
Wisconsin Legislative Council

INFORMATION MEMORANDUM



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PERSONAL IDENTITY THEFT IN WISCONSIN

Wisconsin law prohibits the unauthorized use of personal identifying information, more commonly referred to as identity theft. Generally, identity theft occurs when a person intentionally uses or attempts to use personal identifying information or personal identification documents of another to obtain anything of value, including credit or services. Additionally, Wisconsin law allows an individual to place a security freeze on their consumer report.

This information memorandum summarizes the crime of identity theft and the right of an individual to place a security freeze on their consumer report under Wisconsin law. There is also state law on the use and collection of Social Security numbers (SSN) and records that contain personal information, which are outside the scope of this information memorandum and discussed in separate issue briefs.¹

UNAUTHORIZED USE OF AN INDIVIDUAL'S PERSONAL IDENTIFYING INFORMATION

It is a crime for a person to intentionally use, attempt to use, or possess with intent to use personal information or a personal identification document of another without authorization or consent to either: (1) obtain credit, money, goods, services, or anything of value; (2) avoid civil or criminal process or penalty; or (3) harm the reputation, property, person, or estate of another. [s. [943.201 \(2\)](#), Stats.] Identity theft is a Class H felony, which is punishable by a fine not exceeding \$10,000, imprisonment not exceeding six years, or both. [s. [939.50 \(3\) \(h\)](#), Stats.]

A personal identification document includes the following:

- A document containing personal identifying information.
- An individual's card or plate, if it can be used alone or in conjunction with another device to obtain money, goods, services, or some other thing of value, or if it can be used to initiate a transfer of funds.
- Any other device that is unique, assigned, or belongs to an individual that is intended to be used to access services, funds, or benefits to which the individual alone is entitled.

[s. [943.201 \(1\) \(a\)](#), Stats.]

Personal identifying information includes the following:

- Name.
- Address.

¹ See Legislative Council, *Records Containing Personal Information*, [Issue Brief](#) (March 2021) and Legislative Council, *Use and Collection of Social Security Numbers*, [Issue Brief](#) (March 2021).

- Telephone number.
- Driver's license number.
- SSN.
- Employer or place of employment.
- Employee identification number.
- Mother's maiden name.
- Financial account numbers.
- Taxpayer identification number.
- DNA profile.
- Any number or code that can be used alone or with an access device to obtain money, goods, services, or any other thing of value.
- Unique biometric data, including a fingerprint, voice print, retina or iris image, or any other unique physical representation.
- Any other information or data that is unique to, assigned to, or belongs to an individual and that is intended to be used to access services, funds, or benefits of any kind to which the individual is entitled.
- Any other information that can be associated with a particular individual through one or more identifiers or other information or circumstances.

[s. [943.201 \(1\) \(b\)](#), Stats.]

Also, the statutes provide that if any individual reports identity theft to the law enforcement agency where that individual resides, but the violation occurs outside of that law enforcement agency's jurisdiction, the law enforcement agency receiving the complaint must prepare a report on the violation and forward it to the law enforcement agency in the appropriate jurisdiction. [s. [943.201 \(4\)](#), Stats.]

CONSUMER REPORT SECURITY FREEZE

An individual has authority to freeze their consumer report.² Once an individual places a security freeze on their consumer report, a CRA cannot release the consumer report to a potential creditor unless the individual has given prior authorization.³ By keeping their consumer report frozen, an individual can prevent an identity thief from receiving credit in the individual's name because most creditors will not extend credit without reviewing the individual's consumer report.

² A consumer report, more commonly referred to as a credit report, is the aggregation of background information collected by consumer reporting agencies (CRAs) and used primarily by creditors to determine whether to loan money to an individual.

³ CRAs, as defined in the Fair Credit Reporting Act, must comply with the requirements of s. 100.54, Stats. However, certain entities that may otherwise be a CRA under federal law are exempt, including a reseller of credit information, a CRA that is a check services or fraud prevention services company, and a CRA that is a deposit account information service company. There are three major CRAs: Equifax, Experian, and TransUnion.

Placing a Security Freeze

The statutes allow an individual to place a security freeze on their consumer report by mailing a request via certified mail to a CRA or any other methods the CRA provides. [s. [100.54 \(2\) \(a\)](#), Stats.] The CRA may charge the individual up to a \$10 fee, unless a fee waiver applies,⁴ and the individual must provide the CRA with proper identification.⁵

Within five business days of receiving an individual's request for a security freeze, the CRA must freeze the consumer report and therefore cannot release the individual's consumer report for any purpose related to the extension of credit unless the individual provides prior authorization. [s. [100.54 \(3\)](#), Stats.]

Additionally, within 10 days of receiving a request for a security freeze, the CRA must send the individual a notice that does the following:

- Confirms the security freeze.
- Includes a unique PIN, password, or other device for the individual to authorize the release of the consumer report.
- Describes the procedure for authorizing the release of the individual's consumer report.

[s. [100.54 \(2\) \(b\)](#), Stats.]

If a party requests a consumer report that has a security freeze on it, the party may treat the application as incomplete. [s. [100.54 \(7\) \(a\)](#), Stats.] The CRA is permitted to advise the party that the report includes a security freeze and must obtain the individual's authorization before releasing the report. [s. [100.54 \(7\) \(b\)](#), Stats.]

Release Authorizations and Removing a Security Freeze

An individual with a security freeze on their consumer report may authorize a temporary pause on the security freeze through a release authorization and may also completely remove the security freeze.

First, a release authorization allows an individual to request that the CRA release a consumer report on their account with a security freeze for a specific amount of time. To authorize a release, an individual must complete the following:

- Contact the CRA using a point of contact designated by the CRA.
- Provide proper identification and the PIN, password, or other device provided by the CRA at the time the security freeze is place.
- Specify the time period for which the release is authorized.
- Pay a fee not to exceed \$10, unless a fee waiver applies.

[s. [100.54 \(4\)](#), Stats.]

⁴ Statute prevents a CRA from charging a fee to an individual who submits evidence satisfactory to the CRA that the individual made a report to a law enforcement agency for identity theft. [s. [100.54 \(9\) \(b\)](#), Stats.] However, currently the three major CRAs do not charge any fee for placing a freeze, authorizing a release, or removing a security freeze. [See the Wisconsin Department of Agriculture, Trade, and Consumer Protection's [website](#).]

⁵ Proper identification may include any of the following: (a) current full name and prior names if any; (b) current address and recent prior addresses if any; (c) SSN; (d) date of birth; (e) copies of appropriate identifying documents; and (f) identifying information readily known by the individual whose name the security freeze is requested but not generally known by others, which the CRA lawfully obtained before receiving the security freeze request. [s. [ATCP 112.02](#), Wis. Adm. Code.]

If an individual satisfies these requirements, the CRA must release that individual's consumer report during the time period specified in the authorization.

Second, an individual may request to permanently remove the security freeze by following all the same steps required for a release authorization, but instead of providing a specific time period, request to end the security freeze. [s. [100.54 \(6\) \(a\)](#), Stats.] Once the individual properly requests a removal, the CRA has three business days to remove the security freeze. [s. [100.54 \(6\) \(b\)](#), Stats.]

Exceptions

The general rule is that a consumer report is not given out if an individual places a security freeze on their report. However, there are specific exceptions to this prohibition based on the party that is requesting the report. Specifically, the statutes provide that a security freeze does not apply to the following parties:

- A person with whom the individual has, or had, a prior business relationship.
- A subsidiary, affiliate, or agent of a person with whom the individual has, or had, a prior business relationship.
- An assignee of a financial obligation owed by the individual to a person with whom the individual has, or had, a prior business relationship.
- Any state, or local agency, law enforcement agency, court, or private collection agency acting pursuant to a court order, warrant, or subpoena.
- A child support agency.
- The state acting to investigate fraud or acting to investigate or collect delinquent taxes or unpaid court orders or to fulfill any of its other statutory requirements.
- A credit card company providing unsolicited "pre-screened" credit card offers.
- A person administering a credit file monitoring subscription service to which the individual has subscribed.
- A person for the purpose of providing an individual with a copy of his or her consumer report upon the individual's request.
- An insurer authorized to do business in Wisconsin that uses the consumer report in connection with the underwriting of insurance involving the individual.
- A person who intends to use the information in the consumer report for employment purposes.

[s. [100.54 \(8\)](#), Stats.]

Consumer Education

Whenever a CRA is required to provide an individual with a notice under certain provisions of the federal Fair Credit Report Act, state statutes require that the CRA provide the individual with a notice about the Wisconsin security freeze provisions. [s. [100.54 \(11\)](#), Stats.] The notice explains how the security freeze statute works from the consumer's perspective, including how to place and remove a security freeze with a CRA. It also warns that the security freeze may delay, interfere with, or prohibit the timely approval of any subsequent request or application

made regarding a loan, credit, mortgage, or internet credit card transaction, including an extension of credit at point of sale.

Enforcement

A person that fails to comply with the requirements of the law is liable for actual damages sustained by an individual as a result of the failure, the costs of the action, and reasonable attorney fees. [s. [100.54 \(13\) \(b\)](#), Stats.]

This information memorandum was prepared Abby Gorzlancyk, Staff Attorney, on May 2, 2024.