

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1407

Introduced by Assembly Member Atkins

February 27, 2015

An act to ~~amend Section 2104 of~~ *add Part 8 (commencing with Section 296) to Division 2 of the Family Code*, relating to family law.

LEGISLATIVE COUNSEL'S DIGEST

AB 1407, as amended, Atkins. Family law: ~~dissolution: declaration of disclosure: protective orders: 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. Existing law also authorizes a court to include these protective orders and other orders in a judgment entered in specified proceedings, including, among others, a proceeding for the dissolution of marriage. A violation of these court orders constitutes contempt of court, which is punishable as a misdemeanor.

This bill would additionally authorize a court, during the pendency of specified proceedings, or in a judgment entered in those specified proceedings, to issue an order requiring a wireless telephone service provider to transfer the billing responsibility 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 to be transferred to that person. The bill would require, upon transfer of billing responsibility

for and rights to a wireless telephone number, the costs associated with the wireless telephone number to be removed from the respondent’s bill and be billed to the petitioner. 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 responsibility and rights to a wireless telephone number or numbers in accordance with the terms of the court order.

By expanding the scope of an existing crime, 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.

~~Existing law requires each party to a proceeding for dissolution of marriage or legal separation of the parties to serve on the other party a preliminary declaration of disclosure of assets, as specified, either concurrently with the petition for dissolution, or within 60 days of filing the petition.~~

~~This bill would clarify that the petitioner is required to serve the preliminary declaration of disclosure either concurrently with the petition for dissolution or legal separation or within 60 days of filing the petition.~~

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

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

- 1 SECTION 1. *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (a) *Allowing a victim of domestic violence to retain the use of*
- 4 *an existing wireless telephone number and access to the contacts*
- 5 *and other information that may be contained in an existing wireless*
- 6 *telephone is important for both the safety and emotional support*
- 7 *of the victim. This can be a problem if the domestic violence victim*
- 8 *is not the accountholder for the wireless telephone, as only an*
- 9 *accountholder has the authority to release the telephone number*
- 10 *or numbers contained in the account.*
- 11 (b) *According to a Wall Street Journal article, in 2011 just*
- 12 *under 71 percent of households had a landline in the home, down*

1 *from a little more than 96 percent of households 15 years earlier.*
2 *Cellular telephone ownership among adults reached 89 percent*
3 *in 2011, up from approximately 36 percent in 1998.*

4 *(c) When two parties are divorced, for safety reasons, a*
5 *custodial parent may need to monitor a child's cellular telephone.*
6 *This practice would be impossible where the accountholder for*
7 *the wireless telephone is not the custodial parent.*

8 *SEC. 2. Part 8 (commencing with Section 296) is added to*
9 *Division 2 of the Family Code, to read:*

10

11 **PART 8. WIRELESS TELEPHONE NUMBERS**

12

13 296. (a) *In order to ensure that the petitioner can maintain*
14 *an existing wireless telephone number, and the wireless numbers*
15 *of any minor children in the care of the petitioner, the court may*
16 *issue an order during the pendency of a proceeding described in*
17 *subdivision (f), or include an order in a judgment in a proceeding*
18 *described in subdivision (f), requiring a wireless telephone service*
19 *provider to transfer the billing responsibility and rights to the*
20 *wireless telephone number or numbers to the petitioner, if the*
21 *petitioner is not the accountholder.*

22 (b) *The order transferring billing responsibility for and rights*
23 *to the wireless telephone number or numbers to a petitioner shall*
24 *be a separate order that is directed to the wireless telephone*
25 *service provider. The order shall list the name and billing*
26 *telephone number of the accountholder, the name of the person to*
27 *whom the telephone number or numbers will be transferred, and*
28 *each telephone number to be transferred to that person.*

29 (c) *Upon transfer of billing responsibility for and rights to a*
30 *wireless telephone number pursuant to subdivision (a) by a wireless*
31 *telephone service provider, the costs associated with the wireless*
32 *telephone number, including, but not limited to, monthly service*
33 *fees and the cost of a mobile device associated with the wireless*
34 *telephone number, shall be removed from the respondent's bill*
35 *and shall be billed to the petitioner. The petitioner shall be*
36 *responsible for the payment of those costs.*

37 (d) *This section shall not affect the ability of the court to*
38 *apportion the assets and debts of the parties as provided for in*
39 *law.*

1 (e) 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 responsibility
4 for and rights to the wireless telephone number or numbers in
5 accordance with the terms of a court order issued pursuant to this
6 section.

7 (f) This section applies to proceedings held pursuant to any of
8 the following:

9 (1) Division 6 (commencing with Section 2000).

10 (2) Division 8 (commencing with Section 3000).

11 (3) Division 10 (commencing with Section 6200).

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

21 SECTION 1. Section 2104 of the Family Code is amended to
22 read:

23 2104. (a) Except by court order for good cause, as provided
24 in Section 2107, in the time period set forth in subdivision (f), each
25 party shall serve on the other party a preliminary declaration of
26 disclosure, executed under penalty of perjury on a form prescribed
27 by the Judicial Council. The commission of perjury on the
28 preliminary declaration of disclosure may be grounds for setting
29 aside the judgment, or any part or parts thereof, pursuant to Chapter
30 10 (commencing with Section 2120), in addition to any and all
31 other remedies, civil or criminal, that otherwise are available under
32 law for the commission of perjury. The preliminary declaration of
33 disclosure shall include all tax returns filed by the declarant within
34 the two years prior to the date that the party served the declaration.

35 (b) The preliminary declaration of disclosure shall not be filed
36 with the court, except on court order. However, the parties shall
37 file proof of service of the preliminary declaration of disclosure
38 with the court.

1 ~~(e) The preliminary declaration of disclosure shall set forth with~~
2 ~~sufficient particularity, that a person of reasonable and ordinary~~
3 ~~intelligence can ascertain, all of the following:~~
4 ~~(1) The identity of all assets in which the declarant has or may~~
5 ~~have an interest and all liabilities for which the declarant is or may~~
6 ~~be liable, regardless of the characterization of the asset or liability~~
7 ~~as community, quasi-community, or separate.~~
8 ~~(2) The declarant's percentage of ownership in each asset and~~
9 ~~percentage of obligation for each liability where property is not~~
10 ~~solely owned by one or both of the parties. The preliminary~~
11 ~~declaration may also set forth the declarant's characterization of~~
12 ~~each asset or liability.~~
13 ~~(d) A declarant may amend his or her preliminary declaration~~
14 ~~of disclosure without leave of the court. Proof of service of any~~
15 ~~amendment shall be filed with the court.~~
16 ~~(e) Along with the preliminary declaration of disclosure, each~~
17 ~~party shall provide the other party with a completed income and~~
18 ~~expense declaration unless an income and expense declaration has~~
19 ~~already been provided and is current and valid.~~
20 ~~(f) The petitioner shall serve the other party with the preliminary~~
21 ~~declaration of disclosure either concurrently with the petition for~~
22 ~~dissolution or legal separation, or within 60 days of filing the~~
23 ~~petition. The respondent shall serve the other party with the~~
24 ~~preliminary declaration of disclosure either concurrently with the~~
25 ~~response to the petition, or within 60 days of filing the response.~~
26 ~~The time periods specified in this subdivision may be extended by~~
27 ~~written agreement of the parties or by court order.~~