



PROTECTING HAWAII'S OHANA, CHILDREN, UNDER SERVED, ELDERLY AND DISABLED

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TO: Senator Gilbert S.C. Keith-Agaran, Chair
Senator Maile S.L. Shimabukuro, Vice Chair
Members, Senate Committee on Judiciary and Labor

FROM: Scott Morishige, MSW
Executive Director, PHOCUSED

HEARING: **Monday, February 23, 2015 at 9:15 a.m. in Conf. Rm. 016**

Testimony in Support of SB752, Relating to Domestic Violence

Thank you for the opportunity to provide testimony in **support** of SB752, which would require telecommunications carriers to release victims of domestic violence from shared or family wireless plans upon written request. PHOCUSED is a nonprofit membership and advocacy organization that works together with community stakeholders to impact program and policy change for the most vulnerable in our community, including victims of domestic violence.

Our membership includes organizations, such as Child & Family Service, Parents & Children Together, and Domestic Violence Action Center, which serve victims of domestic violence and their families. Through the work these organizations do every day, they see firsthand that financial and contractual obligations associated with wireless phone plans may sometimes serve as a barrier that prevents a victim from leaving an abusive relationship. Under the current system, the burden of financial responsibility for paying for phone service, or cancellation fees, often remains with the victim who – in many cases – has endured long standing economic abuse from their perpetrator.

SB752 would enable victims of domestic violence to opt out of wireless contractual obligations without undue financial burden, and would protect the victim's safety by more easily enabling them to obtain a new phone number. While some wireless providers have adopted policies to allow victims to opt out of contracts, this practice is not consistent among all wireless plan providers. This legislation is needed to implement a uniform policy to ensure the safety of victims of domestic violence throughout our state.

Once again, PHOCUSED strongly urges your support of this bill. If you have any questions, please do not hesitate to contact PHOCUSED at 521-7462 or by e-mail at admin@phocused-hawaii.org.

February 20, 2015

The Honorable Gilbert S.C. Keith-Agaran
Hawaii Senate
Chair, Senate Committee on Judiciary and Labor
Hawaii State Capitol, Room 221
Honolulu, HI 96813

Dear Chair Keith-Agaran:

CTIA-The Wireless Association® is concerned about aspects of Hawaii Senate Bill 752 as currently drafted. Although we wholeheartedly share the goal of ensuring that victims of domestic abuse have the flexibility to modify access to phone service, we respectfully request that the committee defer action on this bill so the wireless industry can work with the introducer and stakeholders on amendments to the bill.

The wireless industry has a history of working with organizations that help victims of domestic abuse. CTIA's Wireless Foundation, for example, created "The Call to Protect" program. Through this and other programs, the Foundation raised money for organizations that work to end domestic abuse by refurbishing and recycling wireless devices. In addition, CTIA members have individually worked to help domestic abuse victims and the organizations that support and protect victims.

The safety of our consumers is of the utmost importance to the wireless industry. Wireless companies work with their consumers during times of need, including those unfortunate situations described in the bill. CTIA's member companies have also long accommodated victims of domestic abuse on a case-by-case basis by, for example, allowing victims to cancel contracts or change phone numbers. We do, however, have concerns with SB752 as currently drafted. It requires carriers to release without charge or penalty any victim of domestic abuse from a shared or family wireless service contract involving the victim's abuser where, among other evidence, the victim provides a police report documenting an instance or series of instances of domestic abuse. Forcing wireless carriers to provide a substitute or new number or alternate service on anything other than a court order places carriers in a precarious position of interpreting what a specific report means, which exposes carriers to liability or litigation if the report or carrier's interpretation is challenged by the account holder.

The bill's requirement that carriers provide "alternative communications service" is also unclear. In addition, the requirement to provide an alternative service within 24 hours may lead to unintended negative consequences for consumers, such as a more expensive service or one that ultimately does not meet the victim's ongoing needs.

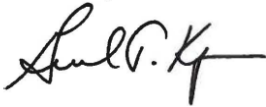
Passage of SB752 may also violate 47 U.S.C. § 332(c), which provides that "no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service or any private mobile service." Early Termination Fees are part of the rate structure for wireless service contracts. Passage of the bill would functionally permit Hawaii to regulate the rate structure of wireless providers in the state. These requirements would bring the state into conflict with federal law.

Accordingly, we respectfully request the attached amendments be made to the legislation. These amendments clarify that, upon court order, wireless carriers are required to transfer the billing

authority and all rights to the wireless telephone number or numbers to a victim of domestic abuse, if the domestic abuse victim is not the account holder. This will allow domestic abuse victims to retain their telephone numbers to ensure they have a known, continued communication link with family, friends, and advocates. In addition, the amendments delineate how the court order needs to be addressed and what it needs to contain, as well as providing liability protection to wireless carriers who respond to a court order as directed in the amendments. These amendments will ensure that wireless carriers can still address the needs of domestic abuse victims in Hawaii with a clearly directed law and without the possibility of running afoul of federal law.

We share the introducer's goal of working to ensure the safety and well-being of victims of domestic abuse. Although SB752 is well-intentioned, the wireless industry does have concerns with the legislation as currently drafted. As such, we respectfully request the attached amendments be made to the legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Gerard Keegan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gerard Keegan
Senior Director
State Legislative Affairs

AMENDMENTS TO SB752

SB 752

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~~ abuse currently lack meaningful support and viable options
3 when establishing a plan to leave an abuser. Independence of a wireless
4 phone plan may often aid these victims in formulating and
5 following through on a means of escape, especially in situations
6 where the abuser is the account manager for the cellphone plan,
7 and as a result, may view any calls and account activity of
8 phones associated with the shared or family cellphone plan.
9 ~~The legislature further finds that the major communications~~
10 ~~service providers currently permit cancellation or removal of~~
11 ~~phone numbers or phones from shared or family wireless service~~
12 ~~contracts, albeit with substantial fees attached. The~~
13 ~~substantial cancellation fees often amplify the hardship faced~~
14 ~~by the domestic violence victim because of the financial~~
15 ~~challenges those fees can pose.~~
16 The purpose of this Act is to ~~require all communication~~
17 ~~service providers to release, without charge or fee, allow victims of~~

1 ~~documented domestic violence~~ abuse to retain use of an existing from shared wireless
2 plans telephone number even when the victim is not the accountholder.

3 ~~involving their abuser, provided that the victims submit an opt-~~
4 ~~out request in writing and documented evidence of domestic~~
5 ~~violence.~~

6 SECTION 2. Chapter 269-586, Hawaii Revised Statutes, is
7 amended by adding a new section to be appropriately designated
8 and to read as follows:

9 “~~S269-586- Release of domestic~~ abuse violence victims from shared
10 wireless plans. (a) The court may issue an order requiring ~~A~~ all wireless
11 telecommunications service providers carriers shall to transfer the billing authority and
12 all rights to the wireless telephone number or numbers to the petitioner, if the petitioner
13 is not the accountholder.

14 ~~release without charge or penalty any victim of domestic~~
15 ~~violence from a shared or family wireless service contract~~
16 ~~involving the victim’s abuser; provided that the victim submits~~
17 ~~an opt-out request in writing and with evidence of domestic~~
18 ~~violence as documented by any of the following items:~~

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

21 ~~(2) Order for protection granted pursuant to chapter 586;~~

18 — or

19 — (3) Signed affidavit from a licensed medical or mental

20 — health care provider, employee of a court acting

1 — within the scope of their employment, or social

2 — worker.

3 (b) ~~Any victim of domestic violence who submits an opt-out~~ The court order listed

in subsection (a) shall be a separate order that is directed to the wireless

telecommunications service provider. The order shall list the name and billing

telephone number of the accountholder, the name of the person to whom the telephone

number or numbers will be transferred, and each telephone number to be transferred.

4 ~~request to a telecommunications carrier pursuant to subsection~~

5 (a) ~~may further request a substitute or new phone number or~~

6 ~~alternative telecommunications service. Upon such request, the~~

7 ~~telecommunications carrier shall provide a substitute or new~~

8 ~~phone number or alternative telecommunications service without~~

9 ~~charge or fee and within twenty-four hours from the time of the~~

10 ~~opt-out request.~~

11 (c) For purposes of this section, “domestic abuse violence” has

12 the same meaning as in section 586-1.321-471.”

“Wireless telecommunications service” means commercial mobile radio service as

defined by title 47 Code of Federal Regulations section 20.3.

“Wireless telecommunications service provider” means a provider of wireless telecommunications service.

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

13 SECTION 3. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 4. New statutory material is underscored.

17 SECTION 5. This Act shall take effect upon its approval.

Report Title:

Domestic ~~Abuse~~Violence; Wireless Plans; Contractual Release

Description:

Requires wireless telecommunications service providers ~~carriers~~ to transfer the billing authority and rights to the wireless telephone number or numbers to the petitioner, if the petitioner is not the account holder, ~~release individuals from shared or family wireless plans, without charge, upon court order. written request and due to documented instances of domestic violence.~~

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

From: mailinglist@capitol.hawaii.gov
To: [JDLTestimony](#)
Cc:
Subject: *Submitted testimony for SB752 on Feb 23, 2015 09:15AM*
Date: Friday, February 20, 2015 8:31:14 PM

SB752

Submitted on: 2/20/2015

Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Ronnie Perry	Individual	Support	No

Comments:

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Subject: *Submitted testimony for SB752 on Feb 23, 2015 09:15AM*
Date: Saturday, February 21, 2015 12:54:47 AM

SB752

Submitted on: 2/21/2015

Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Stefan Jankovic	Individual	Support	No

Comments:

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SB752

Submitted on: 2/21/2015

Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Teresa Parsons	Individual	Support	No

Comments: I stand in support of this Bill. I urge the Legislature to move forward with this important Bill.

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SB752

Submitted on: 2/22/2015

Testimony for JDL on Feb 23, 2015 09:15AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
James L. Johnston	Individual	Support	No

Comments:

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