

**ACT 219**

H.B. NO. 538

A Bill for an Act Relating to Domestic Violence.

*Be It Enacted by the Legislature of the State of Hawaii:*

**SECTION 1.** The legislature finds that victims of domestic violence currently lack meaningful support and viable options when establishing a plan to leave an abuser. Independence of a wireless phone plan may often aid these victims in formulating and following through on a means of escape, especially in situations where the abuser is the account manager for the cell phone plan, and as a result, may view any calls and account activity of phones associated with the shared or family cell phone plan.

The legislature further finds that the major wireless telecommunications service providers currently permit cancellation or removal of phone numbers or phones from shared or family wireless service contracts, albeit with substantial fees attached. The substantial cancellation fees often amplify the hardship faced by the domestic violence victim because of the financial challenges those fees can pose.

The legislature recognizes that a variety of options should be afforded to victims of domestic violence when seeking to be released from a shared or family cellular phone plan. While seeking a protective order issued by the family court to be released from a shared wireless plan is a viable option, the legislature recognizes that some victims of domestic violence may not be willing or financially able to obtain a court order. Accordingly, another viable option for a victim of domestic violence is to submit an opt-out request to be released from a shared or family cellular phone plan, especially under limited time constraints.

The purpose of this Act is to assist victims of domestic violence by providing victims with options to be released from shared or family cellular phone plans. Specifically, this Act:

- (1) Requires all wireless telecommunications service providers to release, without charge, penalty, or fee, victims of documented domestic violence from shared wireless plans involving their abuser; provided that the victims submit an opt-out request in writing and documentary evidence of domestic violence; and
- (2) Authorizes the family court to issue an order requiring wireless telecommunications service providers, without charge, penalty, or fee, to:
  - (A) Transfer billing authority and all rights to the wireless numbers of a shared wireless plan to a petitioner who has been granted an order of protection pursuant to chapter 586, Hawaii Revised Statutes, if the petitioner is not the account holder; or
  - (B) Remove or release a petitioner from a shared wireless plan and assign a substitute telephone number or numbers.

SECTION 2. Chapter 269, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§269- Release of domestic violence victims from shared wireless plans.** (a) All wireless telecommunications service providers shall release, without charge, penalty, or fee, any victim of domestic violence from a shared or family wireless service contract involving the victim’s abuser; provided that the victim submits an opt-out request in writing and with evidence of domestic violence as documented by any of the following items:

- (1) Valid police report documenting an instance or series of instances of domestic violence;
- (2) Order for protection granted pursuant to chapter 586; or
- (3) Signed affidavit from a licensed medical or mental health care provider, employee of a court acting within the scope of their employment, or social worker.

(b) Any victim of domestic violence who submits an opt-out request to a wireless telecommunications service provider pursuant to subsection (a) may further request a substitute or new phone number or alternative telecommunications service. Upon such request, the wireless telecommunications service provider shall provide a substitute or new phone number or alternative telecommunications service without charge, penalty, or fee and within twenty-four hours from the time the opt-out request is submitted to the wireless telecommunications service provider.

(c) For purposes of this section:

“Domestic violence” shall have the same meaning as in section 321-471.

“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.”

SECTION 3. Chapter 586, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§586- Transfer or release of domestic violence victims from shared wireless plans.** (a) The court may issue an order requiring a wireless telecommunications service provider, without charge, penalty, or fee, to:

- (1) Transfer the billing authority and all rights to the wireless telephone number or numbers of a shared wireless plan to 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 who shall serve as the account holder, as requested by or on behalf of the protected party with the protected party’s approval; or
- (2) Remove or release the petitioner 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 and assigned a substitute telephone number or numbers and order a person, as requested by or on behalf of the protected party with the protected party’s approval, to 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, the name of the person to whom the telephone number or numbers will be transferred, and each telephone number to be transferred.

(c) A cause of action shall not lie against any wireless telecommunications service provider, its officers, 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.

(d) For purposes of this section:

“Domestic violence” shall have the same meaning as in section 321-471.

“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.”

SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. New statutory material is underscored.<sup>1</sup>

SECTION 6. This Act shall take effect upon its approval.

(Approved July 9, 2015.)

**Note**

1. Edited pursuant to HRS §23G-16.5.