

1 A bill to be entitled

2 An act relating to the security of a protected
3 consumer's information; providing a short title;
4 creating s. 501.0051, F.S.; providing definitions;
5 authorizing the representative of a protected consumer
6 to place a security freeze on a protected consumer's
7 consumer report or record; specifying the procedure to
8 request a security freeze; requiring a consumer
9 reporting agency to establish a record if the
10 protected consumer does not have an existing consumer
11 report; prohibiting the use of a consumer record for
12 certain purposes; requiring a consumer reporting
13 agency to place, and to provide written confirmation
14 of, a security freeze within a specified period;
15 prohibiting a consumer reporting agency from stating
16 or implying that a security freeze reflects a negative
17 credit history or rating; requiring a consumer
18 reporting agency to remove a security freeze under
19 specified conditions; specifying the procedure to
20 remove a security freeze; providing applicability;
21 authorizing a consumer reporting agency to charge a
22 fee for placing or removing a security freeze and for
23 reissuing a unique personal identifier; prohibiting a
24 fee under certain circumstances; requiring written
25 notification upon the change of specified information
26 in a protected consumer's consumer report or record;

Page 1 of 13

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0151-01-c1

27 providing exceptions; requiring a consumer reporting
 28 agency to notify a representative and provide
 29 specified information if the consumer reporting agency
 30 violates a security freeze; providing penalties and
 31 civil remedies; providing written disclosure
 32 requirements for consumer reporting agencies relating
 33 to a protected consumer's security freeze; providing
 34 an effective date.

35
 36 Be It Enacted by the Legislature of the State of Florida:

37
 38 Section 1. This act may be cited as the "Keeping I.D. Safe
 39 (KIDS) Act."

40 Section 2. Section 501.0051, Florida Statutes, is created
 41 to read:

42 501.0051 Protected consumer report security freeze.-

43 (1) As used in this section, the term:

44 (a) "Consumer report" has the same meaning as provided in
 45 15 U.S.C. s. 1681a(d).

46 (b) "Consumer reporting agency" has the same meaning as
 47 provided in 15 U.S.C. s. 1681a(f).

48 (c) "Protected consumer" means a person younger than 16
 49 years of age at the time a security freeze request is made or a
 50 person represented by a guardian or other advocate pursuant to
 51 chapter 39, chapter 393, chapter 744, or chapter 914.

52 (d) "Record" means a compilation of information that:

53 1. Identifies a protected consumer; and

54 2. Is created by a consumer reporting agency exclusively
55 for the purpose of complying with this section.

56 (e) "Representative" means the parent or legal guardian of
57 a protected consumer, including a guardian appointed pursuant to
58 s. 914.17.

59 (f) "Security freeze" means:

60 1. A notice placed on a protected consumer's consumer
61 report which prohibits a consumer reporting agency from
62 releasing the consumer report, the credit score, or any
63 information contained within the consumer report to a third
64 party without the express authorization of the representative;
65 or

66 2. If a consumer reporting agency does not have a consumer
67 report pertaining to the protected consumer, a notice placed on
68 the protected consumer's record which prohibits the consumer
69 reporting agency from releasing the protected consumer's record
70 except as provided in this section.

71 (g) "Sufficient proof of authority" means documentation
72 showing that a representative has authority to act on behalf of
73 a protected consumer. The term includes, but is not limited to,
74 a court order, a copy of a valid power of attorney, or a written
75 notarized statement signed by a representative which expressly
76 describes the authority of the representative to act on behalf
77 of the protected consumer. For proof of authority for a
78 representative who is a parent, the term also includes, but is

79 not limited to, a certified or official copy of a birth
80 certificate of the protected consumer.

81 (h) "Sufficient proof of identification" means
82 documentation identifying a protected consumer or a
83 representative of a protected consumer. The term includes, but
84 is not limited to, a copy of a social security card, a certified
85 or official copy of a birth certificate, a copy of a valid
86 driver license, or a copy of a government-issued photo
87 identification.

88 (2) A representative may place a security freeze on a
89 protected consumer's consumer report by:

90 (a) Submitting a request to a consumer reporting agency in
91 the manner prescribed by that agency;

92 (b) Providing the agency with sufficient proof of
93 authority and sufficient proof of identification of the
94 representative; and

95 (c) Paying the agency a fee as authorized under this
96 section.

97 (3) If a consumer reporting agency does not have a
98 consumer report pertaining to a protected consumer when the
99 consumer reporting agency receives a request for a security
100 freeze under subsection (2), the consumer reporting agency shall
101 create a record for the protected consumer and place a security
102 freeze on the record. A record may not be created or used to
103 consider the protected consumer's credit worthiness, credit
104 standing, credit capacity, character, general reputation,

105 personal characteristics, or eligibility for other financial
106 services.

107 (4) A consumer reporting agency shall place a security
108 freeze on a consumer report or record within 30 days after
109 confirming the authenticity of a security freeze request made in
110 accordance with this section.

111 (5) The consumer reporting agency shall send a written
112 confirmation of the security freeze to the representative within
113 10 business days after instituting the security freeze on the
114 consumer report or record and shall provide the representative
115 with instructions for removing the security freeze and a unique
116 personal identifier to be used by the representative when
117 providing authorization for removal of the security freeze.

118 (6) A consumer reporting agency may not state or imply to
119 any person that a security freeze reflects a negative credit
120 score, a negative credit history, or a negative credit rating.

121 (7) A consumer reporting agency shall remove a security
122 freeze from a protected consumer's consumer report or record
123 only under either of the following circumstances:

124 (a) Upon the request of a representative or a protected
125 consumer. A consumer reporting agency shall remove a security
126 freeze within 30 days after receiving such a request for removal
127 from a protected consumer or his or her representative.

128 1. A representative submitting a request for removal must
129 provide all of the following:

130 a. Sufficient proof of identification of the

131 representative and sufficient proof of authority as determined
132 by the consumer reporting agency.

133 b. The unique personal identifier provided by the consumer
134 reporting agency pursuant to subsection (5).

135 c. A fee as authorized under this section.

136 2. A protected consumer submitting a request for removal
137 must provide all of the following:

138 a. Sufficient proof of identification of the protected
139 consumer as determined by the consumer reporting agency.

140 b. Documentation that the sufficient proof of authority of
141 the protected consumer's representative to act on behalf of the
142 protected consumer is no longer valid.

143 c. A fee as authorized under this section.

144 (b) If the security freeze was instituted due to a
145 material misrepresentation of fact. A consumer reporting agency
146 that intends to remove a security freeze under this paragraph
147 shall notify the representative and protected consumer in
148 writing before removing the security freeze.

149 (8) This section does not apply to the use of a protected
150 consumer's consumer report or record by the following persons or
151 for the following reasons:

152 (a) A state agency acting within its lawful investigative
153 or regulatory authority.

154 (b) A state or local law enforcement agency investigating
155 a crime or conducting a criminal background check.

156 (c) A person administering a credit file monitoring

157 subscription service to which the protected consumer or the
 158 representative, on behalf of the protected consumer, has
 159 subscribed.

160 (d) A person providing the protected consumer's consumer
 161 report or record to the protected consumer or the representative
 162 upon the request of the protected consumer or representative.

163 (e) Pursuant to a court order lawfully entered.

164 (f) An insurance company for use in setting or adjusting a
 165 rate, adjusting a claim, or underwriting for insurance purposes.

166 (g) A consumer reporting agency's database or file that
 167 consists entirely of information concerning, and used
 168 exclusively for, one or more of the following:

- 169 1. Criminal record information.
- 170 2. Personal loss history information.
- 171 3. Fraud prevention or detection.
- 172 4. Tenant screening.
- 173 5. Employment screening.
- 174 6. Personal insurance policy information.
- 175 7. Noncredit information used for insurance purposes.

176 (h) A check services company issuing authorizations for
 177 the purpose of approving or processing negotiable instruments,
 178 electronic funds transfers, or similar methods of payment.

179 (i) A deposit account information service company issuing
 180 reports regarding account closures due to fraud, substantial
 181 overdrafts, automatic teller machine abuse, or similar negative
 182 information regarding a protected consumer to an inquiring

183 financial institution, as defined in s. 655.005 or in federal
184 law, for use only in reviewing a representative's request for a
185 deposit account for the protected consumer at the inquiring
186 financial institution.

187 (j) A consumer reporting agency that acts only as a
188 reseller of credit information by assembling and merging
189 information contained in the database of another consumer
190 reporting agency or multiple consumer reporting agencies and
191 that does not maintain a permanent database of credit
192 information from which new consumer reports are produced.
193 However, such consumer reporting agency shall honor any security
194 freeze placed or removed by another consumer reporting agency.

195 (k) A fraud prevention services company issuing reports to
196 prevent or investigate fraud.

197 (l) A person or entity, or its affiliates, or a collection
198 agency acting on behalf of the person or entity and with which
199 the protected consumer has an existing account, requesting
200 information in the protected consumer's consumer report or
201 record for the purposes of reviewing or collecting the account.
202 Reviewing the account includes activities related to account
203 maintenance, monitoring, credit line increases, and account
204 upgrades and enhancements.

205 (9) (a) A consumer reporting agency may charge a reasonable
206 fee, not to exceed \$10 to place or remove a security freeze.

207 (b) A consumer reporting agency may charge a reasonable
208 fee, not to exceed \$10, if the representative fails to retain

209 the original unique personal identifier provided by the consumer
210 reporting agency and the agency must reissue the unique personal
211 identifier or provide a new unique personal identifier to the
212 representative.

213 (c) A consumer reporting agency may not charge a fee under
214 this section to the representative of a protected consumer who
215 is a victim of identity theft if the representative submits, at
216 the time the security freeze is requested, a copy of a valid
217 investigative report, an incident report, or a complaint with a
218 law enforcement agency about the unlawful use of the protected
219 consumer's identifying information by another person.

220 (10) If a security freeze is in effect, a consumer
221 reporting agency must send written confirmation to a protected
222 consumer's representative of a change to any of the following
223 official information in the protected consumer's consumer report
224 or record within 30 days after the change is posted:

- 225 (a) The protected consumer's name.
226 (b) The protected consumer's address.
227 (c) The protected consumer's date of birth.
228 (d) The protected consumer's social security number.

229
230 Written confirmation is not required for technical corrections
231 of a protected consumer's official information, including name
232 and street abbreviations, complete spellings, or transposition
233 of numbers or letters. In the case of an address change, the
234 written confirmation must be sent to the representative and to

235 the protected consumer's new address and former address.

236 (11) If a consumer reporting agency violates a security
237 freeze placed in accordance with this section by releasing
238 information subject to a security freeze without proper
239 authorization, the consumer reporting agency shall, within 5
240 business days after discovering or being notified of the release
241 of information, notify the representative of the protected
242 consumer in writing. The notice shall state the specific
243 information released and provide the name, address, and other
244 contact information of the recipient of the information.

245 (12) A consumer reporting agency that willfully fails to
246 comply with any requirement imposed under this section is
247 subject to an administrative fine in the amount of \$500, imposed
248 by the Department of Agriculture and Consumer Services pursuant
249 to the administrative procedures established in chapter 120.

250 (13) In addition to any other penalties or remedies
251 provided under law, the following persons who are aggrieved by a
252 violation of this section may bring a civil action as follows:

253 (a) A person who obtains a protected consumer's consumer
254 report or record from a consumer reporting agency under false
255 pretenses or who knowingly obtains a protected consumer's
256 consumer report or record without a permissible purpose is
257 liable to the representative and protected consumer for actual
258 damages sustained by the protected consumer or \$1,000, whichever
259 is greater.

260 (b) A person who obtains a protected consumer's consumer

261 report or record from a consumer reporting agency under false
262 pretenses or who knowingly obtains a protected consumer's
263 consumer report or record without a permissible purpose is
264 liable to the consumer reporting agency for actual damages
265 sustained by the consumer reporting agency or \$1,000, whichever
266 is greater.

267 (14) A written disclosure by a consumer reporting agency,
268 pursuant to 15 U.S.C. s. 1681g, to a representative and
269 protected consumer residing in this state must include a written
270 summary of all rights that the representative and protected
271 consumer have under this section and, in the case of a consumer
272 reporting agency that compiles and maintains records on a
273 nationwide basis, a toll-free telephone number that the
274 representative can use to communicate with the consumer
275 reporting agency. The information provided in paragraph (b) must
276 be in at least 12-point boldfaced type. The written summary of
277 rights required under this section is sufficient if it is
278 substantially in the following form:

279 (a) If you are the parent or legal guardian of a minor
280 younger than 16 years of age or a guardian or advocate of an
281 incapacitated, disabled, or protected person under chapter 39,
282 chapter 393, chapter 744, or chapter 914, Florida Statutes, you
283 have the right to place a security freeze on the consumer report
284 of the person you are legally authorized to care for. If no
285 consumer report exists, you have the right to request that a
286 record be created and a security freeze be placed on the record.

287 A record with a security freeze is intended to prevent the
 288 opening of credit accounts until the security freeze is removed.

289 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO
 290 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN A
 291 CONSUMER REPORT OR RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT
 292 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION
 293 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
 294 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
 295 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET
 296 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN
 297 EXTENSION OF CREDIT AT POINT OF SALE.

298 (c) To remove the security freeze on the protected
 299 consumer's record or report, you must contact the consumer
 300 reporting agency and provide all of the following:

301 1. Proof of identification as required by the consumer
 302 reporting agency.

303 2. Proof of authority over the protected consumer as
 304 required by the consumer reporting agency.

305 3. The unique personal identifier provided by the consumer
 306 reporting agency.

307 4. Payment of a fee.

308 (d) A consumer reporting agency must, within 30 days after
 309 receiving the above information, authorize the removal of the
 310 security freeze.

311 (e) A security freeze does not apply to a person or
 312 entity, or its affiliates, or a collection agency acting on

CS/HB 151

2014

313 behalf of the person or entity and with which the protected
314 consumer has an existing account, which requests information in
315 the protected consumer's consumer report or record for the
316 purposes of reviewing or collecting the account. Reviewing the
317 account includes activities related to account maintenance,
318 monitoring, credit line increases, and account upgrades and
319 enhancements.

320 (f) You have the right to bring a civil action as
321 authorized by section 501.0051, Florida Statutes, which governs
322 the security of protected consumer information.

323 Section 3. This act shall take effect September 1, 2014.