

BILL ANALYSIS

H.B. 1372
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Juvenile Justice & Family Issues
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been suggested that there is a need to assist family violence survivors who are seeking to keep their wireless telephone numbers and service when the perpetrator of family violence is the primary account holder of the wireless telephone service account. Cell phone plans are usually contracted with a primary account holder and secondary account holders in such a way that only the primary account holder may make changes to the plan, including removing or transferring a secondary phone number from the plan. It has been noted that some perpetrators maintain control of their victims by isolating the victim from friends, families, and other sources of support and that canceling the victim's cell phone plan is one way to accomplish this. H.B. 1372 seeks to better protect victims of family violence by authorizing the separation of the wireless telephone numbers of a petitioner and any applicable children from the account of a primary account holder by means of a court order.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1372 amends the Family Code to authorize a petitioner for a protective order who is the primary user of a wireless telephone number associated with the respondent's wireless telephone service account to request the court that renders the protective order also to order the following:

- the separation of that telephone number from the respondent's account; and
- if applicable, the separation of each wireless telephone number primarily used by a child in the petitioner's care or custody.

The request must include each wireless telephone number for which the petitioner requests separation.

H.B. 1372 requires the court to render a separate order directing the wireless telephone service provider to transfer the billing responsibilities and rights to each listed number to the petitioner if the petitioner shows by a preponderance of the evidence that for each number listed in the request the petitioner or child, as applicable, is the primary user. The bill sets out the required contents of the order, which include a statement requiring the provider to transfer to the petitioner all financial responsibility for and the right to use each number transferred, and establishes that this financial responsibility includes the monthly service costs associated with any associated mobile device. The bill requires the court to do the following:

- serve a copy of the order on the registered agent for the wireless telephone service provider; and
- ensure that the petitioner's contact information is not provided to the respondent as the wireless telephone service account holder in a proceeding under the bill's provisions.

H.B. 1372 amends the Business & Commerce Code to require a wireless telephone service provider, on receipt of a court order for separation of a wireless telephone account, to transfer the use of each telephone number listed in the order to the petitioner. A provider is not required to complete the transfer if the provider notifies the petitioner, not later than the fifth business day after the provider receives the court order, of any of the following issues:

- the account holder named in the order has terminated the account;
- a difference in network technology would prevent or impair the functionality of a device on a network if the transfer occurs;
- the transfer would cause a geographic or other limitation on the network or service provision to the petitioner; or
- another technological or operational issue would prevent or impair the use of the number if the transfer occurs.

H.B. 1372 authorizes a provider to charge the petitioner routine and customary fees and to impose routine and customary requirements for establishing an account. The bill prohibits the provider from doing the following in imposing and collecting fees:

- imposing a penalty for early termination of a contract in connection with separating an account;
- holding the petitioner responsible for any outstanding balance of the respondent's account or require payment of the outstanding balance as a condition of separating an account; or
- charging a fee for transferring the wireless telephone number in addition to the usual and customary fees for establishing an account.

The bill requires the provider to make available a written description of any further action by the petitioner that is required to complete the transfer process. The bill exempts a provider and its officers, employees, and agents from civil liability for actions taken as required by a court order under the bill's provisions.

EFFECTIVE DATE

September 1, 2021.