



457178

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/15/2014	.	
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The Committee on Judiciary (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

501.0051 Protected consumer report security freeze.-

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

(a) "Consumer report" has the same meaning as provided in



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12 15 U.S.C. s. 1681a(d).

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

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

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

20 1. Identifies a protected consumer; and

21 2. Is created by a consumer reporting agency exclusively
22 for the purpose of complying with this section.

23 (e) "Representative" means the parent or legal guardian of
24 a protected consumer, including a guardian appointed pursuant to
25 s. 914.17.

26 (f) "Security freeze" means:

27 1. A notice placed on a protected consumer's consumer
28 report which prohibits a consumer reporting agency from

29 releasing the consumer report, the credit score, or any
30 information contained within the consumer report to a third

31 party without the express authorization of the representative;
32 or

33 2. If a consumer reporting agency does not have a consumer
34 report pertaining to a protected consumer, a notice placed on a
35 protected consumer's record which prohibits the consumer
36 reporting agency from releasing the protected consumer's record
37 except as provided in this section.

38 (g) "Sufficient proof of authority" means documentation
39 showing that a representative has authority to act on behalf of
40 a protected consumer. The term includes, but is not limited to,



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41 a court order, a copy of a valid power of attorney, or a written
42 notarized statement signed by the representative which expressly
43 describes the authority of the representative to act on behalf
44 of the protected consumer. A representative who is a parent may
45 establish sufficient proof of authority by providing a certified
46 or official copy of the protected consumer's birth certificate.

47 (h) "Sufficient proof of identification" means
48 documentation identifying a protected consumer or a
49 representative. The term includes, but is not limited to, a copy
50 of a social security card, a certified or official copy of a
51 birth certificate, a copy of a valid driver license, or a copy
52 of a government-issued photo identification.

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

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

57 (b) Providing the agency with sufficient proof of authority
58 and sufficient proof of identification of the representative;
59 and

60 (c) Paying the agency a fee as authorized under this
61 section.

62 (3) If a consumer reporting agency does not have a consumer
63 report pertaining to a protected consumer when the consumer
64 reporting agency receives a request for a security freeze under
65 subsection (2), the consumer reporting agency shall create a
66 record for the protected consumer and place a security freeze on
67 the record. A record may not be created or used to consider the
68 protected consumer's credit worthiness, credit standing, credit
69 capacity, character, general reputation, personal



70 characteristics, or eligibility for other financial services.

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

75 (5) The consumer reporting agency shall send a written
76 confirmation of the security freeze to the representative within
77 10 business days after instituting the security freeze on the
78 consumer report or record and shall provide the representative
79 with instructions for removing the security freeze and a unique
80 personal identifier to be used by the representative when
81 providing authorization for removal of the security freeze.

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

85 (7) A consumer reporting agency shall remove a security
86 freeze from a protected consumer's consumer report or record
87 only under either of the following circumstances:

88 (a) Upon the request of a representative or a protected
89 consumer. A consumer reporting agency shall remove a security
90 freeze within 30 days after receiving a request for removal from
91 a protected consumer or his or her representative.

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

94 a. Sufficient proof of identification of the representative
95 and sufficient proof of authority as determined by the consumer
96 reporting agency.

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



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99 c. A fee as authorized under this section.

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

102 a. Sufficient proof of identification of the protected
103 consumer as determined by the consumer reporting agency.

104 b. Documentation that the sufficient proof of authority of
105 the protected consumer's representative to act on behalf of the
106 protected consumer is no longer valid.

107 c. A fee as authorized under this section.

108 (b) If the security freeze was instituted due to a material
109 misrepresentation of fact. A consumer reporting agency that
110 intends to remove a security freeze under this paragraph shall
111 notify the representative and protected consumer in writing
112 before removing the security freeze.

113 (8) This section does not apply to the use of a protected
114 consumer's consumer report or record by the following persons or
115 for the following reasons:

116 (a) A state agency acting within its lawful investigative
117 or regulatory authority.

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

120 (c) A person administering a credit file monitoring
121 subscription service to which the protected consumer or the
122 representative, on behalf of the protected consumer, has
123 subscribed.

124 (d) A person providing the protected consumer's consumer
125 report or record to the protected consumer or representative
126 upon the request of the protected consumer or representative.

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



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

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

133 1. Criminal record information.

134 2. Personal loss history information.

135 3. Fraud prevention or detection.

136 4. Tenant screening.

137 5. Employment screening.

138 6. Personal insurance policy information.

139 7. Noncredit information used for insurance purposes.

140 (h) A check services company issuing authorizations for the
141 purpose of approving or processing negotiable instruments,
142 electronic funds transfers, or similar methods of payment.

143 (i) A deposit account information service company issuing
144 reports regarding account closures due to fraud, substantial
145 overdrafts, automatic teller machine abuse, or similar negative
146 information regarding a protected consumer to an inquiring
147 financial institution, as defined in s. 655.005 or in federal
148 law, for use only in reviewing a representative's request for a
149 deposit account for the protected consumer at the inquiring
150 financial institution.

151 (j) A consumer reporting agency that acts only as a
152 reseller of credit information by assembling and merging
153 information contained in the database of another consumer
154 reporting agency or multiple consumer reporting agencies and
155 that does not maintain a permanent database of credit
156 information from which new consumer reports are produced.



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157 However, such consumer reporting agency shall honor any security
158 freeze placed or removed by another consumer reporting agency.

159 (k) A fraud prevention services company issuing reports to
160 prevent or investigate fraud.

161 (l) A person or entity, or its affiliates, or a collection
162 agency acting on behalf of the person or entity, with which the
163 protected consumer has an existing account, requesting
164 information in the protected consumer's consumer report or
165 record for the purposes of reviewing or collecting the account.
166 Reviewing the account includes activities related to account
167 maintenance, monitoring, credit line increases, and account
168 upgrades and enhancements.

169 (9) (a) A consumer reporting agency may charge a reasonable
170 fee, not to exceed \$10, to place or remove a security freeze.

171 (b) A consumer reporting agency may also charge a
172 reasonable fee, not to exceed \$10, if the representative fails
173 to retain the original unique personal identifier provided by
174 the consumer reporting agency and the agency must reissue the
175 unique personal identifier or provide a new unique personal
176 identifier to the representative.

177 (c) A consumer reporting agency may not charge a fee under
178 this section to the representative of a protected consumer who
179 is a victim of identity theft if the representative submits, at
180 the time the security freeze is requested, a copy of a valid
181 investigative report, an incident report, or a complaint with a
182 law enforcement agency about the unlawful use of the protected
183 consumer's identifying information by another person.

184 (10) If a security freeze is in effect, a consumer
185 reporting agency must send written confirmation to a protected



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186 consumer's representative of a change to any of the following
187 official information in the protected consumer's consumer report
188 or record within 30 days after the change is posted:

- 189 (a) The protected consumer's name.
190 (b) The protected consumer's address.
191 (c) The protected consumer's date of birth.
192 (d) The protected consumer's social security number.

193
194 Written confirmation is not required for technical corrections
195 of a protected consumer's official information, including name
196 and street abbreviations, complete spellings, or transposition
197 of numbers or letters. In the case of an address change, the
198 written confirmation must be sent to the representative and to
199 the protected consumer's new address and former address.

200 (11) If a consumer reporting agency violates a security
201 freeze placed in accordance with this section by releasing
202 information subject to a security freeze without proper
203 authorization, the consumer reporting agency shall, within 5
204 business days after discovering or being notified of the release
205 of information, notify the representative of the protected
206 consumer in writing. The notice must state the specific
207 information released and provide the name, address, and other
208 contact information of the recipient of the information.

209 (12) A consumer reporting agency that willfully fails to
210 comply with any requirement imposed under this section is
211 subject to an administrative fine in the amount of \$500, imposed
212 by the Department of Agriculture and Consumer Services pursuant
213 to the administrative procedures established in chapter 120.

214 (13) In addition to any other penalties or remedies



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215 provided under law, the following persons who are aggrieved by a
216 violation of this section may bring a civil action as follows:

217 (a) A person who obtains a protected consumer's consumer
218 report or record from a consumer reporting agency under false
219 pretenses or who knowingly obtains a protected consumer's
220 consumer report or record without a permissible purpose is
221 liable to the representative and protected consumer for actual
222 damages sustained by the protected consumer or \$1,000, whichever
223 is greater.

224 (b) A person who obtains a protected consumer's consumer
225 report or record from a consumer reporting agency under false
226 pretenses or who knowingly obtains a protected consumer's
227 consumer report or record without a permissible purpose is
228 liable to the consumer reporting agency for actual damages
229 sustained by the consumer reporting agency or \$1,000, whichever
230 is greater.

231 (14) A written disclosure by a consumer reporting agency,
232 pursuant to 15 U.S.C. s. 1681g, to a representative and
233 protected consumer residing in this state must include a written
234 summary of all rights that the representative and protected
235 consumer have under this section and, in the case of a consumer
236 reporting agency that compiles and maintains records on a
237 nationwide basis, a toll-free telephone number that the
238 representative can use to communicate with the consumer
239 reporting agency. The information provided in paragraph (b) must
240 be in at least 12-point boldfaced type. The written summary of
241 rights required under this section is sufficient if it is
242 substantially in the following form:

243 (a) If you are the parent or legal guardian of a minor



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244 younger than 16 years of age or a guardian or advocate of an
245 incapacitated, disabled, or protected person under chapter 39,
246 chapter 393, chapter 744, or chapter 914, Florida Statutes, you
247 have the right to place a security freeze on the consumer report
248 of the person you are legally authorized to care for. If no
249 consumer report exists, you have the right to request that a
250 record be created and a security freeze be placed on the record.
251 A record with a security freeze is intended to prevent the
252 opening of credit accounts until the security freeze is removed.

253 (b) YOU SHOULD BE AWARE THAT USING A SECURITY FREEZE TO
254 CONTROL ACCESS TO THE PERSONAL AND FINANCIAL INFORMATION IN A
255 CONSUMER REPORT OR RECORD MAY DELAY, INTERFERE WITH, OR PROHIBIT
256 THE TIMELY APPROVAL OF ANY SUBSEQUENT REQUEST OR APPLICATION
257 REGARDING A NEW LOAN, CREDIT, MORTGAGE, INSURANCE, GOVERNMENT
258 SERVICES OR PAYMENTS, RENTAL HOUSING, EMPLOYMENT, INVESTMENT,
259 LICENSE, CELLULAR PHONE, UTILITIES, DIGITAL SIGNATURE, INTERNET
260 CREDIT CARD TRANSACTION, OR OTHER SERVICES, INCLUDING AN
261 EXTENSION OF CREDIT AT POINT OF SALE.

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

265 1. Proof of identification as required by the consumer
266 reporting agency.

267 2. Proof of authority over the protected consumer as
268 required by the consumer reporting agency.

269 3. The unique personal identifier provided by the consumer
270 reporting agency.

271 4. Payment of a fee.

272 (d) A consumer reporting agency must, within 30 days after



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273 receiving the above information, authorize the removal of the
274 security freeze.

275 (e) A security freeze does not apply to a person or entity,
276 or its affiliates, or a collection agency acting on behalf of
277 the person or entity, with which the protected consumer has an
278 existing account, which requests information in the protected
279 consumer's consumer report or record for the purposes of
280 reviewing or collecting the account. Reviewing the account
281 includes activities related to account maintenance, monitoring,
282 credit line increases, and account upgrades and enhancements.

283 (f) You have the right to bring a civil action as
284 authorized by section 501.0051, Florida Statutes, which governs
285 the security of protected consumer information.

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

287
288 ===== T I T L E A M E N D M E N T =====

289 And the title is amended as follows:

290 Delete everything before the enacting clause
291 and insert:

292 A bill to be entitled
293 An act relating to the security of a protected
294 consumer's information; providing a short title;
295 creating s. 501.0051, F.S.; providing definitions;
296 authorizing the representative of a protected consumer
297 to place a security freeze on a protected consumer's
298 consumer report or record; specifying the procedure to
299 request a security freeze; requiring a consumer
300 reporting agency to establish a record if the
301 protected consumer does not have an existing consumer



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302 report; prohibiting the use of a consumer record for
303 certain purposes; requiring a consumer reporting
304 agency to place, and to provide written confirmation
305 of, a security freeze within a specified period;
306 prohibiting a consumer reporting agency from stating
307 or implying that a security freeze reflects a negative
308 credit history or rating; requiring a consumer
309 reporting agency to remove a security freeze under
310 specified conditions; specifying the procedure to
311 remove a security freeze; providing applicability;
312 authorizing a consumer reporting agency to charge a
313 fee for placing or removing a security freeze and for
314 reissuing a unique personal identifier; prohibiting a
315 fee under certain circumstances; requiring written
316 notification upon the change of specified information
317 in a protected consumer's consumer report or record;
318 providing exceptions; requiring a consumer reporting
319 agency to notify a representative and provide
320 specified information if the consumer reporting agency
321 violates a security freeze; providing penalties and
322 civil remedies; providing written disclosure
323 requirements for consumer reporting agencies relating
324 to a protected consumer's security freeze; providing
325 an effective date.