

SENATE BILL 897

I3, I2

3lr2972
CF HB 1297

By: **Senator Klausmeier**

Introduced and read first time: February 11, 2013

Assigned to: Rules

Re-referred to: Finance, February 21, 2013

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2013

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
12 protected consumer's representative under certain circumstances; prohibiting a
13 consumer agency from releasing certain information while a security freeze is in
14 place; providing that a security freeze remains in effect until a certain request is
15 made or the security freeze is removed in accordance with a certain provision of
16 this Act; providing that a certain protected consumer or the Social Services
17 Administration may request the removal of a certain security freeze by
18 submitting a certain request in a certain manner under certain circumstances;
19 requiring a consumer reporting agency to remove a certain security freeze
20 within a certain period of time; ~~prohibiting~~ authorizing a consumer reporting
21 agency ~~from charging~~ to charge a certain fee; requiring the Social Services
22 Administration to send each month to each consumer reporting agency by
23 electronic transmission a certain list of children and a request for a security
24 freeze for each child on the list; authorizing the Social Services Administration

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.



1 to enter into a certain agreement with a consumer reporting agency concerning
 2 the transmission of certain information; allowing a consumer reporting agency
 3 to remove a security freeze or delete a certain record under certain
 4 circumstances; providing that the exclusive remedy for a certain violation shall
 5 be a certain complaint filed with the Commissioner of Financial Regulation;
 6 requiring the Social Services Administration, on the entry of a certain order for
 7 adoption, to provide certain notice to the adoptive parent of certain provisions of
 8 law; requiring the Social Services Administration to notify a protected consumer
 9 who becomes an adult of certain provisions of law; requiring the Social Services
 10 Administration to send to each consumer reporting agency by electronic means
 11 a certain list on the effective date of this Act; requiring a consumer agency that
 12 receives a certain list to delete certain information from a certain file and place
 13 a security freeze for the consumer record of the protected consumer; requiring
 14 the Department of Juvenile Services to review certain provisions of law, make a
 15 certain determination, and report certain information to certain committees of
 16 the General Assembly on or before a certain date; defining certain terms; and
 17 generally relating to consumer reports and security freezes.

18 BY adding to

19 Article – Commercial Law
 20 Section 14–1212.3
 21 Annotated Code of Maryland
 22 (2005 Replacement Volume and 2012 Supplement)

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

25 **Article – Commercial Law**

26 **14–1212.3.**

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

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

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

33 **(4) “LOCAL DEPARTMENT” MEANS:**

34 **(I) A LOCAL DEPARTMENT OF SOCIAL SERVICES CREATED**
 35 **OR CONTINUED IN A COUNTY OF THE STATE OR IN BALTIMORE CITY UNDER §**
 36 **3–201 OF THE HUMAN SERVICES ARTICLE; OR**

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

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

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

6 ~~(H)~~ (I) IS IN THE CUSTODY OF A LOCAL DEPARTMENT;
7 AND

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

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

10 (I) IDENTIFIES A PROTECTED CONSUMER;

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

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

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

21 (II) “REPRESENTATIVE” INCLUDES A LOCAL DEPARTMENT.

22 ~~(7)~~ (8) “SECURITY FREEZE” MEANS:

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

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

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

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

3 **1. IS PLACED ON THE PROTECTED CONSUMER’S**
4 **CONSUMER REPORT IN ACCORDANCE WITH THIS SECTION; AND**

5 **2. PROHIBITS THE CONSUMER REPORTING AGENCY**
6 **FROM RELEASING THE PROTECTED CONSUMER’S CONSUMER REPORT OR ANY**
7 **INFORMATION DERIVED FROM THE PROTECTED CONSUMER’S CONSUMER**
8 **REPORT EXCEPT AS PROVIDED IN THIS SECTION.**

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

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

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

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

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

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

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

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

28 **(I) THE PROTECTED CONSUMER HAS SUBSCRIBED; OR**

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

1 **(2) A PERSON PROVIDING THE PROTECTED CONSUMER OR THE**
2 **PROTECTED CONSUMER'S REPRESENTATIVE A COPY OF THE PROTECTED**
3 **CONSUMER'S CONSUMER REPORT ON REQUEST OF THE PROTECTED CONSUMER**
4 **OR THE PROTECTED CONSUMER'S REPRESENTATIVE; OR**

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

7 **(C) (1) A CONSUMER REPORTING AGENCY SHALL PLACE A SECURITY**
8 **FREEZE FOR A PROTECTED CONSUMER IF THE CONSUMER REPORTING AGENCY**
9 **RECEIVES A REQUEST FROM THE SOCIAL SERVICES ADMINISTRATION FOR THE**
10 **PLACEMENT OF THE SECURITY FREEZE AS PROVIDED IN SUBSECTION (J) OF**
11 **THIS SECTION.**

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

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

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

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

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

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

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

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

7 (G) IF A PROTECTED CONSUMER OR THE SOCIAL SERVICES
8 ADMINISTRATION WISHES TO REMOVE A SECURITY FREEZE FOR THE
9 PROTECTED CONSUMER, THE PROTECTED CONSUMER OR THE SOCIAL
10 SERVICES ADMINISTRATION SHALL:

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

15 (2) PROVIDE TO THE CONSUMER REPORTING AGENCY:

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

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

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

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

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

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

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

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

10 **(3) THE SOCIAL SERVICES ADMINISTRATION MAY ENTER INTO**
11 **AN AGREEMENT WITH A CONSUMER REPORTING AGENCY CONCERNING THE**
12 **TRANSMISSION OF INFORMATION BETWEEN THE SOCIAL SERVICES**
13 **ADMINISTRATION AND A CONSUMER REPORTING AGENCY TO FACILITATE THE**
14 **IMPLEMENTATION OF THIS SUBSECTION.**

15 **(K) A CONSUMER REPORTING AGENCY MAY REMOVE A SECURITY**
16 **FREEZE FOR A PROTECTED CONSUMER OR DELETE A RECORD OF A PROTECTED**
17 **CONSUMER IF THE SECURITY FREEZE WAS PLACED OR THE RECORD WAS**
18 **CREATED BASED ON A MATERIAL MISREPRESENTATION OF FACT BY THE**
19 **PROTECTED CONSUMER OR THE PROTECTED CONSUMER'S REPRESENTATIVE.**

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

24 **(M) (1) ON THE ENTRY OF AN ORDER FOR THE ADOPTION OF A CHILD**
25 **WHO WAS IN THE CUSTODY OF A LOCAL DEPARTMENT UNDER TITLE 5 OF THE**
26 **FAMILY LAW ARTICLE, THE SOCIAL SERVICES ADMINISTRATION SHALL**
27 **PROVIDE NOTICE TO THE ADOPTIVE PARENT OF THE PROVISIONS OF §**
28 **14-1212.2 OF THIS TITLE RELATING TO THE AUTHORITY OF THE ADOPTIVE**
29 **PARENT TO REQUEST A SECURITY FREEZE BY CONSUMER AGENCIES.**

30 **(2) THE SOCIAL SERVICES ADMINISTRATION SHALL NOTIFY A**
31 **PROTECTED CONSUMER WHO BECOMES AN ADULT OF THE PROVISIONS OF §**
32 **14-1212.2 OF THIS SUBTITLE, INCLUDING PROVIDING CONTACT INFORMATION**
33 **OF ORGANIZATIONS THAT MAY PROVIDE ASSISTANCE TO THE PROTECTED**
34 **CONSUMER IN REMOVING A SECURITY FREEZE.**

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

1 (a) On the effective date of this Act, the Social Services Administration shall
2 send to each consumer reporting agency by electronic transmission:

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

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

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

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

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

15 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before December 1,
16 2013, the Department of Juvenile Services shall:

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

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

24 (3) report its findings and recommendations, in accordance with §
25 2-1246 of the State Government Article, to the Senate Finance Committee and the
26 House Economic Matters Committee.

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