

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 18-0535.01 Richard Sweetman x4333

SENATE BILL 18-060

SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

Hamner,

Senate Committees
Judiciary

House Committees

A BILL FOR AN ACT

101 CONCERNING PROTECTIVE ORDERS IN CRIMINAL CASES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law provides that in cases involving domestic violence and in cases involving certain other crimes, a court may enter any of several types of protection orders against the defendant. The bill adds 2 new potential protection orders to the list of options available to the court. They are:

- ! An order prohibiting the taking, transferring, concealing, harming, disposing of, or threatening to harm an animal owned, possessed, leased, kept, or held by the alleged

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

victim or witness; and

- ! An order directing a wireless telephone service provider to transfer the financial responsibility for and rights to a wireless telephone number or numbers to the petitioner if the petitioner satisfies certain criteria.

The bill also clarifies that the issuance of a protection order in a case involving domestic violence or any of certain crimes does not preclude a court from issuing a protective order in a civil proceeding.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-1001, **amend**
3 (3) introductory portion, (3)(d), and (3)(e); and **add** (3)(f), (3)(g), (8)(a.3),
4 (8)(c), and (10) as follows:

5 **18-1-1001. Protection order against defendant - definitions.**

6 (3) Nothing in this section ~~shall preclude~~ PRECLUDES the defendant from
7 applying to the court at any time for modification or dismissal of the
8 protection order issued pursuant to this section or the district attorney
9 from applying to the court at any time for further orders, additional
10 provisions under the protection order, or modification or dismissal of the
11 same. The trial court ~~shall retain~~ RETAINS jurisdiction to enforce, modify,
12 or dismiss the protection order until final disposition of the action. Upon
13 motion of the district attorney or on the court's own motion for the
14 protection of the alleged victim or witness, the court may, in cases
15 involving domestic violence as defined in section 18-6-800.3 (1) and
16 cases involving crimes listed in section 24-4.1-302, ~~C.R.S.~~, except those
17 listed in ~~paragraphs (cc.5) and (cc.6) of subsection (1)~~ SUBSECTIONS
18 (1)(cc.5) AND (1)(cc.6) of that section, enter any of the following further
19 orders against the defendant:

- 20 (d) An order prohibiting possession or consumption of alcohol or
21 controlled substances; ~~and~~

1 (e) ~~Any other order the court deems appropriate to protect the~~
2 ~~safety of the alleged victim or witness.~~ AN ORDER PROHIBITING THE
3 TAKING, TRANSFERRING, CONCEALING, HARMING, DISPOSING OF, OR
4 THREATENING TO HARM AN ANIMAL OWNED, POSSESSED, LEASED, KEPT, OR
5 HELD BY THE ALLEGED VICTIM OR WITNESS;

6 (f) (I) AN ORDER DIRECTING A WIRELESS TELEPHONE SERVICE
7 PROVIDER TO TRANSFER THE FINANCIAL RESPONSIBILITY FOR AND RIGHTS
8 TO A WIRELESS TELEPHONE NUMBER OR NUMBERS TO THE PETITIONER IF
9 THE PETITIONER:

10 (A) IS NOT THE ACCOUNT HOLDER; AND

11 (B) PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT THE
12 PETITIONER AND ANY MINOR CHILDREN IN THE PETITIONER'S CARE ARE THE
13 PRIMARY USERS OF EACH WIRELESS TELEPHONE NUMBER THAT WILL BE
14 ORDERED TO BE TRANSFERRED BY A COURT UNDER THIS SUBSECTION
15 (3)(f).

16 (II) (A) AN ORDER TRANSFERRING THE FINANCIAL RESPONSIBILITY
17 FOR AND RIGHTS TO A WIRELESS TELEPHONE NUMBER OR NUMBERS TO A
18 PETITIONER UNDER THIS SUBSECTION (3)(f) MUST BE A SEPARATE ORDER
19 THAT IS DIRECTED TO THE WIRELESS TELEPHONE SERVICE PROVIDER.

20 (B) THE ORDER MUST LIST THE NAME AND BILLING TELEPHONE
21 NUMBER OF THE ACCOUNT HOLDER, THE NAME AND CONTACT
22 INFORMATION OF THE PETITIONER TO WHOM THE TELEPHONE NUMBER OR
23 NUMBERS WILL BE TRANSFERRED, AND EACH TELEPHONE NUMBER TO BE
24 TRANSFERRED TO THE PETITIONER.

25 (C) THE COURT SHALL ENSURE THAT THE PETITIONER'S CONTACT
26 INFORMATION IS NOT PROVIDED TO THE ACCOUNT HOLDER IN
27 PROCEEDINGS HELD UNDER THIS SUBSECTION (3)(f).

1 (D) THE ORDER MUST BE SERVED ON THE WIRELESS TELEPHONE
2 SERVICE PROVIDER'S REGISTERED AGENT.

3 (E) A WIRELESS TELEPHONE SERVICE PROVIDER SHALL TERMINATE
4 THE RESPONDENT'S USE OF A TELEPHONE NUMBER THAT THE COURT HAS
5 ORDERED TO BE TRANSFERRED TO THE PETITIONER PURSUANT TO THIS
6 SUBSECTION (3)(f) UNLESS THE WIRELESS TELEPHONE SERVICE PROVIDER
7 NOTIFIES THE PETITIONER AND THE COURT WITHIN SEVENTY-TWO HOURS
8 AFTER THE ISSUANCE OF SUCH ORDER EITHER THAT AN ACCOUNT HOLDER
9 NAMED IN THE ORDER HAS TERMINATED THE ACCOUNT OR THAT THE
10 REQUESTED TRANSFER, IF COMPLETED, WOULD IMPAIR PROPER FUNCTION
11 OF A WIRELESS DEVICE, RESULT IN NETWORK OR SERVICE DISRUPTION, OR
12 CAUSE ANOTHER TECHNICAL OR OPERATIONAL ISSUE.

13 (III) A TRANSFER ORDERED UNDER THIS SUBSECTION (3)(f) DOES
14 NOT PRECLUDE A WIRELESS TELEPHONE SERVICE PROVIDER FROM
15 APPLYING ANY ROUTINE AND CUSTOMARY REQUIREMENTS FOR ACCOUNT
16 ESTABLISHMENT TO THE PETITIONER AS PART OF THE TRANSFER OF
17 FINANCIAL RESPONSIBILITY FOR A WIRELESS TELEPHONE NUMBER OR
18 NUMBERS AND ANY DEVICES ATTACHED TO THAT NUMBER OR NUMBERS,
19 INCLUDING WITHOUT LIMITATION IDENTIFICATION, FINANCIAL
20 INFORMATION, AND CUSTOMER PREFERENCES.

21 (IV) A WIRELESS TELEPHONE SERVICE PROVIDER IS IMMUNE FROM
22 CIVIL LIABILITY FOR COMPLYING WITH AN ORDER TO TRANSFER A
23 TELEPHONE NUMBER PURSUANT TO THIS SUBSECTION (3)(f).

24 (g) ANY OTHER ORDER THE COURT DEEMS APPROPRIATE TO
25 PROTECT THE SAFETY OF THE ALLEGED VICTIM OR WITNESS.

26 (8) For purposes of this section:

27 (a.3) "FINANCIAL RESPONSIBILITY" MEANS AN OBLIGATION TO PAY

1 SERVICE FEES AND OTHER COSTS AND CHARGES ASSOCIATED WITH ANY
2 TELEPHONE NUMBER.

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

6 (10) THE ISSUANCE OF A PROTECTION ORDER PURSUANT TO THIS
7 SECTION DOES NOT PRECLUDE A COURT FROM ISSUING A PROTECTIVE
8 ORDER IN A CIVIL PROCEEDING.

9 **SECTION 2. Act subject to petition - effective date -**
10 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
11 the expiration of the ninety-day period after final adjournment of the
12 general assembly (August 8, 2018, if adjournment sine die is on May 9,
13 2018); except that, if a referendum petition is filed pursuant to section 1
14 (3) of article V of the state constitution against this act or an item, section,
15 or part of this act within such period, then the act, item, section, or part
16 will not take effect unless approved by the people at the general election
17 to be held in November 2018 and, in such case, will take effect on the
18 date of the official declaration of the vote thereon by the governor.

19 (2) This act applies to protective orders entered on or after the
20 applicable effective date of this act.