

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY MARCH 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1658

**Introduced by Assembly Members Jones-Sawyer, Chau, and
Quirk-Silva**

February 12, 2014

An act to add Section 1785.11.7 to the Civil Code, and to ~~add Section 16515 to~~ amend Section 10618.6 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 1658, as amended, Jones-Sawyer. Foster care: consumer credit reports: security freeze.

Existing law provides for child welfare services, which are public social services directed toward, among other purposes, protecting and promoting the welfare of all children, including those in foster care placement. Existing law declares the policy of the Legislature that all children in foster care be free from abuse. *Existing law requires a county welfare department, county probation department, or the State Department of Social Services to request a consumer credit disclosure on behalf of a child in a foster care placement in the county when the child reaches his or her 16th birthday, and each year thereafter while the child is under the jurisdiction of the juvenile court.*

~~This bill would require, at the time of placement, a county welfare agency to notify every consumer credit reporting agency of the placement of a minor dependent under 17 years of age into foster care.~~

~~By imposing new duties on county officials, the bill would impose a state-mandated local program.~~

This bill would additionally require, if the child is found to have an active consumer credit report, the county social worker or probation officer to immediately notify the 3 major credit reporting agencies of the child's placement in foster care and request the placement of a freeze on the report, except as specified. The bill would require, if the child does not have an active consumer credit report, the county social worker or probation officer to provide the credit reporting agencies with information necessary to preclude the child from having a credit account created in his or her name, except as specified.

The bill would require a county welfare department or county probation department, upon entry into foster care of a child under 16 years of age, to notify each of the 3 major credit reporting agency that the child is in foster care, to discover whether the foster child has an active consumer credit report, and, if there is an active report, to immediately require that the credit reporting agencies place a freeze on the child's report and to work with the Department of Justice's Privacy Enforcement and Protection Unit to resolve any credit irregularities or negative actions that have been discovered. By imposing new duties on county officials, the bill would impose a state-mandated local program.

The bill would require the department, no later than July 1, 2015, and in consultation with specified entities, to issue instructions to counties via an all-county letter or similar instruction to do specified things, including providing the circumstances under which a freeze of a foster child's credit report is lifted.

Existing law, the Consumer Credit Reporting Agencies Act, defines and regulates consumer credit reports and permits a consumer to place a security freeze, defined as a notice placed in a consumer's credit report, at the request of the consumer, and subject to certain exceptions, that prohibits the consumer credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer, on his or her credit report by making a request in writing by certified mail to a consumer credit reporting agency.

This bill would require, after notification of placement by a county welfare agency or probation department and upon request of the department, a consumer credit reporting agency to, among other things, notify the county welfare or probation department of whether the child

has an active consumer credit record and place a security freeze on the credit report of a ~~minor dependent under 17 years of age~~ child placed in foster care if the child is found to have an active consumer credit record.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1785.11.7 is added to the Civil Code, to
2 read:

3 1785.11.7. (a) In furthering the policy of the State of California
4 that children in foster care have the right to a life that is free from
5 abuse, ~~it is the intent of the Legislature that a security freeze shall~~
6 ~~be put into effect on the credit report for all minor dependents in~~
7 ~~foster care under 17 years of age to protect them from identity~~
8 ~~theft and financial crimes through the unauthorized usage of their~~
9 ~~credit.~~

10 ~~(b) Following~~ following notification by a county welfare agency
11 ~~or probation department~~ of the placement of a ~~minor dependent~~
12 ~~child~~ into foster care pursuant to Section 10618.6 of the Welfare
13 ~~and Institutions Code~~, a consumer credit reporting agency, upon
14 ~~request of the county welfare or probation department~~, shall ~~place~~
15 ~~do all of the following:~~

16 (1) *Notify the county welfare or probation department of whether*
17 *the child placed in foster care has an active consumer credit*
18 *record.*

19 (2) *If the child is found to have an active consumer credit record,*
20 *place a security freeze on the ~~minor dependent's~~ child's credit*
21 *report pursuant to Section 1785.11.2.*

22 (3) *If the child is not found to have an active consumer credit*
23 *report, preclude the child's information from being used to create*
24 *a credit account in his or her name.*

1 ~~(e) This section shall only apply to minor dependents who are~~
2 ~~under 17 years of age.~~

3 ~~(d)~~

4 (b) This section does not apply to a check services company, a
5 fraud prevention services company, or a deposit account
6 information service company in accordance with Section 1785.11.6.

7 ~~SEC. 2. Section 16515 is added to the Welfare and Institutions~~
8 ~~Code, to read:~~

9 ~~16515. A county welfare agency shall notify every consumer~~
10 ~~credit reporting agency of the placement of a minor dependent~~
11 ~~under 17 years of age into foster care at the time of placement.~~

12 ~~SEC. 2. Section 10618.6 of the Welfare and Institutions Code~~
13 ~~is amended to read:~~

14 ~~10618.6. (a) When~~

15 *10618.6. (a) (1) The Legislature finds and declares that*
16 *children in foster care are at greater risk of identity theft and*
17 *having negative findings placed on their consumer credit report*
18 *due to the unlawful actions of others. The Legislature further*
19 *recognizes that a child’s consumer credit report is more vulnerable*
20 *while in foster care, and a child in foster care is more likely to not*
21 *discover he or she is a victim of identity theft until he or she applies*
22 *for a job, opens a financial account, or is notified by law*
23 *enforcement that his or her personal information has been stolen.*

24 *(2) In order to help reduce the rates by which a child in foster*
25 *care experiences identity theft, a county welfare department or*
26 *county probation department shall, upon entry into foster care of*
27 *a child under 16 years of age, do all of the following:*

28 *(A) Notify each of the three major credit reporting agencies*
29 *that the child is in foster care.*

30 *(B) Discover whether the foster child has an active consumer*
31 *credit report.*

32 *(C) If a foster child is found to have an active consumer credit*
33 *report, the county welfare or probation department shall,*
34 *commencing July 1, 2015, do both of the following:*

35 *(i) Immediately request that the credit reporting agencies place*
36 *a freeze on the child’s report.*

37 *(ii) Work with the Department of Justice’s Privacy Enforcement*
38 *and Protection Unit to resolve any credit irregularities or negative*
39 *actions that have been discovered on the foster child’s credit*
40 *report.*

1 (D) For foster children who have not been found to have an
2 active consumer credit report, provide the credit reporting agencies
3 with information necessary to preclude a foster child from having
4 a credit account created in his or her name.

5 (b) Pursuant to the federal Child and Family Services
6 Improvement and Innovation Act of 2011, when a child in a foster
7 care placement reaches his or her 16th birthday, and each year
8 thereafter, while the child is under the jurisdiction of the juvenile
9 court, the county welfare department, county probation department,
10 or if an automated process is available, the State Department of
11 Social Services, shall request a consumer credit disclosure from
12 each of the three major credit reporting agencies, pursuant to the
13 free annual disclosure provision of the federal Fair Credit Reporting
14 Act, on the child's behalf, notwithstanding any other law.

15 (1) If a child in foster care placement is found to have an active
16 consumer credit report, the county social worker or probation
17 officer shall immediately notify the three major credit reporting
18 agencies of the child's placement in foster care and request the
19 placement of a freeze on the report, unless the child declines.

20 ~~(b)~~

21 (2) If a child in foster care placement is not found to have an
22 active consumer credit report, the county social worker or
23 probation officer shall provide the credit reporting agencies with
24 information necessary to preclude the child from having a credit
25 account created in his or her name, unless the child declines.

26 (c) (1) For a nonminor dependent, the county welfare
27 department or county probation department shall assist the young
28 adult, on a yearly basis while the nonminor dependent is under the
29 jurisdiction of the juvenile court, with requesting the consumer
30 credit disclosure from each of the three major credit reporting
31 agencies, pursuant to the free annual disclosure provision of the
32 federal Fair Credit Reporting Act.

33 (2) If a nonminor dependent is found to have an active consumer
34 credit report, the county social worker or probation officer shall
35 ensure that the nonminor dependent receives assistance with the
36 placement of a freeze on his or her credit report.

37 ~~(e)~~

38 (d) The county social worker or county probation officer shall
39 ensure that the child or nonminor dependent receives assistance
40 with interpreting the consumer credit disclosure and resolving any

1 inaccuracies. The assistance may include, but is not limited to,
 2 referring the youth to a governmental or nonprofit agency that
 3 provides consumer credit services. ~~Nothing in this~~ *This* section
 4 ~~requires~~ *does not require* the social worker or probation officer to
 5 be the individual providing the direct assistance with interpreting
 6 the consumer credit disclosure or resolving the inaccuracies.

7 ~~(d)~~

8 (e) Notwithstanding any other law, in order to request a
 9 consumer credit disclosure for youth ~~described in subdivision (a),~~
 10 *pursuant to this section*, the county welfare department, county
 11 probation department, or, if an automated process is available, the
 12 State Department of Social Services ~~is authorized to~~ *may* release
 13 necessary information to a credit reporting agency.

14 (f) *No later than July 1, 2015, the department shall, in*
 15 *consultation with the Administrative Office of the Courts, the*
 16 *Department of Justice’s Privacy Enforcement and Protection Unit,*
 17 *the California Welfare Directors Association, the County Probation*
 18 *Officers of California, youth-based organizations made up of*
 19 *current and former foster children, and consumer, privacy, and*
 20 *foster children advocacy organizations, issue instructions to*
 21 *counties via an all-county letter or similar instruction to do all of*
 22 *the following:*

23 (1) *Provide the circumstances under which a freeze of a foster*
 24 *child’s credit report is lifted, including when the child exits,*
 25 *emancipates, or runs away from foster care, and by whom the*
 26 *freeze can be lifted.*

27 (2) *Provide instruction as to how a county welfare or probation*
 28 *department shall notify the three major credit reporting agencies*
 29 *that a foster child can reacquire the ability to develop credit.*

30 (3) *Identify required processes and best practices in the*
 31 *identification and resolution of credit irregularities or negative*
 32 *actions on a foster child’s credit report, including, but not limited*
 33 *to, entering the information into the foster child’s case plan and*
 34 *notification of the juvenile court, child’s counsel, and other adults*
 35 *responsible for the child’s care, as necessary.*

36 SEC. 3. If the Commission on State Mandates determines that
 37 this act contains costs mandated by the state, reimbursement to
 38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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