

**Department of Legislative Services**  
 Maryland General Assembly  
 2013 Session

**FISCAL AND POLICY NOTE**

Senate Bill 897 (Senator Klausmeier)  
 Finance

**Consumer Protection - Security Freezes - Children in Foster Care Settings**

This bill requires a consumer reporting agency to place a security freeze for a protected consumer within 30 days after receiving an electronically transmitted request from the Social Services Administration (SSA). The placement of a security freeze prohibits an agency from releasing the protected consumer’s consumer report, any information derived from the consumer report, or any record created for the protected consumer. The exclusive remedy of a violation of the bill’s provision is a complaint filed with the Commissioner of Financial Regulation.

The bill prohibits a consumer reporting agency from charging a fee for any services performed under the bill’s provisions.

**Fiscal Summary**

**State Effect:** Department of Human Resources (DHR) general fund expenditures increase by \$59,900 in FY 2014 to account for an additional employee to handle the responsibilities imposed on SSA by the bill. Future year expenditures reflect annualization, elimination of one-time-only costs, and inflation. The Department of Labor, Licensing, and Regulation can handle the bill’s requirements with existing resources. No impact on revenues.

(in dollars)	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	59,900	76,700	80,200	83,900	87,800
Net Effect	(\$59,900)	(\$76,700)	(\$80,200)	(\$83,900)	(\$87,800)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Montgomery County’s operations and finances are not affected.

**Small Business Effect:** Minimal.

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## Analysis

### Bill Summary:

*Definitions:* The bill defines “local department” as (1) 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 (2) in Montgomery County, the Montgomery County government.

“Protected consumer” means an individual who (1) is younger than age 16 at the time a request for the placement of a security freeze is made; (2) is in the custody of a local department; and (3) has been placed in a foster care setting.

The bill defines “record” as a compilation of information that (1) identifies a protected consumer; (2) is created by a consumer reporting agency solely for the purpose of complying with the bill; and (3) 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 a specified purpose.

Regardless of whether the consumer reporting agency does or does not have a file pertaining to a protected consumer, the bill defines “security freeze” as a restriction that (1) is placed on the protected consumer’s record in accordance with the bill and (2) prohibits the agency from releasing the protected consumer’s record except as provided by the bill. However, if the agency does have a file, the bill also defines “security freeze” as a restriction that prohibits the agency from releasing any information derived from the protected consumer’s consumer report except as provided by the bill.

“Sufficient proof of identification” is defined as information or documentation that identifies a protected consumer or a representative of a protected consumer.

*Placement and Removal of Security Freeze:* If a consumer reporting agency does not have a file pertaining to a protected consumer when the agency receives the aforementioned request for a security freeze from SSA, the agency must create a record for the protected consumer.

The security freeze for a protected consumer must remain in effect until either the protected consumer or SSA requests the removal of the security freeze. Such a request must be submitted to the agency at the address or other point of contact in the manner specified by the agency. Specified documents must accompany the request. In the case

of a request by the protected consumer, the request must be accompanied by (1) proof that the authority of SSA to act on behalf of the protected consumer is no longer valid and (2) sufficient proof of identification of the protected consumer. If SSA submits the request, the bill requires that it be accompanied by sufficient proof of identification of the protected consumer. Upon receiving a valid request, the agency must remove the security freeze within 30 days. The bill also authorizes an agency to remove a security freeze or delete a record of a protected consumer if the security freeze was placed or the record was created because of a material misrepresentation of fact by either the protected consumer or the protected consumer's representative.

*SSA Responsibilities:* The bill requires SSA to electronically transmit, on the bill's October 1, 2013 effective date, to each consumer reporting agency (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 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. If a consumer agency has a file pertaining to a protected consumer when the agency receives the aforementioned list, each agency must delete any information from the file and place a security freeze on the protected consumer's consumer record.

Additionally, each month, SSA must electronically transmit to each consumer reporting agency a list of children younger than age 16 who are in custody of a local department and have been placed in a foster care setting for the first time.

Upon the entry of an order for the adoption of a child who was in the custody of a local department, SSA must provide notice to the adoptive parent of the statutory authorization of an adoptive parent to request a security freeze by an agency.

**Current Law:** Chapters 208 and 209 of 2012 (SB 295/HB 555) establish a procedure for a "protected consumer's representative" to request that a consumer reporting agency place a security freeze on the protected consumer's consumer report. A "protected consumer" is (1) an individual younger than age 16 or (2) an incapacitated person or a protected person for whom a guardian or conservator has been appointed.

The laws require a consumer reporting agency to place a security freeze for a protected consumer if the agency receives such a request from the protected consumer's representative. The agency must place the freeze within 30 days of receipt of the request. A consumer reporting agency is prohibited from releasing the protected consumer's consumer report, any information derived from the report, or any record created for the protected consumer, unless a security freeze is removed, with certain exceptions.

The laws establish a similar procedure for a protected consumer or the representative to request the agency to remove the security freeze. The agency must remove the freeze

within 30 days after receiving the request. The agency may also remove a security freeze for a protected consumer or delete a record of a protected consumer if the 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.

A consumer reporting agency may not charge a fee for any service related to a security freeze other than its placement and removal. Additionally, an agency may not charge a fee for the placement and removal of the security freeze in a case of reported identity theft or for a minor for whom a consumer report already exists.

Any consumer who has reason to believe that a violation of a law regulating consumer credit reporting has occurred may file a complaint with the commissioner. Upon receipt of the complaint, the commissioner may hold a hearing on the complaint, issue an order for compliance, and, if after a hearing the commissioner finds a pattern and practice of violation, issue cease and desist orders. If a consumer reporting agency ignores a cease and desist order or other order for compliance, the commissioner may impose a civil penalty of up to \$100 for each violation. Additionally, the commissioner may petition the circuit court of any county to aid in the enforcement of any of the aforementioned enforcement powers of the commissioner.

**Background:** The Federal Trade Commission has noted that personal information for children in foster care is often circulated widely within schools and social services networks, which leaves the children particularly vulnerable to identity theft. According to the Children's Law Center of Minnesota, the children may become victims at the hands of their foster care providers or family members who still have access to their personal information. These children often have no knowledge that they are victims of identity theft until they are adults and age out of the foster care system to start an independent life, only to find that they are unable to secure a car loan, an apartment lease, or a student loan through no fault of their own.

In an attempt to address this issue, the federal Child and Family Services Improvement Act requires that every foster child who has reached age 16 must receive a free consumer report each year until the child is discharged from care. The children must also receive assistance in interpreting and resolving any inaccuracies within the report.

The California Office of Privacy Protection conducted a year-long study of the credit of 2,110 foster youth ages 16 and 17 in Los Angeles County. The credit checks revealed that 104 of these children had discrepancies in their reports. According to officials, the children had 247 accounts that could have caused them problems in the future. The average account balance was \$1,810; however, one child had a home loan of \$217,000 taken out in the child's name. In some cases, simple error was to blame for the credit report discrepancies.

In fiscal 2012, the District Court reports the following charges for identity fraud:

<u>Charge</u>	<u>Total</u>
Obtaining personal identifying information without consent to obtain things or services	763
Assumption of another to avoid prosecution, payment of debt, or to get a thing or benefit	1,527

**State Fiscal Effect:** DHR general fund expenditures increase by \$59,868 in fiscal 2014. This estimate reflects the cost of hiring one policy analyst to provide the required notice to adoptive parents, compile a list of specified children each month and submit the list to consumer reporting agencies, and request the removal of a security freeze. This estimate includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1
Salary and Fringe Benefits	\$53,022
Other Operating Expenses	<u>6,846</u>
<b>Total FY 2014 DHR State Expenditures</b>	<b>\$59,868</b>

Future year expenditures reflect a full salary and employee turnover as well as annual increases in ongoing operating expenses.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 1297 (Delegate Zucker, *et al.*) - Economic Matters.

**Information Source(s):** Howard and Montgomery counties; Baltimore City; Department of Human Resources; Judiciary (Administrative Office of the Courts); California Office of Privacy Protection; Children's Law Center of Minnesota; Federal Trade Commission; *U.S. News and World Report*; *California Bar Journal*; GPO.gov; Wisconsin Department of Children and Families; Yahoo! News; Natural Resource Center for Youth Development; Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2013  
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