

AMENDED IN SENATE MARCH 25, 2014

SENATE BILL

No. 1158

Introduced by Senator Yee

February 20, 2014

An act to ~~add Section 6347 to~~ *amend Section 6324* of the Family Code, relating to protective orders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1158, as amended, Yee. Protective orders: ~~assets and accounts.~~ *transfer of wireless telephone numbers.*

Existing law authorizes a court to issue an ex parte protective order enjoining a party from engaging in specified acts against another party, including, among other things, threatening or harassing that party, and, in the discretion of the court, against other named family or household members. Existing law also authorizes a court to issue these protective orders and other orders relating to domestic violence prevention after a notice and hearing, including, among others, requiring a restrained party to participate in a batterer's program. *Existing law authorizes a court to issue an ex parte order determining the temporary use, possession, and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the period the order is in effect.* A violation of these court orders constitutes contempt of court, which is punishable as a misdemeanor.

~~This bill would require a court, when issuing these protective orders, to consider the need to transfer ownership or possession of an asset or account that may be used to locate or track the person protected by the order if the asset or account is owned or jointly owned by the person restrained by the order. The bill would define "asset or account" for these purposes to include, among other things, mobile telephones, mobile~~

~~telephone numbers, and global-positioning-system-enabled vehicles. The bill would authorize the court to order a service provider to transfer ownership or possession of an account or asset without the consent of the person restrained by the order. The bill would state findings and declarations by the Legislature in this regard.~~

This bill would additionally authorize a court to issue an order requiring a wireless telephone service provider to transfer the billing authority and rights to a wireless telephone number or numbers to a petitioner. The bill would require that order to be a separate order directed to the wireless telephone service provider that lists the name and billing telephone number of the accountholder, the name of the person to whom the number or numbers will be transferred, and each number transferred to that person. The bill would prohibit a cause of action against a wireless telephone service provider, its officers, employees, or agents, for actions taken related to the transfer of billing authority and rights to a wireless telephone number or numbers in accordance with the terms of the court order.

Because a violation of this court order would be punishable as a contempt, a misdemeanor, the bill would create a new crime and, therefore, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares ~~both of the~~
- 2 ~~following:~~
- 3 (a) ~~Allowing victims of domestic violence to retain use of an~~
- 4 ~~existing telephone number, mobile device, or vehicle may be~~
- 5 ~~important for both the safety and emotional support of the victim.~~
- 6 (b) ~~A victim of domestic violence fleeing a dangerous~~
- 7 ~~environment may not be able to safely retain use of a mobile~~
- 8 ~~telephone or vehicle when the perpetrator must consent to a transfer~~
- 9 ~~of ownership or control of those items. that allowing a victim of~~
- 10 ~~domestic violence to retain the use of an existing wireless telephone~~

1 *number and access to the contacts and other information that may*
2 *be contained in an existing wireless telephone is important for*
3 *both the safety and emotional support of the victim. This can be a*
4 *problem if the domestic violence victim is not the accountholder*
5 *for the wireless telephone, as only an accountholder has the*
6 *authority to release the telephone number or numbers contained*
7 *in the account.*

8 ~~SEC. 2.— Section 6347 is added to the Family Code, to read:~~

9 ~~6347. (a) A court issuing an order pursuant to this article shall~~
10 ~~consider the need to transfer ownership or possession of an asset~~
11 ~~or account that may be used to locate or track the person protected~~
12 ~~by the order if the asset or account is owned or jointly owned by~~
13 ~~the person restrained by the order. The order may include direction~~
14 ~~to a service provider to transfer ownership or possession of an~~
15 ~~account or asset without the consent of the person restrained by~~
16 ~~the order.~~

17 ~~(b) As used in this section, “asset or account” includes, but is~~
18 ~~not limited to, mobile telephones and mobile telephone numbers,~~
19 ~~global-positioning-system-enabled vehicles, and any other device~~
20 ~~that can transmit or provide location information.~~

21 *SEC. 2. Section 6324 of the Family Code is amended to read:*

22 *6324. (a) The court may issue an ex parte order determining*
23 *the temporary use, possession, and control of real or personal*
24 *property of the parties and the payment of any liens or*
25 *encumbrances coming due during the period the order is in effect.*

26 *(b) In order to ensure that the petitioner can maintain an*
27 *existing wireless telephone number, and the wireless numbers of*
28 *any minor children in the care of the petitioner, the court may*
29 *issue an order requiring the wireless telephone service provider*
30 *to transfer the billing authority and rights to the wireless telephone*
31 *number or numbers to the petitioner, if the petitioner is not the*
32 *accountholder.*

33 *(c) The order transferring billing authority and rights to the*
34 *wireless telephone number or numbers to a petitioner shall be a*
35 *separate order that is directed to the wireless telephone service*
36 *provider. The order shall list the name and billing telephone*
37 *number of the accountholder, the name of the person to whom the*
38 *telephone number or numbers will be transferred, and each*
39 *telephone number transferred to that person.*

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

6 SEC. 3. No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

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