

HAWAII
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ON THE
STATUS
OF
WOMEN



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March 17, 2015

To: Representative Dee Morikawa, Chair
Representative Bertrand Kobayashi, Vice Chair
Members of the House Committee on Human Services

From: Cathy Betts
Executive Director
Hawaii State Commission on the Status of Women

Re: Testimony in Support, SB 752, SD1, Relating to Domestic Violence

Thank you for this opportunity to testify in support of SB 752, SD1, which would allow victims of domestic violence to provide documentation of their status as a victim in order to be released from a shared cell phone contract. The Commission supports the intent of SB 752, SD1, but prefers the language of the original SB 752. The language of SD 1 is problematic for several reasons.

Being forced to share a continued mobile contract with an abuser makes it even more difficult for a victim to leave. Abusers will often manipulate their partners through cell phones in a number of ways: abusive and harassing text messages, racking up charges on cell phones, and stalking through cell phone location are just a few. These not only have safety implications for victims but also financial implications, potentially increasing a victim's financial dependence on an abuser. SD 1 provides that a victim can obtain a court order via HRS 586. This means that victims would have to file a petition for a restraining order in Family Court, wait for that restraining order to be served upon the abuser-respondent, attend a court hearing (that could potentially be continued for several reasons) and additionally request a separate court order to be released from a cell phone contract or to change the account holder.

Not all victims apply for restraining orders. The court system can trigger an unwanted child welfare investigation, it can be too costly to navigate, and it can be a scary process for a victim. Some victims feel that the abuse will escalate once a petition is filed. At any rate, predicated the release from contract on a successful court order is not realistic.

SB 752 provided that sufficient documentation could include: a written police report detailing the abuse, a protective order from the courts, or a signed affidavit from a licensed health care provider. This provides more options to a victim. SD1, if passed, would be incapable of effectuating the type of change first envisioned by the bill. The Commission respectfully urges this Committee to adopt the previous language found in SB 752 or to hold this bill. Thank you for this opportunity to provide testimony.



To: Chair Dee Morikawa
Vice Chair Bertrand Kobayashi
Members of the Committee
Fr: Nanci Kreidman, MA

RE: SB 752 SD 1 Comments

Thank you for your consideration of this Bill. The original intent for inspiring discussion about these contracts is the financial abuse and exploitation that many survivors experience. They are, too often, left with debt that isn't theirs, or made to cooperate with abusers who are incurring debt in their name.

A cell phone is a tool used by abusers to control (calls and texts are monitored) or exploit their partners. A survivor's access to a mobile phone is not a luxury. It can be an imperative tool to keeping her safe. Cell phones are used to call domestic violence shelters, legal services, helplines, and the police. They keep a survivor in touch with domestic violence advocates, attorneys, and social workers. Without a cell phone, a survivor of domestic violence is isolated from a network of services, organizations, and individuals who are able to help.

If the contract is in her name, and she escapes the relationship her partner may use the cell plan irresponsibly or as punishment; the fees and features may be selected or changed by him.

This Bill allows carriers the ability to make survivors responsible for bills/fees. What happens if the survivor is the main account holder in a shared plan? The abuser can easily be removed from the plan, but what happens to her? This version states that petitioners can be released from shared plans - does that apply even if they're the main account holder?

A DVAC client's experience illustrates how this can be problematic. She and her partner shared a cell phone family plan under her name and in just one month, he racked up over \$800 in charges; an unfathomable sum for a newly single mother. She tried to negotiate with her carrier and explained her predicament. She works, but she was also trying to survive on just one small income. The manager she spoke with was sympathetic, but told her nothing could be done about the charges and she'd have to pay an additional \$200 to terminate her contract. Defeated, she felt like there was no other choice but to go back to her abusive partner.

This testimony is provided to request consideration of the problems created by the current version of Senate Bill 752 SD 1, which can inadvertently become another barrier survivors must face. Requiring wireless communication providers to release survivors from their contracts, without a termination fee, can mean the difference between staying and leaving.

Thank you.



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Representative Dee Morikawa, Chair
Representative Bertrand Kobayashi, Vice Chair
Members, House Committee on Human Services

FROM: Scott Morishige, Executive Director, PHOCUSED

HEARING: **Tuesday, March 17, 2015 at 9:30 a.m. in Conf. Rm. 329**

Testimony in Support of SB752 SD1, Relating to Domestic Violence

Thank you for the opportunity to provide testimony **supporting the intent** of SB752 SD1, which would require telecommunications carriers to release victims of domestic violence from shared or family wireless plans upon written request. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including survivors of domestic violence.

Our membership includes organizations, such as Child & Family Service, Parents & Children Together, and Domestic Violence Action Center, which serve victims of domestic violence and their families. Through the work that they do, our members see firsthand that financial and contractual obligations associated with wireless phone plans are often a barrier that prevents a survivor from leaving an abusive relationship. Under the current system, the burden of financial responsibility for paying for phone service, or cancellation fees, often remains with the victim who – in many cases – has endured long standing economic abuse from their perpetrator.

While we support the intent of SB752 SD1, we have serious concerns about the language of this bill in its current form. Our concern regarding HD2 is that not all victims of domestic violence are willing to apply for, or are in fact awarded a court order of protection (TRO/PO) even when violence has occurred. We prefer the language in the original version of this bill or in HB538 (which passed out of this committee with minor amendments) that provides for other ways to verify a situation of domestic violence has occurred – specifically (1) A valid police report documenting an instance or series of instances of domestic violence; (2) Order for protection; or (3) Signed affidavit from a licensed medical or mental health care provider, employee of a court acting within their scope of employment, or a social worker.

While some wireless providers have adopted policies to allow victims to opt out of contracts, this practice is not consistent among all wireless plan providers. This legislation is needed to implement a uniform policy to ensure the safety of victims of domestic violence throughout our state. The original language in HB538 / SB752 would achieve this goal.

Once again, PHOCUSED supports the intent of SB752 SD1, but prefers the language in the original version of this bill. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at admin@phocused-hawaii.org.

March 16, 2015

The Honorable Dee Morikawa
Hawaii House of Representatives
Chair, Committee on Human Services
Hawaii State Capitol
Room 442
Honolulu, HI 96813

Dear Chair Morikawa:

On behalf of CTIA-The Wireless Association®, the trade association for the wireless communications industry, I write to respectfully request that the House Committee on Human Services amend Senate Bill 752 SD1 to include the following language:

“(d) A cause of action shall not lie against any wireless telecommunications service provider, its officer, employees, or agents for the actions taken that are related to the transfer of the billing authority and rights to the wireless telephone number or numbers in accordance with the terms of a court order issued pursuant to this section.”

By adding this language, SB752 SD1 would reflect its companion bill - House Bill 538 HD2 - which already includes this provision. This provision is important to ensure that wireless carriers adhering to the other provisions in SB752 SD1 are not held liable by a consumer for breaking a wireless contract.

Thank you for your consideration.

Sincerely,



Gerard Keegan
Senior Director
State Legislative Affairs

kobayashi2-Lynda

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 11:25 PM
To: HUS testimony
Cc: teresa.parsons@hawaii.edu
Subject: Submitted testimony for SB752 on Mar 17, 2015 09:30AM

SB752

Submitted on: 3/15/2015

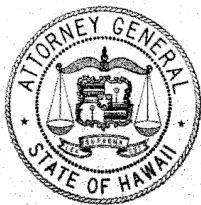
Testimony for HUS on Mar 17, 2015 09:30AM in Conference Room 329

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Support	No

Comments: I stand in strong support of this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

S.B. NO. 752, S.D. 1, RELATING TO DOMESTIC VIOLENCE.

BEFORE THE:

HOUSE COMMITTEE ON HUMAN SERVICES

LATE

DATE: Tuesday, March 17, 2015

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Rodney I. Kimura, Deputy Attorney General

Chair Morikawa and Members of the Committee:

The Attorney General submits comments on this measure.

The intent of this measure is to authorize the family court to assist victims of domestic abuse with respect to their wireless telecommunications service. Specifically, this measure authorizes the court: (i) to order the wireless telecommunications service provider to transfer the billing authority and rights to the wireless telephone number or numbers of a shared wireless plan to the domestic abuse victim; or (ii) to order the service provider to remove or release the domestic abuse victim from a shared wireless plan and assign a substitute number or numbers.

Our first comment concerns the victims entitled to the relief. The bill limits the proposed relief only to a "petitioner who is a victim of domestic abuse." Thus, the proposed relief will not be available to a minor, an incapacitated person, or a person physically unable to complete or file the petition if each of these persons is not the actual petitioner; note that section 568-3, Hawaii Revised Statutes, permits a state agency as well as a family or household member to file the petition on behalf of a minor, an incapacitated person, or a person who is physically unable to go to the appropriate place to complete or file the petition.

Attached for the consideration of the Committee is a proposed amendment to the bill to include relief where the petitioner is not the protected person.

The second comment concerns payment responsibilities. The bill does not address who is responsible for payment in the case of a transferred billing authority and associated rights, or the assignment of substitute number(s).

If the Committee amends the bill to allow relief to be extended to victims for whom the petition was filed by a state agency or a family member, the issue of payment responsibilities may be a critical considering that the protected party will be a minor, an incapacitated person, or a person who was physically unable to complete or file the petition.

The attached proposed amendment endeavors to address this comment by providing that if the petitioner is not the protected party named in the order for protection, the billing authority and rights to the wireless telephone number or numbers of a shared wireless plan may be transferred to or be another person as requested by or on behalf of the protected party to be the account holder.

The third comment is in the realm of housekeeping. The definition of “domestic abuse” on page 2, lines 13 to 14, should be deleted because the term is already defined in section 586-1.

Thank you for the opportunity to testify on this measure.

PROPOSED AMENDMENT

The new wording of the proposed amendment is underscored; a strike through is used to indicate the wording to be deleted.

"§586- Transfer or release of domestic abuse victims from shared wireless plans. (a)
The court may issue an order requiring a wireless telecommunications service provider to:

- (1) Transfer the billing authority and all rights to the wireless telephone number or numbers of a shared wireless plan to ~~the petitioner who is a victim of domestic abuse if the petitioner is not the account holder of the shared wireless plan~~ a petitioner who has been granted an order for protection pursuant to this chapter if the petitioner is not the account holder of the shared wireless plan; provided that if the petitioner is not the protected party named in the order for protection, the billing authority and rights to the wireless telephone number or numbers of a shared wireless plan may be transferred to another person as requested by or on behalf of the protected party to be the account holder; or
- (2) Remove or release the petitioner ~~who is a victim of domestic abuse from a shared wireless plan and assign a substitute telephone number or numbers~~ from a shared wireless plan and assign a substitute telephone number or numbers; provided that if the petitioner is not the protected party named in the order for protection, the court may order that the protected party be removed or released from a shared wireless plan, assigned a substitute telephone number or numbers, and that a person as requested by or on behalf of the protected party be the account holder for the substitute telephone number or numbers.

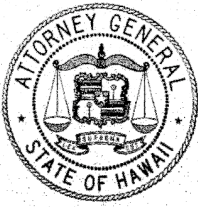
(b) The order issued pursuant to subsection (a) shall be a separate order that is directed to the wireless telecommunications service provider. The order shall list the name and billing telephone number of the account holder, name of the person to whom the telephone number or numbers will be transferred, and each telephone number to be transferred.

(c) For purposes of this section:

~~"Domestic abuse" shall have the same meaning as in section 586-1.~~

"Wireless telecommunications service" shall have the same meaning as commercial mobile radio service" as defined in title 47 Code of Federal Regulations section 20.3.

"Wireless telecommunications service provider" means a provider of wireless telecommunications service."



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:

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(b) The order issued pursuant to subsection (a) shall be a separate order that is directed to the wireless telecommunications service provider. The order shall list the name and billing telephone number of the account holder, name of the person to whom the telephone number or numbers will be transferred, and each telephone number to be transferred.

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