

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 498 Session of 2021

INTRODUCED BY DRISCOLL, ZABEL, HILL-EVANS, BURGOS, MERSKI, SANCHEZ, KENYATTA, SOLOMON, SCHLOSSBERG, FREEMAN, GALLOWAY, DeLUCA, CIRESI, WARREN, DELLOSO, ROZZI, HENNESSEY, PARKER, McCLINTON AND O'MARA, FEBRUARY 10, 2021

REFERRED TO COMMITTEE ON COMMERCE, FEBRUARY 10, 2021

AN ACT

1 Amending the act of November 29, 2006 (P.L.1463, No.163),
 2 entitled "An act providing for protection from identity
 3 theft, for security freezes, for procedures for access after
 4 imposition and removal of security freezes and for related
 5 matters," further providing for definitions, for security
 6 freeze and for fees; and providing for credit monitoring
 7 services, for prohibiting the waiver of rights and for
 8 protected persons security freeze.

9 The General Assembly of the Commonwealth of Pennsylvania
 10 hereby enacts as follows:

11 Section 1. Section 2 of the act of November 29, 2006
 12 (P.L.1463, No.163), known as the Credit Reporting Agency Act, is
 13 amended to read:

14 Section 2. Definitions.

15 The following words and phrases when used in this act shall
 16 have the meanings given to them in this section unless the
 17 context clearly indicates otherwise:

18 "Breach of system security."

19 (1) The unauthorized access and acquisition of
 20 unencrypted data, or encrypted data with the confidential

1 process or key required to decrypt the data, that is likely
2 to compromise the security or confidentiality of personal
3 information maintained by the entity as part of a database of
4 personal information regarding multiple individuals and that
5 causes, or the entity reasonably believes has caused or will
6 cause, loss or injury to any resident of this Commonwealth.

7 (2) The term does not include the good faith acquisition
8 of personal information by an employee or agent of the entity
9 for the purposes of the entity if the personal information is
10 not used for a purpose other than the lawful purpose of the
11 entity and is not subject to further unauthorized disclosure.

12 "Consumer." An individual who is not a protected person.

13 "Consumer report." A written, oral or other communication of
14 any information by a consumer reporting agency bearing on a
15 consumer's or protected person's creditworthiness, credit
16 standing or credit capacity.

17 "Consumer reporting agency." Any person who, for monetary
18 fees, dues or on a cooperative basis, regularly engages in whole
19 or in part in the practice of assembling or evaluating consumer
20 credit information or other information on consumers or
21 protected persons for the purpose of furnishing consumer reports
22 to third parties.

23 "Credit monitoring services." The process of periodically
24 reviewing a consumer report for activity and changes that could
25 be indicative of fraudulent activity and reporting the results
26 of each review to the consumer.

27 "Protected person." An individual who is any of the
28 following:

29 (1) Not emancipated and under 16 years of age at the
30 time a request for the placement of a protected persons

1 security freeze is made.

2 (2) An incapacitated person under 20 Pa.C.S. Ch. 55
3 (relating to incapacitated persons).

4 (3) A protected person under 20 Pa.C.S. Ch. 59 (relating
5 to uniform adult guardianship and protective proceedings
6 jurisdiction).

7 "Protected persons security freeze." Either of the
8 following:

9 (1) If a consumer reporting agency does not have a file
10 pertaining to a protected person, a restriction that:

11 (i) Is placed on the protected person's record in
12 accordance with section 10.1.

13 (ii) Prohibits the consumer reporting agency from
14 releasing the protected person's record except as
15 provided in section 10.1.

16 (2) If a consumer reporting agency has a file pertaining
17 to a protected person, a restriction that:

18 (i) Is placed on the protected person's consumer
19 report in accordance with section 10.1.

20 (ii) Prohibits the consumer reporting agency from
21 releasing the protected person's consumer report or any
22 information derived from the protected person's consumer
23 report except as provided in section 10.1.

24 "Record." A compilation of information that:

25 (1) Identifies a protected person.

26 (2) Is created by a consumer reporting agency solely for
27 the purpose of complying with section 10.1.

28 (3) May not be created or used to consider the protected
29 person's credit worthiness, credit standing, credit capacity,
30 character, general reputation, personal characteristics or

1 mode of living for any purpose listed in the Fair Credit
2 Reporting Act (Public Law 91-508, 15 U.S.C. § 1681b).
3 "Representative." A person providing to a consumer reporting
4 agency sufficient proof of authority to act on behalf of a
5 protected person.

6 "Security freeze." A notice placed on a consumer report, at
7 the request of the consumer and subject to certain exceptions,
8 that prohibits a consumer reporting agency from releasing the
9 consumer report without the express authorization of the
10 consumer.

11 "Sufficient proof of authority." Documentation showing that
12 a representative has authority to act on behalf of a protected
13 person, including, but not limited to, any of the following:

- 14 (1) An order issued by a court of law.
15 (2) A lawfully executed and valid power of attorney.
16 (3) A written and notarized statement signed by the
17 representative that expressly describes the authority of the
18 representative to act on behalf of the protected person.

19 "Sufficient proof of identification." Information or
20 documentation that identifies a protected person or a
21 representative, including, but not limited to, any of the
22 following:

- 23 (1) A Social Security number or a copy of a Social
24 Security card issued by the Social Security Administration.
25 (2) A certified or official copy of a birth certificate
26 issued by the entity authorized to issue the birth
27 certificate.
28 (3) A copy of a driver's license, an identification card
29 issued by the Department of Transportation or any other
30 government-issued identification.

1 (4) A copy of a bill, including, but not limited to, a
2 bill for telephone, sewer, septic tank, water, electric, oil
3 or natural gas services, that shows a name and home address.

4 Section 2. Sections 3(d) and 9 of the act are amended to
5 read:

6 Section 3. Security freeze.

7 * * *

8 (d) Duration of freeze.--A security freeze shall:

9 (1) remain in place [until the earlier of], except as
10 provided under section 7(a); or

11 (2) be removed within three business days after the date
12 the consumer reporting agency receives a request from the
13 consumer to remove the security freeze [or until seven years
14 from the date that the security freeze was put in place by
15 the consumer reporting agency] in accordance with this act.

16 * * *

17 Section 9. Fees.

18 [(a) General rule.--A consumer reporting agency may impose a
19 reasonable charge on a consumer for initially placing a security
20 freeze on a consumer report. The amount of the charge may not
21 exceed \$10. The charge to temporarily lift the security freeze
22 may not exceed \$10 per request. At no time shall the consumer be
23 charged for removing the freeze.]

24 (b) Exceptions.--

25 (1) A consumer will not be charged by a consumer
26 reporting agency for placing a security freeze or temporarily
27 lifting a security freeze if the consumer is a victim of
28 identity theft and provides, or has provided, the consumer
29 reporting agency with a copy of a police report.

30 (2) A consumer will not be charged by a consumer

1 reporting agency for placing a security freeze if the
2 consumer is 65 years of age or older.

3 (c) Confirmation required.--If a security freeze is in
4 place, a consumer reporting agency shall not change any of the
5 following information regarding a consumer without sending a
6 written confirmation of the change to the consumer within 30
7 days of the change being posted:

8 (1) Name.

9 (2) Date of birth.

10 (3) Social Security number.

11 (4) Address.

12 Written confirmation is not required for technical modifications
13 of a consumer's official information, including name and street
14 abbreviations, complete spellings or transposition of numbers or
15 letters. In the case of an address change, the written
16 confirmation shall be sent to both the new address and to the
17 former address.] A consumer reporting agency may not impose a
18 charge on a consumer for placing or temporarily lifting a
19 security freeze on a consumer report.

20 Section 3. The act is amended by adding sections to read:

21 Section 9.1. Credit monitoring services.

22 A consumer reporting agency which has been affected by a
23 breach of system security shall provide each consumer affected
24 by the breach of system security with credit monitoring services
25 at no charge to the consumer for three years following the
26 breach of system security.

27 Section 9.2. Prohibition.

28 A consumer reporting agency which has been affected by a
29 breach of system security may not require a consumer to waive
30 the consumer's rights under section 9.1 in order to use the

1 credit monitoring services provided.

2 Section 10.1. Protected persons security freeze.

3 (a) Applicability.--

4 (1) Notwithstanding any other provision of this act,
5 this section shall apply to protected persons and their
6 representatives.

7 (2) This section shall not apply to:

8 (i) A person or entity under section 3(e)(1), (6),
9 (7), (8), (9), (10) or (12).

10 (ii) A person or entity that maintains or is a
11 database used solely for any of the following:

12 (A) Criminal record information.

13 (B) Personal loss history information.

14 (C) Fraud prevention or detection.

15 (D) Employment screening.

16 (E) Tenant screening.

17 (b) Placement.--

18 (1) A consumer reporting agency shall place a protected
19 persons security freeze if:

20 (i) The consumer reporting agency receives a request
21 from a representative for the placement of the protected
22 persons security freeze.

23 (ii) The representative does the following:

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

28 (B) Provides to the consumer reporting agency
29 sufficient proof of identification of the protected
30 person and the representative.

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

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

9 (c) Timing of placement.--Within 30 days after receiving a
10 request that meets the requirements under subsection (b)(1), a
11 consumer reporting agency shall place a protected persons
12 security freeze.

13 (d) Release of consumer report prohibited.--Unless a
14 protected persons security freeze is removed in accordance with
15 subsection (f) or (i), a consumer reporting agency may not
16 release the protected person's consumer report, any information
17 derived from the protected person's consumer report or any
18 record created for the protected person.

19 (e) Effective period.--A protected persons security freeze
20 shall remain in effect until either of the following occurs:

21 (1) The protected person or representative requests the
22 consumer reporting agency to remove the security freeze in
23 accordance with subsection (f).

24 (2) The protected persons security freeze is removed in
25 accordance with subsection (i).

26 (f) Removal.--If a protected person or representative wishes
27 to remove a protected persons security freeze, the protected
28 person or representative shall:

29 (1) Submit a request for the removal of the security
30 freeze to the consumer reporting agency at the address or

1 other point of contact and in the manner specified by the
2 consumer reporting agency.

3 (2) Provide the following to the consumer reporting
4 agency:

5 (i) In the case of a request by the protected
6 person:

7 (A) Proof under subsection (b)(1)(ii)(B) for the
8 representative to act on behalf of the protected
9 person is no longer valid.

10 (B) Sufficient proof of identification of the
11 protected person.

12 (ii) In the case of a request by a representative:

13 (A) Sufficient proof of identification of the
14 protected person and representative.

15 (B) Sufficient proof of authority to act on
16 behalf of the protected person.

17 (g) Timing of removal.--Within 30 days after receiving a
18 request that meets the requirements of subsection (f), the
19 consumer reporting agency shall remove the protected persons
20 security freeze.

21 (h) Notice.--Any time that a consumer is entitled to receive
22 a summary of rights under the Fair Credit Reporting Act (Public
23 Law 91-508, 15 U.S.C. § 1681g(c)), the following notice shall be
24 included:

25 Parents, guardians or custodians of a minor child under
26 16 years of age, guardians of an incapacitated person
27 under State law and guardians of a protected person under
28 State law have a right to have a record created with
29 certain consumer reporting agencies, more commonly known
30 as credit bureaus, to prevent the creation of a credit

1 report for a protected person as defined under the act.
2 To place or remove a record, you should contact a
3 consumer reporting agency at the contact point provided
4 for these requests. A consumer reporting agency may not
5 charge a fee for the placement and removal of a record.

6 (i) Effect of material misrepresentation of fact.--A
7 consumer reporting agency may remove a protected persons
8 security freeze or delete a record of a protected person if the
9 protected persons security freeze was placed or the record was
10 created based on a material misrepresentation of fact by the
11 protected person or representative.

12 (j) Remedy for violation of section.--A consumer reporting
13 agency's sole liability is for actual damages as a result of a
14 violation of this section.

15 Section 4. This act shall take effect as follows:

16 (1) The addition of section 10.1 of the act shall take
17 effect January 1, 2021, or immediately, whichever is later.

18 (2) This section shall take effect immediately.

19 (3) The remainder of this act shall take effect in 60
20 days.