

REFERENCE TITLE: employment practices; consumer reports; limitation

State of Arizona
Senate
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2017

SB 1508

Introduced by
Senators Mendez: Peshlakai; Representatives Andrade, Blanc, Martinez,
Salman

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 23-206; 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
3 Statutes, is amended by adding section 23-206, to read:

4 23-206. Consumer report or credit; prohibition; violation;
5 classification; definitions

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

8 1. DISCHARGE OR FAIL OR REFUSE TO RECRUIT, HIRE, PROMOTE, REASSIGN
9 OR RETAIN AN INDIVIDUAL OR OTHERWISE DISCRIMINATE AGAINST AN INDIVIDUAL
10 WITH RESPECT TO COMPENSATION OR A TERM, CONDITION OR PRIVILEGE OF
11 EMPLOYMENT BECAUSE OF THE 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
21 TO 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
25 FINANCIAL OBLIGATIONS, INCLUDING DEBTS OWED, PAYMENT HISTORY OR SAVINGS OR
26 CHECKING 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
29 OF THIS STATE.

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

32 28-376. Employment of personnel; definition

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

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

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

16 Sec. 3. Section 44-1691, Arizona Revised Statutes, is amended to
 17 read:

18 44-1691. Definitions

19 In this chapter, unless the context otherwise requires:

20 1. "Consumer" means an individual.

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

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

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

36 (c) Any report in which a person who has been requested by a third
 37 party to make a specific extension of credit directly or indirectly to a
 38 consumer conveys ~~his~~ THAT PERSON'S decision with respect to such request,
 39 if the third party advises the consumer of the name and address of the
 40 person to whom the request was made.

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

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

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

8 ~~6.~~ 5. "Person" means an individual, partnership, corporation,
9 association, or any other entity of whatever kind or nature.

10 Sec. 4. Section 44-1692, Arizona Revised Statutes, is amended to
11 read:

12 44-1692. Permissible use of consumer reports

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

16 1. In response to the order of a court having jurisdiction to issue
17 such an order.

18 2. In accordance with the written instructions of the consumer to
19 whom it relates.

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

21 (a) Intends to use the information in connection with a credit
22 transaction involving the consumer on whom the information is to be
23 furnished and involving the extension of credit to, or review or
24 collection of an account of, the consumer.

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

26 ~~(c)~~ (b) Intends to use the information in connection with the
27 underwriting of insurance involving the consumer.

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

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

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

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

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

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

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

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

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

8 Sec. 5. Section 44-1693, Arizona Revised Statutes, is amended to
9 read:

10 44-1693. Access to reports by a consumer

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

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

17 2. A licensing agency ~~which~~ THAT denies a license to any consumer
18 shall disclose to such consumer the name and address of any consumer
19 reporting agency ~~which~~ THAT has furnished such agency with a consumer
20 report on such consumer ~~which~~ THAT was considered by the licensing agency
21 in making the determination.

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

28 ~~4.~~ 3. A consumer reporting agency shall disclose to any consumer
29 the contents of its file used for the purpose of making a consumer report
30 on that consumer, any and all facts, allegations or sources ~~upon~~ ON which
31 such information is based and the name and address of each person
32 requesting a report on the consumer within the previous six months. A
33 credit reporting agency may make the disclosures in the following manner:

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

36 (b) By telephone if the credit reporting agency receives a written
37 request for a telephone disclosure from the consumer. Any toll for the
38 telephone disclosure shall be prepaid by the consumer or charged directly
39 to the consumer requesting the telephone disclosure.

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

44 B. A consumer reporting agency shall provide trained personnel to
45 disclose the contents of its file to consumers during normal business

1 office hours and assist a consumer in fully understanding all items on ~~his~~
2 **THE CONSUMER'S** consumer report.

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

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

18 Sec. 6. Section 44-1698, Arizona Revised Statutes, is amended to
19 read:

20 44-1698. Security freeze on credit reports and credit scores;
21 fees; definitions

22 A. A consumer may request in writing or in a form acceptable to the
23 consumer reporting agency that a consumer reporting agency place a
24 security freeze on the consumer's credit report. If a security freeze is
25 in place, a consumer reporting agency shall not release a consumer's
26 credit report or consumer's credit score to a third party without the
27 consumer's prior express authorization. This subsection does not prevent
28 a consumer reporting agency from advising a specific party that a security
29 freeze is in effect with respect to the consumer's credit report.

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

33 C. The consumer reporting agency shall send a written confirmation
34 of the security freeze to the consumer within ten business days after
35 placing the security freeze on the consumer's credit report and shall
36 provide the consumer with a unique personal identification number or
37 password, other than the consumer's social security number, that the
38 consumer may use to provide authorization for the release of the
39 consumer's credit report for a specific period of time and to remove the
40 security freeze.

41 D. A security freeze remains in effect until the consumer requests
42 that the security freeze be removed or temporarily lifted as provided in
43 this section. A consumer may request that a security freeze be removed or
44 temporarily lifted by mail, telephone, internet or other electronic
45 contact method in a form acceptable to the consumer reporting agency. A

1 consumer reporting agency shall require proper identification of any
2 person who makes a request to place or remove a security freeze.

3 E. On requesting removal, the consumer shall provide the following
4 information:

- 5 1. Proper identification.
- 6 2. The unique personal identification number or password that the
7 consumer reporting agency provided to the consumer.

8 F. On requesting a temporary lift to allow a credit report to be
9 accessed for a specific period of time, the consumer shall contact the
10 consumer reporting agency and shall request that the security freeze be
11 temporarily lifted and shall provide the following information:

- 12 1. Proper identification.
- 13 2. The unique personal identification number or password that the
14 consumer reporting agency provided to the consumer.
- 15 3. The proper information regarding the specific time period for
16 which the credit report shall be available to users of the credit report.

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

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

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

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

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

32 (c) Operational interruption, including electrical failure,
33 unanticipated delay in equipment or replacement part delivery, computer
34 hardware or software failures inhibiting response time or similar
35 disruption.

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

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

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

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

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

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

3 2. If the consumer's credit report was frozen as a result of a
4 material misrepresentation of fact. If a consumer reporting agency
5 intends to remove a security freeze on a consumer's credit report pursuant
6 to this paragraph, the consumer reporting agency shall notify by mail,
7 telephone, internet or other electronic contact method the consumer before
8 removing the security freeze on the consumer's credit report.

9 I. When a consumer requests a security freeze, the consumer
10 reporting agency shall disclose the process for placing and for removing
11 or temporarily lifting a freeze and the process for allowing access to
12 information from the consumer's credit report for a specific period of
13 time while the security freeze is in place.

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

19 K. A consumer reporting agency may charge a five dollar fee for
20 each security freeze, removal of the freeze or temporary lift of the
21 freeze for a period of time on the consumer's credit report. A consumer
22 reporting agency shall not charge a fee to a victim of identity theft who
23 submits a valid police report that alleges a violation of section 13-2008,
24 13-2009 or 13-2010.

25 L. A consumer reporting agency may charge a five dollar fee if the
26 consumer fails to retain the original unique personal identification
27 number or password provided by the consumer reporting agency and the
28 consumer reporting agency must reissue the unique personal identification
29 number or password or provide a new unique personal identification number
30 or password to the consumer.

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

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

43 1. A person, a subsidiary, affiliate, agent or subcontractor of
44 that person, an assignee of a financial obligation owed by the consumer to
45 that person or a prospective assignee of a financial obligation owed by
46 the consumer to that person in conjunction with the proposed purchase of

1 the financial obligation with which the consumer has or had before
2 assignment an account or contract, including a demand deposit account, or
3 to whom the consumer issued a negotiable instrument, for the purposes of
4 reviewing the account or collecting the financial obligation owed for the
5 account, contract or negotiable instrument. For the purposes of this
6 paragraph, "reviewing the account" includes activities that are related to
7 account maintenance, monitoring, credit line increases and account
8 upgrades and enhancements.

9 2. A subsidiary, affiliate, agent, assignee or prospective assignee
10 of a person to whom access has been granted under this section for the
11 purpose of facilitating the extension of credit or other permissible use.

12 3. Any state or local agency, law enforcement agency, trial court
13 or private collection agency acting pursuant to a court order, warrant or
14 subpoena.

15 4. A child support agency acting pursuant to title 25, chapter 3,
16 article 2 or title IV-D of the social security act.

17 5. The department of health services or its agents or assigns
18 acting to investigate fraud.

19 6. The department of revenue or its agents or assigns acting to
20 investigate or collect delinquent taxes or unpaid court orders or to
21 fulfill any of its other statutory responsibilities.

22 7. The department of transportation or its agents or assigns acting
23 to investigate or collect delinquent taxes or unpaid court orders or to
24 fulfill any of its other statutory responsibilities.

25 8. The administrative office of the courts to conduct audits or
26 investigate fraud or for applicant screening.

27 9. Any agency or entity for the purposes of prescreening or
28 postscreening as provided for by the federal fair credit reporting act (15
29 United States Code section 1681b).

30 10. Any person or entity that administers a credit file monitoring
31 subscription service to which the consumer has subscribed.

32 11. Any person or entity for the purpose of providing a consumer
33 with a copy of the consumer's credit report or consumer's credit score on
34 the consumer's request.

35 12. Except as otherwise provided by law, a person setting or
36 adjusting a rate or claim or underwriting for insurance purposes.

37 13. Any person who uses a consumer reporting agency's database or
38 file that consists entirely of information concerning, and is used solely
39 for, one or more of the following:

40 (a) Criminal record information.

41 (b) Fraud prevention or detection.

42 (c) Tenant screening.

43 ~~(d) Employment screening.~~

44 14. Any state or federally regulated bank or financial institution
45 for checking, savings and investment accounts.

1 0. The following entities are not required to place a security
2 freeze on a credit report:

3 1. A check services or fraud prevention services company that
4 issues reports on incidents of fraud or authorizations for the purpose of
5 approving or processing negotiable instruments, electronic funds transfers
6 or similar methods of payments.

7 2. A deposit account information service company that issues
8 reports regarding account closures due to fraud, substantial overdrafts,
9 automated teller machine abuse or similar negative information regarding a
10 consumer to inquiring banks or financial institutions for use only in
11 reviewing a consumer request for a deposit account at the inquiring bank
12 or financial institution.

13 3. A consumer reporting agency that acts only as a reseller of
14 credit information by assembling and merging information contained in the
15 database of another consumer reporting agency or multiple consumer
16 reporting agencies and that does not maintain a permanent database of
17 credit information from which new credit reports or credit scores are
18 produced.

19 P. An act or practice in violation of this section is an unlawful
20 practice under section 44-1522 and is subject to enforcement through a
21 private action and by the attorney general. Injunctive relief may be
22 sought to prevent future violations of this section. The remedies
23 provided in this section are not intended to be the exclusive remedies
24 available to a consumer. This subsection does not apply to subsection G,
25 paragraph 2 of this section.

26 Q. For the purposes of this section:

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

29 2. "Security freeze" means a notice that is placed in a consumer's
30 credit report at the request of the consumer and that prohibits the
31 consumer reporting agency from releasing the consumer's credit report
32 without the express authorization of the consumer.

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

35 44-1698.02. Security freezes; credit reports; protected
36 person; fee; definitions

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

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

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

43 (a) Submits the request to the consumer reporting agency at the
44 address or other point of contact and in the manner specified by the
45 consumer reporting agency.

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

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

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

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

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

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

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

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

24 2. The security freeze is removed pursuant to subsection J of this
25 section.

26 F. To remove a security freeze for a protected person, the
27 protected person or the protected person's representative shall submit a
28 request for the removal of the security freeze to the consumer reporting
29 agency at the address or other point of contact and in the manner
30 specified by the consumer reporting agency and pay a fee as prescribed in
31 subsection H of this section. In addition:

32 1. If the protected person requested the removal of the security
33 freeze, the protected person shall provide to the consumer reporting
34 agency either of the following:

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

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

38 2. If the protected person's representative requested the removal
39 of the security freeze on behalf of the protected person, the protected
40 person's representative shall provide to the consumer reporting agency
41 both of the following:

42 (a) Sufficient proof of identification of the protected person and
43 the representative.

44 (b) Sufficient proof of authority to act on behalf of the protected
45 person.

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

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

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

11 1. The protected person's representative provides a copy of a
12 police report to the consumer reporting agency alleging that the protected
13 person has been a victim of an offense involving a violation of section
14 13-2008 or 13-2009.

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

19 J. A consumer reporting agency may remove a security freeze for a
20 protected person or may delete a protected person's record if the security
21 freeze was placed or the record was created based on a material
22 misrepresentation of fact by the protected person or the protected
23 person's representative.

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

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

32 1. A person administering a credit file monitoring subscription
33 service to which either:

34 (a) The protected person has subscribed.

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

37 2. A person providing the protected person or the protected
38 person's representative with a copy of the protected person's credit
39 report on the request of the protected person or the protected person's
40 representative.

41 3. A check services or fraud prevention services company that
42 issues either:

43 (a) Reports on incidents of fraud.

44 (b) Authorizations for the purpose of approving or processing
45 negotiable instruments, electronic funds transfers or similar payment
46 methods.

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

7 5. An insurance company for the purpose of conducting its ordinary
8 business.

9 6. A consumer reporting agency that both:

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

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

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

18 (a) Criminal record information.

19 (b) Fraud prevention or detection.

20 (c) Personal loss history information.

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

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

23 9. A person, a subsidiary, affiliate, agent or subcontractor of
24 that person, an assignee of a financial obligation owed by the protected
25 person to that person or a prospective assignee of a financial obligation
26 owed by the protected person to that person in conjunction with the
27 proposed purchase of the financial obligation with which the protected
28 person has or had before assignment an account or contract, including a
29 demand deposit account, or to whom the protected person issued a
30 negotiable instrument, for the purposes of reviewing the account or
31 collecting the financial obligation owed for the account, contract or
32 negotiable instrument. For the purposes of this paragraph, "reviewing the
33 account" includes activities that are related to account maintenance,
34 monitoring, credit line increases and account upgrades and enhancements.

35 M. For the purposes of this section:

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

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

42 (a) The record identifies a protected person.

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

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

4 3. "Representative" means a person who provides to a consumer
5 reporting agency sufficient proof of authority to act on behalf of a
6 protected person.

7 4. "Security freeze" means:

8 (a) If a consumer reporting agency does not have a file pertaining
9 to a protected person, a restriction that is placed on the protected
10 person's record and that prohibits the consumer reporting agency from
11 releasing the protected person's record.

12 (b) If a consumer reporting agency has a file pertaining to the
13 protected person, a restriction that is placed on the protected person's
14 credit report and that prohibits the consumer reporting agency from
15 releasing the protected person's credit report or any information derived
16 from the protected person's credit report.

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

20 (a) A court order.

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

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

25 6. "Sufficient proof of identification" means information or
26 documentation that identifies a protected person or a representative of a
27 protected person and includes:

28 (a) A social security number or a social security card issued by
29 the social security administration.

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

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