

By the Committees on Judiciary; and Commerce and Tourism; and
Senator Detert

590-01071-14

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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;
27 providing exceptions; requiring a consumer reporting
28 agency to notify a representative and provide
29 specified information if the consumer reporting agency

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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.

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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 a protected consumer, a notice placed on a
68 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 the representative which expressly
76 describes the authority of the representative to act on behalf
77 of the protected consumer. A representative who is a parent may
78 establish sufficient proof of authority by providing a certified
79 or official copy of the protected consumer's birth certificate.

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

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

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

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

93 (c) Paying the agency a fee as authorized under this
94 section.

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

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

108 (5) The consumer reporting agency shall send a written
109 confirmation of the security freeze to the representative within
110 10 business days after instituting the security freeze on the
111 consumer report or record and shall provide the representative
112 with instructions for removing the security freeze and a unique
113 personal identifier to be used by the representative when
114 providing authorization for removal of the security freeze.

115 (6) A consumer reporting agency may not state or imply to
116 any person that a security freeze reflects a negative credit

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117 score, a negative credit history, or a negative credit rating.

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

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

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

127 a. Sufficient proof of identification of the representative
128 and sufficient proof of authority as determined by the consumer
129 reporting agency.

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

132 c. A fee as authorized under this section.

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

135 a. Sufficient proof of identification of the protected
136 consumer as determined by the consumer reporting agency.

137 b. Documentation that the sufficient proof of authority of
138 the protected consumer's representative to act on behalf of the
139 protected consumer is no longer valid.

140 c. A fee as authorized under this section.

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

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

149 (a) A state agency acting within its lawful investigative
150 or regulatory authority.

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

153 (c) A person administering a credit file monitoring
154 subscription service to which the protected consumer or the
155 representative, on behalf of the protected consumer, has
156 subscribed.

157 (d) A person providing the protected consumer's consumer
158 report or record to the protected consumer or representative
159 upon the request of the protected consumer or representative.

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

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

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

166 1. Criminal record information.

167 2. Personal loss history information.

168 3. Fraud prevention or detection.

169 4. Tenant screening.

170 5. Employment screening.

171 6. Personal insurance policy information.

172 7. Noncredit information used for insurance purposes.

173 (h) A check services company issuing authorizations for the
174 purpose of approving or processing negotiable instruments,

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175 electronic funds transfers, or similar methods of payment.

176 (i) A deposit account information service company issuing
177 reports regarding account closures due to fraud, substantial
178 overdrafts, automatic teller machine abuse, or similar negative
179 information regarding a protected consumer to an inquiring
180 financial institution, as defined in s. 655.005 or in federal
181 law, for use only in reviewing a representative's request for a
182 deposit account for the protected consumer at the inquiring
183 financial institution.

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

192 (k) A fraud prevention services company issuing reports to
193 prevent or investigate fraud.

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

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

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204 (b) A consumer reporting agency may also charge a
205 reasonable fee, not to exceed \$10, if the representative fails
206 to retain the original unique personal identifier provided by
207 the consumer reporting agency and the agency must reissue the
208 unique personal identifier or provide a new unique personal
209 identifier to the representative.

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

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

222 (a) The protected consumer's name.

223 (b) The protected consumer's address.

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

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

226
227 Written confirmation is not required for technical corrections
228 of a protected consumer's official information, including name
229 and street abbreviations, complete spellings, or transposition
230 of numbers or letters. In the case of an address change, the
231 written confirmation must be sent to the representative and to
232 the protected consumer's new address and former address.

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

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

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

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

257 (b) A person who obtains a protected consumer's consumer
258 report or record from a consumer reporting agency under false
259 pretenses or who knowingly obtains a protected consumer's
260 consumer report or record without a permissible purpose is
261 liable to the consumer reporting agency for actual damages

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262 sustained by the consumer reporting agency or \$1,000, whichever
263 is greater.

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

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

286 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO
287 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN A
288 CONSUMER REPORT OR RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT
289 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION
290 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT

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291 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
292 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET
293 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN
294 EXTENSION OF CREDIT AT POINT OF SALE.

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

298 1. Proof of identification as required by the consumer
299 reporting agency.

300 2. Proof of authority over the protected consumer as
301 required by the consumer reporting agency.

302 3. The unique personal identifier provided by the consumer
303 reporting agency.

304 4. Payment of a fee.

305 (d) A consumer reporting agency must, within 30 days after
306 receiving the above information, authorize the removal of the
307 security freeze.

308 (e) A security freeze does not apply to a person or entity,
309 or its affiliates, or a collection agency acting on behalf of
310 the person or entity, with which the protected consumer has an
311 existing account, which requests information in the protected
312 consumer's consumer report or record for the purposes of
313 reviewing or collecting the account. Reviewing the account
314 includes activities related to account maintenance, monitoring,
315 credit line increases, and account upgrades and enhancements.

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

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