

SENATE BILL NO. 379—COMMITTEE ON JUDICIARY

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Establishes various provisions relating to identity theft. (BDR 52-266)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to personal identifying information; prohibiting the public display of certain personal identifying information under certain circumstances and providing certain remedies; providing that a consumer may place a security alert or security freeze in certain files maintained by a reporting agency; providing for certain requirements and procedures relating to a security alert or security freeze; requiring a reporting agency to maintain a toll-free phone number for certain purposes; requiring a reporting agency to make certain disclosures in certain circumstances; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** Chapter 597 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this
3 act.
4 **Sec. 2.** *As used in sections 2 to 8, inclusive, of this act, unless*
5 *the context otherwise requires, the words and terms defined in*
6 *sections 3 and 4 of this act have the meanings ascribed to them in*
7 *those sections.*
8 **Sec. 3.** *“Individual” means a natural person.*
9 **Sec. 4.** *“Publicly display” means to intentionally*
10 *communicate or otherwise make available to the general public.*



1 **Sec. 5.** *The provisions of sections 2 to 8, inclusive, of this act*
2 *do not apply to a state government, local government, state*
3 *governmental agency or local governmental agency.*

4 **Sec. 6. 1.** *Except as otherwise provided in subsection 2, a*
5 *person shall not:*

6 (i) *Publicly display in any manner the social security number*
7 *of an individual;*

8 (ii) *Print a social security number of an individual on any card*
9 *required for the individual to access products or services provided*
10 *by the person;*

11 (iii) *Require an individual to transmit the social security*
12 *number of the individual over the Internet unless the connection is*
13 *secure or the social security number is encrypted;*

14 (iv) *Require an individual to use his social security number to*
15 *access an Internet website, unless a password or unique personal*
16 *identification number or other authentication device is also*
17 *required to access the website; or*

18 (v) *Print an individual's social security number on any*
19 *materials that are mailed to the individual, unless state or federal*
20 *law requires the social security number to be on the document to*
21 *be mailed. Notwithstanding this provision, applications and forms*
22 *sent by mail may include social security numbers.*

23 2. *A person who, before July 1, 2003, was using a social*
24 *security number of an individual in a lawful manner may continue*
25 *using the social security number of that individual in that manner*
26 *on or after July 1, 2003, regardless of whether that use violates the*
27 *provisions of subsection 1, if:*

28 (i) *The use of the social security number is continuous; and*

29 (ii) *The person provides to the individual an annual disclosure*
30 *statement that informs the individual of the right to stop the use of*
31 *the social security number of the individual by the person in a*
32 *manner that violates the provisions of subsection 1.*

33 3. *If a person who uses the social security number of an*
34 *individual pursuant to the provisions of subsection 2 receives a*
35 *written request from an individual to stop the use of the social*
36 *security number of the individual in a manner that violates the*
37 *provisions of subsection 1, the person shall implement the request*
38 *within 30 days after receipt of the request. The person shall not*
39 *impose a fee or charge for implementing the request.*

40 4. *A person shall not deny services to an individual because*
41 *the individual requests that the person cease to use the social*
42 *security number of the individual in a manner that violates the*
43 *provisions of subsection 1.*

44 5. *The provisions of this section do not prevent the:*



- 1 (a) *Collection, use or release of a social security number as*
- 2 *required by state or federal law; or*
- 3 (b) *Use of a social security number for internal verification or*
- 4 *administrative purposes.*
- 5 **Sec. 7.** *If a person willfully fails to comply with the*
- 6 *provisions of sections 2 to 8, inclusive, of this act, the person is*
- 7 *liable to the individual whose social security number is being used*
- 8 *in violation of the provisions of sections 2 to 8, inclusive, of this*
- 9 *act in an amount equal to the sum of:*
- 10 1. *Any actual damages sustained by the consumer as a result*
- 11 *of the violation;*
- 12 2. *Such amount of punitive damages as the court may allow;*
- 13 *and*
- 14 3. *The costs of the action plus reasonable attorney's fees.*
- 15 **Sec. 8.** *If a person negligently fails to comply with the*
- 16 *provisions of sections 2 to 8, inclusive, of this act, the person is*
- 17 *liable to the individual whose social security number is being used*
- 18 *in violation of the provisions of sections 2 to 8, inclusive, of this*
- 19 *act in an amount equal to the sum of:*
- 20 1. *Any actual damages sustained by the consumer as a result*
- 21 *of the violation; and*
- 22 2. *The costs of the action plus reasonable attorney's fees.*
- 23 **Sec. 9.** Chapter 598C of NRS is hereby amended by adding
- 24 thereto the provisions set forth as sections 10 to 19, inclusive, of this
- 25 act.
- 26 **Sec. 10.** *“Security alert” means a notice placed in the file of*
- 27 *a consumer, at the request of the consumer, that notifies a*
- 28 *recipient of the consumer report of the consumer that the identity*
- 29 *of the consumer may have been used without the consent of the*
- 30 *consumer to fraudulently obtain goods or services in the name of*
- 31 *the consumer.*
- 32 **Sec. 11.** *“Security freeze” means a notice placed in the file of*
- 33 *a consumer, at the request of the consumer, that prohibits the*
- 34 *reporting agency from releasing the consumer report of the*
- 35 *consumer or any information from the file of the consumer*
- 36 *without the express authorization of the consumer.*
- 37 **Sec. 12.** 1. *A consumer may place a security alert in the file*
- 38 *of the consumer by making a request to the reporting agency:*
- 39 (a) *In writing; or*
- 40 (b) *By telephone.*
- 41 2. *At the time of the request to place a security alert, the*
- 42 *consumer must provide to the reporting agency sufficient*
- 43 *identification to establish the identity of the consumer.*



1 3. A reporting agency shall place a security alert in the file of
2 a consumer no more than 5 business days after receiving a request
3 from the consumer to place a security alert in the file.

4 4. A reporting agency shall notify each person requesting a
5 consumer report of the existence of any security alert in the file of
6 that consumer.

7 5. A security alert must remain in place for at least 90 days,
8 and the consumer has the right to renew the security alert.

9 6. At the termination of a security alert placed in the file of a
10 consumer, if the consumer requests, a reporting agency shall
11 provide to the consumer a free copy of the consumer report of the
12 consumer.

13 **Sec. 13.** 1. A reporting agency shall maintain a toll-free
14 telephone number to accept requests for security alerts from a
15 consumer 24 hours a day, 7 days a week.

16 2. The toll-free telephone number, printed in a clear and
17 conspicuous manner, must be included in any disclosure by a
18 reporting agency to a consumer pursuant to the provisions of this
19 chapter.

20 **Sec. 14.** 1. A consumer may place a security freeze in the
21 file of the consumer by making a request in writing by certified
22 mail to a consumer credit reporting agency.

23 2. At the time of the request to place a security freeze, the
24 consumer must provide to the reporting agency sufficient
25 identification to establish the identity of the consumer.

26 3. A reporting agency shall place a security freeze in the file
27 of a consumer no more than 5 business days after receiving a
28 request from the consumer to place a security freeze in the file.

29 4. Within 10 business days after the placement of the security
30 freeze, the reporting agency shall:

31 (a) Send written confirmation to the consumer of the
32 placement of the security freeze in the file of the consumer; and

33 (b) Provide the consumer with:

34 (1) A unique personal identification number or password to
35 be used by the consumer when providing authorization for the
36 release of the consumer report of the consumer; and

37 (2) Information on the procedure for contacting the
38 reporting agency to temporarily authorize the release of the
39 consumer report of the consumer or to remove a security freeze
40 from the file of the consumer.

41 5. Except as otherwise provided by subsection 6 and sections
42 16 to 19, inclusive, of this act, if a security freeze has been placed
43 in the file of a consumer, a reporting agency shall not provide a
44 consumer report of the consumer to a third party.



- 1 6. *The reporting agency may release to a person requesting*
- 2 *the consumer report of a consumer that a security freeze is in*
- 3 *effect with respect to the consumer report of the consumer.*
- 4 7. *A reporting agency may charge a reasonable fee to a*
- 5 *consumer to place a security freeze pursuant to the provisions of*
- 6 *this section, except that a reporting agency may not charge a fee to*
- 7 *place a security freeze to a victim of identity theft who submits, at*
- 8 *the time the security freeze is requested, a police report evidencing*
- 9 *that the consumer was a victim of identity theft.*
- 10 8. *Except as otherwise provided by sections 16, 17 and 18 of*
- 11 *this act, a reporting agency shall not remove a security freeze*
- 12 *placed into the file of a consumer pursuant to the provisions of*
- 13 *this section.*
- 14 **Sec. 15.** *1. After a security freeze has been placed in the*
- 15 *file of a consumer pursuant to the provisions of section 14 of this*
- 16 *act, a reporting agency shall not make any changes to the file of*
- 17 *the consumer relating to:*
- 18 (a) *The name of the consumer;*
- 19 (b) *The date of birth of the consumer;*
- 20 (c) *The social security number of the consumer; and*
- 21 (d) *The address of the consumer,*
- 22 *without sending written confirmation of the change to the*
- 23 *consumer within 30 days after the change is posted to the file of*
- 24 *the consumer.*
- 25 2. *Written confirmation is not required for technical*
- 26 *modifications of the information related to a consumer.*
- 27 3. *For a change of the address of the consumer, the written*
- 28 *confirmation must be sent to both the new address and to the*
- 29 *former address.*
- 30 **Sec. 16.** *1. To authorize the temporary release of the*
- 31 *consumer report of the consumer after a security freeze has been*
- 32 *placed in the file of the consumer pursuant to the provisions of*
- 33 *section 14 of this act, the consumer must:*
- 34 (a) *Contact the reporting agency;*
- 35 (b) *Request that the consumer report of the consumer be*
- 36 *temporarily released; and*
- 37 (c) *Provide to the reporting agency:*
- 38 (1) *Sufficient identification to establish the identity of the*
- 39 *consumer;*
- 40 (2) *The unique personal identification number or password*
- 41 *provided by the reporting agency pursuant to subparagraph (1) of*
- 42 *paragraph (b) of subsection 4 of section 14 of this act; and*
- 43 (3) *Information:*
- 44 (I) *Regarding the party who is to receive the consumer*
- 45 *report of the consumer; or*



1 (ii) *The period for which the consumer report will be*
2 *available to persons who request the consumer report of the*
3 *consumer.*

4 2. *A reporting agency that receives a request from a*
5 *consumer to temporarily release the consumer report of the*
6 *consumer pursuant to subsection 1, shall comply with the request*
7 *no later than 3 business days after receiving the request.*

8 3. *A reporting agency shall develop procedures for a*
9 *consumer to contact the reporting agency to authorize the release*
10 *of a consumer report pursuant to the provisions of subsection 1.*
11 *These procedures may include, without limitation, the use of*
12 *telephone, facsimile machine, the Internet or other electronic*
13 *media by a consumer to authorize the release of the consumer*
14 *report of the consumer.*

15 4. *A reporting agency may charge a reasonable fee to a*
16 *consumer requesting to temporarily release the consumer report of*
17 *the consumer pursuant to the provisions of this section, except*
18 *that a reporting agency may not charge a fee to temporarily*
19 *release the consumer report of a consumer if the consumer was a*
20 *victim of identity theft and submitted, at the time the consumer*
21 *placed the security freeze, a police report evidencing that the*
22 *consumer was a victim of identity theft.*

23 **Sec. 17. 1.** *To authorize the permanent removal of a*
24 *security freeze that has been placed in the file of a consumer*
25 *pursuant to the provisions of section 14 of this act, the consumer*
26 *must:*

- 27 (a) *Contact the reporting agency;*
28 (b) *Request that the security freeze be released; and*
29 (c) *Provide to the reporting agency:*
30 (1) *Sufficient identification to establish the identity of the*
31 *consumer; and*

32 (2) *The unique personal identification number or password*
33 *provided by the reporting agency pursuant to subparagraph (1) of*
34 *paragraph (b) of subsection 4 of section 14 of this act.*

35 2. *A reporting agency that receives a request from a*
36 *consumer pursuant to subsection 1 to release a security freeze*
37 *placed into the file of the consumer shall comply with the request*
38 *no later than 3 business days after receiving the request.*

39 3. *A reporting agency shall develop procedures for a*
40 *consumer to contact the reporting agency to authorize the removal*
41 *of a security freeze that has been placed in the file of the*
42 *consumer pursuant to the provisions of subsection 1. These*
43 *procedures may include, without limitation, the use of telephone,*
44 *facsimile machine, the Internet or other electronic media by a*
45 *consumer to authorize the removal of a security freeze.*



1 4. A reporting agency may charge a reasonable fee to a
2 consumer requesting to permanently remove a security freeze from
3 the file of the consumer pursuant to the provisions of this section,
4 except that a reporting agency may not charge a fee to
5 permanently remove a security freeze from the file of a consumer
6 pursuant to the provisions of this section if the consumer was a
7 victim of identity theft and submitted, at the time the consumer
8 placed the security freeze, a police report evidencing that the
9 consumer was a victim of identity theft.

10 **Sec. 18. 1.** A reporting agency may remove a security
11 freeze from the file of a consumer if the reporting agency has
12 reasonable belief that the consumer placed the security freeze into
13 the file of the consumer for the purposes of:

- 14 (a) Committing fraud;
- 15 (b) Misrepresenting any material fact;
- 16 (c) Aiding and abetting any unlawful act; or
- 17 (d) Any other act prohibited by law.

18 2. If a reporting agency removes a security freeze pursuant to
19 the provisions of subsection 1, the reporting agency shall, within 5
20 days of removing the security freeze, provide written notice to the
21 consumer that the reporting agency is removing the security
22 freeze.

23 **Sec. 19.** Notwithstanding that a security freeze has been
24 placed in the file of the consumer pursuant to the provisions of
25 section 14 of this act, a reporting agency shall release the
26 consumer report of a consumer to:

27 1. A person with whom the consumer has an existing
28 business relationship for any purpose relating to the relationship
29 between the person and the consumer;

30 2. A third party to whom an account of the consumer has
31 been assigned for purpose of collection;

32 3. Any person requesting the consumer report pursuant to a
33 court order, warrant or subpoena;

34 4. An agency, acting pursuant to the provisions Part D of
35 Title IV of the Social Security Act, 42 U.S.C. §§ 651 et seq.,
36 seeking to collect child support payments;

37 5. A person that seeks to use information in the file of a
38 consumer for the purposes of prescreening as provided for by the
39 Fair Credit Reporting Act; and

40 6. A state government, local government, state governmental
41 agency or local governmental agency.

42 **Sec. 20.** NRS 598C.010 is hereby amended to read as follows:
43 598C.010 As used in this chapter, unless the context otherwise
44 requires, the words and terms defined in NRS 598C.020 to



1 598C.100, inclusive, *and sections 10 and 11 of this act* have the
2 meanings ascribed to them in those sections.

3 **Sec. 21.** NRS 598C.130 is hereby amended to read as follows:
4 598C.130 *1.* Upon request and information sufficient to
5 identify a consumer, a reporting agency shall:

6 ~~1-1~~ (a) Clearly and accurately disclose to the consumer the
7 nature and substance of the consumer report in its files which relates
8 to him at the time of the request, and disclose the names of the
9 institutional sources of information. If the consumer requests, the
10 reporting agency shall provide a readable copy of the consumer
11 report.

12 ~~1-2~~ (b) Disclose the name of each person who has received
13 from the reporting agency information concerning him:

14 ~~1-3~~ (1) Within the preceding 2 years for purposes of
15 employment, promotion, reassignment or retention as an employee;
16 or

17 ~~1-4~~ (2) Within the preceding ~~6~~ 12 months for any other
18 purpose.

19 *2. At the discretion of the consumer, any disclosure pursuant*
20 *to the provisions of subsection 1 must be made to the consumer:*

- 21 (a) *In person, at the office of the reporting agency;*
- 22 (b) *By mail, to the address specified by the consumer; or*
- 23 (c) *By telephone.*

24 *3. A reporting agency shall make available to a consumer*
25 *personnel trained to explain to the consumer any information*
26 *furnished to him pursuant subsection 1.*

27 *4. If a reporting agency provides a disclosure pursuant to the*
28 *provisions of paragraph (a) of subsection 2, the consumer may be*
29 *accompanied by a person of the consumer's choice. A reporting*
30 *agency may require that:*

- 31 (a) *The accompanying person provide identification sufficient*
32 *to establish the identity of the accompanying person; and*
- 33 (b) *The consumer sign a waiver providing that the file of the*
34 *consumer may be disclosed in the presence of the accompanying*
35 *person.*

36 *5. Any written disclosure by a reporting agency to a*
37 *consumer pursuant to this section must include a written summary*
38 *of the rights of the consumer pursuant to the provisions of this*
39 *chapter. The written summary of rights required by this subsection*
40 *is sufficient if it is in substantially the following form:*

41
42 *"You have a right to obtain a copy of your file from a*
43 *reporting agency. If adverse action has been taken against*
44 *you because of information in your consumer report within*
45 *the preceding 60 days, you have the right to obtain a copy of*



1 *your file without paying a fee. If you request, the consumer*
2 *credit reporting agency must provide someone to help you*
3 *interpret the information in your credit file.*

4 *You have a right to dispute inaccurate information by*
5 *contacting the reporting agency directly. However, neither*
6 *you nor anyone working on your behalf has the right to*
7 *have accurate, current and verifiable information removed*
8 *from your credit report. A reporting agency must remove*
9 *accurate, negative information from your report only if it is*
10 *over 7 years old. Bankruptcy information may be reported*
11 *for 10 years.*

12 *If you have notified a reporting agency in writing that*
13 *you dispute the accuracy of information in your file, the*
14 *reporting agency must, within 30 business days,*
15 *reinvestigate and modify or remove inaccurate information.*
16 *The reporting agency may not charge a fee for this service.*
17 *Any pertinent information and copies of all documents you*
18 *have concerning an error should be given to the reporting*
19 *agency.*

20 *If reinvestigation does not resolve the dispute to your*
21 *satisfaction, you may send a brief statement to the reporting*
22 *agency to keep in your file, explaining why you think the*
23 *record is inaccurate. The reporting agency must include*
24 *your statement about disputed information in a consumer*
25 *report it issues about you.*

26 *You have a right to receive a record of all inquiries*
27 *relating to a credit transaction initiated during the 12*
28 *months preceding your request. This record must include*
29 *the recipients of your consumer report.*

30 *You have a right to place a "security alert" in your file*
31 *which will warn anyone who receives your consumer report*
32 *that your identity may have been used without your consent*
33 *and that recipients of your credit report are advised, but not*
34 *required, to verify your identity before issuing credit. The*
35 *security alert may prevent credit, loans and services from*
36 *being approved in your name without your consent.*
37 *However, you should be aware that taking advantage of this*
38 *right may delay or interfere with the timely approval of any*
39 *subsequent request or application you make regarding a*
40 *new loan, credit, mortgage, insurance, rental housing,*
41 *employment, investment, license, cellular phone, utilities,*
42 *digital signature, Internet credit card transaction or other*
43 *services, including an extension of credit at point of sale. If*
44 *you place a security alert in your file, you have a right to*
45 *obtain a free copy of your credit report at the time the*



1 *security alert period expires. A security alert may be*
2 *requested by calling the following toll-free telephone*
3 *number: (Insert applicable toll-free telephone number).*

4 *You have a right to place a "security freeze" in your file*
5 *which will prohibit a reporting agency from releasing any*
6 *information in your file without your express authorization.*
7 *A security freeze must be requested in writing by certified*
8 *mail. The security freeze is designed to prevent a reporting*
9 *agency from releasing your consumer report without your*
10 *consent. However, you should be aware that using a*
11 *security freeze to take control over who is allowed access to*
12 *the personal and financial information in your file may*
13 *delay, interfere with or prohibit the timely approval of any*
14 *subsequent request or application you make regarding a*
15 *new loan, credit, mortgage, insurance, government services*
16 *or payments, rental housing, employment, investment,*
17 *license, cellular phone, utilities, digital signature, Internet*
18 *credit card transaction or other services, including an*
19 *extension of credit at point of sale. When you place a*
20 *security freeze in your file, you will be provided a personal*
21 *identification number or password to use if you choose to*
22 *remove the security freeze in your file or to authorize the*
23 *release of your consumer report for a specific party or*
24 *period of time after the freeze is in place. To provide that*
25 *authorization you must contact the reporting agency and*
26 *provide all of the following:*

- 27 *1. The personal identification number or password.*
- 28 *2. Proper identification to verify your identity.*
- 29 *3. Information regarding who is to receive your*
30 *consumer report or the period of time for which the*
31 *consumer report must be available.*

32 *A reporting agency must authorize the release of your*
33 *consumer report no later than 3 business days after*
34 *receiving the above information.*

35 *A security freeze does not apply to a person, or collection*
36 *agencies acting on behalf of a person, with whom you have*
37 *an existing account that requests information in your credit*
38 *report for the purposes of reviewing or collecting the*
39 *account.*

40 *You have a right to bring civil action against anyone,*
41 *including a reporting agency, who improperly obtains*
42 *access to your file, knowingly or willfully misuses file data,*
43 *or fails to correct inaccurate file data."*



* S B 3 7 9 *

1 **Sec. 22.** This act becomes effective July 1, 2003.

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