Date of Hearing: April 23, 2024

ASSEMBLY COMMITTEE ON HUMAN SERVICES
Alex Lee, Chair
AB 2935 (Maienschein) – As Amended April 17, 2024

SUBJECT: Foster children: consumer credit reports

SUMMARY: Revises requirements related to the placement or removal of a security freeze for a protected consumer who has been placed in a foster care setting. Specifically, **this bill**:

1) Requires, if the request for the placement or removal of a security freeze is for a protected consumer who has been placed in a foster care setting, the credit reporting agency (CRA) to deem existing requirements placed on the protected consumer's representative to have been met if the request is verifiably from a county welfare department, a county probation department, or the California Department of Social Services (CDSS), as described.

2) Requires, if an inquiry received of each of the three major CRAs as to whether the child has any consumer credit history due to a foster youth reaching their 14th birthday, and each year thereafter while the child is in care, indicates that the foster youth has a consumer credit history, any information that appears on the protected consumer's credit report shall be promptly blocked and not reported, in the same manner as if the agency had received a police report. Requires the CRA to also comply with existing law related to the submission of police reports and unblocking, regarding the child who has been placed in a foster care setting.

3) Requires, with respect to a protected consumer who has been placed in a foster care setting, the freeze to automatically expire on the consumer's 18th birthday unless the consumer, either directly or through their representative, instructs the agency to maintain the freeze beyond that date.

4) Permits, notwithstanding 4) above, a freeze to be removed upon the request of the representative of the protected consumer who has been placed in a foster care setting after the protected consumer's 16th birthday.

EXISTING LAW:

State Law

1) Requires, when a child in a foster care placement reaches their 14th birthday, and each year thereafter, while the child is under the jurisdiction of the juvenile court, the county welfare department, the county probation department, or, if an automated process is available, CDSS, to inquire of each of the three major CRAs as to whether the child has any consumer credit history. Requires, if CDSS makes the inquiry, to notify the county welfare department or county probation department in the county having jurisdiction over the child of the results of that inquiry. (Welfare and Institutions Code § 10618.6(a))

2) Establishes the Consumer Credit Reporting Agencies Act (the Act). The Act defines "consumer credit report" as any written, oral, or other communication of any information by a consumer CRA bearing on a consumer's creditworthiness, credit standing, or credit

capacity, which is used or is expected to be used, or collected in whole or in part, for the purpose of serving as a factor in establishing the consumer's eligibility for a specified purpose. (Civil Code [CIV] § 1785.3.)

3) Requires a CRA to place a security freeze for a protected consumer under specified conditions. (CIV § 1785.11.11.)

Federal Law

4) Provides for the Fair Credit Reporting Act (FCRA) which regulates the collection, dissemination, and use of consumer credit information. Requires a consumer reporting agency to block the reporting of any information in the file of a consumer that the consumer identifies as information that resulted from an alleged identity theft. (15 United States Code [U.S.C.] § 1681 *et seq*.)

5) Pursuant to FCRA, requires, if an inquiry performed indicates that a child has a consumer credit history with any major CRA, the responsible county welfare department or county probation department to request a consumer credit report from that CRA. (15 U.S.C. § 1681 *et seq)*

6) Requires each foster youth 16 years of age or older to receive a free copy of any credit report pertaining to the youth annually until discharged from care and assistance in interpreting and clearing any inaccuracies in the credit report. (Public Law 112-34)

FISCAL EFFECT: This bill was keyed nonfiscal by the Legislative Counsel.

COMMENTS: This bill was double referred to the Assembly Committee on Banking and Finance and was heard by that Committee as it relates to issues under its jurisdiction. The following analysis will only discuss this bill as it pertains to the impact on foster youth.

Background: *Foster Youth, Credit Reports, and Identity Theft.* Foster youth are especially vulnerable to identity theft; however, the scope of the problem is unknown, but likely to happen as foster youth may experience frequent placement changes where sensitive personal information changes hands. It is often not until the minor exits foster care, and applies for credit or an apartment, that the identity theft is discovered. Identity theft can derail a foster youth's ability to successfully transition to adulthood before it has begun, as it can create costly and time-consuming barriers to applying for jobs or housing, and opening a bank account, or applying for credit. Without a parent or guardian to safeguard a minor's credit or make a written request on their behalf, it is incumbent upon the state to assume the role of the parent, including the responsibility to protect a youth's creditworthiness.

A report from the California Office of Privacy Protection in 2011, found that 5% of foster youth with credit reports had accounts reported in their names due to errors or identity theft. These errors included creditor mistakes, mixed identity, and incorrect or fraudulent use of a youth's name or Social Security number on delinquent accounts. Sometimes there were more severe instances of identity theft and fraud. Other key findings from the report include:

- The project team successfully cleared all negative items from the credit reports of 104 foster children.

- The average account balance was $1,811, with the largest being a home loan of over $200,000.

- The accounts found were two to three years old, opened when the child was 14 years of age on average.

- 12% of the children had records loosely linked to them by Social Security number only, which while not affecting their credit ratings could nevertheless pose problems for them in the future. (California Office of Privacy Protection. *A Better Start: Clearing Up Credit Records for California Foster Children*, 2011)

Past and Current Efforts to Protect Foster Youth's Credit. Federal and state laws mandate that foster care agencies take proactive measures to ensure that children in foster care have access to their credit reports and receive assistance in resolving any inaccuracies or cases of identity theft. According to federal law (Public Law 112-34), states are obligated to conduct credit checks on older foster children and address identity theft concerns before they transition out of the system. The Child and Family Services Improvement and Innovation Act amends 42 U.S.C. 675(5) to address identity theft among foster youth, ensuring that every child in state foster care who reaches 16 years of age receives annual copies of their consumer report at no charge until their discharge, along with assistance in understanding and rectifying any inaccuracies therein, potentially involving court-appointed advocates.

Additionally, California mandates county welfare and probation departments to solicit credit reports for foster children starting at 14 years of age, as per the federal Fair Credit Reporting Act's provision for free annual disclosures. This process continues annually while the child remains under juvenile court jurisdiction, aiming to detect any instances of identity theft and provide support in deciphering the credit report and rectifying inaccuracies. SB 794 (Committee on Human Services), Chapter 425, Statutes of 2015, further stipulated that inquiries about a dependent child's credit history must commence at 14 years of age instead of 16 years of age.

This bill requires a CRA to block and stop reporting information on a foster youth's credit report if such information is shown to exist following a specified inquiry, and requires a CRA to automatically lift a security freeze when a foster youth turns 18 years of age. Making it easier to remedy identify theft for foster youth is another step in past efforts to protect foster youth's credit.

Author's Statement: According to the Author, "Foster youth are especially vulnerable to having their identities stolen due to the large number of people who have access to their personal information. Each time a foster child changes placements, additional individuals gain access to their information, including their social security number. It is estimated that at least fifteen percent of foster youth become the victims of identity theft. Children have always been an attractive target for identity thieves because their credit reports are clean and are often left unmonitored for many years, providing ample time to cause substantial damage to the child's credit. Once a foster youth reaches 14, or if they come into the system after the age of 14, current law requires county welfare departments to check with the three credit bureaus to see if a credit report exists. Because children should not have credit reports, the existence of a report is likely the result of fraud. If a report does exist, social workers must provide foster youth with information and assistance to fix credit inaccuracies. However, our current laws only come into play after a youth has been victimized. [This bill] seeks to prevent identity theft in the first place by requiring the credit bureaus to automatically freeze an individual's credit reports when they receive an inquiry from a county welfare department regarding a foster youth. Placing the automatic freeze will prevent nefarious actors from being able to open accounts in a child's name."

Equity Implications: Foster youth already face enormous barriers to educational attainment, employment, and access to housing. Foster youth often endure trauma both prior to care and while living in the system. Often, foster youth come from communities which already experience disproportionate levels of high unemployment rates which are impacted by factors such as low education rates, young parenthood, homelessness and incarceration. It is important that on top of the barriers these vulnerable youth face, that identity theft is not one of them. The provisions of this bill aims to provide solutions to foster youth to help them navigate a financial future free from erroneous credit reports.

Double referral: This bill was previously heard in the Assembly Banking and Finance Committee on April 15, 2024, and was approved on a 9-0 vote.

RELATED AND PRIOR LEGISLATION:

AB 1580 (Gatto), Chapter 494, Statutes of 2016, amended the Consumer Credit Reporting Agencies Act to require a CRA to place a security freeze for a protected consumer under 16 years of age after a request from the child's representative.

SB 794 (Committee on Human Services), Chapter 425, Statutes of 2015, see comments above.

AB 1658 (Jones-Sawyer), Chapter 762, Statutes of 2014, required that when a child in foster care reaches their 16th birthday, and each year thereafter, while the child is under the jurisdiction of the juvenile court, the county welfare department, county probation department, or, CDSS to inquire of each of the three major CRAs as to whether the child has any consumer credit history instead of requesting a consumer credit disclosure.

SB 1521 (Liu), Chapter 847, Statutes of 2012, required, among other provisions, county welfare agencies to annually request a free consumer credit report when they turn 16 years of age and for each year thereafter, bringing California into compliance with new federal rules.

AB 846 (Bonilla) of 2011, would have clarified how county welfare departments request consumer credit reports on youth in foster care and the procedures of handling any identity theft that is suspected.

AB 2698 (Block) of 2010, would have clarified requirements for county welfare departments to request credit reports on behalf of youth in foster care at 16 years of age in order to detect and correct identity theft and would have required CDSS to share in this responsibility. *AB 2698 was vetoed by Governor Schwarzenegger.*

AB 2985 (Maze), Chapter 387, Statutes of 2006, required a county welfare department to request a consumer credit disclosure on a foster youth turning 16 years of age, and to refer that foster youth to a credit counseling organization upon evidence of identity theft.

REGISTERED SUPPORT / OPPOSITION:

Support

Childrens Advocacy Institute (Co-Sponsor)
Just in Time for Foster Youth (JIT) (Co-Sponsor)
Advokids
Angels Foster Family Network
California Alliance of Caregivers
California State University San Marcos Department of Social Work
Children Now
East Bay Children's Law Offices
Los Angeles Dependency Lawyers, INC.
Redenbacher & Brown
Straight From the Heart INC.
Sycamores
The Law Offices of Dale Wilson

Opposition

None on file.

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