

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1533/P2dn  
MDK:kjf:jm

May 8, 2013

Rep. Stone:

Please note the following about this version of the draft, which is based on the proposal that you provided. After you have considered the following, I can prepare a version of this draft that can be used as a substitute amendment to any other bill that is introduced on this topic.

1. I made changes to the proposal to conform to our drafting conventions. In addition, I created a new section (proposed s. 100.545), rather than a new subsection in s. 100.54, to ensure that the new definition of “security freeze,” does not affect the provisions of current law dealing with security freezes. Also note that I rephrased the reference to guardians and conservators in proposed s. 100.545 (1) (c) 2. See also the changes to proposed s. 100.545 (1) (h) 3., regarding driver’s licenses and other forms of identification. In addition, note that I rephrased the exception set forth in proposed s. 100.545 (2) (c).

2. Proposed s. 100.545 (1) (d) 3. defines “record,” in part, as a compilation that is not created or used to consider a protected consumer’s creditworthiness, etc. Is that okay, or is the intent to prohibit using a record for a such a purpose? If you want to prohibit such use, I would revise the draft to create a new subsection in s. 100.545 for that prohibition, rather than including it in the definition of “record.”

3. Proposed s. 100.545 (1) (f) 1. and 2. and (3) (b) refer to whether a consumer reporting agency (CRA) has a “file” pertaining to a protected consumer. However, proposed s. 100.545 (5) (c) 2. refers to whether a CRA has a “consumer report” pertaining to a protected consumer. Should proposed s. 100.545 (5) (c) 2. be revised to refer to a file? If so, the definition of “consumer report” is no longer necessary.

4. Proposed s. 100.545 (2) (e) 3. refers to “personal loss history information,” and proposed s. 100.545 (2) (e) 4. refers to “individual background screening.” Can you clarify what those terms mean?

5. DATCP enforces s. 100.54, which deals with security freezes under current law. However, as requested in the proposal, DOJ, rather than DATCP, has exclusive authority to enforce the draft’s requirements regarding security freezes for protected consumers. Is that okay? Also note that, instead of “notwithstanding” any other provision of law, s. 100.545 (7) “notwithstands” s. 93.07 (1) and (24), which generally authorize DATCP to enforce ch. 100.

6. Regarding penalties, note that I exempted the draft from the criminal penalties that apply to certain violations of chapter 100. See the amendment of s. 100.26 (1). Is that okay? However, note that under s. 939.61 (1), a person who violates the draft is subject to a civil forfeiture of not more than \$200. Is that okay, or do you want a different penalty to apply?

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