

SESSION OF 2018

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2524

As Amended by House Committee on Judiciary

Brief*

HB 2524 would create law allowing a court, at a hearing on a petition filed pursuant to the Protection from Abuse Act (PFAA) or Protection from Stalking or Sexual Assault Act (PFSSAA), to issue an order directing a wireless services provider (provider) to transfer the billing responsibility for and rights to the wireless telephone number or numbers to the petitioner if the petitioner is not the account holder, to ensure the petitioner and any minor children in the care of the petitioner may maintain their existing wireless telephone numbers. The forms for the petition and order would be prescribed by the Judicial Council and supplied by the clerk of the court.

This order would be a separate order directed to the provider, and would have to list the name and billing telephone number of the account holder, the name and contact information of the person to whom the telephone number or numbers will be transferred, and each telephone number to be transferred.

If the order is made in conjunction with a PFSSAA petition, the court would be required to ensure the petitioner's address and telephone number are not disclosed to the account holder. If the order is made in conjunction with a petition filed under the PFAA, the court would be required to direct the petitioner's information remain confidential if the court finds the petitioner's address, telephone number, or both need to remain confidential.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The order would be served on the provider's agent for service of process listed with the Secretary of State. The provider would be required to notify the petitioner if the provider cannot operationally or technically effectuate the order due to circumstances including, but not limited to:

- The account holder already terminating the account;
- Differences in network technology preventing the functionality of a device on the network; or
- Geographic or other limitations on network or service availability.

Upon transfer of billing responsibility for and rights to a number or numbers to the petitioner, the petitioner would assume all financial responsibility for the transferred number or numbers, monthly service costs, and costs for any wireless device associated with the number or numbers.

The bill would state a provider is not prohibited from applying any routine and customary requirements for account establishment to the petitioner as part of the transfer of billing responsibility, including, but not limited to, identification, financial information, and customer preferences.

The bill would state it would not affect the ability of the court to apportion the assets and debts of the petitioner and account holder or the ability to determine the temporary use, possession, and control of personal property pursuant to the statute governing division of property under the Revised Kansas Family Law Code.

The bill would state, notwithstanding any other provision of law, no wireless services provider or its officers, employees, assigns, or agents would be liable for civil damages or criminal liability in connection with compliance with a transfer issued under its provisions or for failure to process such order.

The bill would require any provider operating in Kansas to adhere to an order issued under its provisions and would prohibit a provider from charging a fee for the services provided pursuant to the bill.

The bill would provide the definitions of “wireless services” and “wireless services provider” are the same as provided in the statute governing siting of wireless infrastructure.

Background

The bill was introduced by the House Committee on Judiciary at the request of AT&T.

In the House Committee hearing, a representative of AT&T testified in support of the bill, stating it would make it easier for domestic violence victims to remove themselves from an abusive situation. A family law attorney also testified in support, requesting amendments clarifying the applicability of orders to providers and allowing the orders in actions under the PFSSAA. Representatives of the Attorney General’s Office and Kansas Coalition Against Sexual and Domestic Violence submitted written-only testimony supporting the bill. No neutral or opponent testimony was submitted.

The House Committee amended the bill to also apply its provisions to actions under the PFSSAA, require the clerk of the court to supply forms prescribed by the Judicial Council, clarify confidentiality provisions, require providers operating in Kansas to adhere to orders issued under the bill’s provisions, and prohibit providers from charging a fee for the services under the bill.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Office of Judicial Administration indicates enactment of the bill could increase the number of orders issued by district court judges and

arrangement of services of those orders by district court clerks, increasing the time required of judicial and non-judicial personnel. However, until the courts have operated under the provisions of the bill, an accurate estimate of the fiscal effect on the Judicial Branch cannot be given. Enactment of the bill would not affect revenues to the Judicial Branch. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2019 Governor's Budget Report*.