

Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:  

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:  

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
- a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
- a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
- a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
- a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:  
  
" (c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:  
" (1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze."
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:  

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:  

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
- a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
- a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081



Date of Hearing: March 14, 2016

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Matthew Dababneh, Chair

AB 1580 (Gatto & Irwin) – As Amended March 3, 2016

**SUBJECT:** Consumer credit reports: security freezes: protected consumer

**SUMMARY:** Creates a process for the placement or removal of a security freeze for a protected consumer, as defined. Specifically, **this bill:**

- 1) Defines "protected consumer" as an individual who is either:
  - a) Under 16 years of age at the time a request is made; or,
  - b) An incapacitated person or a protected person for whom a guardian or conservator has been appointed.
- 2) Requires a consumer credit reporting agency (CCRA) to place a security freeze for a protected consumer if:
  - a) The CCRA receives a request from the protected consumer's representative for the placement of the security freeze; and,
  - b) The protected consumer's representative does all of the following:
    - i) Submits the request to the CCRA;
    - ii) Provides to the CCRA sufficient proof of identification of the protected consumer and the representative;
    - iii) Provides to the CCRA sufficient proof of authority to act on behalf of the protected consumer; and,
    - iv) Pays a fee of no more than \$10 to the CCRA.
- 3) Provides that if a CCRA does not have a file pertaining to a protected consumer when the CCRA receives a request, the CCRA shall create a record for the protected consumer.
- 4) Allows the CCRA 30 days, after receiving a request, to place a security freeze for a protected consumer.
- 5) Requires the CCRA to send confirmation to the protected consumer that the freeze was placed within 10 days of the freeze being placed.
- 6) Prohibits a CCRA from releasing the protected consumer's consumer report or any information derived from the protected consumer's consumer report unless the security freeze is removed.
- 7) Requires a security freeze for a protected consumer to remain in place unless:

- a) The protected consumer or the protected consumer's representative requests that the CCRA remove the security freeze; or,
  - b) The protected consumer's security freeze was created based upon a material misrepresentation of fact by the protected consumer or the protected consumer's representative.
- 8) Provides in order to remove a security freeze, the protected consumer or the protected consumer's representative shall:
- a) Submit the request in the manner specified by the CCRA;
  - b) If the request is made by the protected consumer, the protected consumer must provide to the CCRA:
    - i) Proof that the protected consumer's representative, to act on behalf of the protected consumer, is no longer valid; and,
    - ii) Sufficient proof of identification of the protected consumer.
  - c) If the request is made by the representative, the representative must provide to the CCRA:
    - i) Proof of identification of the protected consumer and the representative; and,
    - ii) Sufficient proof of authority to act on behalf of the protected consumer.
  - d) Pay a fee, not to exceed \$10 to the CCRA.
  - e) Provides that the CCRA has 30 days to remove a security freeze after receiving a request.
- 9) Allows a CCRA to charge a reasonable fee, not to exceed \$10 for each placement or removal of a security freeze for a protected consumer.
- a) Prohibits a CCRA from charging a fee if:
    - i) The protected consumer's representative has received a report of alleged identity theft; or,
    - ii) The request for the placement or removal of a security freeze is for a protected consumer who is under 16 at the time of the request and the CCRA has a report pertaining to the protected consumer.
- 10) Provides a number of exemptions to the use of a protected consumer report which include:
- a) A person or entity listed in subdivision (l) of Civil Code Section, 1785.11.2, or Section 1785.11.4 or 1785.11.6;
  - b) A person administering a credit file monitoring subscription service to which the protected consumer subscribed or to which the representative of the protected consumer subscribed;

- c) A person who provided the protected consumer or representative with a copy of the protected consumer's credit report; or,
- d) A person or entity that maintains or is a database used solely for one of the following:
  - i) Criminal record information;
  - ii) Personal loss history information;
  - iii) Fraud prevention or protection;
  - iv) Employment screening; or,
  - v) Tenant screening.
- 11) Allows a CCRA to develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request for a protected consumer credit freeze to be placed or removed.
- 12) Requires CCRA to notify the protected consumer within 10 days if the protected consumer's frozen credit record was released without proper authorization.
- 13) Defines "record" as a compilation of information that:
  - a) Identifies a protected consumer;
  - b) Was created by a CCRA;
  - c) Is not otherwise authorized to be created or used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living.
- 14) Defines "representative" as a person who provides to a CCRA sufficient proof of authority to act on behalf of a protected consumer.
- 15) Defines "security freeze":
  - a) If CCRA does not have a file pertaining to a protected consumer, a restriction that:
    - i) Is placed on the protected consumer's record; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's record.
  - b) If a CCRA has a file pertaining to a protected consumer, a restriction that:
    - i) Is place on the protected consumer's report; or,
    - ii) Prohibits the CCRA from releasing the protected consumer's report or any information derived from the protected consumer's consumer report.

- 16) Defines "sufficient proof of authority" as documentation that shows that the representative has authority to act on behalf of a protected consumer in a financial matter. This documentation includes, but is not limited to:
  - a) A court order or relevant enabling document issued by a court;
  - b) A legally sufficient and valid power of attorney or a durable power of attorney; or,
  - c) A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer; including a temporary conservator or temporary guardian.
  
- 17) Defines "sufficient proof of identification" as information or documentation that identifies a protected consumer of a representative of a protected consumer. This information or documentation includes but is not limited to:
  - a) A social security number (SSN) or a copy of a social security card issued by the Social Security Administration;
  - b) A certified copy or official copy of a birth certificate;
  - c) A copy of a driver's license, an identification issued by the DMV, or any other government-issued identification; or,
  - d) A copy of a bill for telephone, sewer, septic tank, water, electric, oil, or natural gas services, that shows a name and a home address.

**EXISTING STATE LAW:**

- 1) Regulates CCRA's via the Consumer Credit Reporting Agencies Act. [Civil Code, Section 1785.1 et seq. All further references are to the Civil Code]
- 2) Allows a CCRA to charge a consumer who is 65 years of age or older and who has provided identification confirming his or her age a fee not to exceed \$5 for placement of each freeze, the removal of the freeze, the temporary lift of the freeze for a period of time, or the temporary lift of the freeze for a specific party. [Section 1785.11.2 (m)]
- 3) Allows a consumer to place a security freeze on his or her credit report by making a written request by mail to a CCRA. [Section 1785.11.2(a)]
- 4) Defines "security freeze" as a notice placed in a consumer's credit report at the consumer's request and, subject to certain exceptions, prohibits the credit reporting agency from releasing the credit report or any information from it without the consumer's express authorization. [Section 1785.11.2]
- 5) Requires the CCRA to place a security freeze on the consumer's credit report no later than 3 days after receiving a request, and within 10 business days must send the consumer written confirmation of the freeze along with a unique personal identification or password to be used by the consumer when authorizing the release of his or her credit for a specific party or

period of time. [Section 1785.11.2(b) (c)].

- 6) Allows a consumer to request a temporary lift of a security freeze, if certain conditions are met. A CCRA that receives a request for a temporary lift of a security freeze is required to do so within three business days of receiving the request. [Section 1785.11.2(d) (e) (g)]
- 7) Provides that a CCRA may develop procedures involving the use of telephone, fax, the internet, or other electronic media to receive and process a consumer request to temporarily lift a security freeze in an expedited manner. [Section 1785.11.2(f)]
- 8) Requires that, if a consumer requests a security freeze, the CCRA must inform the consumer of the process for placing and temporarily lifting a freeze, and the process for allowing access to information from the consumer's credit report for a specific party or period of time while a freeze is in place. [Section 1785.11.2(i)]
- 9) Allows, except as specified, a CCRA to charge a fee of no more than \$10 to a consumer for each freeze, removal of the freeze, or temporary lift of the freeze for a period of time. [Section 1785.11.2(m)]
- 10) Prohibits a fee from being charged to place a security freeze for a victim of identity theft who presents a valid police report or valid DMV investigative report [Section 1785.11.2(m)]
- 11) Requires that whenever a CCRA provides a written disclosure to a consumer that it must also include a notice to a consumer of their rights to receive and correct errors on their credit report, as well as, information on placing a security freeze and credit alert on their credit file. [Section 1785.15]

**EXISTING FEDERAL LAW** requires every credit reporting agency to disclose to a consumer, upon request, specific information related to that consumer's credit report, as well as, directions on how to contest information contained within the report. [Fair Credit Reporting Act 15 U.S.C. 1681et seq.]

**FISCAL EFFECT:** None.

**COMMENTS:**

*Need for the bill:*

According to the Authors:

*"Most children get a Social Security Number early in their lives. Identity thieves recognize this and recognize that parents are not monitoring their child's credit. For that reason, thieves are targeting children, stealing their identity, and opening credit lines with their Social Security Numbers. AB 1580 is a common-sense proposal that provides parents the tools to proactively protect their child's financial future. It is time for California to step up and join the many states that have passed similar legislation. Parents will be able to sleep better at night knowing their child's identity is protected."*

A study conducted by Carnegie Mellon CyLab found that "It is not simply enough to guard your own identity in the 21st Century you must also guard your child's." This statement highlights the intent of AB 1580. Currently, California lacks statutory provisions specific to protected consumers. Twenty-three other states have a security freeze process in place for protected consumers, where as in most cases a protected consumer is considered to be 16 years of age or younger. The concept of a protected consumer is fairly new due to the fact protected consumers do not have access to credit therefore should not have a credit file. If a protected consumer becomes a victim of identity theft they unfortunately do not become aware of this fact until he or she applies for credit as an adult.

AB 1580 creates a process where a protected consumer's representative, most likely a parent, has the option to place and remove a security freeze on a protected consumer. To place the freeze, a parent or representative would directly contact a CCRA and submit the request for a credit freeze by mail. Parents would then authenticate their identity and prove they are legally able to act on behalf of the child. After the request is filed, a record will be created for the child, and the credit record would be frozen within 30 days. Under the bill, a CCRA would then be prohibited from releasing credit information or customer records for that protected consumer.

If a child does not have an existing credit file, this legislation mandates a consumer credit reporting agency to create a credit "record" of the child's personal information for the sole purpose of implementing a credit freeze. A credit file in nature is directly related to credit worthiness, credit standing, and credit capacity, which are used to determine credit eligibility. Unlike a credit file, a credit record is created for identity theft prevention purposes. Therefore, creating and freezing a credit record does not impact a child's eligibility for credit in the future. Out of the 23 states that allow child credit freezing, a majority use the credit record method of implementation.

AB 1580 does not allow a security freeze to be temporarily lifted, nor does it supply a Personal Identification Number for the purpose of lifting the freeze. Research has shown that it is not uncommon for parents or relatives of a child to commit "friendly fraud" and borrow the child's Social Security Number to apply for credit if they do not qualify based on their own credit score.

#### *Child Identity Theft:*

According to the Attorney General's Office, child identity theft happens when someone uses a minor child's personal information, such as name and Social Security number, usually to obtain credit or employment. Identity thieves may target children because the crime can go undetected for years, often until the child applies for his or her first loan or credit card.

Since children have perfectly clean backgrounds, no real credit score to speak of, and their parents do not think to monitor the status of their identity, they make easy targets for identity theft. Identity theft can have negative effects on a child's credit down the line, and they could have trouble securing student loans, getting a decent job, or even purchasing a cellphone. The study conducted by Carnegie Mellon's CyLab, found that 10.2% of the children reported that someone else had used their Social Security number fraudulently. The worst of these accounts was toward a 16-year-old girl who had reported fraudulent charges of \$725,000 under her name.

Among the 13 million consumers whose identities were stolen in 2013, a growing number includes children. One in 40 families with children under 18 had at least one child whose personal information was compromised, according to a 2012 survey by the Identity Theft

Assistance Center and the Javelin Strategy & Research group. The survey revealed that identity thieves most often steal children's Social Security numbers, since young children seldom have the credit histories acquired by adults, such as credit cards, bank accounts, licenses and financial statements. The same survey also found 17 percent of children were victimized for a year or longer.

*Background:*

In California, consumers have the right to put a "security freeze" on their credit file which can help prevent identity theft. A security freeze means that the consumer's file cannot be shared with potential creditors. Most businesses will not open credit accounts without first checking a consumer's credit history. If credit files are frozen, even someone who has the consumer's name and Social Security number would most likely not be able to get credit in the consumer's name.

Security freezes are designed to prevent a CCRA from releasing a credit report without the consumer's consent. Using a security freeze to take control over who is allowed access to the personal and financial information in a file may delay, interfere with or prohibit the timely approval of any subsequent request or application the consumer makes regarding a new loan, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular telephone, utilities, digital signature, Internet credit card transaction or other services, including an extension of credit at point of sale.

When a consumer places a security freeze on their file, the consumer will be provided a personal identification number or password to use if the consumer chooses to remove the security freeze from their file or authorize the temporary release of their credit report for a specific person or period after the security freeze is in place. To provide that authorization, the consumer must contact the CCRA and provide all the following: Sufficient identification to verify identity, personal identification number or password provided by the CCRA, a statement that the consumer chooses to remove the security freeze from their file or that the consumer authorizes the CCRA to temporarily release the consumer report.

*Previous Legislation:*

AB 1658 ((Jones-Sawyer, Chapter 762, Statutes of 2014) This bill specified the process for placement of a credit freeze for a child in foster care.

AB 372 ((Salas) Chapter 151, Statutes of 2008) This bill amended the CCRA Act to provide that a consumer credit reporting agency may, except as specified, charge a fee of no more than \$5 to a consumer 65 years of age or older and no more than \$10 to other consumers for each security freeze request, removal of the freeze, temporary lift of the freeze for a period of time, or temporary lift of a freeze for a specific party; required a CCRA to place a security freeze on a consumer's credit report no later than three business days after receiving a request; allows a consumer to place a security freeze on his or her credit report by making a written request by regular mail to a CCRA.

*Recommended Amendments:*

Most of these amendments are technical and clarifying. Further clarification is needed for #11 which is why the committee recommends deleting this provision and revisiting this issue in the future.

- 1) On page 3, line 29, delete "," before that
- 2) On page 3, line 33, insert "consumer's" after protected
- 3) On page 3, line 38, delete " to which the protected consumer has subscribed or "
- 4) On page 4, line 3, delete "on" and insert "at the"
- 5) On page 4, line 4, insert after or, "at the request"
- 6) On page 4, between lines 35-35- insert:

"(c) If a protected consumer's representative requests a security freeze, the consumer credit reporting agency shall disclose the process for placing and removing a security freeze."
- 7) On page 4, line 38, after consumer, insert "."
- 8) On page 4, delete lines 39-40 and insert:

"(1) The consumer credit reporting agency shall send a written confirmation of the security freeze to the protected consumer's representative within 10 days of the placement of the security freeze.
- 9) On page 6, line 22, delete "consumer" and insert "consumer's"
- 10) On page 6, line 23, delete "credit" and insert "security"
- 11) On page 6, delete lines 24-26

**REGISTERED SUPPORT / OPPOSITION:****Support**

California District Attorneys Association (CDAA)  
California Public Interest Research group (CALPIRG)  
Consumer Attorneys of California  
Privacy Rights Clearinghouse

**Opposition**

None on file.

**Analysis Prepared by:** Kathleen O'Malley / B. & F. / (916) 319-3081