

REFERENCE TITLE: **employment practices; consumer reports; limitation**

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

## **HB 2422**

Introduced by  
Representatives Mendez, Andrade, Espinoza, Fernandez, Velasquez: Alston,  
Gonzales, Plumlee, Rios, Wheeler

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-205; AMENDING SECTIONS 28-376, 44-1691, 44-1692, 44-1693, 44-1698 AND 44-1698.02, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, article 1, Arizona Revised Statutes,  
3 is amended by adding section 23-205, to read:

4 23-205. Consumer report or credit; prohibition; violation;  
5 classification; definitions

6 A. NOTWITHSTANDING ANY OTHER LAW, AN EMPLOYER MAY NOT DO EITHER OF THE  
7 FOLLOWING:

8 1. DISCHARGE OR FAIL OR REFUSE TO RECRUIT, HIRE, PROMOTE, REASSIGN OR  
9 RETAIN OR OTHERWISE DISCRIMINATE AGAINST AN INDIVIDUAL WITH RESPECT TO  
10 COMPENSATION OR A TERM, CONDITION OR PRIVILEGE OF EMPLOYMENT BECAUSE OF THE  
11 INDIVIDUAL'S CONSUMER REPORT OR CREDIT HISTORY.

12 2. INQUIRE ABOUT AN APPLICANT'S OR EMPLOYEE'S CONSUMER REPORT OR  
13 CREDIT HISTORY.

14 B. A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A CLASS 3  
15 MISDEMEANOR.

16 C. FOR THE PURPOSES OF THIS SECTION:

17 1. "CONSUMER REPORT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
18 44-1691.

19 2. "CREDIT HISTORY" MEANS INFORMATION OBTAINED FROM A THIRD PARTY,  
20 WHETHER OR NOT CONTAINED IN A CONSUMER REPORT, THAT REFLECTS OR PERTAINS TO  
21 EITHER OF THE FOLLOWING FOR AN INDIVIDUAL:

22 (a) CURRENT OR PAST BORROWING OR REPAYING BEHAVIOR, INCLUDING THE  
23 ACCUMULATION, PAYMENT OR DISCHARGE OF FINANCIAL OBLIGATIONS.

24 (b) CURRENT OR PAST FINANCIAL CONDITION OR ABILITY TO MEET FINANCIAL  
25 OBLIGATIONS, INCLUDING DEBTS OWED, PAYMENT HISTORY OR SAVINGS OR CHECKING  
26 ACCOUNT BALANCES OR ACCOUNT NUMBERS.

27 3. "EMPLOYER" MEANS ANY INDIVIDUAL, PERSON OR TYPE OF ORGANIZATION  
28 THAT EMPLOYS WORKERS, INCLUDING THIS STATE AND ALL POLITICAL SUBDIVISIONS OF  
29 THIS STATE.

30 Sec. 2. Section 28-376, Arizona Revised Statutes, is amended to read:

31 28-376. Employment of personnel; definition

32 A. The director may obtain criminal history record information  
33 regarding applicants for employment for the purpose of hiring personnel.  
34 Before making a final offer of employment, the director shall require the  
35 preferred applicants to submit a full set of fingerprints. The director  
36 shall submit the fingerprints to the department of public safety for the  
37 purpose of obtaining a state and federal criminal records check pursuant to  
38 section 41-1750 and Public Law 92-544. The department of public safety may  
39 exchange this fingerprint data with the federal bureau of investigation. The  
40 department of transportation shall not disclose information obtained pursuant  
41 to this subsection except to members of the department's staff solely for  
42 employment purposes. An applicant shall not be disqualified from employment  
43 under this subsection except in accordance with section 13-904, subsection E.

44 ~~B. The director may obtain consumer report information regarding~~  
45 ~~applicants for employment for the purpose of hiring personnel. Information~~

1 ~~obtained may only be used to determine the suitability of the applicant for~~  
2 ~~positions involving fiduciary or financial responsibilities, the issuance of~~  
3 ~~driver licenses or other personal identification documents or access to~~  
4 ~~highly confidential information. Consumer report information may be obtained~~  
5 ~~and used only in accordance with the fair credit reporting act (15 United~~  
6 ~~States Code sections 1681 through 1681x). An applicant shall not be~~  
7 ~~disqualified from employment under this subsection unless the consumer report~~  
8 ~~information relied on for the disqualification has a reasonable relationship~~  
9 ~~to the functions of the position.~~

10 ~~C.~~ B. For the purposes of this section, "applicant" means any person  
11 who seeks employment as a new hire or any employee of the department who  
12 seeks a transfer, a reclassification or a reassignment to a different  
13 position.

14 Sec. 3. Section 44-1691, Arizona Revised Statutes, is amended to read:  
15 44-1691. Definitions

16 In this chapter, unless the context otherwise requires:

17 1. "Consumer" means an individual.

18 ~~3.~~ 2. "Consumer report" means any written, oral, ~~or~~ or other  
19 communication of any information by a consumer reporting agency bearing on a  
20 consumer's ~~credit worthiness~~ CREDITWORTHINESS, credit standing, credit  
21 capacity, character, general reputation, personal characteristics, ~~or~~ or mode  
22 of living ~~which~~ THAT is used or expected to be used or collected in whole or  
23 in part for the purpose of serving as a factor in establishing the consumer's  
24 eligibility for ~~(a)~~ credit or insurance to be used primarily for personal,  
25 family, or household purposes, ~~or (b) employment purposes,~~ or ~~(c)~~ other  
26 purposes authorized under section 44-1692. ~~The term~~ CONSUMER REPORT does not  
27 include:

28 (a) Any report containing information solely as to transactions or  
29 experiences between the consumer and the person making the report. ~~;~~ ~~or~~

30 (b) Any authorization or approval of a specific extension of credit  
31 directly or indirectly by the issuer of a credit card or similar device. ~~;~~ ~~or~~

32 (c) Any report in which a person who has been requested by a third  
33 party to make a specific extension of credit directly or indirectly to a  
34 consumer conveys his decision with respect to such request, if the third  
35 party advises the consumer of the name and address of the person to whom the  
36 request was made.

37 ~~2.~~ 3. "Consumer reporting agency" means any person which, for  
38 monetary fees, dues, or on a cooperative nonprofit basis, regularly engages  
39 in whole or in part in the practice of assembling or evaluating consumer  
40 credit information on consumers for the purpose of furnishing consumer  
41 reports to third parties.

42 ~~4.~~ "Employment purposes" ~~when used in connection with a consumer~~  
43 ~~report means a report used for the purpose of evaluating a consumer for~~  
44 ~~employment, promotion, reassignment or retention as an employee.~~

1           ~~5-~~ 4. "File" when used in connection with information on any  
2 consumer, means all of the information on that consumer recorded and retained  
3 by a consumer reporting agency regardless of how the information is stored.

4           ~~6-~~ 5. "Person" means an individual, partnership, corporation,  
5 association, or any other entity of whatever kind or nature.

6           Sec. 4. Section 44-1692, Arizona Revised Statutes, is amended to read:  
7 44-1692. Permissible use of consumer reports

8           A. Except as provided in section 44-1693, a consumer reporting agency  
9 may furnish a consumer report only under the following circumstances and no  
10 other:

11           1. In response to the order of a court having jurisdiction to issue  
12 such an order.

13           2. In accordance with the written instructions of the consumer to whom  
14 it relates.

15           3. To a person that it has reason to believe:

16           (a) Intends to use the information in connection with a credit  
17 transaction involving the consumer on whom the information is to be furnished  
18 and involving the extension of credit to, or review or collection of an  
19 account of, the consumer.

20           ~~(b) Intends to use the information for employment purposes.~~

21           ~~(e)~~ (b) Intends to use the information in connection with the  
22 underwriting of insurance involving the consumer.

23           ~~(d)~~ (c) Intends to use the information in connection with a  
24 determination of the consumer's eligibility for any license or other benefit  
25 granted by a governmental instrumentality required by law to consider an  
26 applicant's financial responsibility or status.

27           ~~(e)~~ (d) Otherwise has a legitimate business need for the information  
28 in connection with a business transaction involving the consumer.

29           4. On request by the department of economic security, its agent or  
30 another agency administering a title IV-D program under the social security  
31 act certifying that:

32           (a) The obligor mother or the obligor father has been determined to be  
33 the parent of a child to whom a support obligation relates.

34           (b) The consumer report is needed to establish an obligor's capacity  
35 to make support payments or to determine the appropriate amount of the  
36 payments or for the purpose of setting an original support amount or  
37 modifying an existing support order.

38           (c) The obligor has received at least ten days' advance notice, by  
39 certified mail, at the last known address, by personal delivery or by  
40 personal service that a consumer report will be requested.

41           (d) The consumer report shall be kept confidential and shall be used  
42 only for the purposes described in subdivision (b) of this paragraph.

43           (e) The consumer report shall not be used in connection with any other  
44 civil, administrative or criminal proceeding or for any other purpose.

1 B. The report furnished in subsection A of this section may be  
2 provided by electronic or other means.

3 Sec. 5. Section 44-1693, Arizona Revised Statutes, is amended to read:  
4 44-1693. Access to reports by a consumer

5 A. ~~Upon~~ ON furnishing adequate credentials by a consumer as to ~~his~~ THE  
6 CONSUMER'S identity:

7 1. A creditor who denies credit to any consumer shall disclose to such  
8 consumer the name and address of any consumer reporting agency ~~which~~ THAT has  
9 furnished such creditor with a consumer report on such consumer which was  
10 considered by the creditor in making the determination.

11 2. A licensing agency ~~which~~ THAT denies a license to any consumer  
12 shall disclose to such consumer the name and address of any consumer  
13 reporting agency which has furnished such agency with a consumer report on  
14 such consumer which was considered by the licensing agency in making the  
15 determination.

16 ~~3. An employer who denies a consumer employment, a promotion,  
17 retention as an employee or reassignment or does reassign the consumer,  
18 whichever is not to the advantage of the consumer, shall disclose to such  
19 consumer the name and address of any consumer reporting agency which has  
20 furnished such employer with a consumer report on such consumer which was  
21 considered by the employer in making the determination.~~

22 ~~4.~~ 3. A consumer reporting agency shall disclose to any consumer the  
23 contents of its file used for the purpose of making a consumer report on that  
24 consumer, any and all facts, allegations or sources ~~upon~~ ON which such  
25 information is based and the name and address of each person requesting a  
26 report on the consumer within the previous six months. A credit reporting  
27 agency may make the disclosures in the following manner:

28 (a) By a trained employee of the credit reporting agency when the  
29 consumer makes the request in person.

30 (b) By telephone if the credit reporting agency receives a written  
31 request for a telephone disclosure from the consumer. Any toll for the  
32 telephone disclosure shall be prepaid by the consumer or charged directly to  
33 the consumer requesting the telephone disclosure.

34 (c) By a decoded written copy of the file or a written copy of the  
35 consumer report with an explanation of any codes used if the credit reporting  
36 agency receives a written request for a written disclosure from the consumer.

37 B. A consumer reporting agency shall provide trained personnel to  
38 disclose the contents of its file to consumers during normal business office  
39 hours and assist a consumer in fully understanding all items on his consumer  
40 report.

41 C. The consumer shall be permitted to be accompanied by one other  
42 person of ~~his~~ THE CONSUMER'S choosing, who shall furnish reasonable  
43 identification, at such time as the consumer reviews the files of the  
44 consumer reporting agency as provided in this section.

1 D. ~~No~~ A consumer reporting agency ~~nor~~ OR any creditor, licensing  
2 agency or employer shall NOT request or require any waiver of rights by any  
3 consumer. ~~No~~ A consumer reporting agency ~~nor~~ OR any creditor or any other  
4 person shall NOT charge any fee to a consumer for a disclosure of ~~his~~ THE  
5 CONSUMER'S file if within a thirty-day period ~~prior to~~ BEFORE the request for  
6 a disclosure the consumer is denied credit, ~~OR~~ licensure, ~~employment or~~  
7 ~~received~~ RECEIVES a notice of collection or ~~received~~ RECEIVES other adverse  
8 action due to the credit report. Except as provided for in this subsection,  
9 a consumer reporting agency may charge a reasonable fee for any disclosures  
10 of a file to the consumer or ~~his~~ THE CONSUMER'S designee.

11 Sec. 6. Section 44-1698, Arizona Revised Statutes, is amended to read:  
12 44-1698. Security freeze on credit reports and credit scores;  
13 fees; definitions

14 A. A consumer may request in writing or in a form acceptable to the  
15 consumer reporting agency that a consumer reporting agency place a security  
16 freeze on the consumer's credit report. If a security freeze is in place, a  
17 consumer reporting agency shall not release a consumer's credit report or  
18 consumer's credit score to a third party without the consumer's prior express  
19 authorization. This subsection does not prevent a consumer reporting agency  
20 from advising a specific party that a security freeze is in effect with  
21 respect to the consumer's credit report.

22 B. A consumer reporting agency shall place a security freeze on a  
23 consumer's credit report not later than ten business days after receiving a  
24 written request from the consumer.

25 C. The consumer reporting agency shall send a written confirmation of  
26 the security freeze to the consumer within ten business days after placing  
27 the security freeze on the consumer's credit report and shall provide the  
28 consumer with a unique personal identification number or password, other than  
29 the consumer's social security number, that the consumer may use to provide  
30 authorization for the release of the consumer's credit report for a specific  
31 period of time and to remove the security freeze.

32 D. A security freeze remains in effect until the consumer requests  
33 that the security freeze be removed or temporarily lifted as provided in this  
34 section. A consumer may request that a security freeze be removed or  
35 temporarily lifted by mail, telephone, internet or other electronic contact  
36 method in a form acceptable to the consumer reporting agency. A consumer  
37 reporting agency shall require proper identification of any person who makes  
38 a request to place or remove a security freeze.

39 E. On requesting removal, the consumer shall provide the following  
40 information:

41 1. Proper identification.

42 2. The unique personal identification number or password that the  
43 consumer reporting agency provided to the consumer.

44 F. On requesting a temporary lift to allow a credit report to be  
45 accessed for a specific period of time, the consumer shall contact the

1 consumer reporting agency and shall request that the security freeze be  
2 temporarily lifted and shall provide the following information:

- 3 1. Proper identification.
- 4 2. The unique personal identification number or password that the  
5 consumer reporting agency provided to the consumer.
- 6 3. The proper information regarding the specific time period for which  
7 the credit report shall be available to users of the credit report.

8 G. A consumer reporting agency shall remove or temporarily lift a  
9 security freeze from a consumer's credit report within:

10 1. Three business days after receiving the consumer's request for the  
11 removal or temporary lift by mail.

12 2. Fifteen minutes after receiving the consumer's request through the  
13 use of telephone, internet or other electronic contact method in a form  
14 acceptable to the consumer reporting agency, during normal business hours.  
15 The consumer reporting agency is not required to remove or temporarily lift  
16 the security freeze within the fifteen minute time limit if the agency's  
17 ability is prevented by any of the following:

18 (a) An act of God, including fire, earthquakes, hurricanes, storms or  
19 similar natural disaster or phenomena.

20 (b) Unauthorized or illegal acts by a third party, including  
21 terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting  
22 operations or similar occurrence.

23 (c) Operational interruption, including electrical failure,  
24 unanticipated delay in equipment or replacement part delivery, computer  
25 hardware or software failures inhibiting response time or similar disruption.

26 (d) Governmental action, including emergency orders or regulations,  
27 judicial or law enforcement action or similar directives.

28 (e) Regularly scheduled maintenance, during other than normal business  
29 hours of, or updates to, the consumer reporting agency's systems.

30 (f) Commercially reasonable maintenance of, or repair to, the consumer  
31 reporting agency's systems that is unexpected or unscheduled.

32 (g) Receipt of a removal or temporary lift request outside of normal  
33 business hours.

34 H. A consumer reporting agency shall remove or temporarily lift a  
35 security freeze placed on a consumer's credit report only in the following  
36 cases:

37 1. If the consumer requests removal pursuant to subsection E **OF THIS**  
38 **SECTION** or a temporary lift pursuant to subsection F **OF THIS SECTION**.

39 2. If the consumer's credit report was frozen as a result of a  
40 material misrepresentation of fact. If a consumer reporting agency intends  
41 to remove a security freeze on a consumer's credit report pursuant to this  
42 paragraph, the consumer reporting agency shall notify by mail, telephone,  
43 internet or other electronic contact method the consumer before removing the  
44 security freeze on the consumer's credit report.

1 I. When a consumer requests a security freeze, the consumer reporting  
2 agency shall disclose the process for placing and for removing or temporarily  
3 lifting a freeze and the process for allowing access to information from the  
4 consumer's credit report for a specific period of time while the security  
5 freeze is in place.

6 J. If a third party requests access to a credit report on which a  
7 security freeze is in effect, the request is in connection with an  
8 application for credit or any other use and the consumer does not allow the  
9 consumer's credit report to be accessed for a specific period of time, the  
10 third party may treat the application as incomplete.

11 K. A consumer reporting agency may charge a five dollar fee for each  
12 security freeze, removal of the freeze or temporary lift of the freeze for a  
13 period of time on the consumer's credit report. A consumer reporting agency  
14 shall not charge a fee to a victim of identity theft who submits a valid  
15 police report that alleges a violation of section 13-2008, 13-2009 or  
16 13-2010.

17 L. A consumer reporting agency may charge a five dollar fee if the  
18 consumer fails to retain the original unique personal identification number  
19 or password provided by the consumer reporting agency and the consumer  
20 reporting agency must reissue the unique personal identification number or  
21 password or provide a new unique personal identification number or password  
22 to the consumer.

23 M. If a security freeze is in place, a consumer reporting agency shall  
24 not change a consumer's name, date of birth, social security number or  
25 address in the consumer's credit report without sending a written  
26 confirmation of the change to the consumer within thirty days after the  
27 change is posted to the consumer's file. Written confirmation is not  
28 required for technical modifications of a consumer's official information,  
29 including name and street abbreviations, complete spellings or transposition  
30 of numbers or letters. For the purposes of address changes, the consumer  
31 reporting agency shall send the written confirmation to both the new address  
32 and the former address.

33 N. This section does not apply to the use of a credit report or credit  
34 score by any of the following:

35 1. A person, a subsidiary, affiliate, agent or subcontractor of that  
36 person, an assignee of a financial obligation owed by the consumer to that  
37 person or a prospective assignee of a financial obligation owed by the  
38 consumer to that person in conjunction with the proposed purchase of the  
39 financial obligation with which the consumer has or had before assignment an  
40 account or contract, including a demand deposit account, or to whom the  
41 consumer issued a negotiable instrument, for the purposes of reviewing the  
42 account or collecting the financial obligation owed for the account, contract  
43 or negotiable instrument. For the purposes of this paragraph, "reviewing the  
44 account" includes activities that are related to account maintenance,  
45 monitoring, credit line increases and account upgrades and enhancements.

- 1           2. A subsidiary, affiliate, agent, assignee or prospective assignee of  
2 a person to whom access has been granted under this section for the purpose  
3 of facilitating the extension of credit or other permissible use.
- 4           3. Any state or local agency, law enforcement agency, trial court or  
5 private collection agency acting pursuant to a court order, warrant or  
6 subpoena.
- 7           4. A child support agency acting pursuant to title 25, chapter 3,  
8 article 2 or title IV-D of the social security act.
- 9           5. The department of health services or its agents or assigns acting  
10 to investigate fraud.
- 11          6. The department of revenue or its agents or assigns acting to  
12 investigate or collect delinquent taxes or unpaid court orders or to fulfill  
13 any of its other statutory responsibilities.
- 14          7. The department of transportation or its agents or assigns acting to  
15 investigate or collect delinquent taxes or unpaid court orders or to fulfill  
16 any of its other statutory responsibilities.
- 17          8. The administrative office of the courts to conduct audits or  
18 investigate fraud or for applicant screening.
- 19          9. Any agency or entity for the purposes of prescreening or  
20 postscreening as provided for by the federal fair credit reporting act (15  
21 United States Code section 1681b).
- 22          10. Any person or entity that administers a credit file monitoring  
23 subscription service to which the consumer has subscribed.
- 24          11. Any person or entity for the purpose of providing a consumer with a  
25 copy of the consumer's credit report or consumer's credit score on the  
26 consumer's request.
- 27          12. Except as otherwise provided by law, a person setting or adjusting  
28 a rate or claim or underwriting for insurance purposes.
- 29          13. Any person who uses a consumer reporting agency's database or file  
30 that consists entirely of information concerning, and is used solely for, one  
31 or more of the following:
- 32           (a) Criminal record information.  
33           (b) Fraud prevention or detection.  
34           (c) Tenant screening.  
35           ~~(d) Employment screening.~~
- 36          14. Any state or federally regulated bank or financial institution for  
37 checking, savings and investment accounts.
- 38          0. The following entities are not required to place a security freeze  
39 on a credit report:
- 40           1. A check services or fraud prevention services company that issues  
41 reports on incidents of fraud or authorizations for the purpose of approving  
42 or processing negotiable instruments, electronic funds transfers or similar  
43 methods of payments.
- 44           2. A deposit account information service company that issues reports  
45 regarding account closures due to fraud, substantial overdrafts, automated

1 teller machine abuse or similar negative information regarding a consumer to  
2 inquiring banks or financial institutions for use only in reviewing a  
3 consumer request for a deposit account at the inquiring bank or financial  
4 institution.

5 3. A consumer reporting agency that acts only as a reseller of credit  
6 information by assembling and merging information contained in the database  
7 of another consumer reporting agency or multiple consumer reporting agencies  
8 and that does not maintain a permanent database of credit information from  
9 which new credit reports or credit scores are produced.

10 P. An act or practice in violation of this section is an unlawful  
11 practice under section 44-1522 and is subject to enforcement through a  
12 private action and by the attorney general. Injunctive relief may be sought  
13 to prevent future violations of this section. The remedies provided in this  
14 section are not intended to be the exclusive remedies available to a  
15 consumer. This subsection does not apply to subsection G, paragraph 2 of  
16 this section.

17 Q. For the purposes of this section:

18 1. "Proper identification" means information that is generally deemed  
19 to be sufficient to identify a person under the circumstances.

20 2. "Security freeze" means a notice that is placed in a consumer's  
21 credit report at the request of the consumer and that prohibits the consumer  
22 reporting agency from releasing the consumer's credit report without the  
23 express authorization of the consumer.

24 Sec. 7. Section 44-1698.02, Arizona Revised Statutes, is amended to  
25 read:

26 44-1698.02. Security freezes; credit reports; protected person;  
27 fee; definitions

28 A. A consumer reporting agency shall place a security freeze on a  
29 protected person's record or credit report if both of the following apply:

30 1. The consumer reporting agency receives a request from the protected  
31 person's representative for the placement of the security freeze.

32 2. The protected person's representative does all of the following:

33 (a) Submits the request to the consumer reporting agency at the  
34 address or other point of contact and in the manner specified by the consumer  
35 reporting agency.

36 (b) Provides to the consumer reporting agency sufficient proof of  
37 identification of the protected person and the representative.

38 (c) Provides to the consumer reporting agency sufficient proof of  
39 authority to act on behalf of the protected person.

40 (d) Pays to the consumer reporting agency a fee as prescribed in  
41 subsection H of this section.

42 B. If a consumer reporting agency does not have a file pertaining to a  
43 protected person when the consumer reporting agency receives a request  
44 pursuant to subsection A, paragraph 1 of this section, the consumer reporting  
45 agency shall create a record for the protected person.

1 C. Within thirty days after receiving a request pursuant to this  
2 section, a consumer reporting agency shall place a security freeze on the  
3 protected person's record or credit report.

4 D. Unless a security freeze is removed pursuant to subsection F or J  
5 of this section, a consumer reporting agency may not release the protected  
6 person's credit report, any information derived from the protected person's  
7 credit report or any record created for the protected person.

8 E. A security freeze that is placed on a protected person's record or  
9 credit report ~~placed~~ under this section remains in effect until either:

10 1. The protected person or the protected person's representative  
11 requests that the consumer reporting agency remove the security freeze  
12 pursuant to subsection F of this section.

13 2. The security freeze is removed pursuant to subsection J of this  
14 section.

15 F. To remove a security freeze for a protected person, the protected  
16 person or the protected person's representative shall submit a request for  
17 the removal of the security freeze to the consumer reporting agency at the  
18 address or other point of contact and in the manner specified by the consumer  
19 reporting agency and pay a fee as prescribed in subsection H of this section.  
20 In addition:

21 1. If the protected person requested the removal of the security  
22 freeze, the protected person shall provide to the consumer reporting agency  
23 either of the following:

24 (a) Proof that the protected person's representative no longer has  
25 sufficient proof of authority to act on behalf of the protected person.

26 (b) Sufficient proof of identification of the protected person.

27 2. If the protected person's representative requested the removal of  
28 the security freeze on behalf of the protected person, the protected person's  
29 representative shall provide to the consumer reporting agency both of the  
30 following:

31 (a) Sufficient proof of identification of the protected person and the  
32 representative.

33 (b) Sufficient proof of authority to act on behalf of the protected  
34 person.

35 G. Within thirty days after receiving a request to remove a security  
36 freeze placed pursuant to subsection A of this section, the consumer  
37 reporting agency shall remove the security freeze for the protected person.

38 H. A consumer reporting agency may charge a five dollar fee for each  
39 placement or removal of a security freeze on a protected person's record or  
40 credit report.

41 I. Notwithstanding subsection H of this section, a consumer reporting  
42 agency may not charge any fee under this section if either of the following  
43 applies:

44 1. The protected person's representative provides a copy of a police  
45 report to the consumer reporting agency alleging that the protected person

1 has been a victim of an offense involving a violation of section 13-2008 or  
2 13-2009.

3 2. A request for the placement or removal of a security freeze is for  
4 a protected person who is under sixteen years of age at the time of the  
5 request and the consumer reporting agency has a credit report pertaining to  
6 the protected person.

7 J. A consumer reporting agency may remove a security freeze for a  
8 protected person or may delete a protected person's record if the security  
9 freeze was placed or the record was created based on a material  
10 misrepresentation of fact by the protected person or the protected person's  
11 representative.

12 K. An act or practice in violation of this section is an unlawful  
13 practice under section 44-1522 and is subject to enforcement through a  
14 private action and by the attorney general. The attorney general may  
15 investigate and take appropriate action as prescribed by chapter 10, article  
16 7 of this title. The remedies provided in this section are not intended to  
17 be the exclusive remedies available to a protected person.

18 L. This section does not apply to the use of a protected person's  
19 credit report or record by any of the following:

20 1. A person administering a credit file monitoring subscription  
21 service to which either:

22 (a) The protected person has subscribed.

23 (b) The protected person's representative has subscribed on behalf of  
24 the protected person.

25 2. A person providing the protected person or the protected person's  
26 representative with a copy of the protected person's credit report on the  
27 request of the protected person or the protected person's representative.

28 3. A check services or fraud prevention services company that issues  
29 either:

30 (a) Reports on incidents of fraud.

31 (b) Authorizations for the purpose of approving or processing  
32 negotiable instruments, electronic funds transfers or similar payment  
33 methods.

34 4. A deposit account information service company that issues reports  
35 relating to account closures due to fraud, substantial overdrafts, automated  
36 teller machine abuse or similar negative information about a protected person  
37 to inquiring banks or other financial institutions for use only in reviewing  
38 a protected ~~person~~ PERSON'S request for a deposit account at the inquiring  
39 bank or financial institution.

40 5. An insurance company for the purpose of conducting its ordinary  
41 business.

42 6. A consumer reporting agency that both:

43 (a) Acts only to resell credit information by assembling and merging  
44 information contained in a database of another consumer reporting agency.

1 (b) Does not maintain a permanent database of credit information from  
2 which new credit reports are produced.

3 7. A consumer reporting agency's database or file that consists of  
4 information concerning and used for one or more of the following, but not for  
5 credit granting, purposes:

6 (a) Criminal record information.

7 (b) Fraud prevention or detection.

8 (c) Personal loss history information.

9 (d) ~~Employment~~, Tenant or individual background screening.

10 8. A governmental entity when carrying out its duties.

11 9. A person, a subsidiary, affiliate, agent or subcontractor of that  
12 person, an assignee of a financial obligation owed by the protected person to  
13 that person or a prospective assignee of a financial obligation owed by the  
14 protected person to that person in conjunction with the proposed purchase of  
15 the financial obligation with which the protected person has or had before  
16 assignment an account or contract, including a demand deposit account, or to  
17 whom the protected person issued a negotiable instrument, for the purposes of  
18 reviewing the account or collecting the financial obligation owed for the  
19 account, contract or negotiable instrument. For the purposes of this  
20 paragraph, "reviewing the account" includes activities that are related to  
21 account maintenance, monitoring, credit line increases and account upgrades  
22 and enhancements.

23 M. For the purposes of this section:

24 1. "Protected person" means an individual who is under sixteen years  
25 of age at the time a request for the placement of a security freeze is made  
26 or who is an incapacitated person or a protected person for whom a guardian  
27 or conservator has been appointed.

28 2. "Record" means a compilation of information to which all of the  
29 following apply:

30 (a) The record identifies a protected person.

31 (b) The record is created by a consumer reporting agency solely for  
32 the purpose of complying with this section.

33 (c) The record is not created or used to consider the protected  
34 person's creditworthiness, credit standing, credit capacity, character,  
35 general reputation, personal characteristics or mode of living.

36 3. "Representative" means a person who provides to a consumer  
37 reporting agency sufficient proof of authority to act on behalf of a  
38 protected person.

39 4. "Security freeze" means:

40 (a) If a consumer reporting agency does not have a file pertaining to  
41 a protected person, a restriction that is placed on the protected person's  
42 record and that prohibits the consumer reporting agency from releasing the  
43 protected person's record.

44 (b) If a consumer reporting agency has a file pertaining to the  
45 protected person, a restriction that is placed on the protected person's

1 credit report and that prohibits the consumer reporting agency from releasing  
2 the protected person's credit report or any information derived from the  
3 protected person's credit report.

4 5. "Sufficient proof of authority" means documentation that shows a  
5 representative has authority to act on behalf of a protected person and  
6 includes:

7 (a) A court order.

8 (b) A lawfully executed and valid power of attorney.

9 (c) A written, notarized statement signed by a representative that  
10 expressly describes the authority of the representative to act on behalf of a  
11 protected person.

12 6. "Sufficient proof of identification" means information or  
13 documentation that identifies a protected person or a representative of a  
14 protected person and includes:

15 (a) A social security number or a social security card issued by the  
16 social security administration.

17 (b) A certified or official copy of a birth certificate issued by the  
18 department of health services.

19 (c) A driver license or a nonoperating identification license issued  
20 by the department of transportation pursuant to title 28, chapter 8 or any  
21 other government issued identification.