

Amendment No. 1 to HB0776

Eldridge
Signature of Sponsor

AMEND Senate Bill No. 1158

House Bill No. 776*

by deleting all language after the enacting clause and substituting instead:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 18, Part 21, is amended by adding the following language as a new section:

47-18-2111.

(a) As used in this section:

(1) "Protected consumer" means:

(A) An individual who is under sixteen (16) years of age at the time a request for the placement of a security freeze under this section is made; or

(B) An incapacitated person for whom a guardian or conservator has been appointed pursuant to title 34;

(2) "Protected consumer security freeze" means:

(A) If a consumer reporting agency does not have a consumer report pertaining to the protected consumer, a restriction that:

(i) Is placed on the protected consumer's record in accordance with this section; and

(ii) Prohibits the consumer reporting agency from releasing the protected consumer's record except as provided in this section; or

(B) If a consumer reporting agency has a consumer report pertaining to the protected consumer, a restriction that:

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- (i) Is placed on the protected consumer's consumer report in accordance with this section; and
- (ii) Prohibits the consumer reporting agency from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report except as provided in this section;
- (3) "Record" means a compilation of information that:
 - (A) Identifies a protected consumer;
 - (B) Is created by a consumer reporting agency solely for the purpose of complying with this section; and
 - (C) Shall not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living;
- (4) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer;
- (5) "Sufficient proof of authority":
 - (A) Means documentation that shows a representative has authority to act on behalf of a protected consumer; and
 - (B) Includes:
 - (i) An order issued by a court of law;

- (ii) A lawfully executed and valid power of attorney; and
 - (iii) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; and
- (6) "Sufficient proof of identification":

(A) Means information or documentation that identifies a protected consumer or the protected consumer's representative; and

(B) Includes:

(i) A social security number or a copy of a social security card issued by the social security administration;

(ii) A certified or official copy of a certificate of birth issued by the entity authorized to issue the certificate of birth pursuant to title 68, chapter 3, part 3;

(iii) A copy of a valid driver license or any other government-issued identification; or

(iv) A copy of a bill, including a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and home address.

(b) This section does not apply to:

(1) A person administering a consumer report monitoring subscription service to which:

(A) The protected consumer has subscribed; or

(B) The protected consumer's representative has subscribed on behalf of the protected consumer;

(2) A person providing the protected consumer or the protected consumer's representative with a copy of the protected consumer's consumer

report on request of the protected consumer or the protected consumer's representative;

(3) A consumer reporting agency that acts only as a reseller of credit information by assembling and merging information contained in the database of another consumer reporting agency or multiple consumer reporting agencies, and does not maintain a permanent database of credit information from which new consumer credit reports are produced; provided, a consumer reporting agency acting as a reseller shall honor any security freeze placed on a consumer credit report by another consumer reporting agency;

(4) A check services or fraud prevention services company that issues reports on incidents of fraud or authorizations for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar methods of payments;

(5) A deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automatic teller machine abuse, or similar negative information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution; or

(6) A consumer reporting agency database or file that consists entirely of consumer information concerning, and used solely for:

- (A) Criminal record information;
- (B) Personal loss history information;
- (C) Fraud prevention or detection;
- (D) Employment screening; or
- (E) Tenant screening.

(c) A consumer reporting agency shall place a protected consumer security freeze for a protected consumer if:

(1) The consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this section; and

(2) The protected consumer's representative:

(A) Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(B) Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative;

(C) Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer; and

(D) Pays to the consumer reporting agency a fee as provided in subsection (j).

(d) If a consumer reporting agency does not have a consumer report pertaining to a protected consumer when the consumer reporting agency receives a request under subdivision (c)(2), the consumer reporting agency shall create a record for the protected consumer.

(e) Within thirty (30) days after receiving a request that meets the requirements of subdivision (c)(2), a consumer reporting agency shall place a protected consumer security freeze.

(f) Unless a protected consumer security freeze is removed in accordance with subsection (h) or (k), a consumer reporting agency shall not release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer.

(g) A protected consumer security freeze placed under subsection (e) shall remain in effect until:

(1) The protected consumer or the representative requests the consumer reporting agency to remove the protected consumer security freeze in accordance with subsection (h); or

(2) The protected consumer security freeze is removed in accordance with subsection (k).

(h) If a protected consumer or the representative wishes to remove a protected consumer security freeze, the protected consumer or the representative shall:

(1) Submit a request for the removal of the protected consumer security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;

(2) Provide to the consumer reporting agency:

(A) In the case of a request by the protected consumer:

(i) Proof that the sufficient proof of authority for the representative to act on behalf of the protected consumer is no longer valid; and

(ii) Sufficient proof of identification of the protected consumer; or

(B) In the case of a request by the representative:

(i) Sufficient proof of identification of the protected consumer and the representative; and

(ii) Sufficient proof of authority to act on behalf of the protected consumer; and

(3) Pay to the consumer reporting agency a fee as provided in subsection (j).

(i) Within thirty (30) days after receiving a request that meets the requirements of subsection (h), the consumer reporting agency shall remove the protected consumer security freeze.

(j)

(1) Except as provided in subdivision (j)(2), a consumer reporting agency shall not charge any fee for any service performed under this section.

(2) A consumer reporting agency may charge a reasonable fee, not exceeding ten dollars (\$10.00), for each placement or removal of a protected consumer security freeze.

(3) Notwithstanding subdivision (j)(2), a consumer reporting agency shall not charge any fee under this section if:

(A) The protected consumer's representative:

(i) Has obtained a police report of alleged identity fraud as described in § 39-14-150, and the protected consumer is the alleged victim; and

(ii) Provides a copy of the police report to the consumer reporting agency; or

(B) A request for the placement or removal of a protected consumer security freeze is for a protected consumer who is under sixteen (16) years of age at the time of the request and the consumer reporting agency has a consumer report pertaining to the protected consumer.

(k) A consumer reporting agency may remove a protected consumer security freeze or delete a record of a protected consumer if the protected consumer security freeze was placed, or the record was created, based on a material misrepresentation of fact by the protected consumer or the representative.

(l) If a consumer reporting agency negligently violates subsection (f) by releasing credit information that has been placed under a protected consumer security freeze, the affected protected consumer and representative shall be entitled to all remedies set out in § 47-18-2108 in addition to any other remedies provided for by law.

(m) The division shall prepare a notice for the office of vital records to distribute on and after January 1, 2016, pursuant to § 68-3-314, that explains:

(1) How to request a consumer reporting agency to place a security freeze on a report or record relating to an individual who is under sixteen (16) years of age; and

(2) The benefits of having a security freeze on a credit report or record relating to an individual who is under sixteen (16) years of age.

(n) With regard to security freezes as described in this section, this section supersedes § 47-18-2108.

SECTION 2. Tennessee Code Annotated, Title 68, Chapter 3, Part 3, is amended by adding the following language as a new section:

68-3-314. When a birth occurs:

(1) In an institution or en route to an institution, the person in charge of the institution, or that person's designated representative, shall provide the notice described in § 47-18-2111(m), to the mother, father, or legal guardian of the child; or

(2) On a moving conveyance as described in § 68-3-304, the office of vital records shall provide the notice described in § 47-18-2111(m), to the mother, father, or legal guardian of the child in conjunction with any issued certificate of birth.

SECTION 3. Section 1 of this act shall take effect July 1, 2015, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2016, the public welfare requiring it.