

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 313 Session of 2017

INTRODUCED BY BOSCOLA, COSTA, HUGHES, FONTANA, FARNESE, SCHWANK, BROWNE, MENSCH, BREWSTER, HAYWOOD, TARTAGLIONE, BAKER, BARTOLOTTA, RAFFERTY, RESCHENTHALER AND VULAKOVICH, FEBRUARY 15, 2017

SENATOR GREENLEAF, JUDICIARY, AS AMENDED, NOVEMBER 14, 2017

AN ACT

1 Amending Title 23 (Domestic Relations) of the Pennsylvania
2 Consolidated Statutes, in protection from abuse, further
3 providing for relief and providing for shared telephone
4 plans. <--

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Section 6108 of Title 23 of the Pennsylvania
8 Consolidated Statutes is amended by adding a subsection to read:
9 § 6108. Relief. <--

10 * * *

11 (i) Shared telephone plans.

12 (1) If a plaintiff is a party to a telephone plan
13 contract held by and in the name of the defendant, or a
14 relative of the defendant, in any protection order or consent
15 agreement approved by the court in accordance with subsection
16 (a), the court shall:

17 (i) order the defendant to remove the plaintiff as a
18 party to such a telephone plan contract within three

1 ~~calendar days; and~~

2 ~~(ii) order the defendant to pay any surcharge, early~~
3 ~~termination fee or any other penalty that may incur as a~~
4 ~~result of removing the plaintiff as a party to the~~
5 ~~telephone plan contract.~~

6 ~~(2) Failure to remove the plaintiff from the shared~~
7 ~~telephone plan shall be subject to the penalties as~~
8 ~~prescribed in sections 6113 (relating to arrest for violation~~
9 ~~of order) and 6114 (relating to contempt for violation of~~
10 ~~order or agreement).~~

11 ~~(3) As used in this subsection, the following words and~~
12 ~~phrases shall have the meanings given to them in this~~
13 ~~paragraph unless the context clearly indicates otherwise:~~

14 ~~"Shared telephone plan." A package of services offered~~
15 ~~to subscribers at a set monthly access fee or rate by a~~
16 ~~telecommunications service provider, including, but not~~
17 ~~limited to, voice, messaging, data, Internet access and~~
18 ~~television content under a telephone plan contract.~~

19 ~~"Telecommunications service provider." A company,~~
20 ~~including a provider of cable television, that supplies~~
21 ~~customers with telecommunications services, including land~~
22 ~~line and wireless telephone services, Internet access, data~~
23 ~~and the delivery of television content.~~

24 ~~"Telephone plan contract." A shared telephone plan that~~
25 ~~allows a customer to share minutes and other services with~~
26 ~~another individual under one account or contract with a~~
27 ~~telecommunications service provider, regardless of whether~~
28 ~~the plan is a shared minute or family plan contract.~~

29 Section 2. Title 23 is amended by adding a section to read:

30 ~~§ 6108.6. Shared telephone plans.~~

1 ~~(a) General rule.~~

2 ~~(1) A telecommunications service provider shall allow a~~
3 ~~person who is under a telephone plan contract with the~~
4 ~~provider and who is a victim of domestic violence involving~~
5 ~~another person under the same telephone plan contract to opt~~
6 ~~out of the contract without charge. A request to opt out of a~~
7 ~~telephone plan contract shall be in writing and shall include~~
8 ~~any of the following documents, which shall relate to the~~
9 ~~domestic violence:~~

10 ~~(i) A valid police report.~~

11 ~~(ii) A valid protection from abuse order.~~

12 ~~(iii) A signed affidavit from a licensed medical or~~
13 ~~mental health care provider, an employee of a court~~
14 ~~acting within the scope of employment, a social worker, a~~
15 ~~rape crisis counselor, a domestic violence counselor or~~
16 ~~an advocate acting on behalf of an agency that assists~~
17 ~~domestic violence victims.~~

18 ~~(2) A request to opt out of a telephone plan contract~~
19 ~~shall be made in good faith, and the telecommunications~~
20 ~~service provider shall waive the otherwise applicable fees or~~
21 ~~charges for the person requesting to opt out of the contract.~~

22 ~~(3) A person seeking accommodation under this section~~
23 ~~may request, and if requested shall be provided at no~~
24 ~~additional cost to that person, a new telephone number within~~
25 ~~24 hours from the time the request is made.~~

26 ~~(b) Deadline for providing documents. Any document provided~~
27 ~~to a telecommunications service provider by a person seeking to~~
28 ~~opt out of a telephone plan contract in accordance with~~
29 ~~subsection (a) must be:~~

30 ~~(1) provided to the telecommunications service provider~~

1 ~~at the time the request to opt out is made; and~~

2 ~~(2) issued no more than six months before the opt out~~
3 ~~request.~~

4 ~~(c) Retention and confidentiality of documents. A~~
5 ~~telecommunications service provider that receives a written~~
6 ~~request accompanied by the necessary documentation to opt out of~~
7 ~~a telephone plan contract in accordance with this section may~~
8 ~~retain the documentation or return it to the person seeking to~~
9 ~~opt out. Any documentation provided to a telecommunications~~
10 ~~service provider by a victim of domestic violence shall be~~
11 ~~considered confidential communications and, if retained by a~~
12 ~~telecommunications service provider, shall be subject to the~~
13 ~~confidentiality requirements under Federal or State law.~~

14 ~~(d) Applicability. This section shall apply to telephone~~
15 ~~plan contracts entered into on or after the effective date of~~
16 ~~this section.~~

17 ~~(e) Definitions. For the purposes of this section, the~~
18 ~~terms "telecommunications service provider" and "telephone plan~~
19 ~~contract" shall have the meanings given to them in section~~
20 ~~6108(i)(3) (relating to relief).~~

21 ~~Section 3. This act shall take effect as follows:~~

22 ~~(1) The addition of 23 Pa.C.S. § 6108(i) shall take~~
23 ~~effect immediately.~~

24 ~~(2) This section shall take effect immediately.~~

25 ~~(3) The remainder of this act shall take effect in 60~~
26 ~~days.~~

27 SECTION 1. SECTION 6108(A) OF TITLE 23 OF THE PENNSYLVANIA <--
28 CONSOLIDATED STATUTES IS AMENDED BY ADDING A PARAGRAPH TO READ:
29 § 6108. RELIEF.

30 (A) GENERAL RULE.--THE COURT MAY GRANT ANY PROTECTION ORDER

1 OR APPROVE ANY CONSENT AGREEMENT TO BRING ABOUT A CESSATION OF
2 ABUSE OF THE PLAINTIFF OR MINOR CHILDREN. THE ORDER OR AGREEMENT
3 MAY INCLUDE:

4 * * *

5 (2.1) GRANTING THE TRANSFER OF AN EXISTING WIRELESS
6 TELEPHONE NUMBER, INCLUDING THE WIRELESS TELEPHONE NUMBERS OF
7 MINOR CHILDREN IN THE CARE OF THE PLAINTIFF, TO THE PLAINTIFF
8 WHEN THE BILLING RESPONSIBILITY FOR AND RIGHTS TO THE
9 WIRELESS TELEPHONE NUMBER BELONG TO THE DEFENDANT AS THE
10 ACCOUNT HOLDER. THE FOLLOWING APPLY:

11 (I) THE ORDER SHALL BE A SEPARATE ORDER THAT IS
12 DIRECTED TO THE WIRELESS TELEPHONE SERVICE PROVIDER. THE
13 ORDER SHALL LIST THE NAME AND BILLING TELEPHONE NUMBER OF
14 THE DEFENDANT, THE NAME AND CONTACT INFORMATION OF THE
15 PLAINTIFF TO WHOM THE WIRELESS TELEPHONE NUMBER WILL BE
16 TRANSFERRED AND THE WIRELESS TELEPHONE NUMBER TO BE
17 TRANSFERRED TO THE PLAINTIFF. THE COURT SHALL ENSURE THAT
18 THE CONTACT INFORMATION OF THE PLAINTIFF IS NOT PROVIDED
19 TO THE DEFENDANT IN PROCEEDINGS HELD UNDER SECTION 6112
20 (RELATING TO DISCLOSURE OF ADDRESSES).

21 (II) THE ORDER SHALL BE SERVED ON THE WIRELESS
22 SERVICE PROVIDER. THE WIRELESS SERVICE PROVIDER SHALL
23 ESTABLISH PROTOCOLS TO RESPOND TO THE ORDER ISSUED UNDER
24 THIS SUBPARAGRAPH.

25 (III) IF APPLICABLE, THE WIRELESS SERVICE PROVIDER
26 SHALL NOTIFY THE COURT AND PLAINTIFF WITHIN THREE
27 BUSINESS DAYS OF RECEIPT OF THE ORDER THAT THE WIRELESS
28 SERVICE PROVIDER CANNOT OPERATIONALLY OR TECHNICALLY
29 EFFECTUATE THE ORDER DUE TO CERTAIN CIRCUMSTANCES,
30 INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING:

1 (A) THE DEFENDANT HAS ALREADY TERMINATED THE
2 ACCOUNT.

3 (B) DIFFERENCES IN WIRELESS NETWORK TECHNOLOGY
4 PREVENT THE FUNCTIONALITY OF A DEVICE ON THE NETWORK.

5 (C) THERE ARE GEOGRAPHIC OR OTHER LIMITATIONS ON
6 THE WIRELESS NETWORK OR SERVICE AVAILABILITY.

7 (IV) UPON TRANSFER OF BILLING RESPONSIBILITY FOR AND
8 RIGHTS TO THE WIRELESS TELEPHONE NUMBER TO A PLAINTIFF
9 UNDER THIS PARAGRAPH, THE PLAINTIFF SHALL ASSUME ALL
10 FINANCIAL RESPONSIBILITY FOR THE TRANSFERRED WIRELESS
11 TELEPHONE NUMBER, MONTHLY SERVICE COSTS AND COSTS FOR THE
12 MOBILE DEVICE ATTACHED TO THE WIRELESS TELEPHONE NUMBER.

13 (V) WIRELESS SERVICE PROVIDERS SHALL APPLY ROUTINE
14 AND CUSTOMARY REQUIREMENTS FOR ACCOUNT ESTABLISHMENT FOR
15 THE PLAINTIFF AS PART OF THE TRANSFER OF BILLING
16 RESPONSIBILITY FOR WIRELESS TELEPHONE NUMBERS AND ANY
17 MOBILE DEVICES ATTACHED TO THE WIRELESS TELEPHONE NUMBERS
18 UNDER THIS PARAGRAPH, INCLUDING, BUT NOT LIMITED TO,
19 IDENTIFICATION, FINANCIAL INFORMATION AND CUSTOMER
20 PREFERENCES.

21 (VI) NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED
22 TO AFFECT THE ABILITY OF THE COURT TO APPORTION THE
23 ASSETS AND DEBTS OF THE PLAINTIFF AND DEFENDANT AS
24 PROVIDED BY THE LAWS OF THIS COMMONWEALTH OR THE ABILITY
25 TO DETERMINE THE TEMPORARY USE, POSSESSION AND CONTROL OF
26 PERSONAL PROPERTY UNDER THIS CHAPTER.

27 (VII) NO CAUSE OF ACTION SHALL BE BROUGHT AGAINST A
28 WIRELESS TELEPHONE SERVICE PROVIDER OR THE WIRELESS
29 TELEPHONE SERVICE PROVIDER'S OFFICERS, EMPLOYEES OR
30 AGENTS FOR ACTIONS TAKEN IN ACCORDANCE WITH THE TERMS OF

1 AN ORDER ISSUED UNDER THIS PARAGRAPH.

2 (VIII) THE UNIFIED JUDICIAL SYSTEM OF PENNSYLVANIA
3 SHALL, NO LATER THAN JULY 1, 2018, DEVELOP ANY FORMS OR
4 RULES NECESSARY TO EFFECTUATE THIS PARAGRAPH.

5 * * *

6 SECTION 2. THIS ACT SHALL TAKE EFFECT JULY 1, 2018, OR
7 IMMEDIATELY, WHICHEVER IS LATER.