

LEGAL SERVICES

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MEMORANDUM

April 14, 2016

SUBJECT: CSSB 121(JUD) relating to security freezes on the consumer credit report of a minor, incapacitated person, or protected person (Work Order No. 29-LS1129E)

TO: Senator Kevin Meyer
Attn: Edra Morledge

FROM:  Terry Bannister
Legislative Counsel

You have asked whether anything in the bill described above¹ or in current statute, specifically AS 45.48 (Personal Information Protection Act), precludes a credit reporting agency (agency) from establishing guidelines or policy for determining the authenticity of identification documents for a minor, protected person, incapacitated person, parent, legal guardian, or conservator.

The bill allows a parent, legal guardian, or conservator to make a request under the security freeze provisions of AS 45.48² for a minor, incapacitated person, or protected person. The bill does not address identification requirements, but its reference to "under AS 45.48.100 - 45.48.290" does require that an agency comply with the AS 45.48 security freeze requirements that apply to requests made under the bill.

The AS 45.48 security freeze provisions are generally silent about identification, with certain limited exceptions. And there do not appear to be other provisions of AS 45.48 that apply to identification under the security freeze provisions.³ With regard to the exceptions, the security freeze confirmation requirements of AS 45.48.120 require an agency to provide the requesting consumer with an identification device to use after the security freeze is in place. And the security freeze access provisions in AS 45.48.130 require the consumer to use the identification device and provide "proper identification to

¹ For the purposes of this memo, I am using CSSB 121(JUD) (Work Order No. 29-LS1129E), which passed the Senate.

² AS 45.48.100 - 45.48.290.

³ See the exclusion from certain social security number request and collection prohibitions under AS 45.48.410.

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verify the consumer's identity" when allowing access during the security freeze. Any policy or guideline of an agency would have to comply with these requirements.

The security provisions appear to assume that an agency may develop policies and guidelines to implement the security freeze provisions. AS 45.48.130(j) refers to the "procedures used by a consumer credit reporting agency for implementing" AS 45.48.130. And, when a security freeze provision allows an agency to use telephone or electronic media, the provision adds "if the consumer credit reporting agency has developed procedures" for these approaches. These references to an agency's procedures suggest that the agency may establish guidelines and policies for establishing these procedures and that establishing policies and guidelines for identification is not inconsistent with the security freeze provisions.

I would conclude that the bill described above and AS 45.48, specifically the security freeze provisions, do not preclude a credit reporting agency from establishing identification guidelines or policy for identification where the security provisions of AS 45.48 are silent or need amplification, but that the guidelines and policy must be consistent with the security freeze provisions of AS 45.48.

If I may be of further assistance, please advise.

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