

SENATE, No. 1515

STATE OF NEW JERSEY

219th LEGISLATURE

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Sponsored by:
Senator NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)

SYNOPSIS

Authorizes parent or guardian to place security freeze on child's consumer report.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning consumer reports and children and amending
2 P.L.1997, c.172 and P.L.2005, c.226.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. Section 3 of P.L.1997, c.172 (C.56:11-30) is amended to
8 read as follows:

9 3. As used in this act:
10 "Adverse action" has the same meaning as in subsection (k) of
11 section 603 of the federal "Fair Credit Reporting Act," 15 U.S.C.
12 s.1681a.

13 "Consumer" means an individual.

14 "Consumer report" (1) means any written, oral or other
15 communication of any information by a consumer reporting agency
16 bearing on a consumer's credit worthiness, credit standing, credit
17 capacity, character, general reputation, personal characteristics or
18 mode of living which is used or expected to be used or collected in
19 whole or in part for the purpose of serving as a factor in
20 establishing the consumer's eligibility for:

21 (a) credit or insurance to be used primarily for personal, family
22 or household purposes;

23 (b) employment purposes; or

24 (c) any other purpose authorized under section 4 of this act.

25 (2) The term "consumer report" does not include:

26 (a) any:

27 (i) report containing information solely on transactions or
28 experiences between the consumer and the person making the
29 report;

30 (ii) communication of that information among persons related by
31 common ownership or affiliated by corporate control; or

32 (iii) communication of other information among persons related
33 by common ownership or affiliated by corporate control, if it is
34 clearly and conspicuously disclosed to the consumer that the
35 information may be communicated among those persons and the
36 consumer is given the opportunity, before the time that the
37 information is initially communicated, to direct that the information
38 not be communicated among those persons;

39 (b) any authorization or approval of a specific extension of
40 credit directly or indirectly by the issuer of a credit card or similar
41 device;

42 (c) any report in which a person, who has been requested by a
43 third party to make a specific extension of credit directly or
44 indirectly to a consumer, conveys his decision with respect to that
45 request, if the third party advises the consumer of the name and

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 address of the person to whom the request was made, and the
2 person makes the disclosures to the consumer required under 15
3 U.S.C. s.1681m; or

4 (d) communication excluded from the definition of consumer
5 report pursuant to subsection (o) of section 603 of the federal "Fair
6 Credit Reporting Act," 15 U.S.C. s.1681a.

7 "Consumer reporting agency" means any person which, for
8 monetary fees, dues, or on a cooperative nonprofit basis, regularly
9 engages, in whole or in part, in the practice of assembling or
10 evaluating consumer credit information or other information on
11 consumers for the purpose of furnishing consumer reports to third
12 parties, and which uses any means or facility for the purpose of
13 preparing or furnishing consumer reports.

14 "Director" means the Director of the Division of Consumer
15 Affairs in the Department of Law and Public Safety.

16 "Division" means the Division of Consumer Affairs in the
17 Department of Law and Public Safety.

18 "Employment purposes" means, when used in connection with a
19 consumer report, a report used for the purpose of evaluating a
20 consumer for employment, promotion, reassignment or retention as
21 an employee.

22 "File" means, when used in connection with information on any
23 consumer, all of the information on that consumer recorded and
24 retained by a consumer reporting agency regardless of how the
25 information is stored.

26 "Investigative consumer report" means a consumer report or a
27 portion thereof in which information on a consumer's character,
28 general reputation, personal characteristics or mode of living is
29 obtained through personal interviews with neighbors, friends or
30 associates of the consumer who is the subject of the report or with
31 others with whom the consumer is acquainted or who may have
32 knowledge concerning any of those items of information. However,
33 this information shall not include specific factual information on a
34 consumer's credit record obtained directly from a creditor of the
35 consumer or from a consumer reporting agency when the
36 information was obtained directly from a creditor of the consumer
37 or from the consumer.

38 "Medical information" means information or records obtained,
39 with the consent of the individual to whom it relates, from licensed
40 physicians or medical practitioners, hospitals, clinics, or other
41 medical or medically related facilities.

42 "Protected consumer" means a consumer who is under 18 years
43 of age at the time the placement of a security freeze is requested.

44 "Security freeze" means a notice placed in a consumer's or
45 protected consumer's consumer report, at the request of the
46 consumer or on behalf of the protected consumer and subject to
47 certain exceptions, that prohibits the consumer reporting agency
48 from releasing the report or any information from it without the
49 express authorization of the consumer or the protected consumer's

1 parent or legal guardian, but does not prevent a consumer reporting
2 agency from advising a third party that a security freeze is in effect
3 with respect to the consumer report.

4 (cf: P.L.2005, c.226, s.4)

5

6 2. Section 5 of P.L.2005, c.226 (C.56:11-46) is amended to
7 read as follows:

8 5. a. A consumer may elect to place a security freeze on his
9 consumer report, or a parent or legal guardian of a protected
10 consumer may elect to place a security freeze on the protected
11 consumer's consumer report, by:

12 (1) making a request in writing by certified mail or overnight
13 mail to a consumer reporting agency; or

14 (2) making a request directly to the consumer reporting agency
15 through a secure electronic mail connection, if an electronic mail
16 connection is provided by the consumer reporting agency.

17 In the case of a protected consumer, a parent or legal guardian
18 shall provide a consumer reporting agency with sufficient proof of
19 authority to act on behalf of a protected consumer. If the consumer
20 reporting agency does not have any information in its files
21 pertaining to the protected consumer at the time it receives a request
22 pursuant to this subsection, the consumer reporting agency shall
23 create a record for the protected consumer and place a security
24 freeze on the record. The record shall consist of a compilation of
25 information created by the consumer reporting agency that
26 identifies the protected consumer. A consumer reporting agency
27 shall not create or use the record to consider the protected
28 consumer's credit worthiness, credit standing, credit capacity,
29 character, general reputation, personal characteristics, or mode of
30 living.

31 b. A consumer reporting agency shall place a security freeze on
32 a consumer report no later than five business days after receiving a
33 written request from the consumer or the protected consumer's
34 parent or legal guardian.

35 c. The consumer reporting agency shall send a written
36 confirmation of the security freeze to the consumer or the protected
37 consumer's parent or legal guardian within five business days of
38 placing the freeze and at the same time shall provide the consumer
39 or the protected consumer's parent or legal guardian with a unique
40 personal identification number or password to be used by the
41 consumer or the protected consumer's parent or legal guardian
42 when providing authorization for the release of **【his】** the
43 consumer's or protected consumer's credit for a specific party or
44 period of time.

45 d. If the consumer or the protected consumer's parent or legal
46 guardian wishes to allow his or the protected consumer's consumer
47 report to be accessed for a specific party or period of time while a
48 freeze is in place, **【he】** the consumer or the protected consumer's
49 parent or legal guardian shall contact the consumer reporting

1 agency via certified or overnight mail or secure electronic mail and
2 request that the freeze be temporarily lifted, and provide all of the
3 following:

4 (1) Information generally deemed sufficient to identify a person;

5 (2) The unique personal identification number or password
6 provided by the consumer reporting agency pursuant to subsection
7 c. of this section; and

8 (3) The proper information regarding the third party who is to
9 receive the consumer report or the time period for which the
10 consumer report shall be available to users of the consumer report.

11 e. A consumer reporting agency that receives a request from a
12 consumer or a protected consumer's parent or legal guardian to
13 temporarily lift a freeze on a consumer report pursuant to
14 subsection d. of this section shall comply with the request no later
15 than three business days after receiving the request.

16 f. A consumer reporting agency shall develop procedures
17 involving the use of telephone, fax, the Internet, or other electronic
18 media to receive and process a request from a consumer or a
19 protected consumer's parent or legal guardian to temporarily lift a
20 freeze on a consumer report pursuant to subsection d. of this section
21 in an expedited manner. The director shall promulgate regulations
22 necessary to allow the use of electronic media to receive and
23 process a request from a consumer or a protected consumer's parent
24 or legal guardian to temporarily lift a security freeze pursuant to
25 subsection d. of this section as quickly as possible, with the goal of
26 processing a request within 15 minutes of that request.

27 g. A consumer reporting agency shall remove or temporarily
28 lift a freeze placed on a consumer report only in the following
29 cases:

30 (1) Upon consumer request, or the request of a protected
31 consumer's parent or legal guardian, pursuant to subsection d. or j.
32 of this section; or

33 (2) If the consumer report was frozen due to a material
34 misrepresentation of fact by the consumer. If a consumer reporting
35 agency intends to remove a freeze upon a consumer report pursuant
36 to this paragraph, the consumer reporting agency shall notify the
37 consumer in writing at least five business days prior to removing
38 the freeze on the consumer report.

39 h. If a third party requests access to a consumer report on
40 which a security freeze is in effect, and this request is in connection
41 with an application for credit or any other use, and the consumer or
42 the protected consumer's parent or legal guardian does not allow
43 **[his]** the consumer report to be accessed for that specific party or
44 period of time, the third party may treat the application as
45 incomplete.

46 i. (1) At any time that a consumer is required to receive a
47 summary of rights required under section 609 of the federal "Fair
48 Credit Reporting Act," 15 U.S.C. s.1681g, the following notice
49 shall be included:

1 New Jersey Consumers Have the Right to Obtain a Security Freeze

2 You may obtain a security freeze on your credit report to protect
3 your privacy and ensure that credit is not granted in your name
4 without your knowledge. You have a right to place a "security
5 freeze" on your credit report pursuant to New Jersey law.

6 The security freeze will prohibit a consumer reporting agency
7 from releasing any information in your credit report without your
8 express authorization or approval.

9 The security freeze is designed to prevent credit, loans, and
10 services from being approved in your name without your consent.
11 When you place a security freeze on your credit report, within five
12 business days you will be provided a personal identification number
13 or password to use if you choose to remove the freeze on your
14 credit report or to temporarily authorize the release of your credit
15 report for a specific party, parties or period of time after the freeze
16 is in place. To provide that authorization, you must contact the
17 consumer reporting agency and provide all of the following:

18 (i) The unique personal identification number or password
19 provided by the consumer reporting agency;

20 (ii) Proper identification to verify your identity; and

21 (iii) The proper information regarding the third party or parties
22 who are to receive the credit report or the period of time for which
23 the report shall be available to users of the credit report.

24 A consumer reporting agency that receives a request from a
25 consumer to lift temporarily a freeze on a credit report shall comply
26 with the request no later than three business days or less, as
27 provided by regulation, after receiving the request.

28 A security freeze does not apply to circumstances in which you
29 have an existing account relationship and a copy of your report is
30 requested by your existing creditor or its agents or affiliates for
31 certain types of account review, collection, fraud control or similar
32 activities.

33 If you are actively seeking credit, you should understand that the
34 procedures involved in lifting a security freeze may slow your own
35 applications for credit. You should plan ahead and lift a freeze,
36 either completely if you are shopping around, or specifically for a
37 certain creditor, a few days before actually applying for new credit.

38 You have a right to bring a civil action against someone who
39 violates your rights under the credit reporting laws. The action can
40 be brought against a consumer reporting agency or a user of your
41 credit report.

42 (2) If a consumer requests information about a security freeze,
43 **[he]** the consumer shall be provided with the notice provided in
44 paragraph (1) of this subsection and with any other information, as
45 prescribed by the director by regulation, about how to place,
46 temporarily lift and permanently lift a security freeze.

47 j.(1)A security freeze shall remain in place until the consumer
48 requests that the security freeze be removed. A consumer reporting
49 agency shall remove a security freeze within three business days of

1 receiving a request for removal from the consumer, who provides
2 the following:

3 **[(1)]** (a) Proper identification; and

4 **[(2)]** (b) The unique personal identification number or
5 password provided by the consumer reporting agency pursuant to
6 subsection c. of this section.

7 (2) In the case of a protected consumer's consumer report, a
8 security freeze shall remain in place until the protected consumer's
9 parent or legal guardian requests that the security freeze be removed
10 or the protected consumer reaches 18 years of age. A consumer
11 reporting agency shall remove a security freeze within three
12 business days of receiving a request for removal from the protected
13 consumer's parent or legal guardian, who provides the following:

14 (a) Proper identification and sufficient proof of authority to act
15 on behalf of the protected consumer; and

16 (b) The unique personal identification number or password
17 provided by the consumer reporting agency pursuant to subsection
18 c. of this section.

19 k. A consumer reporting agency shall require proper
20 identification of the person making a request to place or remove a
21 security freeze.

22 l. The provisions of this section do not apply to the use of a
23 consumer report by the following:

24 (1) A person, or subsidiary, affiliate, or agent of that person, or
25 an assignee of a financial obligation owing by the consumer to that
26 person, or a prospective assignee of a financial obligation owing by
27 the consumer to that person in conjunction with the proposed
28 purchase of the financial obligation, with which the consumer has
29 or had prior to assignment an account or contract, including a
30 demand deposit account, or to whom the consumer issued a
31 negotiable instrument, for the purposes of reviewing the account or
32 collecting the financial obligation owing for the account, contract,
33 or negotiable instrument. For purposes of this paragraph,
34 "reviewing the account" includes activities related to account
35 maintenance, monitoring, credit line increases, and account
36 upgrades and enhancements;

37 (2) A subsidiary, affiliate, agent, assignee, or prospective
38 assignee of a person to whom access has been granted under
39 subsection d. of this section, for purposes of facilitating the
40 extension of credit or other permissible use;

41 (3) Any State or local agency, law enforcement agency, trial
42 court, or private collection agency acting pursuant to a court order,
43 warrant, or subpoena;

44 (4) The Division of Taxation in the Department of the Treasury
45 for the purpose of enforcing the tax laws of this State;

46 (5) A State or local child support enforcement agency;

47 (6) The use of credit information for the purposes of
48 prescreening as provided for by the federal "Fair Credit Reporting
49 Act," 15 U.S.C. s.1681 et seq.;

1 (7) Any person or entity administering a credit file monitoring
2 subscription service to which the consumer has subscribed; or

3 (8) Any person or entity for the purpose of providing a
4 consumer or a protected consumer's parent or legal guardian with a
5 copy of the consumer's or protected consumer's credit report upon
6 the **【consumer's】** request of the consumer or the protected
7 consumer's parent or legal guardian.

8 m. (1) A consumer reporting agency shall not charge a
9 consumer or a protected consumer's parent or legal guardian any
10 fee to place a security freeze on that consumer's or protected
11 consumer's consumer report, or to remove or temporarily lift a
12 security freeze on that consumer's consumer report.

13 (2) A consumer reporting agency may charge a reasonable fee,
14 not to exceed \$5, to a consumer or a protected consumer's parent or
15 legal guardian who elects to remove or temporarily lift a security
16 freeze on that consumer's or protected consumer's consumer report.

17 (3) A consumer or a protected consumer's parent or legal
18 guardian may be charged a reasonable fee, not to exceed \$5, if the
19 consumer or protected consumer's parent or legal guardian fails to
20 retain the original personal identification number provided by the
21 consumer reporting agency and must be reissued the same or a new
22 personal identification number.

23 (cf: P.L.2018, c.153, s.5)

24
25 3. Section 6 of P.L.2005, c.226 (C.56:11-47) is amended to
26 read as follows:

27 6. If a security freeze is in place, a consumer reporting agency
28 shall not change any of the following official information in a
29 consumer report without sending a written confirmation of the
30 change to the consumer or the protected consumer's parent or legal
31 guardian within 30 days of the change being posted to the
32 consumer's or protected consumer's file: name; date of birth; Social
33 Security number; or address. Written confirmation is not required
34 for technical modifications of a consumer's or protected consumer's
35 official information, including name and street abbreviations,
36 complete spellings, or transposition of numbers or letters. In the
37 case of an address change, the written confirmation shall be sent to
38 both the new address and to the former address.

39 (cf: P.L.2005, c.226, s.6)

40
41 4. This act shall take effect on the first day of the third month
42 next following the date of enactment.

43 44 45 STATEMENT

46
47 This bill authorizes a parent or legal guardian to place a security
48 freeze on a child's consumer report.

1 Specifically, the bill defines a consumer under 18 years of age as
2 a “protected consumer.” The security freeze would prohibit a
3 consumer reporting agency (CRA) from releasing the report or any
4 information in it without the express authorization of the protected
5 consumer’s parent or legal guardian, thereby aiding in the
6 prevention of child identity theft.

7 Under the bill, a security freeze may be placed on a protected
8 consumer’s report at the request of the protected consumer’s parent
9 or legal guardian, in the same manner as a consumer requesting a
10 freeze on her or his own report under the “Identity Theft Prevention
11 Act,” P.L.2005, c.226 (C.56:11-44 et al.). A parent or legal
12 guardian would be required to provide a CRA with sufficient proof
13 of authority to act on behalf of a protected consumer. If the CRA
14 does not have any information in its files pertaining to the protected
15 consumer at the time it receives a request, the CRA would create a
16 record for the protected consumer and place a security freeze on it.
17 The record would consist of a compilation of information created by
18 the CRA that identifies the protected consumer. A CRA would be
19 prohibited from creating or using the record to consider the
20 protected consumer’s credit worthiness, credit standing, credit
21 capacity, character, general reputation, personal characteristics, or
22 mode of living.

23 The CRA would send a written confirmation of the security
24 freeze to the protected consumer’s parent or legal guardian within
25 five business days of placing the freeze and provide her or him with
26 a unique personal identification number or password to be used
27 when providing authorization for the release of the protected
28 consumer’s credit for a specific party or period of time.

29 The bill provides that a security freeze is to remain in place until
30 the protected consumer’s parent or legal guardian requests that the
31 security freeze be removed or the protected consumer reaches 18
32 years of age. A CRA would remove the security freeze within three
33 business days of the request, upon receiving: (1) proper
34 identification and sufficient proof of authority from the protected
35 consumer’s parent or legal guardian to act on behalf of the protected
36 consumer; and (2) the unique personal identification number or
37 password provided by the CRA.

38 Under current law, a CRA is required to place a security freeze
39 on a consumer report no later than five business days after receiving
40 a written request, and is prohibited from charging any fee to place
41 the security freeze on a consumer report. A CRA is authorized to
42 charge a reasonable fee, not to exceed \$5, for removing or
43 temporarily lifting a security freeze on that consumer report. A
44 person may be charged a reasonable fee, not to exceed \$5, for
45 failing to retain the original personal identification number provided
46 by the CRA. These provisions would remain unchanged.