

# ASSEMBLY, No. 1096

## STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

**Sponsored by:**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblywoman MARLENE CARIDE**

**District 36 (Bergen and Passaic)**

**Assemblyman PAUL D. MORIARTY**

**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Authorizes parent or guardian to place security freeze on child's consumer report.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning consumer reports and children and amending  
2 P.L.1997, c.172 and P.L.2005, c.226.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. Section 3 of P.L.1997, c.172 (C.56:11-30) is amended to  
8 read as follows:

9 3. As used in this act:

10 "Adverse action" has the same meaning as in subsection (k) of  
11 section 603 of the federal "Fair Credit Reporting Act," 15 U.S.C.  
12 s.1681a.

13 "Consumer" means an individual.

14 "Consumer report" (1) means any written, oral or other  
15 communication of any information by a consumer reporting agency  
16 bearing on a consumer's credit worthiness, credit standing, credit  
17 capacity, character, general reputation, personal characteristics or  
18 mode of living which is used or expected to be used or collected in  
19 whole or in part for the purpose of serving as a factor in  
20 establishing the consumer's eligibility for:

21 (a) credit or insurance to be used primarily for personal, family  
22 or household purposes;

23 (b) employment purposes; or

24 (c) any other purpose authorized under section 4 of this act.

25 (2) The term "consumer report" does not include:

26 (a) any:

27 (i) report containing information solely on transactions or  
28 experiences between the consumer and the person making the  
29 report;

30 (ii) communication of that information among persons related by  
31 common ownership or affiliated by corporate control; or

32 (iii) communication of other information among persons related  
33 by common ownership or affiliated by corporate control, if it is  
34 clearly and conspicuously disclosed to the consumer that the  
35 information may be communicated among those persons and the  
36 consumer is given the opportunity, before the time that the  
37 information is initially communicated, to direct that the information  
38 not be communicated among those persons;

39 (b) any authorization or approval of a specific extension of  
40 credit directly or indirectly by the issuer of a credit card or similar  
41 device;

42 (c) any report in which a person, who has been requested by a  
43 third party to make a specific extension of credit directly or  
44 indirectly to a consumer, conveys his decision with respect to that  
45 request, if the third party advises the consumer of the name and

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 address of the person to whom the request was made, and the  
2 person makes the disclosures to the consumer required under 15  
3 U.S.C. s.1681m; or

4 (d) communication excluded from the definition of consumer  
5 report pursuant to subsection (o) of section 603 of the federal "Fair  
6 Credit Reporting Act," 15 U.S.C. s.1681a.

7 "Consumer reporting agency" means any person which, for  
8 monetary fees, dues, or on a cooperative nonprofit basis, regularly  
9 engages, in whole or in part, in the practice of assembling or  
10 evaluating consumer credit information or other information on  
11 consumers for the purpose of furnishing consumer reports to third  
12 parties, and which uses any means or facility for the purpose of  
13 preparing or furnishing consumer reports.

14 "Director" means the Director of the Division of Consumer  
15 Affairs in the Department of Law and Public Safety.

16 "Division" means the Division of Consumer Affairs in the  
17 Department of Law and Public Safety.

18 "Employment purposes" means, when used in connection with a  
19 consumer report, a report used for the purpose of evaluating a  
20 consumer for employment, promotion, reassignment or retention as  
21 an employee.

22 "File" means, when used in connection with information on any  
23 consumer, all of the information on that consumer recorded and  
24 retained by a consumer reporting agency regardless of how the  
25 information is stored.

26 "Investigative consumer report" means a consumer report or a  
27 portion thereof in which information on a consumer's character,  
28 general reputation, personal characteristics or mode of living is  
29 obtained through personal interviews with neighbors, friends or  
30 associates of the consumer who is the subject of the report or with  
31 others with whom the consumer is acquainted or who may have  
32 knowledge concerning any of those items of information. However,  
33 this information shall not include specific factual information on a  
34 consumer's credit record obtained directly from a creditor of the  
35 consumer or from a consumer reporting agency when the  
36 information was obtained directly from a creditor of the consumer  
37 or from the consumer.

38 "Medical information" means information or records obtained,  
39 with the consent of the individual to whom it relates, from licensed  
40 physicians or medical practitioners, hospitals, clinics, or other  
41 medical or medically related facilities.

42 "Protected consumer" means a consumer who is under 18 years  
43 of age at the time the placement of a security freeze is requested.

44 "Security freeze" means a notice placed in a consumer's or  
45 protected consumer's consumer report, at the request of the  
46 consumer or on behalf of the protected consumer and subject to  
47 certain exceptions, that prohibits the consumer reporting agency  
48 from releasing the report or any information from it without the

1 express authorization of the consumer or the protected consumer's  
2 parent or legal guardian, but does not prevent a consumer reporting  
3 agency from advising a third party that a security freeze is in effect  
4 with respect to the consumer report.

5 (cf: P.L.2005, c.226, s.4)

6  
7 2. Section 5 of P.L.2005, c.226 (C.56:11-46) is amended to  
8 read as follows:

9 5. a. A consumer may elect to place a security freeze on his  
10 consumer report, or a parent or legal guardian of a protected  
11 consumer may elect to place a security freeze on the protected  
12 consumer's consumer report, by:

13 (1) making a request in writing by certified mail or overnight  
14 mail to a consumer reporting agency; or

15 (2) making a request directly to the consumer reporting agency  
16 through a secure electronic mail connection, if an electronic mail  
17 connection is provided by the consumer reporting agency.

18 In the case of a protected consumer, a parent or legal guardian  
19 shall provide a consumer reporting agency with sufficient proof of  
20 authority to act on behalf of a protected consumer. If the consumer  
21 reporting agency does not have any information in its files  
22 pertaining to the protected consumer at the time it receives a request  
23 pursuant to this subsection, the consumer reporting agency shall  
24 create a record for the protected consumer and place a security  
25 freeze on the record. The record shall consist of a compilation of  
26 information created by the consumer reporting agency that  
27 identifies the protected consumer. A consumer reporting agency  
28 shall not create or use the record to consider the protected  
29 consumer's credit worthiness, credit standing, credit capacity,  
30 character, general reputation, personal characteristics, or mode of  
31 living.

32 b. A consumer reporting agency shall place a security freeze on  
33 a consumer report no later than five business days after receiving a  
34 written request from the consumer or the protected consumer's  
35 parent or legal guardian.

36 c. The consumer reporting agency shall send a written  
37 confirmation of the security freeze to the consumer or the protected  
38 consumer's parent or legal guardian within five business days of  
39 placing the freeze and at the same time shall provide the consumer  
40 or the protected consumer's parent or legal guardian with a unique  
41 personal identification number or password to be used by the  
42 consumer or the protected consumer's parent or legal guardian  
43 when providing authorization for the release of his or the protected  
44 consumer's credit for a specific party or period of time.

45 d. If the consumer or the protected consumer's parent or legal  
46 guardian wishes to allow his or the protected consumer's consumer  
47 report to be accessed for a specific party or period of time while a  
48 freeze is in place, **[he]** the consumer or the protected consumer's

1 parent or legal guardian shall contact the consumer reporting  
2 agency via certified or overnight mail or secure electronic mail and  
3 request that the freeze be temporarily lifted, and provide all of the  
4 following:

5 (1) Information generally deemed sufficient to identify a person;

6 (2) The unique personal identification number or password  
7 provided by the consumer reporting agency pursuant to subsection  
8 c. of this section; and

9 (3) The proper information regarding the third party who is to  
10 receive the consumer report or the time period for which the  
11 consumer report shall be available to users of the consumer report.

12 e. A consumer reporting agency that receives a request from a  
13 consumer or a protected consumer's parent or legal guardian to  
14 temporarily lift a freeze on a consumer report pursuant to  
15 subsection d. of this section shall comply with the request no later  
16 than three business days after receiving the request.

17 f. A consumer reporting agency shall develop procedures  
18 involving the use of telephone, fax, the Internet, or other electronic  
19 media to receive and process a request from a consumer or a  
20 protected consumer's parent or legal guardian to temporarily lift a  
21 freeze on a consumer report pursuant to subsection d. of this section  
22 in an expedited manner. The director shall promulgate regulations  
23 necessary to allow the use of electronic media to receive and  
24 process a request from a consumer or a protected consumer's parent  
25 or legal guardian to temporarily lift a security freeze pursuant to  
26 subsection d. of this section as quickly as possible, with the goal of  
27 processing a request within 15 minutes of that request.

28 g. A consumer reporting agency shall remove or temporarily  
29 lift a freeze placed on a consumer report only in the following  
30 cases:

31 (1) Upon consumer request or the request of a protected  
32 consumer's parent or legal guardian, pursuant to subsection d. or j.  
33 of this section; or

34 (2) If the consumer report was frozen due to a material  
35 misrepresentation of fact by the consumer. If a consumer reporting  
36 agency intends to remove a freeze upon a consumer report pursuant  
37 to this paragraph, the consumer reporting agency shall notify the  
38 consumer in writing at least five business days prior to removing  
39 the freeze on the consumer report.

40 h. If a third party requests access to a consumer report on  
41 which a security freeze is in effect, and this request is in connection  
42 with an application for credit or any other use, and the consumer or  
43 the protected consumer's parent or legal guardian does not allow his  
44 consumer report to be accessed for that specific party or period of  
45 time, the third party may treat the application as incomplete.

46 i. (1) At any time that a consumer is required to receive a  
47 summary of rights required under section 609 of the federal "Fair

1 Credit Reporting Act," 15 U.S.C. s.1681g, the following notice  
2 shall be included:

3 New Jersey Consumers Have the Right to Obtain a Security Freeze

4 You may obtain a security freeze on your credit report to protect  
5 your privacy and ensure that credit is not granted in your name  
6 without your knowledge. You have a right to place a "security  
7 freeze" on your credit report pursuant to New Jersey law.

8 The security freeze will prohibit a consumer reporting agency  
9 from releasing any information in your credit report without your  
10 express authorization or approval.

11 The security freeze is designed to prevent credit, loans, and  
12 services from being approved in your name without your consent.  
13 When you place a security freeze on your credit report, within five  
14 business days you will be provided a personal identification number  
15 or password to use if you choose to remove the freeze on your  
16 credit report or to temporarily authorize the release of your credit  
17 report for a specific party, parties or period of time after the freeze  
18 is in place. To provide that authorization, you must contact the  
19 consumer reporting agency and provide all of the following:

20 (i) The unique personal identification number or password  
21 provided by the consumer reporting agency;

22 (ii) Proper identification to verify your identity; and

23 (iii) The proper information regarding the third party or parties  
24 who are to receive the credit report or the period of time for which  
25 the report shall be available to users of the credit report.

26 A consumer reporting agency that receives a request from a  
27 consumer to lift temporarily a freeze on a credit report shall comply  
28 with the request no later than three business days or less, as  
29 provided by regulation, after receiving the request.

30 A security freeze does not apply to circumstances in which you  
31 have an existing account relationship and a copy of your report is  
32 requested by your existing creditor or its agents or affiliates for  
33 certain types of account review, collection, fraud control or similar  
34 activities.

35 If you are actively seeking credit, you should understand that the  
36 procedures involved in lifting a security freeze may slow your own  
37 applications for credit. You should plan ahead and lift a freeze,  
38 either completely if you are shopping around, or specifically for a  
39 certain creditor, a few days before actually applying for new credit.

40 You have a right to bring a civil action against someone who  
41 violates your rights under the credit reporting laws. The action can  
42 be brought against a consumer reporting agency or a user of your  
43 credit report.

44 (2) If a consumer requests information about a security freeze,  
45 he shall be provided with the notice provided in paragraph (1) of  
46 this subsection and with any other information, as prescribed by the  
47 director by regulation, about how to place, temporarily lift and  
48 permanently lift a security freeze.

- 1       j. (1) A security freeze shall remain in place until the  
2 consumer requests that the security freeze be removed. A consumer  
3 reporting agency shall remove a security freeze within three  
4 business days of receiving a request for removal from the consumer,  
5 who provides the following:
- 6       **[(1)]** (a) Proper identification; and  
7       **[(2)]** (b) The unique personal identification number or  
8 password provided by the consumer reporting agency pursuant to  
9 subsection c. of this section.
- 10       (2) In the case of a protected consumer's consumer report, a  
11 security freeze shall remain in place until the protected consumer's  
12 parent or legal guardian requests that the security freeze be removed  
13 or the protected consumer reaches 18 years of age. A consumer  
14 reporting agency shall remove a security freeze within three  
15 business days of receiving a request for removal from the protected  
16 consumer's parent or legal guardian, who provides the following:
- 17       (a) Proper identification and sufficient proof of authority to act  
18 on behalf of the protected consumer; and
- 19       (b) The unique personal identification number or password  
20 provided by the consumer reporting agency pursuant to subsection  
21 c. of this section.
- 22       k. A consumer reporting agency shall require proper  
23 identification of the person making a request to place or remove a  
24 security freeze.
- 25       l. The provisions of this section do not apply to the use of a  
26 consumer report by the following:
- 27       (1) A person, or subsidiary, affiliate, or agent of that person, or  
28 an assignee of a financial obligation owing by the consumer to that  
29 person, or a prospective assignee of a financial obligation owing by  
30 the consumer to that person in conjunction with the proposed  
31 purchase of the financial obligation, with which the consumer has  
32 or had prior to assignment an account or contract, including a  
33 demand deposit account, or to whom the consumer issued a  
34 negotiable instrument, for the purposes of reviewing the account or  
35 collecting the financial obligation owing for the account, contract,  
36 or negotiable instrument. For purposes of this paragraph,  
37 "reviewing the account" includes activities related to account  
38 maintenance, monitoring, credit line increases, and account  
39 upgrades and enhancements;
- 40       (2) A subsidiary, affiliate, agent, assignee, or prospective  
41 assignee of a person to whom access has been granted under  
42 subsection d. of this section, for purposes of facilitating the  
43 extension of credit or other permissible use;
- 44       (3) Any State or local agency, law enforcement agency, trial  
45 court, or private collection agency acting pursuant to a court order,  
46 warrant, or subpoena;
- 47       (4) The Division of Taxation in the Department of the Treasury  
48 for the purpose of enforcing the tax laws of this State;

1 (5) A State or local child support enforcement agency;

2 (6) The use of credit information for the purposes of  
3 prescreening as provided for by the federal "Fair Credit Reporting  
4 Act," 15 U.S.C. s.1681 et seq.;

5 (7) Any person or entity administering a credit file monitoring  
6 subscription service to which the consumer has subscribed; or

7 (8) Any person or entity for the purpose of providing a  
8 consumer or a protected consumer's parent or legal guardian with a  
9 copy of the consumer's or protected consumer's credit report upon  
10 the **【consumer's】** request of the consumer or the protected  
11 consumer's parent or legal guardian.

12 m. (1) A consumer reporting agency shall not charge a  
13 consumer or a protected consumer's parent or legal guardian any  
14 fee to place a security freeze on that consumer's or protected  
15 consumer's consumer report.

16 (2) A consumer reporting agency may charge a reasonable fee,  
17 not to exceed \$5, to a consumer or a protected consumer's parent or  
18 legal guardian who elects to remove or temporarily lift a security  
19 freeze on that consumer's or protected consumer's consumer report.

20 (3) A consumer or a protected consumer's parent or legal  
21 guardian may be charged a reasonable fee, not to exceed \$5, if the  
22 consumer or protected consumer's parent or legal guardian fails to  
23 retain the original personal identification number provided by the  
24 consumer reporting agency and must be reissued the same or a new  
25 personal identification number.

26 (cf: P.L.2005, c.226, s.5)

27

28 3. Section 6 of P.L.2005, c.226 (C.56:11-47) is amended to  
29 read as follows:

30 6. If a security freeze is in place, a consumer reporting agency  
31 shall not change any of the following official information in a  
32 consumer report without sending a written confirmation of the  
33 change to the consumer or the protected consumer's parent or legal  
34 guardian within 30 days of the change being posted to the  
35 consumer's or protected consumer's file: name; date of birth; Social  
36 Security number; or address. Written confirmation is not required  
37 for technical modifications of a consumer's or protected consumer's  
38 official information, including name and street abbreviations,  
39 complete spellings, or transposition of numbers or letters. In the  
40 case of an address change, the written confirmation shall be sent to  
41 both the new address and to the former address.

42 (cf: P.L.2005, c.226, s.6)

43

44 4. This act shall take effect on the first day of the third month  
45 next following the date of enactment.



## STATEMENT

This bill authorizes a parent or legal guardian to place a security freeze on a child's consumer report.

Specifically, the bill defines a consumer under 18 years of age as a "protected consumer." The security freeze would prohibit a consumer reporting agency (CRA) from releasing the report or any information in it without the express authorization of the protected consumer's parent or legal guardian, thereby aiding in the prevention of child identity theft.

Under the bill, a security freeze may be placed on a protected consumer's report at the request of the protected consumer's parent or legal guardian, in the same manner as a consumer requesting a freeze on his or her own report under the "Identity Theft Prevention Act," P.L.2005, c.226 (C.56:11-44 et al.). A parent or legal guardian would be required to provide a CRA with sufficient proof of authority to act on behalf of a protected consumer. If the CRA does not have any information in its files pertaining to the protected consumer at the time it receives a request, the CRA would create a record for the protected consumer and place a security freeze on it. The record would consist of a compilation of information created by the CRA that identifies the protected consumer. A CRA would be prohibited from creating or using the record to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

The CRA would send a written confirmation of the security freeze to the protected consumer's parent or legal guardian within five business days of placing the freeze and provide her or him with a unique personal identification number or password to be used when providing authorization for the release of the protected consumer's credit for a specific party or period of time.

The bill provides that a security freeze is to remain in place until the protected consumer's parent or legal guardian requests that the security freeze be removed or the protected consumer reaches 18 years of age. A CRA would remove the security freeze within three business days of the request, upon receiving: (1) proper identification and sufficient proof of authority from the protected consumer's parent or legal guardian to act on behalf of the protected consumer; and (2) the unique personal identification number or password provided by the CRA.

Under current law, a CRA is required to place a security freeze on a consumer report no later than five business days after receiving a written request, and is prohibited from charging any fee to place the security freeze on a consumer report. A CRA is authorized to charge a reasonable fee, not to exceed \$5, for removing or temporarily lifting a security freeze on that consumer report. A person may be charged a reasonable fee, not to exceed \$5, for

**A1096 DOWNEY, CARIDE**

10

- 1 failing to retain the original personal identification number provided
- 2 by the CRA. These provisions would remain unchanged.