

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 18-0535.01 Richard Sweetman x4333

SENATE BILL 18-060

SENATE SPONSORSHIP

Coram,

HOUSE SPONSORSHIP

Hamner,

Senate Committees
Judiciary

House Committees
Judiciary

A BILL FOR AN ACT

101 **CONCERNING PROTECTIVE ORDERS IN CRIMINAL CASES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

Current law provides that in cases involving domestic violence and in cases involving certain other crimes, a court may enter any of several types of protection orders against the defendant. The bill adds 2 new potential protection orders to the list of options available to the court. They are:

- ! An order prohibiting the taking, transferring, concealing, harming, disposing of, or threatening to harm an animal owned, possessed, leased, kept, or held by the alleged

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

HOUSE
3rd Reading Unamended
March 6, 2018

HOUSE
Amended 2nd Reading
March 5, 2018

SENATE
3rd Reading Unamended
January 30, 2018

SENATE
Amended 2nd Reading
January 29, 2018

victim or witness; and

- ! An order directing a wireless telephone service provider to transfer the financial responsibility for and rights to a wireless telephone number or numbers to the petitioner if the petitioner satisfies certain criteria.

The bill also clarifies that the issuance of a protection order in a case involving domestic violence or any of certain crimes does not preclude a court from issuing a protective order in a civil proceeding.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-1-1001, **amend**
3 (3) introductory portion, (3)(d), and (3)(e); and add (3)(f) and (10) as
4 follows:

5 **18-1-1001. Protection order against defendant - definitions.**

6 (3) Nothing in this section ~~shall preclude~~ PRECLUDES the defendant from
7 applying to the court at any time for modification or dismissal of the
8 protection order issued pursuant to this section or the district attorney
9 from applying to the court at any time for further orders, additional
10 provisions under the protection order, or modification or dismissal of the
11 same. The trial court ~~shall retain~~ RETAINS jurisdiction to enforce, modify,
12 or dismiss the protection order until final disposition of the action. Upon
13 motion of the district attorney or on the court's own motion for the
14 protection of the alleged victim or witness, the court may, in cases
15 involving domestic violence as defined in section 18-6-800.3 (1) and
16 cases involving crimes listed in section 24-4.1-302, ~~C.R.S.~~, except those
17 listed in ~~paragraphs (cc.5) and (cc.6) of subsection (1)~~ SUBSECTIONS
18 (1)(cc.5) AND (1)(cc.6) of that section, enter any of the following further
19 orders against the defendant:

- 20 (d) An order prohibiting possession or consumption of alcohol or
21 controlled substances; ~~and~~

1 (e) ~~Any other order the court deems appropriate to protect the~~
2 ~~safety of the alleged victim or witness.~~ AN ORDER PROHIBITING THE
3 TAKING, TRANSFERRING, CONCEALING, HARMING, DISPOSING OF, OR
4 THREATENING TO HARM AN ANIMAL OWNED, POSSESSED, LEASED, KEPT, OR
5 HELD BY AN ALLEGED VICTIM OR WITNESS; AND

6 (f) ANY OTHER ORDER THE COURT DEEMS APPROPRIATE TO
7 PROTECT THE SAFETY OF THE ALLEGED VICTIM OR WITNESS.

8 =====

9 (10) THE ISSUANCE OF A PROTECTION ORDER PURSUANT TO THIS
10 SECTION DOES NOT PRECLUDE A COURT FROM ISSUING A PROTECTIVE
11 ORDER IN A CIVIL PROCEEDING.

12 **SECTION 2. In Colorado Revised Statutes, add 18-1-1001.5 as**
13 **follows:**

14 **18-1-1001.5 Protection order against defendant - transfer of**
15 **wireless telephone service in domestic violence cases - definitions.**

16 (1) IN ADDITION TO THE OPTIONS DESCRIBED IN SECTION 18-1-1001 (3),
17 UPON A DISCRETIONARY MOTION OF THE DISTRICT ATTORNEY OR ON THE
18 COURT'S OWN MOTION FOR THE PROTECTION OF AN ALLEGED VICTIM OR
19 WITNESS IN A CASE INVOLVING DOMESTIC VIOLENCE, AS DEFINED IN
20 SECTION 18-6-800.3 (1), AND CASES INVOLVING CRIMES LISTED IN SECTION
21 24-4.1-302 (1), EXCEPT THOSE LISTED IN SUBSECTIONS (1)(cc.5) AND
22 (1)(cc.6) OF THAT SECTION, THE COURT MAY ENTER AN ORDER DIRECTING
23 A WIRELESS TELEPHONE SERVICE PROVIDER TO TRANSFER THE FINANCIAL
24 RESPONSIBILITY FOR AND RIGHTS TO A WIRELESS TELEPHONE NUMBER OR
25 NUMBERS TO THE ALLEGED VICTIM OR WITNESS IF THE ALLEGED VICTIM OR
26 WITNESS:

27 (a) IS NOT THE ACCOUNT HOLDER; AND

1 (b) PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT THE
2 ALLEGED VICTIM OR WITNESS AND ANY MINOR CHILDREN IN HIS OR HER
3 CARE ARE THE PRIMARY USERS OF EACH WIRELESS TELEPHONE NUMBER
4 THAT WILL BE ORDERED TO BE TRANSFERRED BY A COURT PURSUANT TO
5 THIS SECTION.

6 (2) (a) AN ORDER TRANSFERRING THE FINANCIAL RESPONSIBILITY
7 FOR AND RIGHTS TO A WIRELESS TELEPHONE NUMBER OR NUMBERS TO AN
8 ALLEGED VICTIM OR WITNESS PURSUANT TO THIS SECTION MUST BE A
9 SEPARATE WRITTEN ORDER THAT IS DIRECTED TO THE WIRELESS
10 TELEPHONE SERVICE PROVIDER.

11 (b) THE ORDER MUST LIST THE NAME AND BILLING TELEPHONE
12 NUMBER OF THE ACCOUNT HOLDER, THE NAME AND CONTACT
13 INFORMATION OF THE ALLEGED VICTIM OR WITNESS TO WHOM THE
14 TELEPHONE NUMBER OR NUMBERS WILL BE TRANSFERRED, AND EACH
15 TELEPHONE NUMBER TO BE TRANSFERRED TO THE ALLEGED VICTIM OR
16 WITNESS.

17 (c) THE COURT SHALL ENSURE THAT THE ALLEGED VICTIM'S OR
18 WITNESS'S CONTACT INFORMATION IS NOT PROVIDED TO THE ACCOUNT
19 HOLDER IN PROCEEDINGS HELD PURSUANT TO THIS SECTION.

20 (d) THE ORDER MUST BE SENT OR DELIVERED IN PERSON OR
21 ELECTRONICALLY BY THE PROTECTED PARTY TO THE WIRELESS TELEPHONE
22 SERVICE PROVIDER'S REGISTERED AGENT.

23 (e) A WIRELESS TELEPHONE SERVICE PROVIDER SHALL TERMINATE
24 THE ACCOUNT HOLDER'S USE OF A TELEPHONE NUMBER THAT THE COURT
25 HAS ORDERED TO BE TRANSFERRED TO THE ALLEGED VICTIM OR WITNESS
26 PURSUANT TO THIS SECTION UNLESS THE WIRELESS TELEPHONE SERVICE
27 PROVIDER NOTIFIES THE ALLEGED VICTIM OR WITNESS AND THE COURT

1 WITHIN FIVE BUSINESS DAYS AFTER THE WIRELESS TELEPHONE SERVICE
2 PROVIDER RECEIVES THE ORDER EITHER THAT AN ACCOUNT HOLDER
3 NAMED IN THE ORDER HAS TERMINATED THE ACCOUNT OR THAT THE
4 REQUESTED TRANSFER CANNOT BE EFFECTUATED DUE TO DIFFERENCES IN
5 NETWORK TECHNOLOGY THAT PREVENT FUNCTIONALITY OF A DEVICE ON
6 THE NETWORK OR DUE TO GEOGRAPHIC LIMITATIONS ON NETWORK OR
7 SERVICE AVAILABILITY.

8 (3) A TRANSFER ORDERED PURSUANT TO THIS SECTION DOES NOT
9 PRECLUDE A WIRELESS TELEPHONE SERVICE PROVIDER FROM APPLYING
10 ANY ROUTINE AND CUSTOMARY REQUIREMENTS FOR ACCOUNT
11 ESTABLISHMENT TO THE ALLEGED VICTIM OR WITNESS AS PART OF THE
12 TRANSFER OF FINANCIAL RESPONSIBILITY FOR A WIRELESS TELEPHONE
13 NUMBER OR NUMBERS AND ANY DEVICES ATTACHED TO THE NUMBER OR
14 NUMBERS, INCLUDING, WITHOUT LIMITATION, IDENTIFICATION, FINANCIAL
15 INFORMATION, AND CUSTOMER PREFERENCES.

16 (4) A WIRELESS TELEPHONE SERVICE PROVIDER IS IMMUNE FROM
17 CIVIL LIABILITY FOR COMPLYING WITH AN ORDER TO TRANSFER A
18 TELEPHONE NUMBER PURSUANT TO THIS SECTION.

19 (5) THE ISSUANCE OF A PROTECTION ORDER PURSUANT TO THIS
20 SECTION DOES NOT PRECLUDE A COURT FROM ISSUING A PROTECTIVE
21 ORDER IN A CIVIL PROCEEDING.

22 (6) FOR PURPOSES OF THIS SECTION:

23 (a) "ACCOUNT HOLDER" MEANS A DEFENDANT WHO:

24 (1) IS CHARGED WITH AN OFFENSE, THE UNDERLYING BASIS OF
25 WHICH INCLUDES AN ACT OF DOMESTIC VIOLENCE, AS DEFINED IN SECTION
26 18-6-800.3 (1), OR A CRIME LISTED IN SECTION 24-4.1-302 (1), EXCEPT FOR
27 THOSE CRIMES LISTED IN SUBSECTIONS (1)(cc.5) AND (1)(cc.6) OF THAT

1 SECTION; AND

2 (II) MAINTAINS AN ACCOUNT WITH A WIRELESS TELEPHONE
3 SERVICE PROVIDER.

4 (b) "FINANCIAL RESPONSIBILITY" MEANS AN OBLIGATION TO PAY
5 SERVICE FEES AND OTHER COSTS AND CHARGES ASSOCIATED WITH ANY
6 TELEPHONE NUMBER.

7 (c) "WIRELESS TELEPHONE SERVICE PROVIDER" MEANS A PERSON
8 OR ENTITY THAT PROVIDES OR RESELLS COMMERCIAL MOBILE SERVICE, AS
9 DEFINED IN SECTION 47 U.S.C. SEC. 332 (d)(1).

10 **SECTION 3.** In Colorado Revised Statutes, 13-14-104.5, **amend**
11 **(7)(a)** as follows:

12 **13-14-104.5. Procedure for temporary civil protection order.**

13 (7) (a) A temporary civil protection order may be issued if the issuing
14 judge or magistrate finds that an imminent danger exists to the person or
15 persons seeking protection under the civil protection order. In
16 determining whether an imminent danger exists to the life or health of one
17 or more persons, the court shall consider all relevant evidence concerning
18 the safety and protection of the persons seeking the protection order. The
19 court shall not deny a petitioner the relief requested because of the length
20 of time between an act of abuse or threat of harm and the filing of the
21 petition for a protection order. THE COURT SHALL NOT DENY A PETITIONER
22 THE RELIEF REQUESTED BECAUSE A PROTECTION ORDER HAS BEEN ISSUED
23 PURSUANT TO SECTION 18-1-1001 OR 18-1-1001.5.

24 **SECTION 4.** In Colorado Revised Statutes, 13-14-106, **amend**
25 **(1)(a)** as follows:

26 **13-14-106. Procedure for permanent civil protection orders.**

27 (1) (a) On the return date of the citation, or on the day to which the

1 hearing has been continued, the judge or magistrate shall examine the
2 record and the evidence. If upon such examination the judge or magistrate
3 finds by a preponderance of the evidence that the respondent has
4 committed acts constituting grounds for issuance of a civil protection
5 order and that unless restrained will continue to commit such acts or acts
6 designed to intimidate or retaliate against the protected person, the judge
7 or magistrate shall order the temporary civil protection order to be made
8 permanent or enter a permanent civil protection order with provisions
9 different from the temporary civil protection order. A finding of imminent
10 danger to the protected person is not a necessary prerequisite to the
11 issuance of a permanent civil protection order. THE COURT SHALL NOT
12 DENY A PETITIONER THE RELIEF REQUESTED BECAUSE A PROTECTION
13 ORDER HAS BEEN ISSUED PURSUANT TO SECTION 18-1-1001 OR
14 18-1-1001.5. The judge or magistrate shall inform the respondent that a
15 violation of the civil protection order constitutes a criminal offense
16 pursuant to section 18-6-803.5 C.R.S., or constitutes contempt of court
17 and subjects the respondent to such punishment as may be provided by
18 law. If the respondent fails to appear before the court for the show cause
19 hearing at the time and on the date identified in the citation issued by the
20 court and the court finds that the respondent was properly served with the
21 temporary protection order and such citation, it is not necessary to
22 re-serve the respondent to make the protection order permanent.
23 However, if the court modifies the protection order on the motion of the
24 protected party, the modified protection order must be served upon the
25 respondent.

26 **SECTION 5. Act subject to petition - effective date -**
27 **applicability.** (1) This act takes effect November 1, 2018; except that,

1 if a referendum petition is filed pursuant to section 1 (3) of article V of
2 the state constitution against this act or an item, section, or part of this act
3 within the ninety-day period after final adjournment of the general
4 assembly, then the act, item, section, or part will not take effect unless
5 approved by the people at the general election to be held in November
6 2018 and, in such case, will take effect on the date of the official
7 declaration of the vote thereon by the governor.

8 (2) This act applies to protective orders entered on or after the
9 applicable effective date of this act.