

Schatz Substitute



AMENDMENT NO. _____

Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

S. 120

To prevent and respond to the misuse of communications services that facilitates domestic violence and other crimes

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. SCHATZ

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Safe Connections Act

5 of 2021".

6 **SEC. 2. DEFINITIONS.**

7 Except as otherwise provided in this Act, terms used

8 in this Act that are defined in section 344(a) of the Com-

9 munications Act of 1934, as added by section 4 of this

10 Act, have the meanings given those terms in such section

11 344(a).

1 **SEC. 3. FINDINGS.**

2 Congress finds the following:

3 (1) Domestic violence, dating violence, stalking,
4 sexual assault, human trafficking, and related
5 crimes are life-threatening issues and have lasting
6 and harmful effects on individuals, families, and en-
7 tire communities.

8 (2) Survivors often lack meaningful support
9 and options when establishing independence from an
10 abuser, including barriers such as financial insecu-
11 rity and limited access to reliable communications
12 tools to maintain essential connections with family,
13 social safety networks, employers, and support serv-
14 ices.

15 (3) Perpetrators of violence and abuse described
16 in paragraph (1) increasingly use technological and
17 communications tools to exercise control over, mon-
18 itor, and abuse their victims.

19 (4) Communications law can play a public in-
20 terest role in the promotion of safety, life, and prop-
21 erty with respect to the types of violence and abuse
22 described in paragraph (1). For example, inde-
23 pendent access to a wireless phone plan can assist
24 survivors in establishing security and autonomy.

1 ing domestic violence, dating violence, sex-
2 ual assault, stalking, and sex trafficking;

3 “(ii) an act or practice described in
4 paragraph (11) or (12) of section 103 of
5 the Trafficking Victims Protection Act of
6 2000 (22 U.S.C. 7102) (relating to severe
7 forms of trafficking in persons and sex
8 trafficking, respectively); or

9 “(iii) an act under State law, Tribal
10 law, or the Uniform Code of Military Jus-
11 tice that is similar to an offense described
12 in clause (i) or (ii).

13 “(B) CONVICTION NOT REQUIRED.—Noth-
14 ing in subparagraph (A) shall be construed to
15 require a criminal conviction or any other deter-
16 mination of a court in order for conduct to con-
17 stitute a covered act.

18 “(3) COVERED PROVIDER.—The term ‘covered
19 provider’ means a provider of a private mobile serv-
20 ice or commercial mobile service, as those terms are
21 defined in section 332(d).

22 “(4) PRIMARY ACCOUNT HOLDER.—The term
23 ‘primary account holder’ means an individual who is
24 a party to a mobile service contract with a covered
25 provider.

1 “(5) SHARED MOBILE SERVICE CONTRACT.—

2 The term ‘shared mobile service contract’—

3 “(A) means a mobile service contract for
4 an account that includes not less than 2 con-
5 sumers; and

6 “(B) does not include enterprise services
7 offered by a covered provider.

8 “(6) SURVIVOR.—The term ‘survivor’ means an
9 individual who is not less than 18 years old and—

10 “(A) against whom a covered act has been
11 committed or allegedly committed; or

12 “(B) who cares for another individual
13 against whom a covered act has been committed
14 or allegedly committed (provided that the indi-
15 vidual providing care did not commit or alleg-
16 edly commit the covered act).

17 “(b) SEPARATION OF LINES FROM SHARED MOBILE
18 SERVICE CONTRACT.—

19 “(1) IN GENERAL.—Not later than 2 business
20 days after receiving a completed line separation re-
21 quest from a survivor pursuant to subsection (c), a
22 covered provider shall, as applicable, with respect to
23 a shared mobile service contract under which the
24 survivor and the abuser each use a line —

1 “(A) separate the line of the survivor, and
2 the line of any individual in the care of the sur-
3 vivor, from the shared mobile service contract;
4 or

5 “(B) separate the line of the abuser from
6 the shared mobile service contract.

7 “(2) LIMITATIONS ON PENALTIES, FEES, AND
8 OTHER REQUIREMENTS.—A covered provider may
9 not make separation of a line from a shared mobile
10 service contract under paragraph (1) contingent on
11 any requirement other than the requirements under
12 subsection (c), including—

13 “(A) payment of a fee, penalty, or other
14 charge;

15 “(B) maintaining contractual or billing re-
16 sponsibility of a separated line with the pro-
17 vider;

18 “(C) approval of separation by the primary
19 account holder, if the primary account holder is
20 not the survivor;

21 “(D) a prohibition or limitation, including
22 one described in subparagraph (A), on number
23 portability, if such portability is technically fea-
24 sible, or a request to change phone numbers;

1 “(E) a prohibition or limitation on the sep-
2 aration of lines as a result of arrears accrued
3 by the account;

4 “(F) an increase in the rate charged for
5 the mobile service plan of the primary account
6 holder with respect to service on any remaining
7 line or lines; or

8 “(G) any other limitation or requirement
9 not listed under subsection (c).

10 “(3) RESPONSIBILITY FOR TRANSFERRED
11 TELEPHONE NUMBERS.—Notwithstanding para-
12 graph (2), beginning on the date on which a covered
13 provider transfers billing responsibilities for and
14 rights to a telephone number or numbers to a sur-
15 vivor under paragraph (1)(A) in response to a line
16 separation request submitted by the survivor under
17 subsection (c), the survivor shall assume financial
18 responsibility, including for monthly service costs,
19 for the transferred telephone number or numbers.

20 “(4) RESPONSIBILITY FOR TELEPHONE NUM-
21 BERS TRANSFERRED TO ANOTHER SERVICE PRO-
22 VIDER.—Notwithstanding paragraph (2), upon the
23 transfer of a telephone number under paragraph
24 (1)(B) in response to a line separation request sub-
25 mitted by a survivor under subsection (c), the sur-

1 vivor shall have no further financial responsibilities
2 for the telephone number or for any mobile device
3 associated with the telephone number.

4 “(5) NOTICE TO SURVIVOR.—If a covered pro-
5 vider separates a line from a shared mobile service
6 contract under paragraph (1) and the primary ac-
7 count holder is not the survivor, the covered provider
8 shall notify the survivor of the date on which the
9 covered provider intends to give any formal notice to
10 the primary account holder.

11 “(c) LINE SEPARATION REQUEST.—

12 “(1) IN GENERAL.—A survivor seeking relief
13 under subsection (b) shall submit to the covered pro-
14 vider a line separation request that—

15 “(A) verifies that an individual who uses a
16 line under the shared mobile service contract
17 has committed or allegedly committed a covered
18 act against the survivor or an individual in the
19 survivor’s care, by providing—

20 “(i) a copy of a signed affidavit from
21 a licensed medical or mental health care
22 provider, licensed military medical or men-
23 tal health care provider, licensed social
24 worker, licensed victim services provider, or
25 licensed military victim services provider,

1 or an employee of a court, acting within
2 the scope of that person's employment; or

3 “(ii) a copy of a police report, state-
4 ments provided by police, including mili-
5 tary police, to magistrates or judges,
6 charging documents, protective or restrain-
7 ing orders, military protective orders, or
8 any other official record that documents
9 the covered act;

10 “(B) in the case of relief sought under
11 subsection (b)(1)(A), with respect to—

12 “(i) a line used by the survivor that
13 the survivor seeks to have separated, states
14 that the survivor is the user of that spe-
15 cific line; and

16 “(ii) a line used by an individual in
17 the care of the survivor that the survivor
18 seeks to have separated—

19 “(I) includes an affidavit setting
20 forth that the individual is in the care
21 of the survivor; and

22 “(II) a statement that the indi-
23 vidual is the user of that specific line;
24 and

1 “(C) requests relief under subparagraph
2 (A) or (B) of subsection (b)(1) and identifies
3 each line that should be separated.

4 “(2) REMOTE OPTION.—A covered provider
5 shall offer a survivor the ability to submit a line sep-
6 aration request under paragraph (1) through secure
7 remote means that are easily navigable.

8 “(3) ENHANCED PROTECTIONS UNDER STATE
9 LAW.—This subsection shall not affect any law or
10 regulation of a State providing communications pro-
11 tections for survivors (or any similar category of in-
12 dividuals) that has less stringent requirements for
13 providing evidence of a covered act (or any similar
14 category of conduct) than this subsection.

15 “(d) CONFIDENTIAL AND SECURE TREATMENT OF
16 PERSONAL INFORMATION.—Notwithstanding section
17 222(b), a covered provider shall treat any information sub-
18 mitted by a survivor under subsection (c) as confidential
19 and securely dispose of the information not later than 90
20 days after receiving the information.

21 “(e) AVAILABILITY OF INFORMATION TO CON-
22 SUMERS.—A covered provider shall make information
23 about the options and process described in subsections (b)
24 and (c) readily available to consumers—

1 “(1) on the website and any mobile application
2 of the provider;

3 “(2) in physical stores; and

4 “(3) in other forms of public-facing consumer
5 communication.

6 “(f) TECHNICAL INFEASIBILITY.—

7 “(1) IN GENERAL.—The requirement to effec-
8 tuate a line separation request pursuant to sub-
9 section (b)(1) shall not apply to a covered provider
10 if the covered provider cannot operationally or tech-
11 nically effectuate the request.

12 “(2) NOTIFICATION.—If a covered provider can-
13 not operationally or technically effectuate a line sep-
14 aration request as described in paragraph (1), the
15 covered provider shall notify the individual who sub-
16 mitted the request of that infeasibility as soon as is
17 reasonably possible, and in any event not later than
18 48 hours after receiving the request.

19 “(g) LIABILITY PROTECTION.—

20 “(1) IN GENERAL.—A covered provider and any
21 officer, director, employee, vendor, or agent thereof
22 shall not be subject to liability to a survivor or any
23 other person for any claims deriving from an action
24 taken or omission made with respect to compliance
25 with subsection (c).

1 “(2) COMMISSION AUTHORITY.—Nothing in this
2 subsection shall limit the authority of the Commis-
3 sion to prosecute violations of this section or any
4 rules or regulations promulgated by the Commission
5 pursuant to this section.”.

6 **SEC. 5. RULEMAKING ON PROTECTIONS FOR SURVIVORS**
7 **OF DOMESTIC VIOLENCE.**

8 (a) DEFINITIONS.—In this section—

9 (1) the term “appropriate congressional com-
10 mittees” means the Committee on Commerce,
11 Science, and Transportation of the Senate and the
12 Committee on Energy and Commerce of the House
13 of Representatives;

14 (2) the term “Commission” means the Federal
15 Communications Commission;

16 (3) the term “covered hotline” means a hotline
17 related to domestic violence, dating violence, sexual
18 assault, stalking, sex trafficking, severe forms of
19 trafficking in persons, or any other similar act;

20 (4) the term “Lifeline program” means the pro-
21 gram set forth in subpart E of part 54 of title 47,
22 Code of Federal Regulations (or any successor regu-
23 lation); and

1 (5) the term “text message” has the meaning
2 given the term in section 227(e) of the Communica-
3 tions Act of 1934 (47 U.S.C. 227(e)).

4 (b) RULEMAKINGS.—

5 (1) HOTLINE CALLS.—

6 (A) IN GENERAL.—Not later than 180
7 days after the date of enactment of this Act,
8 the Commission shall commence a rulemaking
9 to consider whether to—

10 (i) require providers of wireless com-
11 munications services or wireline voice serv-
12 ices to omit from consumer-facing logs of
13 calls or text messages any records of calls
14 or text messages to covered hotlines, while
15 maintaining internal records of those calls
16 and messages; and

17 (ii) establish, and provide for updates
18 on a quarterly basis of, a central database
19 of covered hotlines to be used by providers
20 of wireless communications services or
21 wireline voice services in complying with
22 the rule described in clause (i).

23 (B) CONSIDERATIONS.—The rulemaking
24 conducted under subparagraph (A) shall include
25 consideration of—

1 (i) the ability of law enforcement
2 agencies or survivors to access a log of
3 calls or text messages in a criminal inves-
4 tigation or civil proceeding;

5 (ii) the ability of providers of wireless
6 communication services or wireline voice
7 services to—

8 (I) identify logs that are con-
9 sumer-facing; and

10 (II) omit certain consumer-facing
11 logs, while maintaining internal
12 records of such calls and text mes-
13 sages; and

14 (iii) any other factors associated with
15 the implementation of clauses (i) and (ii)
16 to protect survivors of domestic violence,
17 including factors that may impact smaller
18 providers.

19 (C) NO EFFECT ON LAW ENFORCEMENT.—

20 Nothing in subparagraph (A) shall be construed
21 to—

22 (i) limit or otherwise affect the ability
23 of a law enforcement agency to access a
24 log of calls or text messages in a criminal
25 investigation; or

1 (ii) alter or otherwise expand provider
2 requirements under the Communications
3 Assistance for Law Enforcement Act (Pub-
4 lic Law 103-414; 108 Stat. 4279) or the
5 amendments made by that Act.

6 (2) LINE SEPARATIONS.—

7 (A) IN GENERAL.—Not later than 18
8 months after the date of enactment of this Act,
9 the Commission shall adopt rules to implement
10 section 344 of the Communications Act of
11 1934, as added by section 4 of this Act.

12 (B) CONSIDERATIONS.—In adopting rules
13 under subparagraph (A), the Commission shall
14 consider—

- 15 (i) privacy protections;
- 16 (ii) account security and fraud detec-
17 tion;
- 18 (iii) account billing procedures;
- 19 (iv) liability;
- 20 (v) procedures for notification of sur-
21 vivors about line separation processes;
- 22 (vi) the requirements for remote sub-
23 mission of a line separation request, in-
24 cluding how that option facilitates submis-
25 sion of verification information and meets

1 the other requirements of section 344 of
2 the Communications Act of 1934, as added
3 by section 4 of this Act;

4 (vii) implementation timelines, based
5 on provider size and geographic reach;

6 (viii) notice to account holders;

7 (ix) situations in which a covered pro-
8 vider cannot operationally or technically
9 separate a telephone number or numbers
10 from a shared service plan such that the
11 provider cannot effectuate a line separation
12 request;

13 (x) financial responsibility for trans-
14 ferred telephone numbers; and

15 (xi) whether and how the survivor can
16 elect to take financial responsibility for the
17 mobile device associated with the separated
18 line.

19 (3) LIFELINE PROGRAM.—

20 (A) IN GENERAL.—Not later than 18
21 months after the date of enactment of this Act,
22 or as part of a general rulemaking proceeding
23 relating to the Lifeline program set forth in
24 subpart E of part 54 of title 47, Code of Fed-
25 eral Regulations (or any successor regulation),

1 cludes the evaluation and assessment de-
2 scribed in clauses (i) and (ii), respectively.

3 (C) RULE OF CONSTRUCTION.—Nothing in
4 this paragraph shall be construed to limit the
5 ability of a survivor who meets the require-
6 ments under section 344(c)(1) of the Commu-
7 nications Act of 1934, as added by section 4 of
8 this Act, to participate in the Lifeline program
9 indefinitely if the individual otherwise qualifies
10 for the Lifeline program under the rules of the
11 program.

12 (D) NOTIFICATION.—A provider of wire-
13 less communications services that receives a line
14 separation request pursuant to section 344 of
15 the Communications Act of 1934, as added by
16 section 4 of this Act, shall inform the individual
17 who submitted the request of—

18 (i) the existence of the Lifeline pro-
19 gram;

20 (ii) who qualifies to participate in the
21 Lifeline program; and

22 (iii) how to participate in the Lifeline
23 program.

1 **SEC. 6. EFFECTIVE DATE.**

2 The requirements under section 344 of the Commu-
3 nications Act of 1934, as added by section 4 of this Act,
4 shall take effect 60 days after the date on which the Fed-
5 eral Communications Commission adopts the rules imple-
6 menting that section pursuant to section 5(b)(2) of this
7 Act.

8 **SEC. 7. SAVINGS CLAUSE.**

9 Nothing in this Act or the amendments made by this
10 Act shall be construed to abrogate, limit, or otherwise af-
11 fect the provisions set forth in the Communications Assist-
12 ance for Law Enforcement Act (Public Law 103-414; 108
13 Stat. 4279) and the amendments made by that Act, any
14 authority granted to the Commission pursuant to that Act
15 or the amendments made by that Act, or any regulations
16 promulgated by the Commission pursuant to that Act or
17 the amendments made by that Act.