



GOV. MSG. NO. 1320

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 9, 2015

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Twenty-Eighth State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Eighth State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 9, 2015, the following bill was signed into law:

HB538 HD2 SD2 CD1

RELATING TO DOMESTIC VIOLENCE
ACT 219 (15)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

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A BILL FOR AN ACT

RELATING TO DOMESTIC VIOLENCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

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

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

17 The legislature recognizes that a variety of options should
18 be afforded to victims of domestic violence when seeking to be



1 released from a shared or family cellular phone plan. While
2 seeking a protective order issued by the family court to be
3 released from a shared wireless plan is a viable option, the
4 legislature recognizes that some victims of domestic violence
5 may not be willing or financially able to obtain a court order.
6 Accordingly, another viable option for a victim of domestic
7 violence is to submit an opt-out request to be released from a
8 shared or family cellular phone plan, especially under limited
9 time constraints.

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

- 13 (1) Requires all wireless telecommunications service
14 providers to release, without charge, penalty, or fee,
15 victims of documented domestic violence from shared
16 wireless plans involving their abuser; provided that
17 the victims submit an opt-out request in writing and
18 documentary evidence of domestic violence; and
- 19 (2) Authorizes the family court to issue an order
20 requiring wireless telecommunications service
21 providers, without charge, penalty, or fee, to:



1 (A) Transfer billing authority and all rights to the
2 wireless numbers of a shared wireless plan to a
3 petitioner who has been granted an order of
4 protection pursuant to chapter 586, Hawaii
5 Revised Statutes, if the petitioner is not the
6 account holder; or

7 (B) Remove or release a petitioner from a shared
8 wireless plan and assign a substitute telephone
9 number or numbers.

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

13 "§269- Release of domestic violence victims from shared
14 wireless plans. (a) All wireless telecommunications service
15 providers shall release, without charge, penalty, or fee, any
16 victim of domestic violence from a shared or family wireless
17 service contract involving the victim's abuser; provided that
18 the victim submits an opt-out request in writing and with
19 evidence of domestic violence as documented by any of the
20 following items:



1 (1) Valid police report documenting an instance or series
2 of instances of domestic violence;

3 (2) Order for protection granted pursuant to chapter 586;
4 or

5 (3) Signed affidavit from a licensed medical or mental
6 health care provider, employee of a court acting
7 within the scope of their employment, or social
8 worker.

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

19 (c) For purposes of this section:

20 "Domestic violence" shall have the same meaning as in
21 section 321-471.



1 "Wireless telecommunications service" shall have the same
2 meaning as "commercial mobile radio service" as defined in title
3 47 Code of Federal Regulations section 20.3.

4 "Wireless telecommunications service provider" means a
5 provider of wireless telecommunications service."

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

9 "§586- Transfer or release of domestic violence victims
10 from shared wireless plans. (a) The court may issue an order
11 requiring a wireless telecommunications service provider,
12 without charge, penalty, or fee, to:

13 (1) Transfer the billing authority and all rights to the
14 wireless telephone number or numbers of a shared
15 wireless plan to a petitioner who has been granted an
16 order for protection pursuant to this chapter if the
17 petitioner is not the account holder of the shared
18 wireless plan; provided that if the petitioner is not
19 the protected party named in the order for protection,
20 the billing authority and rights to the wireless
21 telephone number or numbers of a shared wireless plan



1 may be transferred to another person who shall serve
2 as the account holder, as requested by or on behalf of
3 the protected party with the protected party's
4 approval; or

5 (2) Remove or release the petitioner from a shared
6 wireless plan and assign a substitute telephone number
7 or numbers; provided that if the petitioner is not the
8 protected party named in the order for protection, the
9 court may order that the protected party be removed or
10 released from a shared wireless plan and assigned a
11 substitute telephone number or numbers and order a
12 person, as requested by or on behalf of the protected
13 party with the protected party's approval, to be the
14 account holder for the substitute telephone number or
15 numbers.

16 (b) The order issued pursuant to subsection (a) shall be a
17 separate order that is directed to the wireless
18 telecommunications service provider. The order shall list the
19 name and billing telephone number of the account holder, the
20 name of the person to whom the telephone number or numbers will
21 be transferred, and each telephone number to be transferred.



1 (c) A cause of action shall not lie against any wireless
2 telecommunications service provider, its officers, employees, or
3 agents for the actions taken that are related to the transfer of
4 the billing authority and rights to the wireless telephone
5 number or numbers in accordance with the terms of a court order
6 issued pursuant to this section.

7 (d) For purposes of this section:

8 "Domestic violence" shall have the same meaning as in
9 section 321-471.

10 "Wireless telecommunications service" shall have the same
11 meaning as "commercial mobile radio service" as defined in title
12 47 Code of Federal Regulations section 20.3.

13 "Wireless telecommunications service provider" means a
14 provider of wireless telecommunications service."

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

18 SECTION 5. New statutory material is underscored.

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



H.B. NO. 538
H.D. 2
S.D. 2
C.D. 1

APPROVED this 9 day of JUL , 2015



GOVERNOR OF THE STATE OF HAWAII