

REFERENCE TITLE: **employment practices; consumer reports; limitation**

State of Arizona  
Senate  
Fifty-fourth Legislature  
First Regular Session  
2019

## **SB 1133**

Introduced by  
Senators Mendez: Quezada; Representative Salman

### **AN ACT**

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-206; AMENDING SECTIONS 28-376, 44-1691, 44-1692, 44-1693, 44-1698 AND 44-1698.02, ARIZONA REVISED STATUTES; RELATING TO EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 2, article 1, Arizona Revised  
3 Statutes, is amended by adding section 23-206, to read:

4 23-206. Consumer report or credit; prohibition; violation;  
5 classification; definitions

6 A. NOTWITHSTANDING ANY OTHER LAW, AN EMPLOYER MAY NOT DO EITHER OF  
7 THE FOLLOWING:

8 1. DISCHARGE OR FAIL OR REFUSE TO RECRUIT, HIRE, PROMOTE, REASSIGN  
9 OR RETAIN AN INDIVIDUAL OR OTHERWISE DISCRIMINATE AGAINST AN INDIVIDUAL  
10 WITH RESPECT TO COMPENSATION OR A TERM, CONDITION OR PRIVILEGE OF  
11 EMPLOYMENT BECAUSE OF THE INDIVIDUAL'S CONSUMER REPORT OR CREDIT HISTORY.

12 2. INQUIRE ABOUT AN APPLICANT'S OR EMPLOYEE'S CONSUMER REPORT OR  
13 CREDIT HISTORY.

14 B. A PERSON THAT VIOLATES THIS SECTION IS GUILTY OF A CLASS 3  
15 MISDEMEANOR.

16 C. FOR THE PURPOSES OF THIS SECTION:

17 1. "CONSUMER REPORT" HAS THE SAME MEANING PRESCRIBED IN SECTION  
18 44-1691.

19 2. "CREDIT HISTORY" MEANS INFORMATION OBTAINED FROM A THIRD PARTY,  
20 WHETHER OR NOT CONTAINED IN A CONSUMER REPORT, THAT REFLECTS OR PERTAINS  
21 TO EITHER OF THE FOLLOWING FOR AN INDIVIDUAL:

22 (a) CURRENT OR PAST BORROWING OR REPAYING BEHAVIOR, INCLUDING THE  
23 ACCUMULATION, PAYMENT OR DISCHARGE OF FINANCIAL OBLIGATIONS.

24 (b) CURRENT OR PAST FINANCIAL CONDITION OR ABILITY TO MEET  
25 FINANCIAL OBLIGATIONS, INCLUDING DEBTS OWED, PAYMENT HISTORY OR SAVINGS OR  
26 CHECKING ACCOUNT BALANCES OR ACCOUNT NUMBERS.

27 3. "EMPLOYER" MEANS ANY INDIVIDUAL, PERSON OR TYPE OF ORGANIZATION  
28 THAT EMPLOYS WORKERS, INCLUDING THIS STATE AND ALL POLITICAL SUBDIVISIONS  
29 OF THIS STATE.

30 Sec. 2. Section 28-376, Arizona Revised Statutes, is amended to  
31 read:

32 28-376. Employment of personnel; definition

33 A. The director may obtain criminal history record information  
34 regarding applicants for employment for the purpose of hiring personnel.  
35 Before making a final offer of employment, the director shall require the  
36 preferred applicants to submit a full set of fingerprints. The director  
37 shall submit the fingerprints to the department of public safety for the  
38 purpose of obtaining a state and federal criminal records check pursuant  
39 to section 41-1750 and Public Law 92-544. The department of public safety  
40 may exchange this fingerprint data with the federal bureau of  
41 investigation. The department of transportation shall not disclose  
42 information obtained pursuant to this subsection except to members of the  
43 department's staff solely for employment purposes. An applicant shall not  
44 be disqualified from employment under this subsection except in accordance  
45 with section 13-904, subsection E.

1 ~~B. The director may obtain consumer report information regarding~~  
2 ~~applicants for employment for the purpose of hiring personnel.~~  
3 ~~Information obtained may only be used to determine the suitability of the~~  
4 ~~applicant for positions involving fiduciary or financial responsibilities,~~  
5 ~~the issuance of driver licenses or other personal identification documents~~  
6 ~~or access to highly confidential information. Consumer report information~~  
7 ~~may be obtained and used only in accordance with the fair credit reporting~~  
8 ~~act (15 United States Code sections 1681 through 1681x). An applicant~~  
9 ~~shall not be disqualified from employment under this subsection unless the~~  
10 ~~consumer report information relied on for the disqualification has a~~  
11 ~~reasonable relationship to the functions of the position.~~

12 ~~C.~~ B. For the purposes of this section, "applicant" means any  
13 person who seeks employment as a new hire or any employee of the  
14 department who seeks a transfer, a reclassification or a reassignment to a  
15 different position.

16 Sec. 3. Section 44-1691, Arizona Revised Statutes, is amended to  
17 read:

18 44-1691. Definitions

19 In this chapter, unless the context otherwise requires:

20 1. "Consumer" means an individual.

21 ~~2.~~ 2. "Consumer report" means any written, oral, ~~or~~ or other  
22 communication of any information by a consumer reporting agency bearing on  
23 a consumer's ~~credit worthiness~~ CREDITWORTHINESS, credit standing, credit  
24 capacity, character, general reputation, personal characteristics, ~~or~~  
25 mode of living ~~which~~ THAT is used or expected to be used or collected in  
26 whole or in part for the purpose of serving as a factor in establishing  
27 the consumer's eligibility for ~~(a)~~ credit or insurance to be used  
28 primarily for personal, family, ~~or~~ or household purposes, ~~or (b) employment~~  
29 ~~purposes;~~ or ~~(c)~~ other purposes authorized under section 44-1692. ~~The~~  
30 ~~term~~ CONSUMER REPORT does not include:

31 (a) Any report containing information solely as to transactions or  
32 experiences between the consumer and the person making the report. ~~;~~ ~~or~~

33 (b) Any authorization or approval of a specific extension of credit  
34 directly or indirectly by the issuer of a credit card or similar  
35 device. ~~;~~ ~~or~~

36 (c) Any report in which a person who has been requested by a third  
37 party to make a specific extension of credit directly or indirectly to a  
38 consumer conveys ~~his~~ THAT PERSON'S decision with respect to such request,  
39 if the third party advises the consumer of the name and address of the  
40 person to whom the request was made.

41 ~~2.~~ 3. "Consumer reporting agency" means any person ~~which~~ THAT, for  
42 monetary fees, ~~FOR~~ dues, ~~or~~ or on a cooperative nonprofit basis, regularly  
43 engages in whole or in part in the practice of assembling or evaluating  
44 consumer credit information on consumers for the purpose of furnishing  
45 consumer reports to third parties.

1 ~~4. "Employment purposes" when used in connection with a consumer~~  
2 ~~report means a report used for the purpose of evaluating a consumer for~~  
3 ~~employment, promotion, reassignment or retention as an employee.~~

4 ~~5.~~ 4. "File" when used in connection with information on any  
5 consumer, means all of the information on that consumer recorded and  
6 retained by a consumer reporting agency regardless of how the information  
7 is stored.

8 ~~6.~~ 5. "Person" means an individual, partnership, corporation,  
9 association, or any other entity of whatever kind or nature.

10 Sec. 4. Section 44-1692, Arizona Revised Statutes, is amended to  
11 read:

12 44-1692. Permissible use of consumer reports

13 A. Except as provided in section 44-1693, a consumer reporting  
14 agency may furnish a consumer report only under the following  
15 circumstances and no other:

16 1. In response to the order of a court having jurisdiction to issue  
17 such an order.

18 2. In accordance with the written instructions of the consumer to  
19 whom it relates.

20 3. To a person that it has reason to believe:

21 (a) Intends to use the information in connection with a credit  
22 transaction involving the consumer on whom the information is to be  
23 furnished and involving the extension of credit to, or review or  
24 collection of an account of, the consumer.

25 ~~(b) Intends to use the information for employment purposes.~~

26 ~~(c)~~ (b) Intends to use the information in connection with the  
27 underwriting of insurance involving the consumer.

28 ~~(d)~~ (c) Intends to use the information in connection with a  
29 determination of the consumer's eligibility for any license or other  
30 benefit granted by a governmental instrumentality required by law to  
31 consider an applicant's financial responsibility or status.

32 ~~(e)~~ (d) Otherwise has a legitimate business need for the  
33 information in connection with a business transaction involving the  
34 consumer.

35 4. On request by the department of economic security, its agent or  
36 another agency administering a title IV-D program under the social  
37 security act certifying that:

38 (a) The obligor mother or the obligor father has been determined to  
39 be the parent of a child to whom a support obligation relates.

40 (b) The consumer report is needed to establish an obligor's  
41 capacity to make support payments or to determine the appropriate amount  
42 of the payments or for the purpose of setting an original support amount  
43 or modifying an existing support order.

1 (c) The obligor has received at least ten days' advance notice, by  
2 certified mail, at the last known address, by personal delivery or by  
3 personal service that a consumer report will be requested.

4 (d) The consumer report shall be kept confidential and shall be  
5 used only for the purposes described in subdivision (b) of this paragraph.

6 (e) The consumer report shall not be used in connection with any  
7 other civil, administrative or criminal proceeding or for any other  
8 purpose.

9 B. The report furnished in subsection A of this section may be  
10 provided by electronic or other means.

11 Sec. 5. Section 44-1693, Arizona Revised Statutes, is amended to  
12 read:

13 44-1693. Access to reports by a consumer

14 A. ~~Upon~~ ON furnishing adequate credentials by a consumer as to ~~his~~  
15 THE CONSUMER'S identity:

16 1. A creditor who denies credit to any consumer shall disclose to  
17 ~~such~~ THE consumer the name and address of any consumer reporting agency  
18 ~~which~~ THAT has furnished ~~such~~ THE creditor with a consumer report on ~~such~~  
19 THE consumer ~~which~~ THAT was considered by the creditor in making the  
20 determination.

21 2. A licensing agency ~~which~~ THAT denies a license to any consumer  
22 shall disclose to ~~such~~ THE consumer the name and address of any consumer  
23 reporting agency ~~which~~ THAT has furnished ~~such~~ THE agency with a consumer  
24 report on ~~such~~ THE consumer ~~which~~ THAT was considered by the licensing  
25 agency in making the determination.

26 ~~3. An employer who denies a consumer employment, a promotion,  
27 retention as an employee or reassignment or does reassign the consumer,  
28 whichever is not to the advantage of the consumer, shall disclose to such  
29 consumer the name and address of any consumer reporting agency which has  
30 furnished such employer with a consumer report on such consumer which was  
31 considered by the employer in making the determination.~~

32 ~~4.~~ 3. A consumer reporting agency shall disclose to any consumer  
33 the contents of its file used for the purpose of making a consumer report  
34 on that consumer, any and all facts, allegations or sources ~~upon~~ ON which  
35 ~~such~~ THE information is based and the name and address of each person  
36 requesting a report on the consumer within the previous six months. A  
37 credit reporting agency may make the disclosures in the following manner:

38 (a) By a trained employee of the credit reporting agency when the  
39 consumer makes the request in person.

40 (b) By telephone if the credit reporting agency receives a written  
41 request for a telephone disclosure from the consumer. Any toll for the  
42 telephone disclosure shall be prepaid by the consumer or charged directly  
43 to the consumer requesting the telephone disclosure.

1 (c) By a decoded written copy of the file or a written copy of the  
2 consumer report with an explanation of any codes used if the credit  
3 reporting agency receives a written request for a written disclosure from  
4 the consumer.

5 B. A consumer reporting agency shall provide trained personnel to  
6 disclose the contents of its file to consumers during normal business  
7 office hours and assist a consumer in fully understanding all items on ~~his~~  
8 THE CONSUMER'S consumer report.

9 C. The consumer shall be permitted to be accompanied by one other  
10 person of ~~his~~ THE CONSUMER'S choosing, who shall furnish reasonable  
11 identification, at ~~such~~ THE time ~~as~~ the consumer reviews the files of the  
12 consumer reporting agency as provided in this section.

13 D. ~~No~~ A consumer reporting agency ~~not~~ OR any creditor, licensing  
14 agency or employer shall NOT request or require any waiver of rights by  
15 any consumer. ~~No~~ A consumer reporting agency ~~not~~ OR any creditor or any  
16 other person shall NOT charge any fee to a consumer for a disclosure of  
17 ~~his~~ THE CONSUMER'S file if within a thirty-day period ~~prior to~~ BEFORE the  
18 request for a disclosure the consumer is denied credit, OR licensure,  
19 ~~employment or received~~ RECEIVES a notice of collection or ~~received~~  
20 RECEIVES other adverse action due to the credit report. Except as  
21 provided for in this subsection, a consumer reporting agency may charge a  
22 reasonable fee for any disclosures of a file to the consumer or ~~his~~ THE  
23 CONSUMER'S designee.

24 Sec. 6. Section 44-1698, Arizona Revised Statutes, is amended to  
25 read:

26 44-1698. Security freeze on credit reports and credit scores;  
27 fees prohibited; definitions

28 A. A consumer may request in writing or in a form acceptable to the  
29 consumer reporting agency that a consumer reporting agency place a  
30 security freeze on the consumer's credit report. If a security freeze is  
31 in place, a consumer reporting agency shall not release a consumer's  
32 credit report or consumer's credit score to a third party without the  
33 consumer's prior express authorization. This subsection does not prevent  
34 a consumer reporting agency from advising a specific party that a security  
35 freeze is in effect with respect to the consumer's credit report.

36 B. A consumer reporting agency shall place a security freeze on a  
37 consumer's credit report not later than ten business days after receiving  
38 a written request from the consumer.

39 C. The consumer reporting agency shall send a written confirmation  
40 of the security freeze to the consumer within ten business days after  
41 placing the security freeze on the consumer's credit report and shall  
42 provide the consumer with a unique personal identification number or  
43 password, other than the consumer's social security number, that the  
44 consumer may use to provide authorization for the release of the

1 consumer's credit report for a specific period of time and to remove the  
2 security freeze.

3 D. A security freeze remains in effect until the consumer requests  
4 that the security freeze be removed or temporarily lifted as provided in  
5 this section. A consumer may request that a security freeze be removed or  
6 temporarily lifted by mail, telephone, internet or other electronic  
7 contact method in a form acceptable to the consumer reporting agency. A  
8 consumer reporting agency shall require proper identification of any  
9 person who makes a request to place or remove a security freeze.

10 E. On requesting removal, the consumer shall provide the following  
11 information:

12 1. Proper identification.

13 2. The unique personal identification number or password that the  
14 consumer reporting agency provided to the consumer.

15 F. On requesting a temporary lift to allow a credit report to be  
16 accessed for a specific period of time, the consumer shall contact the  
17 consumer reporting agency and shall request that the security freeze be  
18 temporarily lifted and shall provide the following information:

19 1. Proper identification.

20 2. The unique personal identification number or password that the  
21 consumer reporting agency provided to the consumer.

22 3. The proper information regarding the specific time period for  
23 which the credit report shall be available to users of the credit report.

24 G. A consumer reporting agency shall remove or temporarily lift a  
25 security freeze from a consumer's credit report within:

26 1. Three business days after receiving the consumer's request for  
27 the removal or temporary lift by mail.

28 2. Fifteen minutes after receiving the consumer's request through  
29 the use of telephone, internet or other electronic contact method in a  
30 form acceptable to the consumer reporting agency, during normal business  
31 hours. The consumer reporting agency is not required to remove or  
32 temporarily lift the security freeze within the fifteen minute time limit  
33 if the agency's ability is prevented by any of the following:

34 (a) An act of God, including fire, earthquakes, hurricanes, storms  
35 or similar natural disaster or phenomena.

36 (b) Unauthorized or illegal acts by a third party, including  
37 terrorism, sabotage, riot, vandalism, labor strikes or disputes disrupting  
38 operations or similar occurrence.

39 (c) Operational interruption, including electrical failure,  
40 unanticipated delay in equipment or replacement part delivery, computer  
41 hardware or software failures inhibiting response time or similar  
42 disruption.

43 (d) Governmental action, including emergency orders or regulations,  
44 judicial or law enforcement action or similar directives.

1 (e) Regularly scheduled maintenance, during other than normal  
2 business hours of, or updates to, the consumer reporting agency's systems.

3 (f) Commercially reasonable maintenance of, or repair to, the  
4 consumer reporting agency's systems that is unexpected or unscheduled.

5 (g) Receipt of a removal or temporary lift request outside of  
6 normal business hours.

7 H. A consumer reporting agency shall remove or temporarily lift a  
8 security freeze placed on a consumer's credit report only in the following  
9 cases:

10 1. If the consumer requests removal pursuant to subsection E of  
11 this section or a temporary lift pursuant to subsection F of this section.

12 2. If the consumer's credit report was frozen as a result of a  
13 material misrepresentation of fact. If a consumer reporting agency  
14 intends to remove a security freeze on a consumer's credit report pursuant  
15 to this paragraph, the consumer reporting agency shall notify by mail,  
16 telephone, internet or other electronic contact method the consumer before  
17 removing the security freeze on the consumer's credit report.

18 I. When a consumer requests a security freeze, the consumer  
19 reporting agency shall disclose the process for placing and for removing  
20 or temporarily lifting a freeze and the process for allowing access to  
21 information from the consumer's credit report for a specific period of  
22 time while the security freeze is in place.

23 J. If a third party requests access to a credit report on which a  
24 security freeze is in effect, the request is in connection with an  
25 application for credit or any other use and the consumer does not allow  
26 the consumer's credit report to be accessed for a specific period of time,  
27 the third party may treat the application as incomplete.

28 K. A consumer reporting agency may not charge a fee for a security  
29 freeze, removal of the freeze or temporary lift of the freeze for a period  
30 of time on the consumer's credit report.

31 L. A consumer reporting agency may not charge a fee if the consumer  
32 fails to retain the original unique personal identification number or  
33 password provided by the consumer reporting agency and the consumer  
34 reporting agency must reissue the unique personal identification number or  
35 password or provide a new unique personal identification number or  
36 password to the consumer.

37 M. If a security freeze is in place, a consumer reporting agency  
38 shall not change a consumer's name, date of birth, social security number  
39 or address in the consumer's credit report without sending a written  
40 confirmation of the change to the consumer within thirty days after the  
41 change is posted to the consumer's file. Written confirmation is not  
42 required for technical modifications of a consumer's official information,  
43 including name and street abbreviations, complete spellings or  
44 transposition of numbers or letters. For the purposes of address changes,



1 the consumer reporting agency shall send the written confirmation to both  
2 the new address and the former address.

3 N. This section does not apply to the use of a credit report or  
4 credit score by any of the following:

5 1. A person, a subsidiary, affiliate, agent or subcontractor of  
6 that person, an assignee of a financial obligation owed by the consumer to  
7 that person or a prospective assignee of a financial obligation owed by  
8 the consumer to that person in conjunction with the proposed purchase of  
9 the financial obligation with which the consumer has or had before  
10 assignment an account or contract, including a demand deposit account, or  
11 to whom the consumer issued a negotiable instrument, for the purposes of  
12 reviewing the account or collecting the financial obligation owed for the  
13 account, contract or negotiable instrument. For the purposes of this  
14 paragraph, "reviewing the account" includes activities that are related to  
15 account maintenance, monitoring, credit line increases and account  
16 upgrades and enhancements.

17 2. A subsidiary, affiliate, agent, assignee or prospective assignee  
18 of a person to whom access has been granted under this section for the  
19 purpose of facilitating the extension of credit or other permissible use.

20 3. Any state or local agency, law enforcement agency, trial court  
21 or private collection agency acting pursuant to a court order, warrant or  
22 subpoena.

23 4. A child support agency acting pursuant to title 25, chapter 3,  
24 article 2 or title IV-D of the social security act.

25 5. The department of health services or its agents or assigns  
26 acting to investigate fraud.

27 6. The department of revenue or its agents or assigns acting to  
28 investigate or collect delinquent taxes or unpaid court orders or to  
29 fulfill any of its other statutory responsibilities.

30 7. The department of transportation or its agents or assigns acting  
31 to investigate or collect delinquent taxes or unpaid court orders or to  
32 fulfill any of its other statutory responsibilities.

33 8. The administrative office of the courts to conduct audits or  
34 investigate fraud or for applicant screening.

35 9. Any agency or entity for the purposes of prescreening or  
36 postscreening as provided for by the federal fair credit reporting act  
37 (15 United States Code section 1681b).

38 10. Any person or entity that administers a credit file monitoring  
39 subscription service to which the consumer has subscribed.

40 11. Any person or entity for the purpose of providing a consumer  
41 with a copy of the consumer's credit report or consumer's credit score on  
42 the consumer's request.

1           12. Except as otherwise provided by law, a person setting or  
2 adjusting a rate or claim or underwriting for insurance purposes.

3           13. Any person who uses a consumer reporting agency's database or  
4 file that consists entirely of information concerning, and is used solely  
5 for, one or more of the following:

6           (a) Criminal record information.

7           (b) Fraud prevention or detection.

8           (c) Tenant screening.

9           ~~(d) Employment screening.~~

10          14. Any state or federally regulated bank or financial institution  
11 for checking, savings and investment accounts.

12          O. The following entities are not required to place a security  
13 freeze on a credit report:

14          1. A check services or fraud prevention services company that  
15 issues reports on incidents of fraud or authorizations for the purpose of  
16 approving or processing negotiable instruments, electronic funds transfers  
17 or similar methods of payments.

18          2. A deposit account information service company that issues  
19 reports regarding account closures due to fraud, substantial overdrafts,  
20 automated teller machine abuse or similar negative information regarding a  
21 consumer to inquiring banks or financial institutions for use only in  
22 reviewing a consumer request for a deposit account at the inquiring bank  
23 or financial institution.

24          3. A consumer reporting agency that acts only as a reseller of  
25 credit information by assembling and merging information contained in the  
26 database of another consumer reporting agency or multiple consumer  
27 reporting agencies and that does not maintain a permanent database of  
28 credit information from which new credit reports or credit scores are  
29 produced.

30          P. An act or practice in violation of this section is an unlawful  
31 practice under section 44-1522 and is subject to enforcement through a  
32 private action and by the attorney general. Injunctive relief may be  
33 sought to prevent future violations of this section. The remedies  
34 provided in this section are not intended to be the exclusive remedies  
35 available to a consumer. This subsection does not apply to subsection G,  
36 paragraph 2 of this section.

37          Q. For the purposes of this section:

38          1. "Proper identification" means information that is generally  
39 deemed to be sufficient to identify a person under the circumstances.

40          2. "Security freeze" means a notice that is placed in a consumer's  
41 credit report at the request of the consumer and that prohibits the  
42 consumer reporting agency from releasing the consumer's credit report  
43 without the express authorization of the consumer.

1           Sec. 7. Section 44-1698.02, Arizona Revised Statutes, is amended to  
2 read:

3           44-1698.02. Security freezes; credit reports; protected  
4   person; fee prohibited; definitions

5           A. A consumer reporting agency shall place a security freeze on a  
6 protected person's record or credit report if both of the following apply:

7           1. The consumer reporting agency receives a request from the  
8 protected person's representative for the placement of the security  
9 freeze.

10           2. The protected person's representative does all of the following:

11           (a) Submits the request to the consumer reporting agency at the  
12 address or other point of contact and in the manner specified by the  
13 consumer reporting agency.

14           (b) Provides to the consumer reporting agency sufficient proof of  
15 identification of the protected person and the representative.

16           (c) Provides to the consumer reporting agency sufficient proof of  
17 authority to act on behalf of the protected person.

18           B. If a consumer reporting agency does not have a file pertaining  
19 to a protected person when the consumer reporting agency receives a  
20 request pursuant to subsection A, paragraph 1 of this section, the  
21 consumer reporting agency shall create a record for the protected person.

22           C. Within thirty days after receiving a request pursuant to this  
23 section, a consumer reporting agency shall place a security freeze on the  
24 protected person's record or credit report.

25           D. Unless a security freeze is removed pursuant to subsection F or  
26 I of this section, a consumer reporting agency may not release the  
27 protected person's credit report, any information derived from the  
28 protected person's credit report or any record created for the protected  
29 person.

30           E. A security freeze that is placed on a protected person's record  
31 or credit report under this section remains in effect until either:

32           1. The protected person or the protected person's representative  
33 requests that the consumer reporting agency remove the security freeze  
34 pursuant to subsection F of this section.

35           2. The security freeze is removed pursuant to subsection I of this  
36 section.

37           F. To remove a security freeze for a protected person, the  
38 protected person or the protected person's representative shall submit a  
39 request for the removal of the security freeze to the consumer reporting  
40 agency at the address or other point of contact and in the manner  
41 specified by the consumer reporting agency. In addition:

42           1. If the protected person requested the removal of the security  
43 freeze, the protected person shall provide to the consumer reporting  
44 agency either of the following:

1 (a) Proof that the protected person's representative no longer has  
2 sufficient proof of authority to act on behalf of the protected person.

3 (b) Sufficient proof of identification of the protected person.

4 2. If the protected person's representative requested the removal  
5 of the security freeze on behalf of the protected person, the protected  
6 person's representative shall provide to the consumer reporting agency  
7 both of the following:

8 (a) Sufficient proof of identification of the protected person and  
9 the representative.

10 (b) Sufficient proof of authority to act on behalf of the protected  
11 person.

12 G. Within thirty days after receiving a request to remove a  
13 security freeze placed pursuant to subsection A of this section, the  
14 consumer reporting agency shall remove the security freeze for the  
15 protected person.

16 H. A consumer reporting agency may not charge a fee for each  
17 placement or removal of a security freeze on a protected person's record  
18 or credit report.

19 I. A consumer reporting agency may remove a security freeze for a  
20 protected person or may delete a protected person's record if the security  
21 freeze was placed or the record was created based on a material  
22 misrepresentation of fact by the protected person or the protected  
23 person's representative.

24 J. An act or practice in violation of this section is an unlawful  
25 practice under section 44-1522 and is subject to enforcement through a  
26 private action and by the attorney general. The attorney general may  
27 investigate and take appropriate action as prescribed by chapter 10,  
28 article 7 of this title. The remedies provided in this section are not  
29 intended to be the exclusive remedies available to a protected person.

30 K. This section does not apply to the use of a protected person's  
31 credit report or record by any of the following:

32 1. A person administering a credit file monitoring subscription  
33 service to which either:

34 (a) The protected person has subscribed.

35 (b) The protected person's representative has subscribed on behalf  
36 of the protected person.

37 2. A person providing the protected person or the protected  
38 person's representative with a copy of the protected person's credit  
39 report on the request of the protected person or the protected person's  
40 representative.

41 3. A check services or fraud prevention services company that  
42 issues either:

43 (a) Reports on incidents of fraud.

1 (b) Authorizations for the purpose of approving or processing  
2 negotiable instruments, electronic funds transfers or similar payment  
3 methods.

4 4. A deposit account information service company that issues  
5 reports relating to account closures due to fraud, substantial overdrafts,  
6 automated teller machine abuse or similar negative information about a  
7 protected person to inquiring banks or other financial institutions for  
8 use only in reviewing a protected person's request for a deposit account  
9 at the inquiring bank or financial institution.

10 5. An insurance company for the purpose of conducting its ordinary  
11 business.

12 6. A consumer reporting agency that both:

13 (a) Acts only to resell credit information by assembling and  
14 merging information contained in a database of another consumer reporting  
15 agency.

16 (b) Does not maintain a permanent database of credit information  
17 from which new credit reports are produced.

18 7. A consumer reporting agency's database or file that consists of  
19 information concerning and used for one or more of the following, but not  
20 for credit granting, purposes:

21 (a) Criminal record information.

22 (b) Fraud prevention or detection.

23 (c) Personal loss history information.

24 (d) ~~Employment~~, Tenant or individual background screening.

25 8. A governmental entity when carrying out its duties.

26 9. A person, a subsidiary, affiliate, agent or subcontractor of  
27 that person, an assignee of a financial obligation owed by the protected  
28 person to that person or a prospective assignee of a financial obligation  
29 owed by the protected person to that person in conjunction with the  
30 proposed purchase of the financial obligation with which the protected  
31 person has or had before assignment an account or contract, including a  
32 demand deposit account, or to whom the protected person issued a  
33 negotiable instrument, for the purposes of reviewing the account or  
34 collecting the financial obligation owed for the account, contract or  
35 negotiable instrument. For the purposes of this paragraph, "reviewing the  
36 account" includes activities that are related to account maintenance,  
37 monitoring, credit line increases and account upgrades and enhancements.

38 L. For the purposes of this section:

39 1. "Protected person" means an individual who is under sixteen  
40 years of age at the time a request for the placement of a security freeze  
41 is made or who is an incapacitated person or a protected person for whom a  
42 guardian or conservator has been appointed.

43 2. "Record" means a compilation of information to which all of the  
44 following apply:

45 (a) The record identifies a protected person.

1 (b) The record is created by a consumer reporting agency solely for  
2 the purpose of complying with this section.

3 (c) The record is not created or used to consider the protected  
4 person's creditworthiness, credit standing, credit capacity, character,  
5 general reputation, personal characteristics or mode of living.

6 3. "Representative" means a person who provides to a consumer  
7 reporting agency sufficient proof of authority to act on behalf of a  
8 protected person.

9 4. "Security freeze" means:

10 (a) If a consumer reporting agency does not have a file pertaining  
11 to a protected person, a restriction that is placed on the protected  
12 person's record and that prohibits the consumer reporting agency from  
13 releasing the protected person's record.

14 (b) If a consumer reporting agency has a file pertaining to the  
15 protected person, a restriction that is placed on the protected person's  
16 credit report and that prohibits the consumer reporting agency from  
17 releasing the protected person's credit report or any information derived  
18 from the protected person's credit report.

19 5. "Sufficient proof of authority" means documentation that shows a  
20 representative has authority to act on behalf of a protected person and  
21 includes:

22 (a) A court order.

23 (b) A lawfully executed and valid power of attorney.

24 (c) A written, notarized statement signed by a representative that  
25 expressly describes the authority of the representative to act on behalf  
26 of a protected person.

27 6. "Sufficient proof of identification" means information or  
28 documentation that identifies a protected person or a representative of a  
29 protected person and includes:

30 (a) A social security number or a social security card issued by  
31 the social security administration.

32 (b) A certified or official copy of a birth certificate issued by  
33 the department of health services.

34 (c) A driver license or a nonoperating identification license  
35 issued by the department of transportation pursuant to title 28, chapter 8  
36 or any other government issued identification.

37 Sec. 8. Short title

38 This act may be cited as the "Employee Credit Privacy Act".