

State of Tennessee

PUBLIC CHAPTER NO. 729

SENATE BILL NO. 1796

By Ketron, Roberts, Harris, Jackson, Kelsey

Substituted for: House Bill No. 2033

By Coley, Littleton, Moody, Hardaway, Daniel, Hazlewood, Crawford, Butt

AN ACT to amend Tennessee Code Annotated, Title 36, Chapter 3, Part 6, relative to wireless telephone service for victims of domestic violence.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 36, Chapter 3, Part 6, is amended by adding the following new section:

36-3-627.

(a) A petitioner may, at the time of filing a petition for an order of protection, request that the court issue an order directing a wireless telephone service provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers to the petitioner if the petitioner:

(1) Is not the account holder; and

(2) Proves by a preponderance of the evidence that the petitioner and any minor children in the petitioner's care are the primary users of the wireless telephone numbers that will be ordered transferred by a court under this subsection (a).

(b)(1) An order transferring the billing responsibility for and rights to the wireless telephone number or numbers to a petitioner under subsection (a) must be a separate order that is directed to the wireless telephone service provider.

(2) The order must list:

(A) The name and billing telephone number of the account holder;

(B) The name and contact information of the petitioner to whom the telephone number or numbers will be transferred; and

(C) Each telephone number to be transferred to the petitioner.

(3) The court shall ensure that the petitioner's contact information is not provided to the account holder in proceedings held under this section.

(4) The order must be served on the wireless telephone service provider's agent for service of process.

(5) The wireless service provider shall notify the requesting party if the wireless telephone service provider cannot operationally or technically effectuate the order due to certain circumstances, including when:

(A) The account holder has already terminated the account;

(B) Differences in network technology prevent the functionality of a device on the network; or

(C) There are geographic or other limitations on network or service availability.

(c)(1) Upon a wireless telephone service provider's transfer of billing responsibility for and rights to a wireless telephone number or numbers to a petitioner under subsection (b), the petitioner shall assume:

(A) Financial responsibility for the transferred wireless telephone number or numbers;

(B) Monthly service costs; and

(C) Costs for any mobile device associated with the wireless telephone number or numbers.

(2) A transfer ordered under subsection (b) does not preclude a wireless telephone service provider from applying any routine and customary requirements for account establishment to the petitioner as part of the transfer of billing responsibility for a wireless telephone number or numbers and any devices attached to that number or numbers, including, but not limited to, identification, financial information, and customer preferences.

(d) This section does not affect the ability of the court to apportion the assets and debts of the parties as provided for in law, or the ability to determine the temporary use, possession, and control of personal property under this chapter.

(e) Notwithstanding any other law to the contrary, no cause of action shall lie in any court nor shall any civil, criminal, or administrative proceeding be commenced by a governmental entity against any wireless telephone service provider, or its directors, officers, employees, agents, or vendors, for:

(1) Action taken in compliance with an order issued under this section;

(2) A failure to process an order issued under this section, unless the failure is the result of gross negligence, which must be shown by clear and convincing evidence; or

(3) Providing in good faith call location information or other information, facilities, or assistance in accordance with subsection (a) or any rules promulgated under this section.

(f) If an order of protection is issued, but a separate order under § 36-3-606(a)(12) did not issue at the time of the order, or if the order of protection was issued prior to the availability of the relief under § 36-3-606(a)(12), a petitioner may, at any time, petition the court issuing the order of protection to modify the order and require a wireless service provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers to the petitioner pursuant to this section.

SECTION 2. Tennessee Code Annotated, Section 36-3-606, is amended by adding the following new subdivision to subsection (a):

(12) Ordering a wireless service provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers to a petitioner pursuant to § 36-3-627.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

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PASSED: April 2, 2018




RANDY McNALLY
SPEAKER OF THE SENATE



BETH HARWELL, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of April 2018



BILL HASLAM, GOVERNOR