

Chapter 329

(Senate Bill 897)

AN ACT concerning

Consumer Protection – Security Freezes – Children in Foster Care Settings

FOR the purpose of requiring the ~~Social Services Administration of the Maryland~~ Department of Human Resources to request a security freeze on the consumer report or a certain record of certain protected consumers who are minor children in the custody of a local department of social services who have been placed in a foster care setting in accordance with certain application procedures; requiring a consumer reporting agency to place a security freeze for a protected consumer under certain circumstances and within a certain period of time; requiring a consumer reporting agency to create a certain record under certain circumstances; requiring a local department of social services to act as a protected consumer's representative under certain circumstances; prohibiting a consumer agency from releasing certain information while a security freeze is in place; providing that a security freeze remains in effect until a certain request is made or the security freeze is removed in accordance with a certain provision of this Act; providing that a certain protected consumer or the ~~Social Services Administration~~ Department may request the removal of a certain security freeze by submitting a certain request in a certain manner under certain circumstances; requiring a consumer reporting agency to remove a certain security freeze within a certain period of time; ~~prohibiting~~ authorizing a consumer reporting agency ~~from charging~~ to charge a certain fee; requiring the ~~Social Services Administration to send each month~~ Department to send at least annually to each consumer reporting agency by electronic transmission a certain list of children and a request for a security freeze for each child on the list; authorizing the ~~Social Services Administration~~ Department to enter into a certain agreement with a consumer reporting agency concerning the transmission of certain information; allowing a consumer reporting agency to remove a security freeze or delete a certain record under certain circumstances; providing that the exclusive remedy for a certain violation shall be a certain complaint filed with the Commissioner of Financial Regulation; requiring the ~~Social Services Administration~~ Department, on the entry of a certain order for adoption, to provide certain notice to the adoptive parent of certain provisions of law; requiring the ~~Social Services Administration~~ Department to notify a protected consumer who becomes an adult of certain provisions of law; requiring the ~~Social Services Administration~~ Department to send to each consumer reporting agency by electronic means a certain list on the effective date of this Act; requiring a consumer agency that receives a certain list to delete certain information from a certain file and place a security freeze for the consumer record of the protected consumer; requiring the Department of Juvenile Services

to review certain provisions of law, make a certain determination, and report certain information to certain committees of the General Assembly on or before a certain date; defining certain terms; and generally relating to consumer reports and security freezes.

BY adding to

Article – Commercial Law

Section 14–1212.3

Annotated Code of Maryland

(2005 Replacement Volume and 2012 Supplement)

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

Article – Commercial Law

14–1212.3.

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

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

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

(4) “LOCAL DEPARTMENT” MEANS:

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

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

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

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

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

AND

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

(6) "RECORD" MEANS A COMPILATION OF INFORMATION THAT:

(I) IDENTIFIES A PROTECTED CONSUMER;

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

(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 FOR ANY PURPOSE LISTED IN § 14-1201(D)(1) OF THIS SUBTITLE.

(7) (I) "REPRESENTATIVE" MEANS A PERSON WHO PROVIDES TO A CONSUMER REPORTING AGENCY SUFFICIENT PROOF OF AUTHORITY TO ACT ON BEHALF OF A PROTECTED CONSUMER.

(II) "REPRESENTATIVE" INCLUDES A LOCAL DEPARTMENT.

~~(7)~~ (8) "SECURITY FREEZE" MEANS:

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

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

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

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

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

2. PROHIBITS THE CONSUMER REPORTING AGENCY FROM RELEASING THE PROTECTED CONSUMER'S CONSUMER REPORT OR ANY INFORMATION DERIVED FROM THE PROTECTED CONSUMER'S CONSUMER REPORT EXCEPT AS PROVIDED IN THIS SECTION.

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

(II) “SUFFICIENT PROOF OF IDENTIFICATION” INCLUDES:

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

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

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

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

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

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

(I) THE PROTECTED CONSUMER HAS SUBSCRIBED; OR

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

(2) A PERSON PROVIDING THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER’S REPRESENTATIVE A COPY OF THE PROTECTED CONSUMER’S CONSUMER REPORT ON REQUEST OF THE PROTECTED CONSUMER OR THE PROTECTED CONSUMER’S REPRESENTATIVE; OR

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

(C) (1) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY FREEZE FOR A PROTECTED CONSUMER IF THE CONSUMER REPORTING AGENCY RECEIVES A REQUEST FROM THE ~~SOCIAL SERVICES ADMINISTRATION~~

DEPARTMENT FOR THE PLACEMENT OF THE SECURITY FREEZE AS PROVIDED IN SUBSECTION (J) OF THIS SECTION.

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

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

(4) IF A CONSUMER REPORTING AGENCY HAS A FILE PERTAINING TO A PROTECTED CONSUMER, THE LOCAL DEPARTMENT SHALL ACT AS THE PROTECTED CONSUMER'S REPRESENTATIVE TO RESOLVE ANY ISSUES WITH THE FILE.

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

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

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

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

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

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

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

(2) PROVIDE TO THE CONSUMER REPORTING AGENCY:

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

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

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

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

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

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

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

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

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

(K) A CONSUMER REPORTING AGENCY MAY REMOVE A SECURITY FREEZE FOR A PROTECTED CONSUMER OR DELETE A RECORD OF A PROTECTED CONSUMER IF THE SECURITY 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.

(L) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE EXCLUSIVE REMEDY FOR A VIOLATION OF THIS SECTION SHALL BE A COMPLAINT FILED WITH THE COMMISSIONER UNDER § 14-1217 OF THIS SUBTITLE.

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

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

SECTION 2. AND BE IT FURTHER ENACTED, That:

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

(1) a list containing the names of the children who are in the custody of a local department of social services and the Montgomery County ~~government~~

Department of Health and Human Services who have been placed in a foster care setting; and

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

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

(1) delete any information from the file; and

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

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

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

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

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

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

Approved by the Governor, May 2, 2013.