

1-1 By: Nelson S.B. No. 60  
1-2 (In the Senate - Filed November 12, 2012; January 28, 2013,  
1-3 read first time and referred to Committee on Business and Commerce;  
1-4 February 13, 2013, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0;  
1-6 February 13, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			
1-15	<u>X</u>			
1-16	<u>X</u>			
1-17	<u>X</u>			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 60 By: Watson

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to authorizing the placement of a security freeze on the  
1-22 consumer file or other record created or maintained by a consumer  
1-23 reporting agency regarding a person under 16 years of age.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Chapter 20, Business & Commerce Code, is amended  
1-26 by adding Subchapter E to read as follows:

1-27 SUBCHAPTER E. SECURITY FREEZE FOR CHILD

1-28 Sec. 20.21. DEFINITIONS. In this subchapter:

1-29 (1) "Protected consumer" means an individual who  
1-30 resides in this state and is younger than 16 years of age at the time  
1-31 a request for the placement of a security freeze is made.

1-32 (2) "Record," with respect to a protected consumer,  
1-33 means a compilation of information identifying a protected consumer  
1-34 created by a consumer reporting agency solely to comply with this  
1-35 subchapter.

1-36 (3) "Representative" means a person who provides to a  
1-37 consumer reporting agency sufficient proof of authority to act on  
1-38 behalf of a protected consumer.

1-39 (4) "Security freeze," with respect to a protected  
1-40 consumer, means:

1-41 (A) if a consumer reporting agency does not have  
1-42 a consumer file pertaining to the protected consumer, a restriction  
1-43 that:

1-44 (i) is placed on the protected consumer's  
1-45 record in accordance with this subchapter; and

1-46 (ii) prohibits a consumer reporting agency  
1-47 from releasing a consumer report relating to the extension of  
1-48 credit involving the consumer's record without the express  
1-49 authorization of the consumer's representative or the consumer, as  
1-50 applicable; or

1-51 (B) if a consumer reporting agency has a consumer  
1-52 file pertaining to the protected consumer, a restriction that:

1-53 (i) is placed on the protected consumer's  
1-54 consumer report in accordance with this subchapter; and

1-55 (ii) except as otherwise provided by this  
1-56 subchapter, prohibits a consumer reporting agency from releasing  
1-57 the protected consumer's consumer report relating to the extension  
1-58 of credit involving that consumer file, or any information derived  
1-59 from the protected consumer's consumer report.

1-60 Sec. 20.22. APPLICABILITY; CONFLICT OF LAW. (a) This

2-1 subchapter does not apply to the use of a protected consumer's  
2-2 consumer report or record by:

2-3 (1) a person administering a credit file monitoring  
2-4 subscription service to which:

2-5 (A) the protected consumer has subscribed; or  
2-6 (B) the representative of the protected consumer  
2-7 has subscribed on behalf of the protected consumer;

2-8 (2) a person providing the protected consumer or the  
2-9 protected consumer's representative with a copy of the protected  
2-10 consumer's consumer report on request of the protected consumer or  
2-11 the protected consumer's representative;

2-12 (3) a consumer reporting agency with respect to a  
2-13 database or file that consists entirely of information concerning,  
2-14 and is used solely for, one or more of the following:

2-15 (A) criminal history record information;

2-16 (B) personal loss history information;

2-17 (C) fraud prevention or detection;

2-18 (D) tenant screening; or

2-19 (E) employment screening; or

2-20 (4) an entity described by Section 20.038(11), (12),  
2-21 or (13).

2-22 (b) To the extent of a conflict between a provision of this  
2-23 subchapter relating to a protected consumer and another provision  
2-24 of this chapter, this subchapter controls.

2-25 Sec. 20.23. PROOF OF AUTHORITY AND IDENTIFICATION.

2-26 (a) Documentation that shows a person has authority to act on  
2-27 behalf of a protected consumer is considered sufficient proof of  
2-28 authority for purposes of this subchapter, including:

2-29 (1) an order issued by a court; or

2-30 (2) a written, notarized statement signed by a  
2-31 representative that expressly describes the authority of the  
2-32 representative to act on behalf of a protected consumer.

2-33 (b) Information or documentation that identifies a  
2-34 protected consumer or a representative of a protected consumer is  
2-35 considered sufficient proof of identity for purposes of this  
2-36 subchapter, including:

2-37 (1) a social security number or a copy of the social  
2-38 security card issued by the United States Social Security  
2-39 Administration;

2-40 (2) a certified or official copy of a birth  
2-41 certificate issued by the entity authorized to issue the birth  
2-42 certificate;

2-43 (3) a copy of a driver's license or identification card  
2-44 issued by the Department of Public Safety; or

2-45 (4) any other government-issued identification.

2-46 Sec. 20.24. USE OF RECORD TO CONSIDER CREDITWORTHINESS OR  
2-47 FOR OTHER PURPOSES PROHIBITED. A protected consumer's record may  
2-48 not be created or used to consider the protected consumer's  
2-49 creditworthiness, credit standing, credit capacity, character,  
2-50 general reputation, personal characteristics, or mode of living for  
2-51 any purpose described by Section 20.01(4).

2-52 Sec. 20.25. REQUEST TO PLACE A SECURITY FREEZE; CREATION OF  
2-53 RECORD. (a) Except as provided by Subsection (b), a consumer

2-54 reporting agency shall place a security freeze on a protected  
2-55 consumer's consumer file if:

2-56 (1) the consumer reporting agency receives a request  
2-57 from the protected consumer's representative for the placement of  
2-58 the security freeze as provided by this section; and

2-59 (2) the protected consumer's representative:

2-60 (A) submits the request to the consumer reporting  
2-61 agency at the address or other point of contact of and in the manner  
2-62 specified by the consumer reporting agency;

2-63 (B) provides to the consumer reporting agency  
2-64 sufficient proof of identification of the protected consumer and  
2-65 the representative;

2-66 (C) provides to the consumer reporting agency  
2-67 sufficient proof of authority to act on behalf of the protected  
2-68 consumer; and

2-69 (D) pays to the consumer reporting agency a fee

3-1 as provided by Section 20.29.

3-2 (b) If a consumer reporting agency does not have a consumer  
 3-3 file pertaining to a protected consumer when the consumer reporting  
 3-4 agency receives a request under Subsection (a) and if the  
 3-5 requirements of Subsection (a) are met, the consumer reporting  
 3-6 agency shall create a record for the protected consumer and place a  
 3-7 security freeze on the protected consumer's record.

3-8 (c) The consumer reporting agency shall place the security  
 3-9 freeze on the protected consumer's consumer file or record, as  
 3-10 applicable, not later than the 30th day after receiving a request  
 3-11 that meets the requirements of Subsection (a).

3-12 Sec. 20.26. RELEASE OF CONSUMER REPORT PROHIBITED. Unless  
 3-13 a security freeze on a protected consumer's consumer file or record  
 3-14 is removed under Section 20.28 or 20.30, a consumer reporting  
 3-15 agency may not release any consumer report relating to the  
 3-16 protected consumer, any information derived from the protected  
 3-17 consumer's consumer report, or any record created for the protected  
 3-18 consumer.

3-19 Sec. 20.27. PERIOD OF SECURITY FREEZE. A security freeze on  
 3-20 a protected consumer's consumer file or record remains in effect  
 3-21 until:

3-22 (1) the protected consumer or the protected consumer's  
 3-23 representative requests that the consumer reporting agency remove  
 3-24 the security freeze in accordance with Section 20.28; or

3-25 (2) a consumer reporting agency removes the security  
 3-26 freeze under Section 20.30.

3-27 Sec. 20.28. REMOVAL OF SECURITY FREEZE. (a) A protected  
 3-28 consumer or a protected consumer's representative may remove a  
 3-29 security freeze on a protected consumer's consumer file or record  
 3-30 if the protected consumer or representative:

3-31 (1) submits a request for the removal of the security  
 3-32 freeze to the consumer reporting agency at the address or other  
 3-33 point of contact of and in the manner specified by the consumer  
 3-34 reporting agency;

3-35 (2) provides to the consumer reporting agency:

3-36 (A) in the case of a request by the protected  
 3-37 consumer:

3-38 (i) sufficient proof of identification of  
 3-39 the protected consumer; and

3-40 (ii) proof that the sufficient proof of  
 3-41 authority for the protected consumer's representative to act on  
 3-42 behalf of the protected consumer is no longer valid; or

3-43 (B) in the case of a request by the  
 3-44 representative of a protected consumer:

3-45 (i) sufficient proof of identification of  
 3-46 the protected consumer and the representative; and

3-47 (ii) sufficient proof of authority to act  
 3-48 on behalf of the protected consumer; and

3-49 (3) pays to the consumer reporting agency a fee as  
 3-50 provided by Section 20.29.

3-51 (b) The consumer reporting agency shall remove the security  
 3-52 freeze on the protected consumer's consumer file or record not  
 3-53 later than the 30th day after the date the agency receives a request  
 3-54 that meets the requirements of Subsection (a).

3-55 Sec. 20.29. FEES. (a) A consumer reporting agency may not  
 3-56 charge a fee for any service performed under this subchapter other  
 3-57 than a fee authorized by this section.

3-58 (b) Except as provided by Subsection (c), a consumer  
 3-59 reporting agency may charge a reasonable fee in an amount not to  
 3-60 exceed \$10 for each placement or removal of a security freeze on the  
 3-61 protected consumer's consumer file or record.

3-62 (c) A consumer reporting agency may not charge a fee for the  
 3-63 placement of a security freeze under this subchapter if:

3-64 (1) the protected consumer's representative submits to  
 3-65 the consumer reporting agency a copy of a valid police report,  
 3-66 investigative report, or complaint involving the commission of an  
 3-67 offense under Section 32.51, Penal Code; or

3-68 (2) at the time the protected consumer's  
 3-69 representative makes the request for a security freeze:

4-1 (A) the protected consumer is under the age of  
4-2 16; and

4-3 (B) the consumer reporting agency has created a  
4-4 consumer report pertaining to the protected consumer.

4-5 Sec. 20.30. EFFECT OF MATERIAL MISREPRESENTATION OF FACT.  
4-6 A consumer reporting agency may remove a security freeze on a  
4-7 protected consumer's consumer file or record, or delete a record of  
4-8 a protected consumer, if the security freeze was placed or the  
4-9 record was created based on a material misrepresentation of fact by  
4-10 the protected consumer or the protected consumer's representative.

4-11 Sec. 20.31. REMEDY FOR VIOLATION. Notwithstanding  
4-12 Subchapter D or any other law, the exclusive remedy for a violation  
4-13 of this subchapter is a suit filed by the attorney general under  
4-14 Section 20.11.

4-15 SECTION 2. Sections 20.01, 20.02, 20.021, and 20.03,  
4-16 Business & Commerce Code, are designated as Subchapter A, Chapter  
4-17 20, Business & Commerce Code, and a heading is added to that  
4-18 subchapter to read as follows:

4-19 SUBCHAPTER A. GENERAL REQUIREMENTS

4-20 SECTION 3. Sections 20.031, 20.032, 20.033, 20.034, 20.035,  
4-21 20.036, 20.037, 20.038, 20.0385, and 20.039, Business & Commerce  
4-22 Code, are designated as Subchapter B, Chapter 20, Business & Commerce  
4-23 Code, and a heading is added to that subchapter to read as  
4-24 follows:

4-25 SUBCHAPTER B. SECURITY ALERT AND SECURITY FREEZE

4-26 SECTION 4. Sections 20.04, 20.05, 20.06, and 20.07,  
4-27 Business & Commerce Code, are designated as Subchapter C, Chapter  
4-28 20, Business & Commerce Code, and a heading is added to that  
4-29 subchapter to read as follows:

4-30 SUBCHAPTER C. RESTRICTIONS ON AND AUTHORITY OF CONSUMERS AND  
4-31 CONSUMER REPORTING AGENCIES

4-32 SECTION 5. Sections 20.08, 20.09, 20.10, 20.11, 20.12, and  
4-33 20.13, Business & Commerce Code, are designated as Subchapter D,  
4-34 Chapter 20, Business & Commerce Code, and a heading is added to that  
4-35 subchapter to read as follows:

4-36 SUBCHAPTER D. ENFORCEMENT

4-37 SECTION 6. This Act takes effect January 1, 2014.

4-38 \* \* \* \* \*