

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;

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

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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; requiring the Department
 31 of Agriculture and Consumer Services to investigate
 32 certain complaints; providing penalties and civil
 33 remedies; providing written disclosure requirements
 34 for consumer reporting agencies relating to a
 35 protected consumer's security freeze; providing an
 36 effective date.

37
 38 Be It Enacted by the Legislature of the State of Florida:

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

42 Section 2. Section 501.0051, Florida Statutes, is created
 43 to read:

44 501.0051 Protected consumer report security freeze.-

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

46 (a) "Consumer report" has the same meaning as provided in
 47 15 U.S.C. s. 1681a(d).

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

50 (c) "Department" means the Department of Agriculture and
 51 Consumer Services.

52 (d) "Protected consumer" means a person younger than 16

53 years of age at the time a security freeze request is made or a
 54 person represented by a guardian or other advocate pursuant to
 55 chapter 39, chapter 393, chapter 744, or chapter 914.

56 (e) "Record" means a compilation of information that:

- 57 1. Identifies a protected consumer; and
- 58 2. Is created by a consumer reporting agency exclusively
 59 for the purpose of complying with this section.

60 (f) "Representative" means the parent or legal guardian of
 61 a protected consumer, including a guardian appointed pursuant to
 62 s. 914.17.

63 (g) "Security freeze" means:

- 64 1. A notice placed on a protected consumer's consumer
 65 report which prohibits a consumer reporting agency from
 66 releasing the consumer report, the credit score, or any
 67 information contained within the consumer report to a third
 68 party without the express authorization of the representative;
 69 or
- 70 2. If a consumer reporting agency does not have a consumer
 71 report pertaining to the protected consumer, a notice placed on
 72 the protected consumer's record which prohibits the consumer
 73 reporting agency from releasing the protected consumer's record
 74 except as provided in this section.

75 (h) "Sufficient proof of authority" means documentation
 76 showing that a representative has authority to act on behalf of
 77 a protected consumer. The term includes, but is not limited to,
 78 a court order, a copy of a valid power of attorney, or a written

79 notarized statement signed by a representative which expressly
80 describes the authority of the representative to act on behalf
81 of the protected consumer. For proof of authority for a
82 representative who is a parent, the term also includes, but is
83 not limited to, a certified or official copy of a birth
84 certificate of the protected consumer.

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

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

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

96 (b) Providing the agency with sufficient proof of
97 authority and sufficient proof of identification of the
98 representative; and

99 (c) Paying the agency a fee as authorized under this
100 section.

101 (3) If a consumer reporting agency does not have a
102 consumer report pertaining to a protected consumer when the
103 consumer reporting agency receives a request for a security
104 freeze under subsection (2), the consumer reporting agency shall

105 create a record for the protected consumer and place a security
106 freeze on the record. A record may not be created or used to
107 consider the protected consumer's credit worthiness, credit
108 standing, credit capacity, character, general reputation,
109 personal characteristics, or eligibility for other financial
110 services.

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

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

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

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

128 (a) Upon the request of a representative or a protected
129 consumer. A consumer reporting agency shall remove a security
130 freeze within 30 days after receiving such a request for removal

131 from a protected consumer or his or her representative.

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

134 a. Sufficient proof of identification of the
135 representative and sufficient proof of authority as determined
136 by the consumer reporting agency.

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

139 c. A fee as authorized under this section.

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

142 a. Sufficient proof of identification of the protected
143 consumer as determined by the consumer reporting agency.

144 b. Documentation that the sufficient proof of authority of
145 the protected consumer's representative to act on behalf of the
146 protected consumer is no longer valid.

147 c. A fee as authorized under this section.

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

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

156 (a) A state agency acting within its lawful investigative

157 or regulatory authority.

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

160 (c) A person administering a credit file monitoring
 161 subscription service to which the protected consumer or the
 162 representative, on behalf of the protected consumer, has
 163 subscribed.

164 (d) A person providing the protected consumer's consumer
 165 report or record to the protected consumer or the representative
 166 upon the request of the protected consumer or representative.

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

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

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

- 173 1. Criminal record information.
- 174 2. Personal loss history information.
- 175 3. Fraud prevention or detection.
- 176 4. Tenant screening.
- 177 5. Employment screening.
- 178 6. Personal insurance policy information.
- 179 7. Noncredit information used for insurance purposes.

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

183 (i) A deposit account information service company issuing
184 reports regarding account closures due to fraud, substantial
185 overdrafts, automatic teller machine abuse, or similar negative
186 information regarding a protected consumer to an inquiring
187 financial institution, as defined in s. 655.005 or in federal
188 law, for use only in reviewing a representative's request for a
189 deposit account for the protected consumer at the inquiring
190 financial institution.

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

199 (k) A fraud prevention services company issuing reports to
200 prevent or investigate fraud.

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

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

211 (b) A consumer reporting agency may charge a reasonable
212 fee, not to exceed \$10, if the representative fails to retain
213 the original unique personal identifier provided by the consumer
214 reporting agency and the agency must reissue the unique personal
215 identifier or provide a new unique personal identifier to the
216 representative.

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

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

229 (a) The protected consumer's name.

230 (b) The protected consumer's address.

231 (c) The protected consumer's date of birth.

232 (d) The protected consumer's social security number.

233

234 Written confirmation is not required for technical corrections

235 of a protected consumer's official information, including name
236 and street abbreviations, complete spellings, or transposition
237 of numbers or letters. In the case of an address change, the
238 written confirmation must be sent to the representative and to
239 the protected consumer's new address and former address.

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

249 (12) The department shall investigate any complaints
250 received concerning violations of this section. If, after
251 investigating any complaint, the department finds that there has
252 been a violation of this section, the department may bring an
253 action to impose an administrative penalty. A consumer reporting
254 agency that willfully fails to comply with any requirement
255 imposed under this section is subject to an administrative
256 penalty in the amount of \$500 for each violation, imposed by the
257 department. An administrative proceeding that could result in
258 the entry of an order imposing an administrative penalty must be
259 conducted in accordance with chapter 120. The administrative
260 penalty shall be deposited into the General Inspection Trust

261 Fund.

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

265 (a) A person who obtains a protected consumer's consumer
266 report or record from a consumer reporting agency under false
267 pretenses or who knowingly obtains a protected consumer's
268 consumer report or record without a permissible purpose is
269 liable to the representative and protected consumer for actual
270 damages sustained by the protected consumer or \$1,000, whichever
271 is greater.

272 (b) A person who obtains a protected consumer's consumer
273 report or record from a consumer reporting agency under false
274 pretenses or who knowingly obtains a protected consumer's
275 consumer report or record without a permissible purpose is
276 liable to the consumer reporting agency for actual damages
277 sustained by the consumer reporting agency or \$1,000, whichever
278 is greater.

279 (14) A written disclosure by a consumer reporting agency,
280 pursuant to 15 U.S.C. s. 1681g, to a representative and
281 protected consumer residing in this state must include a written
282 summary of all rights that the representative and protected
283 consumer have under this section and, in the case of a consumer
284 reporting agency that compiles and maintains records on a
285 nationwide basis, a toll-free telephone number that the
286 representative can use to communicate with the consumer

287 reporting agency. The information provided in paragraph (b) must
 288 be in at least 12-point boldfaced type. The written summary of
 289 rights required under this section is sufficient if it is
 290 substantially in the following form:

291 (a) If you are the parent or legal guardian of a minor
 292 younger than 16 years of age or a guardian or advocate of an
 293 incapacitated, disabled, or protected person under chapter 39,
 294 chapter 393, chapter 744, or chapter 914, Florida Statutes, you
 295 have the right to place a security freeze on the consumer report
 296 of the person you are legally authorized to care for. If no
 297 consumer report exists, you have the right to request that a
 298 record be created and a security freeze be placed on the record.
 299 A record with a security freeze is intended to prevent the
 300 opening of credit accounts until the security freeze is removed.

301 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO
 302 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN A
 303 CONSUMER REPORT OR RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT
 304 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION
 305 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
 306 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
 307 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET
 308 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN
 309 EXTENSION OF CREDIT AT POINT OF SALE.

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

313 1. Proof of identification as required by the consumer
314 reporting agency.

315 2. Proof of authority over the protected consumer as
316 required by the consumer reporting agency.

317 3. The unique personal identifier provided by the consumer
318 reporting agency.

319 4. Payment of a fee.

320 (d) A consumer reporting agency must, within 30 days after
321 receiving the above information, authorize the removal of the
322 security freeze.

323 (e) A security freeze does not apply to a person or
324 entity, or its affiliates, or a collection agency acting on
325 behalf of the person or entity and with which the protected
326 consumer has an existing account, which requests information in
327 the protected consumer's consumer report or record for the
328 purposes of reviewing or collecting the account. Reviewing the
329 account includes activities related to account maintenance,
330 monitoring, credit line increases, and account upgrades and
331 enhancements.

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

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