

## Discussion Notes from 3/15/2006 ID Theft Work Group Session

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Rep. Jim Keane opened discussions with comments that he and Rep. McGillvray both are hoping for a committee bill (on security freezes). He said a committee bill is better than many competing bills. He asked the work group to seek a consensus.

Steve Turkiewicz of the Montana Bankers Association asked what type of bill the Economic Affairs Committee wanted, one just on security freezes or one including other issues that the group has worked on as well. Rep. Keane said the committee is willing to look at the issues that the work group presents.

Pam Bucy of the Attorney General's office said the AG would not present a bill if the committee presents one.

After an agenda review, Bruce Spencer of the Montana Automobile Dealers asked how long it takes for credit reporting agencies to initiate a credit freeze. Pam Bucy said Eric Ellman of CDIA had told her it was several hours, but it is not the same for all credit reporting agencies.

Among the questions that arose:

- What is the goal of a credit freeze? Is it to incorporate insurance company checks on credit (credit scores)? There is a concern among insurers about the scope of the freeze and whether insurers would be considered credit reporting agencies.
- Pam Bucy commented the goal is to give consumers a choice of how their credit is accessed/
- What definitions reflect the goals of the bill? Discussion on whether to use FCRA definitions by reference or in fact. Proposal to use both, at least in the draft bill.
- Concerns about whether definitions of consumer would include a small business, allowing it to put a freeze on its own credit reports.
- Are there concerns about insurance industry accessing credit reports? So far between 5-6 states have exempted insurance companies specifically for underwriting and access. Larry Kibbee of the Property Casualty Insurers Association of America noted that insurers are required to check credit, but they may be unable to do so if credit is frozen. (Discussion points to a difference between freezes affecting checks on credit and creating new credit.)
- Concerns that exemption for existing relationship not broad enough to incorporate an insurer that writes various "lines of business". Differences of opinion on whether included or not.
- Concern about how to institute a freeze (and potentially a thaw). Reference to paper trails, validity of person requesting freeze, and the speed of putting a freeze on a credit report, particularly if a requester is potentially a victim of ID theft.
- Concern about the specificity of "Notice of Rights" – how much detail to give consumer?
- Concern about liability of companies using "frozen" credit report, particularly if consumer said report was frozen and credit reporting agency said it was not?
- Concern about too many hurdles for a consumer whose identity is stolen has to take action (may not have ID available for proof, may be unable to get police to file a police report).
- Concern about timing for "thaws" and how business would respond to a waiting customer if a freeze is in place and credit reporting agency has not yet cleared the freeze as requested. Pam Bucy noted that the credit reporting agency could give a specific timeframe for the thaw, but Riley Johnson from the National Federation of Independent Business was concerned that the business would see the customer walk away pending the "thaw" taking effect.

- Would the work group recommend one bill with many subjects or separate bills on each issue? Pat Murdo, committee staff, recommended working on separate bills for separate issues, which could be combined later (at the committee's discretion).

The other agenda item discussed, briefly, was victim assistance and remediation. Pam Bucy pointed out that the crime victims assistance program does not have sufficient funds for victims of violent crime and does not extend to victims of property crimes.

Kelsen Young asked if issues of jurisdiction, venue, education would be included in a committee bill. These issues are all included in SJR 38 and could be in a committee bill.

Agreements:

- Pam Bucy and Brad Griffin of the Montana Retail Association will work together, with input from whoever wants to provide input to them, on a security freeze draft bill. They hope to have a draft available by March 31, which will be provided for review/comment to the work group.
- The definitions will be both by reference to the Fair Credit Reporting Act, where appropriate, and to the actual text for the draft bill purposes.
- The work group will meet May 4 at 10 a.m. (in Room 137 of the Capitol) to discuss a draft bill and additional proposals related to identity theft.

Attending:

Rep. Jim Keane  
 Larry Kibbee, PCIAA  
 Frank Cote, AHIP  
 Pam Bucy, DOJ  
 Dwight Easton, Farmers Insurance Group  
 Diane Rice, Rep. HD 71  
 Jim Kembel, MACOP, MPPA  
 Greg Van Horssen, State Farm Insurance  
 Bruce Spencer, Montana Auto Dealers  
 Jacqueline Lenmark, AIA, American Council of Life Insurers  
 Amy Pfeifer, DPHHS/CSED  
 Kelsen Young  
 Claudia Clifford, AARP – MT  
 Bath Satre, Montana Credit Union Network  
 Donya Parrish, Montana Credit Union Network  
 Brad Griffin, Montana Retail Association  
 Riley Johnson, NFIB  
 Steve Turkiewicz, Montana Bankers Association  
 Geoff Feiss, Montana Telecommunications Association  
 Don Allen, Montana Association of Insurance and Financial Advisers