

# HOUSE BILL 1297

I3, I2

(3lr2970)

## ENROLLED BILL

— *Economic Matters/Finance* —

Introduced by **Delegates Zucker, Arora, Barkley, Bobo, Braveboy, Burns, Clagett, Feldman, Haddaway-Riccio, Hershey, Hucker, Jameson, Kaiser, A. Kelly, Kramer, Lee, Love, Luedtke, McHale, Minnick, Olszewski, Schuh, Schulz, Vaughn, ~~and Walker~~ Walker, Rudolph, Wilson, and Frick**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Consumer Protection – Security Freezes – Children in Foster Care Settings**

3 FOR the purpose of requiring the ~~Social Services Administration of the Maryland~~  
4 Department of Human Resources to request a security freeze on the consumer  
5 report or a certain record of certain protected consumers who are minor children  
6 in the custody of a local department of social services who have been placed in a  
7 foster care setting in accordance with certain application procedures; requiring  
8 a consumer reporting agency to place a security freeze for a protected consumer  
9 under certain circumstances and within a certain period of time; requiring a  
10 consumer reporting agency to create a certain record under certain  
11 circumstances; requiring a local department of social services to act as a

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics indicate opposite chamber/conference committee amendments.*



1 protected consumer's representative under certain circumstances; prohibiting a  
 2 consumer agency from releasing certain information while a security freeze is in  
 3 place; providing that a security freeze remains in effect until a certain request is  
 4 made or the security freeze is removed in accordance with a certain provision of  
 5 this Act; providing that a certain protected consumer or the ~~Social Services~~  
 6 ~~Administration~~ *Department* may request the removal of a certain security freeze  
 7 by submitting a certain request in a certain manner under certain  
 8 circumstances; requiring a consumer reporting agency to remove a certain  
 9 security freeze within a certain period of time; ~~prohibiting~~ *authorizing* a  
 10 consumer reporting agency ~~from charging~~ *to charge* a certain fee; requiring the  
 11 ~~Social Services Administration~~ *to send each month* ~~Department~~ *to send at least*  
 12 *annually* to each consumer reporting agency by electronic transmission a  
 13 certain list of children and a request for a security freeze for each child on the  
 14 list; ~~authorizing the Social Services Administration~~ *Department* to enter into a  
 15 certain agreement with a consumer reporting agency concerning the  
 16 transmission of certain information; allowing a consumer reporting agency to  
 17 remove a security freeze or delete a certain record under certain circumstances;  
 18 providing that the exclusive remedy for a certain violation shall be a certain  
 19 complaint filed with the Commissioner of Financial Regulation; requiring the  
 20 ~~Social Services Administration~~ *Department*, on the entry of a certain order for  
 21 adoption, to provide certain notice to the adoptive parent of certain provisions of  
 22 law; ~~requiring the Social Services Administration~~ *Department* to notify a  
 23 protected consumer who becomes an adult of certain provisions of law; requiring  
 24 the ~~Social Services Administration~~ *Department* to send to each consumer  
 25 reporting agency by electronic means a certain list on the effective date of this  
 26 Act; requiring a consumer agency that receives a certain list to delete certain  
 27 information from a certain file and place a security freeze for the consumer  
 28 record of the protected consumer; *requiring the Department of Juvenile Services*  
 29 *to review certain provisions of law, make a certain determination, and report*  
 30 *certain information to certain committees of the General Assembly on or before a*  
 31 *certain date*; defining certain terms; and generally relating to consumer reports  
 32 and security freezes.

33 BY adding to

34 Article – Commercial Law

35 Section 14–1212.3

36 Annotated Code of Maryland

37 (2005 Replacement Volume and 2012 Supplement)

38 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
 39 MARYLAND, That the Laws of Maryland read as follows:

40 **Article – Commercial Law**

41 **14–1212.3.**

1           (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
2 MEANINGS INDICATED.

3                   (2) ~~“ADMINISTRATION~~ DEPARTMENT” MEANS THE ~~SOCIAL~~  
4 ~~SERVICES ADMINISTRATION OF THE~~ DEPARTMENT OF HUMAN RESOURCES.

5                   (3) “FOSTER CARE” HAS THE MEANING STATED IN § 5-501(F) OF  
6 THE FAMILY LAW ARTICLE.

7                   (4) “LOCAL DEPARTMENT” MEANS:

8                           (I) A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED  
9 OR CONTINUED IN A COUNTY OF THE STATE OR IN BALTIMORE CITY UNDER §  
10 3-201 OF THE HUMAN SERVICES ARTICLE; OR

11                           (II) IN MONTGOMERY COUNTY, THE MONTGOMERY  
12 COUNTY ~~GOVERNMENT~~ DEPARTMENT OF HEALTH AND HUMAN SERVICES.

13                   (5) “PROTECTED CONSUMER” MEANS AN INDIVIDUAL WHO:

14                           ~~(I) IS UNDER THE AGE OF 16 YEARS AT THE TIME A~~  
15 ~~REQUEST FOR THE PLACEMENT OF A SECURITY FREEZE IS MADE;~~

16                           ~~(II)~~ (I) IS IN THE CUSTODY OF A LOCAL DEPARTMENT;  
17 AND

18                           ~~(III)~~ (II) HAS BEEN PLACED IN A FOSTER CARE SETTING.

19                   (6) “RECORD” MEANS A COMPILATION OF INFORMATION THAT:

20                           (I) IDENTIFIES A PROTECTED CONSUMER;

21                           (II) IS CREATED BY A CONSUMER REPORTING AGENCY  
22 SOLELY FOR THE PURPOSE OF COMPLYING WITH THIS SECTION; AND

23                           (III) MAY NOT BE CREATED OR USED TO CONSIDER THE  
24 PROTECTED CONSUMER’S CREDITWORTHINESS, CREDIT STANDING, CREDIT  
25 CAPACITY, CHARACTER, GENERAL REPUTATION, PERSONAL CHARACTERISTICS,  
26 OR MODE OF LIVING FOR ANY PURPOSE LISTED IN § 14-1201(D)(1) OF THIS  
27 SUBTITLE.

28                   (7) (I) “REPRESENTATIVE” MEANS A PERSON WHO PROVIDES  
29 TO A CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF AUTHORITY TO  
30 ACT ON BEHALF OF A PROTECTED CONSUMER.

1                   **(II) “REPRESENTATIVE” INCLUDES A LOCAL DEPARTMENT.**

2                   ~~(7)~~ **(8) “SECURITY FREEZE” MEANS:**

3                   **(I) IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A**  
4 **FILE PERTAINING TO A PROTECTED CONSUMER, A RESTRICTION THAT:**

5                   1. IS PLACED ON THE PROTECTED CONSUMER’S  
6 RECORD IN ACCORDANCE WITH THIS SECTION; AND

7                   2. PROHIBITS THE CONSUMER REPORTING AGENCY  
8 FROM RELEASING THE PROTECTED CONSUMER’S RECORD EXCEPT AS PROVIDED  
9 IN THIS SECTION; OR

10                   **(II) IF A CONSUMER REPORTING AGENCY HAS A FILE**  
11 **PERTAINING TO THE PROTECTED CONSUMER, A RESTRICTION THAT:**

12                   1. IS PLACED ON THE PROTECTED CONSUMER’S  
13 CONSUMER REPORT IN ACCORDANCE WITH THIS SECTION; AND

14                   2. PROHIBITS THE CONSUMER REPORTING AGENCY  
15 FROM RELEASING THE PROTECTED CONSUMER’S CONSUMER REPORT OR ANY  
16 INFORMATION DERIVED FROM THE PROTECTED CONSUMER’S CONSUMER  
17 REPORT EXCEPT AS PROVIDED IN THIS SECTION.

18                   ~~(8)~~ **(9) (I) “SUFFICIENT PROOF OF IDENTIFICATION” MEANS**  
19 **INFORMATION OR DOCUMENTATION THAT IDENTIFIES A PROTECTED**  
20 **CONSUMER OR A REPRESENTATIVE OF A PROTECTED CONSUMER.**

21                   **(II) “SUFFICIENT PROOF OF IDENTIFICATION” INCLUDES:**

22                   1. A SOCIAL SECURITY NUMBER OR A COPY OF A  
23 SOCIAL SECURITY CARD ISSUED BY THE SOCIAL SECURITY ADMINISTRATION;

24                   2. A CERTIFIED OR OFFICIAL COPY OF A BIRTH  
25 CERTIFICATE ISSUED BY THE ENTITY AUTHORIZED TO ISSUE THE BIRTH  
26 CERTIFICATE;

27                   3. A COPY OF A DRIVER’S LICENSE, AN  
28 IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION, OR  
29 ANY OTHER GOVERNMENT-ISSUED IDENTIFICATION; OR

1                   4.    A COPY OF A BILL, INCLUDING A BILL FOR  
2 TELEPHONE, SEWER, SEPTIC TANK, WATER, ELECTRIC, OIL, OR NATURAL GAS  
3 SERVICES, THAT SHOWS A NAME AND HOME ADDRESS.

4           (B)   THIS SECTION DOES NOT APPLY TO THE USE OF A PROTECTED  
5 CONSUMER'S CONSUMER REPORT OR RECORD BY:

6                   (1)   A PERSON ADMINISTERING A CREDIT FILE MONITORING  
7 SUBSCRIPTION SERVICE TO WHICH:

8                           (I)   THE PROTECTED CONSUMER HAS SUBSCRIBED; OR

9                           (II)   THE REPRESENTATIVE OF THE PROTECTED CONSUMER  
10 HAS SUBSCRIBED ON BEHALF OF THE PROTECTED CONSUMER;

11                   (2)   A PERSON PROVIDING THE PROTECTED CONSUMER OR THE  
12 PROTECTED CONSUMER'S REPRESENTATIVE A COPY OF THE PROTECTED  
13 CONSUMER'S CONSUMER REPORT ON REQUEST OF THE PROTECTED CONSUMER  
14 OR THE PROTECTED CONSUMER'S REPRESENTATIVE; OR

15                   (3)   AN ENTITY LISTED IN § 14-1212.1(B)(2)(I) OR (II) OR (C)(5)  
16 OF THIS SUBTITLE.

17           (C)   (1)   A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY  
18 FREEZE FOR A PROTECTED CONSUMER IF THE CONSUMER REPORTING AGENCY  
19 RECEIVES A REQUEST FROM THE ~~SOCIAL SERVICES ADMINISTRATION~~  
20 DEPARTMENT FOR THE PLACEMENT OF THE SECURITY FREEZE AS PROVIDED IN  
21 SUBSECTION (J) OF THIS SECTION.

22                   (2)   THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT  
23 SHALL SUBMIT THE REQUEST TO THE CONSUMER REPORTING AGENCY BY  
24 ELECTRONIC TRANSMISSION TO THE ELECTRONIC MAIL ADDRESS OR OTHER  
25 POINT OF CONTACT IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING  
26 AGENCY.

27                   (3)   IF A CONSUMER REPORTING AGENCY DOES NOT HAVE A FILE  
28 PERTAINING TO A PROTECTED CONSUMER WHEN THE CONSUMER REPORTING  
29 AGENCY RECEIVES A REQUEST UNDER SUBSECTION (J) OF THIS SUBSECTION,  
30 THE CONSUMER REPORTING AGENCY SHALL CREATE A RECORD FOR THE  
31 PROTECTED CONSUMER.

32                   (4)   IF A CONSUMER REPORTING AGENCY HAS A FILE PERTAINING  
33 TO A PROTECTED CONSUMER, THE LOCAL DEPARTMENT SHALL ACT AS THE

1 PROTECTED CONSUMER'S REPRESENTATIVE TO RESOLVE ANY ISSUES WITH THE  
2 FILE.

3 (D) WITHIN 30 DAYS AFTER RECEIVING A REQUEST THAT MEETS THE  
4 REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION, A CONSUMER  
5 REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR THE PROTECTED  
6 CONSUMER.

7 (E) UNLESS A SECURITY FREEZE FOR A PROTECTED CONSUMER IS  
8 REMOVED IN ACCORDANCE WITH SUBSECTION (G) OR (K) OF THIS SECTION, A  
9 CONSUMER REPORTING AGENCY MAY NOT RELEASE THE PROTECTED  
10 CONSUMER'S CONSUMER REPORT, ANY INFORMATION DERIVED FROM THE  
11 PROTECTED CONSUMER'S CONSUMER REPORT, OR ANY RECORD CREATED FOR  
12 THE PROTECTED CONSUMER.

13 (F) A SECURITY FREEZE FOR A PROTECTED CONSUMER PLACED UNDER  
14 SUBSECTION (D) OF THIS SECTION SHALL REMAIN IN EFFECT UNTIL:

15 (1) THE PROTECTED CONSUMER OR THE ~~SOCIAL SERVICES~~  
16 ~~ADMINISTRATION~~ DEPARTMENT REQUESTS THE CONSUMER REPORTING  
17 AGENCY TO REMOVE THE SECURITY FREEZE IN ACCORDANCE WITH SUBSECTION  
18 (G) OF THIS SECTION; OR

19 (2) THE SECURITY FREEZE IS REMOVED IN ACCORDANCE WITH  
20 SUBSECTION (K) OF THIS SECTION.

21 (G) IF A PROTECTED CONSUMER OR THE ~~SOCIAL SERVICES~~  
22 ~~ADMINISTRATION~~ DEPARTMENT WISHES TO REMOVE A SECURITY FREEZE FOR  
23 THE PROTECTED CONSUMER, THE PROTECTED CONSUMER OR THE ~~SOCIAL~~  
24 ~~SERVICES ADMINISTRATION~~ DEPARTMENT SHALL:

25 (1) SUBMIT A REQUEST FOR THE REMOVAL OF THE SECURITY  
26 FREEZE TO THE CONSUMER REPORTING AGENCY AT THE ADDRESS OR OTHER  
27 POINT OF CONTACT IN THE MANNER SPECIFIED BY THE CONSUMER REPORTING  
28 AGENCY; AND

29 (2) PROVIDE TO THE CONSUMER REPORTING AGENCY:

30 (I) IN THE CASE OF A REQUEST BY THE PROTECTED  
31 CONSUMER:

32 1. PROOF THAT THE AUTHORITY OF THE ~~SOCIAL~~  
33 ~~SERVICES ADMINISTRATION~~ DEPARTMENT TO ACT ON BEHALF OF THE  
34 PROTECTED CONSUMER IS NO LONGER VALID; AND

1                   2.    SUFFICIENT PROOF OF IDENTIFICATION OF THE  
2 PROTECTED CONSUMER; OR

3                   (ii)   IN THE CASE OF A REQUEST BY THE ~~SOCIAL SERVICES~~  
4 ~~ADMINISTRATION~~ DEPARTMENT, SUFFICIENT PROOF OF IDENTIFICATION OF  
5 THE PROTECTED CONSUMER.

6                   (h)   WITHIN 30 DAYS AFTER RECEIVING A REQUEST THAT MEETS THE  
7 REQUIREMENTS OF SUBSECTION (G) OF THIS SECTION, THE CONSUMER  
8 REPORTING AGENCY SHALL REMOVE THE SECURITY FREEZE FOR THE  
9 PROTECTED CONSUMER.

10                  (i)   A CONSUMER REPORTING AGENCY MAY ~~NOT~~ CHARGE A  
11 REASONABLE FEE, NOT EXCEEDING \$5, FOR ANY SERVICE PERFORMED EACH  
12 PLACEMENT OR REMOVAL OF A SECURITY FREEZE FOR A PROTECTED CONSUMER  
13 UNDER THIS SECTION.

14                  (j)   (1) ~~EACH MONTH~~ AT LEAST ANNUALLY, THE ~~SOCIAL SERVICES~~  
15 ~~ADMINISTRATION~~ DEPARTMENT SHALL SEND TO EACH CONSUMER REPORTING  
16 AGENCY BY ELECTRONIC TRANSMISSION A LIST OF CHILDREN ~~UNDER THE AGE~~  
17 ~~OF 16~~ WHO ARE IN THE CUSTODY OF A LOCAL DEPARTMENT AND HAVE BEEN  
18 PLACED IN A FOSTER CARE SETTING FOR THE FIRST TIME.

19                  (2)   THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT  
20 SHALL REQUEST A SECURITY FREEZE FOR EACH CHILD ON THE LIST SPECIFIED  
21 UNDER PARAGRAPH (1) OF THIS SUBSECTION ON BEHALF OF THE PROTECTED  
22 CONSUMER.

23                  (3)   THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT MAY  
24 ENTER INTO AN AGREEMENT WITH A CONSUMER REPORTING AGENCY  
25 CONCERNING THE TRANSMISSION OF INFORMATION BETWEEN THE ~~SOCIAL~~  
26 ~~SERVICES ADMINISTRATION~~ DEPARTMENT AND A CONSUMER REPORTING  
27 AGENCY TO FACILITATE THE IMPLEMENTATION OF THIS SUBSECTION.

28                  (k)   A CONSUMER REPORTING AGENCY MAY REMOVE A SECURITY  
29 FREEZE FOR A PROTECTED CONSUMER OR DELETE A RECORD OF A PROTECTED  
30 CONSUMER IF THE SECURITY FREEZE WAS PLACED OR THE RECORD WAS  
31 CREATED BASED ON A MATERIAL MISREPRESENTATION OF FACT BY THE  
32 PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE.

33                  (l)   NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE  
34 EXCLUSIVE REMEDY FOR A VIOLATION OF THIS SECTION SHALL BE A

1 COMPLAINT FILED WITH THE COMMISSIONER UNDER § 14-1217 OF THIS  
2 SUBTITLE.

3 (M) (1) ON THE ENTRY OF AN ORDER FOR THE ADOPTION OF A CHILD  
4 WHO WAS IN THE CUSTODY OF A LOCAL DEPARTMENT UNDER TITLE 5 OF THE  
5 FAMILY LAW ARTICLE, THE ~~SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT  
6 SHALL PROVIDE NOTICE TO THE ADOPTIVE PARENT OF THE PROVISIONS OF §  
7 14-1212.2 OF THIS TITLE RELATING TO THE AUTHORITY OF THE ADOPTIVE  
8 PARENT TO REQUEST A SECURITY FREEZE BY CONSUMER AGENCIES.

9 (2) ~~THE SOCIAL SERVICES ADMINISTRATION~~ DEPARTMENT  
10 SHALL NOTIFY A PROTECTED CONSUMER WHO BECOMES AN ADULT OF THE  
11 PROVISIONS OF § 14-1212.2 OF THIS SUBTITLE, INCLUDING PROVIDING  
12 CONTACT INFORMATION OF ORGANIZATIONS THAT MAY PROVIDE ASSISTANCE  
13 TO THE PROTECTED CONSUMER IN REMOVING A SECURITY FREEZE.

14 SECTION 2. AND BE IT FURTHER ENACTED, That:

15 (a) On the effective date of this Act, the ~~Social Services Administration~~  
16 Department of Human Resources shall send to each consumer reporting agency by  
17 electronic transmission:

18 (1) a list containing the names of the children who are in the custody  
19 of a local department of social services and the Montgomery County ~~government~~  
20 Department of Health and Human Services who have been placed in a foster care  
21 setting; and

22 (2) a request for a security freeze for the consumer record of each child  
23 on the list; and

24 (b) If a consumer agency has a file pertaining to a protected consumer when  
25 the consumer reporting agency receives a list under subsection (a) of this section, each  
26 consumer reporting agency shall:

27 (1) delete any information from the file; and

28 (2) place a security freeze on the consumer record of the protected  
29 consumer.

30 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,  
31 2013, the Department of Juvenile Services shall:

32 (1) review Title 14, Subtitle 12 of the Commercial Law Article,  
33 including § 14-1212.3, as enacted by Section 1 of this Act;

1                   (2) determine whether it is practicable, appropriate, and necessary for  
2 the protection of the consumer records of children who are in custody of the Department  
3 to allow the Department to make a request to a consumer reporting agency for a security  
4 freeze for the consumer record of each child who is in custody of the Department; and

5                   (3) report its findings and recommendations, in accordance with §  
6 2-1246 of the State Government Article, to the Senate Finance Committee and the  
7 House Economic Matters Committee.

8                   SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take  
9 effect October 1, 2013.

Approved:

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Governor.

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Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.