

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 861
Finance

(Senator Klausmeier)

Department of Health and Mental Hygiene - Birth Registrations - Notice of
Placement of Security Freezes

This bill establishes notice requirements, when a birth occurs, relating to placing a security freeze on children's files.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The Consumer Protection Division of the Office of the Attorney General must prepare a notice that explains to new parents the benefits of placing a security freeze on a file relating to an individual who is younger than age 16 at the time of the request as well as how to request that a consumer reporting agency place such a security freeze.

When a birth occurs in an institution or en route to an institution, the administrative head of that institution must provide the notice to the mother, father, or legal guardian of the child. When a child is born on a common carrier, the Secretary of Health and Mental Hygiene must provide the notice to the child's mother, father, or legal guardian on receipt of a certificate of a birth that occurred on a common carrier or in a foreign country.

Current Law:

Births

When a child is born en route to an institution or in an institution, the head of that institution is responsible for completing and filing a birth certificate within five calendar days after birth. The attending physician, physician assistant, nurse practitioner, or nurse midwife must provide the required date of birth and medical information within five calendar days after the birth.

If a child is born outside of an institution, the birth must be verified by the Secretary of Health and Mental Hygiene within five calendar days. The Secretary must provide a birth certificate that is verified by (1) the attending individual; (2) the father or the mother; or (3) the individual in charge of the premises where the birth occurred.

Separate filing requirements apply when a child is born on a common carrier within the United States or outside of the United States (in international waters, airspace, or a foreign country). In either case, however, the birth of a child born on a common carrier and first removed in Maryland must be registered in this State and the certificate must be filed within five calendar days after the child is removed from that carrier.

Security Freezes for a Protected Consumer

Chapters 208 and 209 of 2012 establish a procedure for a “protected consumer’s representative” to request that a consumer reporting agency place a security freeze on the protected consumer’s consumer report. A “protected consumer” is (1) an individual younger than age 16 or (2) an incapacitated person or a protected person for whom a guardian or conservator has been appointed.

The laws require a consumer reporting agency to place a security freeze for a protected consumer if the agency receives such a request from the protected consumer’s representative. The agency must place the freeze within 30 days of receipt of the request. A consumer reporting agency is prohibited from releasing the protected consumer’s consumer report, any information derived from the report, or any record created for the protected consumer, unless a security freeze is removed, with certain exceptions.

The laws establish a similar procedure for a protected consumer or the representative to request the agency to remove the security freeze. The agency must remove the freeze within 30 days after receiving the request. The agency may also remove a security freeze for a protected consumer or delete a record of a protected consumer if the freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer’s representative.

A consumer reporting agency may not charge a fee for any service related to a security freeze other than its placement and removal. Additionally, an agency may not charge a fee for the placement and removal of the security freeze in a case of reported identity theft or for a minor for whom a consumer report already exists.

The exclusive remedy of a violation of any law regulating consumer credit reporting or provisions of law relating to security freezes is a complaint filed with the Commissioner of Financial Regulation.

Additionally, Chapters 329 and 330 of 2013 required a consumer reporting agency to place a security freeze for a protected consumer within 30 days after receiving an electronically transmitted request from the Department of Human Resources.

Background: The placement of a security freeze prohibits an agency from releasing the protected consumer's consumer report information, any information derived from the consumer report, or any record created for the protected consumer.

The Federal Trade Commission has noted that personal information for children in foster care is often circulated widely within schools and social services networks, which leaves the children particularly vulnerable to identity theft. According to the Children's Law Center of Minnesota, the children may become victims at the hands of their foster care providers or family members who still have access to their personal information. These children often have no knowledge that they are victims of identity theft until they are adults and age out of the foster care system excited to start an independent life, only to find that they are unable to secure a car loan, an apartment lease, or a student loan through no fault of their own.

The personal information for any child may be similarly vulnerable.

Additional Comments: The Vital Statistics Administration advises that the department does not receive a "certificate of birth that occurred on a common carrier." The department *registers* a birth that occurs on a common carrier when the child is first removed from the carrier in Maryland. After registering the birth, the department then issues a certified copy of the birth certificate. Likewise, unless the birth occurred on a common carrier and the child was first removed in Maryland, the Department of Health and Mental Hygiene does not have the authority to register a birth that occurred in a foreign country.

Additional Information

Prior Introductions: HB 1272 of 2014 received an unfavorable report from the House Health and Government Operations Committee.

Cross File: HB 661 (Delegate Zucker, *et al.*) - Health and Government Operations.

Information Source(s): Washington and Worcester counties; Town of Leonardtown; Baltimore City; Department of Human Resources; Department of Health and Mental Hygiene; Department of Juvenile Services; Department of Public Safety and Correctional Services; Children's Law Center of Minnesota; Department of Legislative Services

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