

State of Wisconsin



2013 Assembly Bill 248

Date of enactment: **December 12, 2013**
Date of publication*: **December 13, 2013**

2013 WISCONSIN ACT 78

AN ACT to create 100.545 of the statutes; relating to: restricting the release of credit information about certain protected individuals and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.545 of the statutes is created to read:
100.545 Security freezes for protected consumers.

(1) DEFINITIONS. In this section:

(a) "Consumer report" has the meaning given in 15 USC 1681a (d).

(b) "Consumer reporting agency" has the meaning given in s. 15 USC 1681a (f).

(c) "Protected consumer" means an individual who is one of the following:

1. Under the age of 16 years at the time a request for the placement of a security freeze is made under sub. (3) (a).

2. An individual for whom a guardian or conservator has been appointed.

(d) "Record" means a compilation of information about a protected consumer that satisfies all of the following:

1. The compilation identifies the protected consumer.

2. The compilation is created by a consumer reporting agency solely for the purpose of complying with this section.

(e) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

(f) "Security freeze for a protected consumer" means one of the following:

1. If a consumer reporting agency does not have a file pertaining to a protected consumer, a restriction placed on the protected consumer's record that prohibits, except as provided in this section, the consumer reporting agency from releasing the protected consumer's record.

2. If a consumer reporting agency has a file pertaining to the protected consumer, a restriction placed on the protected consumer's credit report that prohibits, except as provided in this section, the consumer reporting agency from releasing the protected consumer's credit report or any information derived from the protected consumer's credit report.

(g) "Sufficient proof of authority" means documentation that shows a representative has authority to act on behalf of a protected consumer, including any of the following:

1. An order issued by a court.
2. A lawfully executed and valid power of attorney.
3. A written, notarized statement signed by a representative that expressly describes the authority of the representative to act on behalf of a protected consumer.

(h) "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative of a protected consumer, including any of the following:

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

1. A social security number or a copy of a social security card issued by the social security administration.

2. A certified or official copy of a birth certificate issued by the entity authorized to issue the birth certificate.

3. A copy of an operator's license issued under ch. 343 or under a comparable law of another state, an identification card issued under s. 343.50 or under a comparable law of another state, or any other government issued identification.

(2) **EXCEPTIONS.** This section does not apply to the use of a protected consumer's credit report or record by any of the following:

(a) A person administering a credit file monitoring subscription service to which the protected consumer has subscribed or the representative of the protected consumer has subscribed on behalf of the protected consumer.

(b) A person providing the protected consumer or the protected consumer's representative with a copy of the protected consumer's credit report on request of the protected consumer or the protected consumer's representative.

(c) A person exempted under s. 100.54 (8) from the requirements of s. 100.54.

(d) An insurance company for the purpose of conducting its ordinary business.

(e) A consumer reporting agency's database or file that consists of information concerning, and used for, one or more of the following, but not for credit granting purposes:

1. Criminal record information.
2. Fraud prevention or detection.
3. Personal loss history information.
4. Employment, tenant, or other background screening.

(3) **PLACEMENT OF SECURITY FREEZE.** (a) A consumer reporting agency shall place a security freeze for a protected consumer if the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze and the protected consumer's representative does all of the following:

1. Submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency.
2. Provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative.
3. Provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer.
4. Pays to the consumer reporting agency a fee as provided in sub. (5).

(b) If a consumer reporting agency does not have a file pertaining to a protected consumer when the con-

sumer reporting agency receives a request under par. (a), the consumer reporting agency shall create a record for the protected consumer. Upon receiving the request, the consumer reporting agency shall verify that no file pertains to the protected consumer by checking for existing files relating to the protected consumer's name and social security number and for existing files relating only to the protected consumer's social security number. A record created under this paragraph may not be used to consider the protected consumer's creditworthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

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

(d) Unless a security freeze for a protected consumer is removed in accordance with sub. (4) or (6), a consumer reporting agency may not release the protected consumer's credit report, any information derived from the protected consumer's credit report, or any record created for the protected consumer.

(e) A security freeze for a protected consumer placed under par. (c) remains in effect until one of the following occurs:

1. The protected consumer or the protected consumer's representative requests the consumer reporting agency to remove the security freeze in accordance with sub. (4).
2. The security freeze is removed in accordance with sub. (6).

(4) **REMOVAL OF SECURITY FREEZE.** (a) If a protected consumer or a protected consumer's representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer's representative shall do all of the following:

1. Submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency.
2. Provide to the consumer reporting agency sufficient proof of identification of the protected consumer and one of the following:

- a. For a request by the protected consumer, proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the protected consumer is no longer valid.
- b. For a request by the representative of the protected consumer, sufficient proof of identification of the representative and sufficient proof of authority to act on behalf of the protected consumer.

3. Pay to the consumer reporting agency a fee as provided in sub. (5).

(b) Within 30 days after receiving a request that meets the requirements of par. (a), the consumer reporting agency shall remove the security freeze for the protected consumer.

(5) FEES. (a) Except as provided in par. (b), a consumer reporting agency may not charge a fee for any service performed under this section.

(b) A consumer reporting agency may charge a reasonable fee, not exceeding \$10, for each placement or removal of a security freeze for a protected consumer.

(c) Notwithstanding par. (b), a consumer reporting agency may not charge any fee under this section if any of the following applies:

1. The protected consumer's representative has obtained a police report or affidavit of alleged identity fraud against the protected consumer and provides a copy of the report or affidavit to the consumer reporting agency.

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

(6) MATERIAL MISREPRESENTATIONS. A consumer reporting agency may remove a security freeze for a protected consumer or delete a record of a protected consumer if the security freeze was placed or the record was created based on a material misrepresentation of fact by the protected consumer or the protected consumer's representative.

(7) PENALTY; ENFORCEMENT. (a) A person who violates this section may be required to forfeit not more than \$1,000 for each violation.

(b) The department of agriculture, trade and consumer protection or the department of justice, after consulting with the department of agriculture, trade and consumer protection, may bring an action for temporary or permanent injunctive or other relief for any violation of this section or an action for the penalty authorized in par. (a).

SECTION 2. Effective date.

(1) This act takes effect on January 14, 2014, or on the day after publication, whichever is later.