activity in Maryland was killed in an assassination orchestrated by the suspect in the case. The suspect used a contraband cell phone to help carry out the crime. In comments filed with the FCC, the South Carolina Department of Corrections claimed that inmates are using wireless technology to circumvent prison security and aid the smuggling of contraband. In addition, smart phones with camera, texting, Internet, and email capabilities have increased the security risks associated with the devices. These devices can be used to transmit pictures from inside the prison and receive data to further illegal activity.

To deter contraband cell phones, States have begun to aggressively pursue smugglers and abettors of inmates and have sought increased penalties associated with such activities. For example, smuggling cell phones in Florida and New Jersey has been made a felony.

States also are stepping up efforts to detect contraband phones. Correctional officers use techniques, including metal detectors, pat downs, and x-rays, to search prison employees, visitors, and inmates. Numerous States such as Florida, Virginia, California, and New Jersey, have deployed cell phone sniffing dogs.

Correctional facilities also have explored the use of wireless detection devices. The technology enables correction officials to identify and locate cell phones operating in a prison as well as the associated wireless provider. Law enforcement also can intercept and monitor wireless conversations in order to identify and prosecute criminal activity.

In addition to detection and deterrence measures, some States, including Texas, South Carolina, Louisiana, and Maryland, have expressed an interest in exploring the use of wireless jamming equipment in prisons. The Communications Act of 1934 (the Communications Act), as amended, however, prohibits the sale, marketing and use of equipment designed to intentionally jam wireless communications. Section 333 of the Act provides that “[n]o person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government”.¹ The Communications Act further prohibits the manufacture, import, sale, marketing, or use of devices that are not consistent with this section.² The statute provides an exception for Federal government agencies³ but not for State agencies.

In 2005, the Enforcement Bureau, Office Engineering and Technology, and Wireless Telecommunications Bureau (WTB) issued a joint public notice to clarify the FCC’s ban on the marketing and use of cell phone jammers.⁴ The notice stated that the marketing, sale, or operation of jamming equipment is unlawful and people involved in such activities were subject to fines and possibly criminal prosecution.

On November 21, 2008, the South Carolina Department of Corrections held a demonstration of jamming equipment. Following the

¹ 47 U.S.C. 333.

² See 47 U.S.C. 302(b).

³ See 47 U.S.C. 302(c).

⁴ Public Notice, “Sale or Use of Transmitters Designed to Prevent, Jam or Interfere with Cell Phone Communications is Prohibited in the United States,” No. DA-05-1776, 20 FCC Rcd. 11134 (2005).

test, other States, including Texas, expressed an interest in conducting similar demonstrations. The WTB authorized a demonstration of wireless jamming technology by the District of Columbia Department of Corrections (DC DOC) on January 8, 2009. CTIA-The Wireless Association (CTIA) asked the Commission to stay and reconsider the order alleging that it violated Section 333 of the Communications Act. CTIA also filed a writ of mandamus with the U.S. Court of Appeals for the District of Columbia seeking a reversal or stay of the WTB order. In response, the DC DOC cancelled the demonstration.

Subsequent requests for authorization of wireless jamming tests have been filed with the FCC. The FCC has denied the requests, finding that such actions would violate Sections 302 and 333 of the Communications Act as well as the Commission's rules.

SUMMARY OF PROVISIONS

S. 251, the Safe Prisons Communications Act of 2009, would amend the Communication Act to authorize the FCC to allow certain entities in charge of correctional facilities to operate a wireless jamming system within such correctional facilities. Within 180 days of enactment, the FCC, with input from the National Telecommunications and Information Administration (NTIA) and at least one outside body with relevant expertise, must promulgate final regulations governing the procedures for petitioning for use of a wireless jamming system and for installing and operating such a system in a correctional facility. The FCC also would establish criteria for the approval of jamming systems and devices, and conduct field testing of devices as appropriate before adding a device to the list of approved jamming systems and devices. The FCC would complete the device approval rulemaking prior to considering any petition.

The bill would establish mechanisms for ensuring coordination between entities seeking authority to operate a jamming system and public safety agencies and wireless commercial providers both before and after an entity files a petition with the FCC. S. 251 would further require the FCC to suspend authority to operate a jamming system upon notice from a public safety agency or wireless commercial provider of interference supported by affidavit. In such an instance, the FCC would be required to investigate the notice and may reinstate, modify or terminate the authorization based on its findings. Correctional authorities may not operate a jamming system or device on an interim basis.

As part of the FCC's analysis as to whether jamming technologies may be approved, it is the intent of the Committee that the FCC consider other technologies capable of addressing the problem of contraband cell phones, which could achieve similar results to signal jamming technologies in preventing the operation of a contraband cell phone, and that would be reasonably comparable in cost and feasibility of deployment. In doing so, the Committee does not intend that the FCC impose new or additional regulatory requirements on such alternative technologies. It also is intended that, in setting up the jamming systems for actual use, petitioners coordinate to the maximum extent reasonably possible with the FCC, potentially impacted public safety entities, and potentially impacted commercial mobile service providers, and that the peti-

tioners continue to coordinate with the aforementioned entities on a periodic basis to ensure that the jamming devices are functioning properly and not causing unintended interference. Lastly, it is the intent of the Committee that in reviewing the potential use of jamming devices in urban areas as required in the bill, the FCC should pay particular attention to heavily populated urban areas and areas in which there are residences or businesses in close proximity to a particular correctional facility.

LEGISLATIVE HISTORY

On January 15, 2009, Ranking Member Kay Bailey Hutchison introduced S. 251, which was referred to the Committee. The bill is cosponsored by Senators DeMint, Vitter, Wicker, Thune, Cochran, Murkowski, Mikulski, Lieberman, Begich, Klobuchar, Feinstein, Cornyn, and Pryor. On July 15, 2009, the Committee held a hearing on contraband cell phones in correctional facilities, and the potential impacts of employing cell phone jamming technologies. The Committee heard testimony on threats to the public and difficulties that correctional facilities are facing as a result of contraband cell phones, and the potential for unintended public safety and commercial wireless communication disruptions associated with operating wireless jamming devices.

On August 5, 2009, the Committee met in open executive session to consider an amendment in the nature of a substitute offered by Senator Hutchison that made several substantive changes to the bill as introduced. The Committee adopted the Hutchison substitute amendment to the bill by voice vote and ordered the bill reported favorably with the amendment in the nature of a substitute.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 2, 2009.

Hon. JOHN D. ROCKEFELLER IV,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 251, the Safe Prisons Communications Act of 2009.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Leigh Angres and Susan Willie.

Sincerely,

DOUGLAS W. ELMENDORF, *Director.*

Enclosure.

S. 251—Safe Prisons Communications Act of 2009

Summary: S. 251 would amend the Communications Act of 1934 to authorize certain correctional facilities to operate technology

that would interfere with cell phone signals inside prison walls (such technology is known as a jamming system). The bill would require the Federal Communications Commission (FCC) to develop regulations to authorize the use of such systems as well as a list of devices that prisons could choose from if the agency granted authority to install a jamming system. Under the bill, the FCC would be authorized to revoke a prison's authority to operate such a system if public safety authorities or providers of wireless services in the area can prove that the system is interfering with their communications.

CBO estimates that implementing S. 251 would cost \$18 million over the 2010–2014 period, assuming appropriation of the necessary amounts. We estimate that enacting S. 251 would not affect direct spending or revenues.

S. 251 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Any costs to state or local governments would be incurred voluntarily.

Estimated cost to the federal government: The estimated budgetary impact of S. 251 is shown in the following table. The costs of this legislation fall within budget functions 376 (commerce and housing credit) and 750 (administration of justice).

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	0	0	6	7	8	21
Estimated Outlays	0	0	3	7	8	18

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2010 and that the necessary amounts will be appropriated for each year.

Federal Communications Commission

S. 251 would require the FCC to develop regulations to authorize prisons to install jamming systems within prison walls. The bill would require the FCC to notify both public safety agencies and commercial providers of cell phone service of a prison's intent to install the technology, and to keep those entities informed of progress at several points in the process. The FCC also would be required to develop criteria to certify the manufacture, sale, and interstate transport of jamming technology for use under this program. Correctional facilities that request authority to install the systems would be required to use equipment that has received FCC certification.

Based on information from the FCC, CBO estimates that implementing S. 251 would cost about \$10 million over the 2010–2014 period, assuming appropriation of the necessary amounts, to develop and enforce regulations for the program. Furthermore, under current law, the FCC is authorized to collect fees from the telecommunications industry to offset its regulatory program. Therefore, CBO estimates that the net budgetary impact of S. 251 on the FCC would be insignificant.

Federal Bureau of Prisons

Based on information provided by the Bureau of Prisons (BOP), CBO assumes that all of the 115 federal prisons would use the new authority to install jamming systems if permitted under the new FCC regulations. Information from manufacturers of those systems indicates that, on average, the one-time cost for the devices would be about \$150,000 per prison, plus an additional annual cost of \$15,000 a year for maintenance and repair once the device is installed. CBO assumes that jamming systems would be installed over a three-year period, beginning in 2012 after the FCC's regulations and field testing are complete.

In total, CBO estimates that the cost to purchase, set up, and service jamming systems at all federal prisons would be about \$18 million over the 2012–2014 period. Additional amounts would be required after 2014 for routine maintenance and repair.

Intergovernmental and private-sector impact: S. 251 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would allow states and those in charge of local prisons to apply to the FCC for authorization to install jamming systems. Any costs to state or local governments would be incurred voluntarily.

Estimate prepared by: Federal Costs: Leigh Angres (BOP), Susan Willie (FCC); Impact on State, Local, and Tribal Governments: Elizabeth Cove Delisle; Impact on the Private Sector: Marin Randall.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 251 would establish a procedure by which certain entities that oversee or manage correctional facilities could petition the FCC for permission to use wireless jamming equipment. The persons subject to the regulations the FCC implements under S. 251 are those entities seeking authorization to use jamming equipment, the manufacturers, retailers, and marketers of such equipment, and public safety agencies and commercial wireless providers near correctional facilities where jamming equipment is to be used.

ECONOMIC IMPACT

S. 251 would not have an adverse impact on the nation's economy.

PRIVACY

The reported bill would have no impact on the personal privacy of U.S. citizens.

PAPERWORK

The reported bill should not significantly increase paperwork requirements for individuals and businesses.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no congressionally directed spending items are contained in the bill, as reported.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide that the legislation may be cited as the "Safe Prisons Communications Act of 2009".

Section 2. Interference permitted within correctional facilities

Section 2 would add a new Section 333A to the Communications Act, under which the FCC may authorize the Director of the Federal Bureau of Prisons, the chief executive officer of a State or his or her designee, or a person in charge of a county or local correctional facility not under State authority to operate a wireless jamming system within a correctional facility.

The section would establish the following procedures for obtaining such authority. At least 30 days prior to filing a petition to operate a jamming system, the prospective petitioner must file notice with the FCC identifying the facility and containing such information as the FCC requires. The Commission then must provide written notice to public safety agencies and commercial wireless providers in the area of the facility. The prospective petitioner must consult with the agencies and providers, upon their request, to determine the types of equipment, facilities and frequencies used by such agencies and providers. The prospective petitioner, upon request, shall provide access to the outside of the correctional facility for the purpose of testing the potential interference and may solicit recommendations from such agencies and providers regarding the selection and operation of the jamming system. The FCC may delay the filing of a petition for an additional 15 days to facilitate such coordination.

After completing these requirements, a petition requesting authority to operate a jamming system may be filed with the FCC. Upon receipt, the FCC must notify public service agencies and wireless providers near the correctional facility, allow public comment, and act on the petition within 60 days of receipt of the petition. In considering whether to grant the petition, the Commission shall consider whether emergency and public safety and commercial wireless communication would experience interference, address any such potential interference, and consider whether the facility is located in an urban area. Authority granted pursuant to a petition shall be for a term of no more than five years, but may be renewed upon request. Post approval, public safety agencies and commercial providers, upon request, may coordinate with the petitioner on the installation and configuration of the jamming system and access the correctional facility to inspect the system prior to its commencing operation.

The section would further provide that the FCC may revoke an authorization for willful or repeated violations or for failure to observe the requirements or terms of the authorization or regulations promulgated by the Commission. In addition, the FCC shall suspend an authorization if a public safety agency or commercial wire-

less provider notifies the Commission that the jamming system is causing interference and provides an affidavit in support. Commercial wireless providers must support an affidavit with actual testing and measurements near the correctional facility. The FCC shall conduct and conclude an investigation within 90 days of receipt of a notice and may reinstate, modify or terminate the authorization based on its findings.

The section would also set forth restrictions on the use of jamming equipment, including prohibitions on the transfer of equipment, limits on the type, operation, and location of equipment, and controls over custody, inspection and destruction of equipment. The FCC must maintain an electronic database of all notices and petitions filed by supervisory authorities of correctional facilities, which it shall make available to public safety agencies and commercial wireless providers on request. Finally, the section defines a number of terms used in the bill.

Section 3. FCC rulemaking required

Section 3 would require the FCC to promulgate, within 180 days of enactment, final regulations governing the use of wireless jamming systems in correctional facilities. In the proceeding, the FCC must solicit and consider recommendations from the NTIA and one or more relevant expert entities. The FCC also must consider all available technologies capable of preventing the operation of unauthorized wireless communications devices in correctional facilities.

Section 4. Device certification criteria rulemaking

The section would require the FCC to adopt a final rule within 120 days of enactment establishing the criteria for the manufacture, sale, importation, and interstate shipment of jamming devices for use pursuant to Section 333A. The FCC shall consider whether such devices can effectively jam wireless communications in a correctional facility without causing harmful interference to public safety and commercial wireless communications. At a minimum, the regulations shall require devices to operate at the lowest technically feasible transmission power, be capable of directionalized operation, be marketed and sold only to authorized entities, be capable of being shut off from jamming public safety communications within a facility, and limited to approved frequencies.

The section would further require the FCC to seek public comment on whether to establish minimum training, certification, and eligibility requirements for technicians working on jamming systems and authorize the FCC to establish rules if appropriate. The FCC must conduct public field testing of proposed jamming devices to determine whether they will cause interference to public safety and commercial wireless communications. After issuing a final rule, the Commission must grant or deny an application for certification of a device within 120 days of receipt and maintain a list of all approved devices on its website.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted

is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934

TITLE III—SPECIAL PROVISIONS RELATING TO RADIO

PART I—GENERAL PROVISIONS

SEC. 333A. JAMMING UNAUTHORIZED WIRELESS DEVICES IN CORRECTIONAL FACILITIES.

(a) *IN GENERAL.*—Notwithstanding any other provision of this Act, after the Commission has promulgated final regulations under sections 3 and 4 of the Safe Prisons Communications Act of 2009, the Commission may authorize the supervisory authority of a correctional facility to operate a jamming system within the correctional facility to prevent, jam, or otherwise interfere with unauthorized wireless communications within the facility by individuals held in the facility. In order to obtain such authority, a supervisory authority shall file a notice of intent under subsection (b), file a petition for such authority under subsection (c), and comply with the requirements of this section and the regulations under this section.

(b) *NOTICE OF INTENT PROCEDURE.*—

(1) *FILING WITH THE COMMISSION.*—Not less than 30 days before filing a petition for authority to operate a jamming system under subsection (c), a correctional facility supervisory authority shall file with the Commission a notice of intent to seek such authority. The notice shall identify the correctional facility to which the authority will relate and be in such form, and contain such information, as the Commission may require.

(2) *NOTIFICATION OF PUBLIC SAFETY AGENCIES AND COMMERCIAL MOBILE SERVICE PROVIDERS.*—Within 10 days after receiving a notice under paragraph (1), the Commission shall—

(A) notify in writing each public safety agency and each commercial mobile service provider serving the area in which the correctional facility to which the notice of intent relates is located; and

(B) provide the name and address of each such agency and provider so notified by the Commission to the supervisory authority that filed the notice of intent.

(3) *CONSULTATION AND ACCESS.*—Before filing a petition for jamming authority under this section, a supervisory authority—

(A) shall consult with the public safety agencies and commercial mobile service providers identified by the Commission under paragraph (2)(B), if such consultation is requested, to determine—

(i) the types of equipment used by those agencies and providers in the area in which the correctional facility is located;

(ii) the locations of towers and facilities containing wireless transmission equipment belonging to those agencies and providers in that area, to the extent those agencies and providers voluntarily provide such information; and

(iii) the frequencies used by those agencies and providers in that area;

(B) shall provide access, upon request and in the discretion of the supervisory authority, by those agencies and providers to the outer perimeter of the correctional facility for the purpose of taking measurements and conducting testing to determine signal strength and the potential for interference with their transmissions or service; and

(C) may solicit recommendations from those agencies and providers on the selection, installation, and configuration of a jamming system and jamming devices.

(4) *EXTENSION OF CONSULTATION PERIOD.*—Upon good cause shown, the Commission may require a supervisory authority that has filed a notice of intent under this subsection to provide an additional period of up to 15 days for the activities described in paragraph (3) before submitting a petition for jamming authority to the Commission.

(c) *PETITION PROCEDURE.*—

(1) *IN GENERAL.*—After completing the consultation process provided under subsection (b)(3) (if such consultation was requested), a supervisory authority may file a petition with the Commission requesting authority to install and operate a jamming system within a correctional facility under the supervisory authority's jurisdiction.

(2) *FEE.*—The Commission may not charge a filing fee for a petition under this section.

(3) *NOTIFICATION OF PUBLIC SAFETY AGENCIES AND COMMERCIAL MOBILE SERVICE PROVIDERS.*—

(A) *PUBLIC SAFETY AGENCIES.*—Upon receipt of a petition under paragraph (1), the Commission shall provide a copy of the petition to each public safety agency serving the area that includes the correctional facility to which the petition applies.

(B) *CMS PROVIDERS.*—Upon receipt of a petition under paragraph (1), the Commission shall provide a copy of the petition to each commercial mobile service provider serving the area that includes the correctional facility to which the petition applies.

(C) *CONTENT OF NOTICE.*—The notice shall include a detailed description of the jamming system and a list of all jamming devices, including make and model, that the supervisory authority proposes to use at the correctional facility.

(4) *DISPOSITION OF PETITION.*—

(A) *In general.*—After the Commission has promulgated final regulations under sections 3 and 4 of the Safe Prisons Communications Act of 2009, the Commission shall act on a petition under this subsection within 60 days after the date on which the Commission receives a complete petition.

(B) *DETERMINATION CONSIDERATIONS.*—In determining whether to grant requested jamming authority, the Commission—

(i) shall consider, among other factors it deems appropriate, whether the proposed jamming system would interfere with emergency or public safety agency communications and the extent to which the proposed jamming system may cause harmful interference to com-

mercial mobile service communications outside the boundaries of the correctional facility;

(ii) shall consider whether the facility in question is located in an urban area (as defined by the Commission for purposes of this subsection); and

(iii) shall address the potential interference with public safety agency communications and commercial mobile service (as defined in section 332(d)(1)) in such area.

(C) *PUBLIC COMMENT.*—Before making a determination under this paragraph, the Commission shall allow interested parties to submit evidence for the record regarding the interference potential of the jamming system a supervisory authority proposes to use at the correctional facility.

(5) *POST-PETITION COORDINATION.*—

(A) *FCC NOTIFICATION.*—When the Commission approves a petition under this section, the Commission shall notify each public safety agency or commercial mobile service provider serving the area in which the correctional facility to which the petition relates is located.

(B) *COORDINATION REQUEST.*—When any such agency or provider is notified by the Commission under subparagraph (A), it shall immediately notify the supervisory authority of the correctional facility if it intends to participate in the coordination under subparagraph (C) or the examination under subparagraph (D)

(C) *INSTALLATION AND CONFIGURATION.*—During the 30-day period beginning on the date on which the Commission approves a petition, the correctional facility supervising authority that filed the petition shall, upon request, coordinate the installation and configuration of the jamming system authorized by the Commission with any public safety agency or commercial mobile service provider serving the area in which the correctional facility is located.

(D) *INSPECTION.*—Except as provided in subparagraph (E), before commencing the operation of a jamming system authorized by the Commission, the correctional facility supervisory authority that filed the petition shall, upon request, provide access to the correctional facility to any such public safety agency or commercial mobile service provider for the purpose of examining the installation or configuration of the jamming system and jamming devices.

(E) *COMMENCEMENT OF OPERATIONS.*—Unless otherwise directed by the Commission, a correctional facility supervisory authority authorized by the Commission to operate a jamming system may commence operation of the system 30 days after the date on which the Commission approves the petition filed by that authority.

(d) *TERMS OF AUTHORIZATION.*—

(1) *TERM.*—If the Commission grants a petition under this section, the authority granted pursuant to that petition shall be in effect for a term specified by the Commission of not more than 5 years, but shall be renewable by petition.

(2) *TERMINATION OR SUSPENSION OF AUTHORITY.*—

(A) *NOTICE FROM PROVIDER.*—The Commission shall immediately suspend authorization granted under this section with respect to a correctional facility upon receiving written notice from a commercial mobile service provider, supported by affidavit and such documentation as the Commission may require, stating that use of a jamming device by or at such correctional facility is interfering with commercial mobile service, or is otherwise preventing or jamming such communications (other than within the correctional facility).

(B) *BASIS FOR NOTICE.*—In establishing the requirements for the affidavit in subparagraph (A) and the necessary supporting documentation, the Commission shall require, at a minimum, that the commercial mobile service provider perform actual testing and measurements in the area near the correctional facility and submit the results to the Commission. Notice pursuant to subparagraph (A) may not be predicated exclusively on customer complaints or trouble reports unsupported by relevant technical analysis suggesting interference.

(C) *NOTICE FROM PUBLIC SAFETY LICENSEE.*—The Commission shall immediately suspend an authorization granted under this section with respect to a correctional facility upon receiving written notice from a public safety agency, supported by affidavit and such documentation as the Commission may require, stating that use of a device by or at such correctional facility is interfering with public safety agency communications systems or otherwise preventing or jamming communications on that system, and describing the nature of the interference.

(D) *DEADLINE FOR ACTION ON NOTICE.*—Within 90 days after receiving notice under subparagraph (A) or subparagraph (C), the Commission shall conclude an investigation to determine whether the jamming device authorized for use at the correctional facility is causing such interference and, based on its findings and conclusions, may issue an order reinstating, modifying, or terminating the authorization.

(E) *NONCOMPLIANT USAGE.*—If the Commission has reason to believe that a correctional facility for which an authorization has been granted under this section is not in compliance with the regulations under this section, the Commission shall immediately suspend the authorization until it can make a determination with respect to such compliance after notice and an opportunity for a hearing.

(3) *REVOCATION.*—The Commission may revoke an authorization under this section for willful or repeated violations, or failure to observe the requirements, of the terms of the authorization or the regulations promulgated by the Commission under this section.

(4) *INTERIM USAGE.*—If the Commission initiates a suspension or a revocation proceeding under this subsection, it shall prohibit use of an authorized jamming system or device at the correctional facility during the pendency of any such proceeding.

(e) *LIMITATIONS ON AUTHORIZATION.*—

(1) *TRANSFER PROHIBITED.*—A correctional facility supervisory authority authorized by the Commission to operate a jamming system may not transfer the ownership or right to use the jamming system or associated jamming devices to any third party for use inside or outside the area of the correctional facility for which the authorization was granted.

(2) *LOCATION; USE BY OTHER PARTIES.*—The Commission shall require any correctional facility supervisory authority to prevent the use of an authorized jamming system (including any jamming device used by the system)—

(A) in any location other than the correctional facility where use of the system is authorized; or

(B) by any entity other than the correctional facility where use of the jamming system is authorized.

(3) *LIMITATIONS ON USE.*—The Commission shall require that any correctional facility supervisory authority granted authority under this section to operate a jamming system—

(A) utilize only a jamming device—

(i) authorized by the Commission; and

(ii) specifically approved by the Commission for the purposes of this section;

(B) operate the jamming device at the lowest possible transmission power necessary to prevent, jam, or interfere with wireless communications by within the facility by individuals held in the facility;

(C) operate the device on a directionalized basis, and utilizing all other reasonable interference-limiting capabilities, in a manner that does not interfere with public safety agency communications or lawful commercial wireless communications that originate and terminate inside or outside the area of the correctional facility;

(D) operate the jamming device only in the frequencies necessary to prevent, jam, or interfere with wireless communications within the correctional facility;

(E) have a documented method of controlling custody of such devices and ensure that any jamming device operated pursuant to the authority is destroyed upon expiration of the authority, or at such time as a jamming device is removed from service for any other reason, including replacement by another device;

(F) have a documented method of inspecting the jamming system on a quarterly basis to ensure proper functioning, and a documented method to limit access to the system to personnel specifically designated by the correctional facility;

(G) install the jamming system in a secure area that is inaccessible to individuals held in the facility and connect the system to a permanent power supply with back-up power sources; and

(H) have a documented method of sealing or locking the jamming system so as to prevent tampering.

(4) *DESTRUCTION OF UNUSED OR EXPIRED JAMMING DEVICES; NOTIFICATION OF ADDITIONAL JAMMING DEVICE ACQUISITIONS.*—Any correctional facility supervisory authority authorized to operate a jamming system shall—

(A) destroy a jamming device within 60 days after the date on which such authorization expires unless a petition is pending for renewal of the authorization;

(B) destroy any such jamming device that is permanently removed from service;

(C) certify such destruction to the Commission; and

(D) notify the Commission upon the acquisition of any jamming device that replaces a destroyed device.

(f) DATABASE.—The Commission shall maintain an electronic database containing a copy of each notice of intent and each petition received by it under this section and the disposition thereof. The Commission shall update the database at least monthly and, to the extent consistent with public safety and welfare, shall make the contents of the database available upon request to a commercial mobile service provider or public safety agency.

(g) DEFINITIONS.—In this section:

(1) COMMERCIAL MOBILE SERVICE PROVIDER.—The term “commercial mobile service provider” means a person providing commercial mobile service (as defined in section 332(d)(1)).

(2) CORRECTIONAL FACILITY.—In this subsection, the term “correctional facility” means a jail, prison, penitentiary, or other correctional facility.

(3) JAMMING DEVICE.—The term “jamming device” means a radio signal generating device used as part of a jamming system designed to disrupt, prevent, interfere with, or jam wireless communications.

(4) JAMMING SYSTEM.—The term “jamming system” means a system of radio signal generating and processing equipment and antennas designed to disrupt, prevent, interfere with, or jam wireless communications within a correctional facility and includes the components and functionality of the system, such as antennas, cabling, and cable elements, the installation, interconnection, and operation of system elements, power levels, and radio frequencies carried on the cables or fed into antennas, the radiation pattern of such antennas, and the location and orientation of the antennas.

(5) PUBLIC SAFETY AGENCY.—The term “public safety agency” has the meaning given that term in section 3006(j)(1) of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note).

(6) SUPERVISORY AUTHORITY.—The term “supervisory authority” means the Director of the Federal Bureau of Prisons, the chief executive officer of a State (or his or her designee), or the person in charge of a county or local correctional facility not under the authority of the chief executive officer of a State.