

KANSAS OFFICE *of*  
**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
*Legislative Attorneys transforming ideas into legislation.*

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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

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**MEMORANDUM**

To: Chairman DeGraaf and members of the House Committee on Financial Institutions  
From: Matt Sterling, Assistant Revisor of Statutes  
Date: 02/05/2015  
Subject: House Bill 2134

HB 2134 would amend definitions in K.S.A. 50-702 and enact a new section in the Fair Credit Reporting Act to enable a protected consumer's parent or guardian to request a consumer reporting agency to place a security freeze on a protected consumer within 30 days of providing the agency with the necessary information. The representative would be required to submit the request, proof of the identification of themselves and the protected consumer, proof of the representative's authority to act on behalf of the protected consumer, and pay the consumer agency a fee of not more than \$10. There would be no fee if the protected consumer had obtained a police report of alleged fraud against the consumer or the consumer is a minor and the reporting agency has a consumer report pertaining to the minor.

A consumer reporting agency would not be permitted to release the protected consumer's consumer report, any information derived from the protected consumer's consumer report, or any record created for the protected consumer. The security freeze would remain in effect until the protected consumer or the protected consumer's representative requests the consumer reporting agency to remove the security freeze or the consumer reporting agency determines that the security freeze request was based on a material misrepresentation of fact.

Willful failure to comply with this act would make a person liable to a protected consumer for actual damages sustained by the protected consumer as a result of the failure or damages of between \$100 to \$1,000 or the amount of punitive damages and reasonable attorney fees allowed by a court. Any person who is negligent in failing to comply with any requirement imposed under this section with respect to any protected consumer would be liable to that protected consumer for any actual damages sustained by the protected consumer as a result of the failure and reasonable attorney fees as determined by the court. If a court finds that an action taken under this section was filed in bad faith or for purposes of harassment, the court could award the prevailing party reasonable attorney fees.

Any person who obtained a consumer report, requested a security freeze, the temporary lift of a security freeze, or the removal of a security freeze from a consumer reporting agency under false pretenses would be liable to the consumer reporting

agency for the greater of any actual damages sustained by the consumer reporting agency or \$1,000.

The bill would still permit the use of a protected consumer's report or record by a person: administering a credit fil monitoring subscription service that the protected consumer has subscribed to, providing the protected consumer with a copy of the individual's report upon request, or any entity listed in KSA 50-723(i).

The bill would also create new definitions for "protected consumer", a "record", a "security freeze for a protected consumer", "sufficient proof of authority", and "sufficient proof of identification".