

1 A bill to be entitled

2 An act relating to the security of a protected  
3 consumer's information; providing a short title;  
4 creating s. 501.0051, F.S.; providing definitions;  
5 authorizing the representative of a protected consumer  
6 to place a security freeze on a protected consumer's  
7 consumer report or record; specifying the procedure to  
8 request a security freeze; requiring a consumer  
9 reporting agency to establish a record if the  
10 protected consumer does not have an existing consumer  
11 report; prohibiting the use of a consumer record for  
12 certain purposes; providing that a security freeze on  
13 a consumer record applies to a subsequently created  
14 consumer report; requiring a consumer reporting agency  
15 to place, and to provide written confirmation of, a  
16 security freeze within a specified period; prohibiting  
17 a consumer reporting agency from stating or implying  
18 that a security freeze reflects a negative credit  
19 history or rating; requiring a consumer reporting  
20 agency to provide a copy of a consumer report or  
21 record to a protected consumer or his or her  
22 representative upon request; authorizing a consumer  
23 reporting agency to charge a fee for a copy of a  
24 protected consumer's consumer report or record;  
25 specifying the procedure to request a copy of a  
26 protected consumer's consumer report or record;

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 requiring a consumer reporting agency to remove a  
 28 security freeze under specified conditions; specifying  
 29 the procedure to remove a security freeze; providing  
 30 applicability; authorizing a consumer reporting agency  
 31 to charge a fee for placing or removing a security  
 32 freeze and for reissuing a unique personal identifier;  
 33 prohibiting a fee under certain circumstances;  
 34 requiring written notification upon the change of  
 35 specified information in a protected consumer's  
 36 consumer report or record; providing exceptions;  
 37 requiring a consumer reporting agency to notify a  
 38 representative and provide specified information if  
 39 the consumer reporting agency violates a security  
 40 freeze; providing penalties and civil remedies;  
 41 providing written disclosure requirements for consumer  
 42 reporting agencies relating to a protected consumer's  
 43 security freeze; providing an effective date.

44  
 45 Be It Enacted by the Legislature of the State of Florida:

46  
 47 Section 1. This act may be cited as the "Keeping I.D. Safe  
 48 (KIDS) Act."

49 Section 2. Section 501.0051, Florida Statutes, is created  
 50 to read:

51 501.0051 Protected consumer report security freeze.-

52 (1) As used in this section, the term:

53 (a) "Consumer report" has the same meaning as provided in  
54 15 U.S.C. s. 1681a(d).

55 (b) "Consumer reporting agency" has the same meaning as  
56 provided in 15 U.S.C. s. 1681a(f).

57 (c) "Protected consumer" means a person younger than 16  
58 years of age at the time a security freeze request is made or a  
59 person represented by a guardian or other advocate pursuant to  
60 chapter 39, chapter 393, chapter 744, or chapter 914.

61 (d) "Record" means a compilation of information that:

- 62 1. Identifies a protected consumer; and  
63 2. Is created by a consumer reporting agency exclusively  
64 for the purpose of complying with this section.

65 (e) "Representative" means the custodial parent or legal  
66 guardian of a protected consumer, including a guardian appointed  
67 pursuant to s. 914.17.

68 (f) "Security freeze" means:

- 69 1. A notice placed on a protected consumer's consumer  
70 report which prohibits a consumer reporting agency from  
71 releasing the consumer report, the credit score, or any  
72 information contained within the consumer report to a third  
73 party without the express authorization of the representative;  
74 or  
75 2. If a consumer reporting agency does not have a consumer  
76 report pertaining to the protected consumer, a notice placed on  
77 the protected consumer's record which prohibits the consumer  
78 reporting agency from releasing the protected consumer's record

79 except as provided in this section.

80 (g) "Sufficient proof of authority" means documentation  
 81 showing that a representative has authority to act on behalf of  
 82 a protected consumer. The term includes, but is not limited to,  
 83 a court order, a copy of a valid power of attorney, or a written  
 84 notarized statement signed by a representative which expressly  
 85 describes the authority of the representative to act on behalf  
 86 of the protected consumer.

87 (h) "Sufficient proof of identification" means  
 88 documentation identifying a protected consumer or a  
 89 representative of a protected consumer. The term includes, but  
 90 is not limited to, a copy of a social security card, a certified  
 91 or official copy of a birth certificate, a copy of a valid  
 92 driver license, or a copy of a government-issued photo  
 93 identification.

94 (2) A representative may place a security freeze on a  
 95 protected consumer's consumer report by:

96 (a) Submitting a request to a consumer reporting agency in  
 97 the manner prescribed by that agency;

98 (b) Providing the agency with sufficient proof of  
 99 authority and sufficient proof of identification of the  
 100 representative; and

101 (c) Paying the agency a fee as authorized under this  
 102 section.

103 (3) If a consumer reporting agency does not have a  
 104 consumer report pertaining to a protected consumer when the

105 consumer reporting agency receives a request for a security  
106 freeze under subsection (2), the consumer reporting agency shall  
107 create a record for the protected consumer and place a security  
108 freeze on the record. A record may not be created or used to  
109 consider the protected consumer's credit worthiness, credit  
110 standing, credit capacity, character, general reputation,  
111 personal characteristics, or eligibility for other financial  
112 services. If a consumer report is subsequently created for a  
113 protected consumer with a security freeze on his or her consumer  
114 record, the consumer report is also subject to a security freeze  
115 until the security freeze is removed from the consumer report  
116 pursuant to subsection (8).

117 (4) A consumer reporting agency shall place a security  
118 freeze on a consumer report or record within 30 days after  
119 confirming the authenticity of a security freeze request made in  
120 accordance with this section.

121 (5) The consumer reporting agency shall send a written  
122 confirmation of the security freeze to the representative within  
123 10 business days after instituting the security freeze on the  
124 consumer report or record and shall provide the representative  
125 with instructions for removing the security freeze and a unique  
126 personal identifier to be used by the representative when  
127 providing authorization for removal of the security freeze.

128 (6) A consumer reporting agency may not state or imply to  
129 any person that a security freeze reflects a negative credit  
130 score, a negative credit history, or a negative credit rating.

131 (7) During any period that a security freeze is in effect,  
132 a consumer reporting agency shall provide a copy of a protected  
133 consumer's consumer report or record to the protected consumer  
134 or his or her representative upon request. A consumer reporting  
135 agency may charge the representative or protected consumer a fee  
136 for the copy, not to exceed the amount normally charged by such  
137 agency to provide a copy of a consumer report.

138 (a) A representative submitting a request for a copy of a  
139 protected consumer's consumer report or record must provide all  
140 of the following:

141 1. Sufficient proof of identification of the  
142 representative and sufficient proof of authority as determined  
143 by the consumer reporting agency.

144 2. The unique personal identifier provided by the consumer  
145 reporting agency pursuant to subsection (5).

146 3. A fee as authorized under this section.

147 (b) A protected consumer submitting a request for a copy  
148 of his or her consumer report or record must provide sufficient  
149 proof of identification of the protected consumer as determined  
150 by the consumer reporting agency and pay a fee as authorized  
151 under this section.

152 (8) A consumer reporting agency shall remove a security  
153 freeze from a protected consumer's consumer report or record  
154 only under either of the following circumstances:

155 (a) Upon the request of a representative or a protected  
156 consumer. A consumer reporting agency shall remove a security

157 freeze within 30 days after receiving such a request for removal  
158 from a protected consumer or his or her representative.

159 1. A representative submitting a request for removal must  
160 provide all of the following:

161 a. Sufficient proof of identification of the  
162 representative and sufficient proof of authority as determined  
163 by the consumer reporting agency.

164 b. The unique personal identifier provided by the consumer  
165 reporting agency pursuant to subsection (5).

166 c. A fee as authorized under this section.

167 2. A protected consumer submitting a request for removal  
168 must provide all of the following:

169 a. Sufficient proof of identification of the protected  
170 consumer as determined by the consumer reporting agency.

171 b. Documentation that the sufficient proof of authority of  
172 the protected consumer's representative to act on behalf of the  
173 protected consumer is no longer valid.

174 (b) If the security freeze was instituted due to a  
175 material misrepresentation of fact. If a consumer reporting  
176 agency intends to remove a security freeze under this paragraph,  
177 the consumer reporting agency must notify the representative and  
178 protected consumer in writing before removing the security  
179 freeze.

180 (9) This section does not apply to the use of a protected  
181 consumer's consumer report or record by the following persons or  
182 for the following reasons:

183 (a) A state agency acting within its lawful investigative  
 184 or regulatory authority.

185 (b) A state or local law enforcement agency investigating  
 186 a crime or conducting a criminal background check.

187 (c) A person administering a credit file monitoring  
 188 subscription service to which the protected consumer or the  
 189 representative, on behalf of the protected consumer, has  
 190 subscribed.

191 (d) A person providing the protected consumer's consumer  
 192 report or record to the protected consumer or the representative  
 193 upon the request of the protected consumer or representative.

194 (e) Pursuant to a court order lawfully entered.

195 (f) An insurance company for use in setting or adjusting a  
 196 rate, adjusting a claim, or underwriting for insurance purposes.

197 (g) A consumer reporting agency's database or file that  
 198 consists entirely of information concerning, and used  
 199 exclusively for, one or more of the following:

- 200 1. Criminal record information.
- 201 2. Personal loss history information.
- 202 3. Fraud prevention or detection.
- 203 4. Tenant screening.
- 204 5. Employment screening.
- 205 6. Personal insurance policy information.
- 206 7. Noncredit information used for insurance purposes.

207 (h) A check services company issuing authorizations for  
 208 the purpose of approving or processing negotiable instruments,

209 electronic funds transfers, or similar methods of payment.

210 (i) A deposit account information service company issuing  
211 reports regarding account closures due to fraud, substantial  
212 overdrafts, automatic teller machine abuse, or similar negative  
213 information regarding a protected consumer to an inquiring  
214 financial institution, as defined in s. 655.005 or in federal  
215 law, for use only in reviewing a representative's request for a  
216 deposit account for the protected consumer at the inquiring  
217 financial institution.

218 (j) A consumer reporting agency that acts only as a  
219 reseller of credit information by assembling and merging  
220 information contained in the database of another consumer  
221 reporting agency or multiple consumer reporting agencies and  
222 that does not maintain a permanent database of credit  
223 information from which new consumer reports are produced.  
224 However, such consumer reporting agency shall honor any security  
225 freeze placed or removed by another consumer reporting agency.

226 (k) A fraud prevention services company issuing reports to  
227 prevent or investigate fraud.

228 (l) A person or entity, or its affiliates, or a collection  
229 agency acting on behalf of the person or entity and with which  
230 the protected consumer has an existing account, requesting  
231 information in the protected consumer's consumer report or  
232 record for the purposes of reviewing or collecting the account.  
233 Reviewing the account includes activities related to account  
234 maintenance, monitoring, credit line increases, and account

235 upgrades and enhancements.

236 (10) (a) A consumer reporting agency may charge a  
237 reasonable fee, not to exceed \$10, to a representative who  
238 elects to place or remove a security freeze.

239 (b) A consumer reporting agency may charge a reasonable  
240 fee, not to exceed \$10, if the representative fails to retain  
241 the original unique personal identifier provided by the consumer  
242 reporting agency and the agency must reissue the unique personal  
243 identifier or provide a new unique personal identifier to the  
244 representative.

245 (c) A consumer reporting agency may not charge a fee under  
246 this section to the representative of a protected consumer who  
247 is a victim of identity theft if the representative submits, at  
248 the time the security freeze is requested, a copy of a valid  
249 investigative report, an incident report, or a complaint with a  
250 law enforcement agency about the unlawful use of the protected  
251 consumer's identifying information by another person.

252 (11) If a security freeze is in effect, a consumer  
253 reporting agency must send written confirmation to a protected  
254 consumer's representative of a change to any of the following  
255 official information in the protected consumer's consumer report  
256 or record within 30 days after the change is posted:

257 (a) The protected consumer's name.

258 (b) The protected consumer's address.

259 (c) The protected consumer's date of birth.

260 (d) The protected consumer's social security number.

261  
262 Written confirmation is not required for technical corrections  
263 of a protected consumer's official information, including name  
264 and street abbreviations, complete spellings, or transposition  
265 of numbers or letters. In the case of an address change, the  
266 written confirmation must be sent to the representative and to  
267 the protected consumer's new address and former address.

268 (12) If a consumer reporting agency violates a security  
269 freeze placed in accordance with this section by releasing  
270 information subject to a security freeze without proper  
271 authorization, the consumer reporting agency shall, within 5  
272 business days after discovering or being notified of the release  
273 of information, notify the representative of the protected  
274 consumer in writing. The notice shall state the specific  
275 information released and provide the name, address, and other  
276 contact information of the recipient of the information.

277 (13) A consumer reporting agency that willfully fails to  
278 comply with any requirement imposed under this section is  
279 subject to an administrative fine in the amount of \$500, imposed  
280 by the Department of Agriculture and Consumer Services pursuant  
281 to the administrative procedures established in chapter 120.

282 (14) In addition to any other penalties or remedies  
283 provided under law, the following persons who are aggrieved by a  
284 violation of this section may bring a civil action as follows:

285 (a) A person who obtains a protected consumer's consumer  
286 report or record from a consumer reporting agency under false

287 pretenses or who knowingly obtains a protected consumer's  
288 consumer report or record without a permissible purpose is  
289 liable to the representative and protected consumer for actual  
290 damages sustained by the protected consumer or \$1,000, whichever  
291 is greater.

292 (b) A person who obtains a protected consumer's consumer  
293 report or record from a consumer reporting agency under false  
294 pretenses or who knowingly obtains a protected consumer's  
295 consumer report or record without a permissible purpose is  
296 liable to the consumer reporting agency for actual damages  
297 sustained by the consumer reporting agency or \$1,000, whichever  
298 is greater.

299 (15) A written disclosure by a consumer reporting agency,  
300 pursuant to 15 U.S.C. s. 1681g, to a representative and  
301 protected consumer residing in this state must include a written  
302 summary of all rights that the representative and protected  
303 consumer have under this section and, in the case of a consumer  
304 reporting agency that compiles and maintains records on a  
305 nationwide basis, a toll-free telephone number that the  
306 representative can use to communicate with the consumer  
307 reporting agency. The information provided in paragraph (b) must  
308 be in at least 12-point boldfaced type. The written summary of  
309 rights required under this section is sufficient if it is  
310 substantially in the following form:

311 (a) If you are the custodial parent or legal guardian of a  
312 minor younger than 16 years of age or a guardian or advocate of

313 an incapacitated, disabled, or protected person under chapter  
314 39, chapter 393, chapter 744, or chapter 914, Florida Statutes,  
315 you have the right to place a security freeze on the consumer  
316 report of the person you are legally authorized to care for. If  
317 no consumer report exists, you have the right to request that a  
318 record be created and a security freeze be placed on the record.  
319 A record with a security freeze is intended to prevent the  
320 opening of credit accounts until the security freeze is removed.

321 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO  
322 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN A  
323 CONSUMER REPORT OR RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT  
324 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION  
325 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT  
326 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,  
327 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET  
328 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN  
329 EXTENSION OF CREDIT AT POINT OF SALE.

330 (c) To remove the security freeze on the protected  
331 consumer's record or report, you must contact the consumer  
332 reporting agency and provide all of the following:

333 1. Proof of identification as required by the consumer  
334 reporting agency.

335 2. Proof of authority over the protected consumer as  
336 required by the consumer reporting agency.

337 3. The unique personal identifier provided by the consumer  
338 reporting agency.

339 4. Payment of a fee.

340 (d) A consumer reporting agency must, within 30 days after  
341 receiving the above information, authorize the removal of the  
342 security freeze.

343 (e) A security freeze does not apply to a person or  
344 entity, or its affiliates, or a collection agency acting on  
345 behalf of the person or entity and with which the protected  
346 consumer has an existing account, which requests information in  
347 the protected consumer's consumer report or record for the  
348 purposes of reviewing or collecting the account. Reviewing the  
349 account includes activities related to account maintenance,  
350 monitoring, credit line increases, and account upgrades and  
351 enhancements.

352 (f) You have the right to bring a civil action against  
353 anyone, including a consumer reporting agency, who fails to  
354 comply with section 501.0051, Florida Statutes, which governs  
355 the placement and removal of a security freeze on a protected  
356 consumer's consumer report or record.

357 Section 3. This act shall take effect September 1, 2014.