

SENATE BILL No. 174

February 12, 2013, Introduced by Senators PROOS, JANSEN, JONES, HANSEN, YOUNG, COLBECK, MARLEAU and PAPPAGEORGE and referred to the Committee on Banking and Financial Institutions.

A bill to require certain consumer reporting agencies to place security freezes for protected consumers under certain circumstances; to provide for the removal of those security freezes; to authorize and limit fees; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "childhood identity theft protection act".

3 Sec. 2. As used in this act:

4 (a) "Consumer" means an individual who resides in this state.

5 (b) "Consumer report" means any written, oral, or other
6 communication of any information by a consumer reporting agency
7 bearing on a consumer's creditworthiness, credit standing, credit
8 capacity, character, general reputation, personal characteristics,

1 or mode of living that is issued or expected to be used or
2 collected in whole or in part for the purpose of serving as a
3 factor in establishing the consumer's eligibility for any of the
4 following:

5 (i) Credit or insurance to be used primarily for personal,
6 family, or household purposes.

7 (ii) Employment purposes.

8 (iii) Any other purpose authorized under section 604 of the fair
9 credit reporting act, 15 USC 1681b.

10 (c) "Consumer reporting agency" means any person that, for
11 monetary fees or dues or on a cooperative nonprofit basis,
12 regularly engages in whole or in part in the practice of assembling
13 or evaluating consumer credit information or other information on
14 consumers for the purpose of furnishing consumer reports to third
15 parties and that uses any means or facility of interstate commerce
16 for the purpose of preparing or furnishing consumer reports.

17 (d) "Employment purposes" means used for the purpose of
18 evaluating a consumer for employment, promotion, reassignment, or
19 retention as an employee.

20 (e) "File" means all of the information on a consumer recorded
21 and retained by a consumer reporting agency regardless of how the
22 information is stored.

23 (f) "Protected consumer" means a consumer who is either of the
24 following:

25 (i) Under the age of 16 years at the time a request for the
26 placement of a security freeze is made.

27 (ii) An incapacitated individual or a protected individual for

whom a guardian or conservator has been appointed under article V of the estates and protected individuals code, 1998 PA 386, MCL 700.5101 to 700.5520.

(g) "Record" means a compilation of information that meets all of the following:

(i) Identifies a protected consumer.

(ii) Is created by a consumer reporting agency solely for the purpose of complying with this act.

(iii) May not be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living that is issued or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for any of the following:

(A) Credit or insurance to be used primarily for personal, family, or household purposes.

(B) Employment purposes.

(C) Any other purpose authorized under section 604 of the fair credit reporting act, 15 USC 1681b.

(h) "Representative" means an individual who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(i) "Security freeze" means any of the following:

(i) If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction that meets both of the following:

(A) Is placed on the protected consumer's record under this

1 act.

2 (B) Prohibits the consumer reporting agency from releasing the
3 protected consumer's record except as provided in this act.

4 (ii) If a consumer reporting agency has a file pertaining to
5 the protected consumer, a restriction that meets both of the
6 following:

7 (A) Is placed on the protected consumer's consumer report
8 under this act.

9 (B) Prohibits the consumer reporting agency from releasing the
10 protected consumer's consumer report or any information derived
11 from the protected consumer's consumer report except as provided in
12 this act.

13 (j) "Sufficient proof of authority" means documentation that
14 shows that a representative has authority to act on behalf of a
15 protected consumer, including, but not limited to, any of the
16 following:

17 (i) An order issued by a court of law.

18 (ii) A lawfully executed and valid power of attorney.

19 (iii) A written, notarized statement signed by a representative
20 that expressly describes the authority of the representative to act
21 on behalf of a protected consumer.

22 (k) "Sufficient proof of identification" means information or
23 documentation that identifies a protected consumer or a
24 representative of a protected consumer, including, but not limited
25 to, any of the following:

26 (i) A social security number or a copy of a social security
27 card issued by the social security administration.

1 (ii) A certified or official copy of a birth certificate issued
2 by the entity authorized to issue the birth certificate.

3 (iii) A copy of an operator's license or chauffeur's license
4 issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to
5 257.923, an official state personal identification card issued
6 under 1972 PA 222, MCL 28.291 to 28.300, or any other government-
7 issued identification.

8 (iv) A copy of a bill, including a bill for telephone, sewer,
9 septic tank, water, electric, oil, or natural gas services, that
10 shows a name and home address.

11 Sec. 3. This act does not apply to the use of a protected
12 consumer's consumer report or record by any of the following:

13 (a) A person that is administering a credit file monitoring
14 subscription service to which either of the following has
15 subscribed:

16 (i) The protected consumer.

17 (ii) On behalf of the protected consumer, his or her
18 representative.

19 (b) A person that provides the protected consumer or the
20 protected consumer's representative with a copy of the protected
21 consumer's consumer report on request of the protected consumer or
22 the protected consumer's representative.

23 (c) A person engaged in providing check services or fraud
24 prevention services that issues any of the following:

25 (i) Reports on incidents of fraud.

26 (ii) Authorizations for the purpose of approving or processing
27 negotiable instruments, electronic funds transfers, or similar

1 payment methods.

2 (d) A person engaged in providing deposit account information
3 services that issues reports regarding account closures due to
4 fraud, substantial overdrafts, automated teller machine abuse, or
5 similar negative information regarding a consumer to inquiring
6 banks or other financial institutions for use only in reviewing a
7 consumer request for a deposit account at the inquiring bank or
8 financial institution.

9 (e) A consumer reporting agency that meets both of the
10 following:

11 (i) Acts only as a reseller of credit information by assembling
12 and merging information contained in a database of another consumer
13 reporting agency or multiple consumer reporting agencies.

14 (ii) Does not maintain a permanent database of credit
15 information from which new consumer reports are produced.

16 Sec. 4. (1) A consumer reporting agency shall place a security
17 freeze for a protected consumer if all of the following are met:

18 (a) The consumer reporting agency receives a request from the
19 protected consumer's representative for the placement of the
20 security freeze under this act.

21 (b) The protected consumer's representative does all of the
22 following:

23 (i) Submits the request to the consumer reporting agency at the
24 address or other point of contact and in the manner specified by
25 the consumer reporting agency.

26 (ii) Provides to the consumer reporting agency sufficient proof
27 of identification of the protected consumer and the representative.

1 (iii) Provides to the consumer reporting agency sufficient proof
2 of authority to act on behalf of the protected consumer.

3 (iv) Pays to the consumer reporting agency the appropriate fee
4 under section 9.

5 (2) If a consumer reporting agency does not have a file
6 pertaining to a protected consumer when the consumer reporting
7 agency receives a request under subsection (1), the consumer
8 reporting agency shall create a record for the protected consumer.

9 Sec. 5. Within 30 days after receiving a request that meets
10 the requirements of section 4(1), a consumer reporting agency shall
11 place a security freeze for the protected consumer.

12 Sec. 6. Unless a security freeze for a protected consumer is
13 removed in accordance with section 8 or 10, a consumer reporting
14 agency may not release the protected consumer's consumer report,
15 any information derived from the protected consumer's consumer
16 report, or any record created for the protected consumer.

17 Sec. 7. A security freeze for a protected consumer placed
18 under section 5 shall remain in effect until 1 of the following is
19 met:

20 (a) The protected consumer or the protected consumer's
21 representative requests the consumer reporting agency to remove the
22 security freeze under section 8.

23 (b) The security freeze is removed under section 10.

24 Sec. 8. A consumer reporting agency shall remove a security
25 freeze for a protected consumer placed under section 5 within 30
26 days after the protected consumer or the protected consumer's
27 representative does all of the following:

1 (a) Submits a request for the removal of the security freeze
2 to the consumer reporting agency at the address or other point of
3 contact and in the manner specified by the consumer reporting
4 agency.

5 (b) Provides 1 of the following to the consumer reporting
6 agency:

7 (i) If the request for removal is submitted by the protected
8 consumer, all of the following:

9 (A) Proof that the sufficient proof of authority for the
10 protected consumer's representative to act on behalf of the
11 protected consumer is no longer valid.

12 (B) Sufficient proof of identification of the protected
13 consumer.

14 (ii) If the request for removal is submitted by the
15 representative of a protected consumer, all of the following:

16 (A) Sufficient proof of identification of the protected
17 consumer and the representative.

18 (B) Sufficient proof of authority to act on behalf of the
19 protected consumer.

20 (c) Pays the consumer reporting agency the appropriate fee
21 under section 9.

22 Sec. 9. (1) Except as provided in subsection (2), a consumer
23 reporting agency may not charge a fee for any service performed
24 under this act.

25 (2) Subject to subsection (3), a consumer reporting agency may
26 charge a reasonable fee, that does not exceed \$5.00, for each
27 placement or removal of a security freeze for a protected consumer.

1 (3) A consumer reporting agency may not charge any fee
2 authorized under subsection (2) if either of the following is met:

3 (a) The protected consumer's representative has filed a police
4 report of alleged identity theft against the protected consumer
5 under section 4a, 33b, or 64a of the William Van Regenmorter crime
6 victim's rights act, 1985 PA 87, MCL 780.754a, 780.783b, and
7 780.814a, and provides a copy of the report to the consumer
8 reporting agency.

9 (b) The request for the placement or removal of a security
10 freeze is for a protected consumer who is under the age of 16 years
11 at the time of the request and the consumer reporting agency has a
12 consumer report pertaining to the protected consumer.

13 Sec. 10. A consumer reporting agency may remove a security
14 freeze for a protected consumer or delete a record of a protected
15 consumer if the security freeze was placed or the record was
16 created based on a material misrepresentation of fact by the
17 protected consumer or the protected consumer's representative.

18 Sec. 11. A consumer damaged by an intentional or negligent
19 violation of this act by a consumer reporting agency may bring an
20 action for that violation and is entitled to recover his or her
21 actual damages, plus reasonable attorney fees and court costs.