

SB060_L.004

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Judiciary.

SB18-060 be amended as follows:

1 Amend printed bill, page 2, strike lines 3 and 4 and substitute "(3)
2 introductory portion, (3)(d), and (3)(e); and **add** (3)(f) and (10) as
3 follows:".

4 Page 3, strike lines 5 through 27 and substitute "HELD BY AN ALLEGED
5 VICTIM OR WITNESS; AND

6 (f) ANY OTHER ORDER THE COURT DEEMS APPROPRIATE TO
7 PROTECT THE SAFETY OF THE ALLEGED VICTIM OR WITNESS.".

8 Strike page 4.

9 Page 5, strike lines 1 through 5.

10 Page 5, strike lines 9 through 18 and substitute:

11 "SECTION 2. In Colorado Revised Statutes, **add** 18-1-1001.5 as
12 follows:

13 **18-1-1001.5 Protection order against defendant - transfer of**
14 **wireless telephone service in domestic violence cases - definitions.**

15 (1) IN ADDITION TO THE OPTIONS DESCRIBED IN SECTION 18-1-1001 (3),
16 UPON A DISCRETIONARY MOTION OF THE DISTRICT ATTORNEY OR ON THE
17 COURT'S OWN MOTION FOR THE PROTECTION OF AN ALLEGED VICTIM OR
18 WITNESS IN A CASE INVOLVING DOMESTIC VIOLENCE, AS DEFINED IN
19 SECTION 18-6-800.3 (1), AND CASES INVOLVING CRIMES LISTED IN SECTION
20 24-4.1-302 (1), EXCEPT THOSE LISTED IN SUBSECTIONS (1)(cc.5) AND
21 (1)(cc.6) OF THAT SECTION, THE COURT MAY ENTER AN ORDER DIRECTING
22 A WIRELESS TELEPHONE SERVICE PROVIDER TO TRANSFER THE FINANCIAL
23 RESPONSIBILITY FOR AND RIGHTS TO A WIRELESS TELEPHONE NUMBER OR
24 NUMBERS TO THE ALLEGED VICTIM OR WITNESS IF THE ALLEGED VICTIM OR
25 WITNESS:

26 (a) IS NOT THE ACCOUNT HOLDER; AND

27 (b) PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT THE
28 ALLEGED VICTIM OR WITNESS AND ANY MINOR CHILDREN IN HIS OR HER
29 CARE ARE THE PRIMARY USERS OF EACH WIRELESS TELEPHONE NUMBER
30 THAT WILL BE ORDERED TO BE TRANSFERRED BY A COURT PURSUANT TO
31 THIS SECTION.

32 (2) (a) AN ORDER TRANSFERRING THE FINANCIAL RESPONSIBILITY
33 FOR AND RIGHTS TO A WIRELESS TELEPHONE NUMBER OR NUMBERS TO AN
34 ALLEGED VICTIM OR WITNESS PURSUANT TO THIS SECTION MUST BE A
35 SEPARATE WRITTEN ORDER THAT IS DIRECTED TO THE WIRELESS
36 TELEPHONE SERVICE PROVIDER.

1 (b) THE ORDER MUST LIST THE NAME AND BILLING TELEPHONE
2 NUMBER OF THE ACCOUNT HOLDER, THE NAME AND CONTACT
3 INFORMATION OF THE ALLEGED VICTIM OR WITNESS TO WHOM THE
4 TELEPHONE NUMBER OR NUMBERS WILL BE TRANSFERRED, AND EACH
5 TELEPHONE NUMBER TO BE TRANSFERRED TO THE ALLEGED VICTIM OR
6 WITNESS.

7 (c) THE COURT SHALL ENSURE THAT THE ALLEGED VICTIM'S OR
8 WITNESS'S CONTACT INFORMATION IS NOT PROVIDED TO THE ACCOUNT
9 HOLDER IN PROCEEDINGS HELD PURSUANT TO THIS SECTION.

10 (d) THE ORDER MUST BE SENT OR DELIVERED TO THE WIRELESS
11 TELEPHONE SERVICE PROVIDER'S REGISTERED AGENT.

12 (e) A WIRELESS TELEPHONE SERVICE PROVIDER SHALL TERMINATE
13 THE ACCOUNT HOLDER'S USE OF A TELEPHONE NUMBER THAT THE COURT
14 HAS ORDERED TO BE TRANSFERRED TO THE ALLEGED VICTIM OR WITNESS
15 PURSUANT TO THIS SECTION UNLESS THE WIRELESS TELEPHONE SERVICE
16 PROVIDER NOTIFIES THE ALLEGED VICTIM OR WITNESS AND THE COURT
17 WITHIN FIVE BUSINESS DAYS AFTER THE ISSUANCE OF SUCH ORDER EITHER
18 THAT AN ACCOUNT HOLDER NAMED IN THE ORDER HAS TERMINATED THE
19 ACCOUNT OR THAT THE REQUESTED TRANSFER CANNOT BE EFFECTUATED
20 DUE TO DIFFERENCES IN NETWORK TECHNOLOGY THAT PREVENT
21 FUNCTIONALITY OF A DEVICE ON THE NETWORK OR DUE TO GEOGRAPHIC
22 LIMITATIONS ON NETWORK OR SERVICE AVAILABILITY.

23 (3) A TRANSFER ORDERED PURSUANT TO THIS SECTION DOES NOT
24 PRECLUDE A WIRELESS TELEPHONE SERVICE PROVIDER FROM APPLYING
25 ANY ROUTINE AND CUSTOMARY REQUIREMENTS FOR ACCOUNT
26 ESTABLISHMENT TO THE ALLEGED VICTIM OR WITNESS AS PART OF THE
27 TRANSFER OF FINANCIAL RESPONSIBILITY FOR A WIRELESS TELEPHONE
28 NUMBER OR NUMBERS AND ANY DEVICES ATTACHED TO THE NUMBER OR
29 NUMBERS, INCLUDING, WITHOUT LIMITATION, IDENTIFICATION, FINANCIAL
30 INFORMATION, AND CUSTOMER PREFERENCES.

31 (4) A WIRELESS TELEPHONE SERVICE PROVIDER IS IMMUNE FROM
32 CIVIL LIABILITY FOR COMPLYING WITH AN ORDER TO TRANSFER A
33 TELEPHONE NUMBER PURSUANT TO THIS SECTION.

34 (5) THE ISSUANCE OF A PROTECTION ORDER PURSUANT TO THIS
35 SECTION DOES NOT PRECLUDE A COURT FROM ISSUING A PROTECTIVE
36 ORDER IN A CIVIL PROCEEDING.

37 (6) FOR PURPOSES OF THIS SECTION:

38 (a) "ACCOUNT HOLDER" MEANS A DEFENDANT WHO:

39 (I) IS CHARGED WITH AN OFFENSE, THE UNDERLYING BASIS OF
40 WHICH INCLUDES AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION
41 18-6-800.3 (1), OR A CRIME LISTED IN SECTION 24-4.1-302 (1), EXCEPT FOR
42 THOSE CRIMES LISTED IN SUBSECTIONS (1)(cc.5) AND (1)(cc.6) OF THAT
43 SECTION; AND

44 (II) MAINTAINS AN ACCOUNT WITH A WIRELESS TELEPHONE
45 SERVICE PROVIDER.

1 (b) "FINANCIAL RESPONSIBILITY" MEANS AN OBLIGATION TO PAY
2 SERVICE FEES AND OTHER COSTS AND CHARGES ASSOCIATED WITH ANY
3 TELEPHONE NUMBER.

4 (c) "WIRELESS TELEPHONE SERVICE PROVIDER" MEANS A PERSON
5 OR ENTITY THAT PROVIDES OR RESELLS COMMERCIAL MOBILE SERVICE, AS
6 DEFINED IN SECTION 47 U.S.C. SEC. 332 (d)(1).

7 **SECTION 3.** In Colorado Revised Statutes, 13-14-104.5, **amend**
8 (7)(a) as follows:

9 **13-14-104.5. Procedure for temporary civil protection order.**

10 (7) (a) A temporary civil protection order may be issued if the issuing
11 judge or magistrate finds that an imminent danger exists to the person or
12 persons seeking protection under the civil protection order. In
13 determining whether an imminent danger exists to the life or health of one
14 or more persons, the court shall consider all relevant evidence concerning
15 the safety and protection of the persons seeking the protection order. The
16 court shall not deny a petitioner the relief requested because of the length
17 of time between an act of abuse or threat of harm and the filing of the
18 petition for a protection order. THE COURT SHALL NOT DENY A PETITIONER
19 THE RELIEF REQUESTED BECAUSE A CRIMINAL CASE IS PENDING AND A
20 PROTECTION ORDER HAS BEEN ISSUED PURSUANT TO SECTION 18-1-1001
21 OR 18-1-1001.5.

22 **SECTION 4.** In Colorado Revised Statutes, 13-14-106, **amend**
23 (1)(a) as follows:

24 **13-14-106. Procedure for permanent civil protection orders.**

25 (1) (a) On the return date of the citation, or on the day to which the
26 hearing has been continued, the judge or magistrate shall examine the
27 record and the evidence. If upon such examination the judge or magistrate
28 finds by a preponderance of the evidence that the respondent has
29 committed acts constituting grounds for issuance of a civil protection
30 order and that unless restrained will continue to commit such acts or acts
31 designed to intimidate or retaliate against the protected person, the judge
32 or magistrate shall order the temporary civil protection order to be made
33 permanent or enter a permanent civil protection order with provisions
34 different from the temporary civil protection order. A finding of imminent
35 danger to the protected person is not a necessary prerequisite to the
36 issuance of a permanent civil protection order. THE COURT SHALL NOT
37 DENY A PETITIONER THE RELIEF REQUESTED BECAUSE A CRIMINAL CASE IS
38 PENDING AND A PROTECTION ORDER HAS BEEN ISSUED PURSUANT TO
39 SECTION 18-1-1001 OR 18-1-1001.5. The judge or magistrate shall inform
40 the respondent that a violation of the civil protection order constitutes a
41 criminal offense pursuant to section 18-6-803.5 C.R.S.; or constitutes
42 contempt of court and subjects the respondent to such punishment as may
43 be provided by law. If the respondent fails to appear before the court for
44 the show cause hearing at the time and on the date identified in the
45 citation issued by the court and the court finds that the respondent was

1 properly served with the temporary protection order and such citation, it
2 is not necessary to re-serve the respondent to make the protection order
3 permanent. However, if the court modifies the protection order on the
4 motion of the protected party, the modified protection order must be
5 served upon the respondent.

6 **SECTION 5. Act subject to petition - effective date -**
7 **applicability.** (1) This act takes effect November 1, 2018; except that,
8 if a referendum petition is filed pursuant to section 1 (3) of article V of
9 the state constitution against this act or an item, section, or part of this act
10 within the ninety-day period after final adjournment of the general
11 assembly, then the act, item, section, or part will not take effect unless
12 approved by the people at the general election to be held in November
13 2018 and, in such case, will take effect on the date of the official
14 declaration of the vote thereon by the governor."

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