HOUSE RESEARCH

Bill Summary

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Subject: Consumer Identity Theft Protections

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Overview

The bill covers various issues related to identity theft concerns. Section 1 allows a consumer to put a freeze on his or her credit history so that the credit-reporting agency must notify the consumer before releasing a report. Sections 2 to 4 provide a process for an individual to (1) file a police report indicating she or he has been the victim of identity theft, and (2) in some cases get a court declaration on this. Section 5 provides for consumer-driven credit monitoring. Section 8 requires businesses to dispose of personally identifying records in a way that protects privacy interests of the subjects of the records. Provisions very similar to section 6 requiring businesses to give notice of security breaches of consumer data were enacted as Laws 2005, chapter 167. Provisions similar to section 7, which limits the uses businesses and government agencies may make of consumer social security numbers, were enacted in Laws 2005, chapter 163, section 85.

Section

1 **Security freezes on consumer credit reports.** Gives a consumer the right to have a credit reporting agency put a "security freeze" on the consumer's credit information (no one can get access to it without the consumer's consent).

Provides that an injured consumer can file a complaint with the Federal Trade Commission, the Minnesota attorney general, or the Minnesota Commerce Department. Lets a consumer bring a civil action against a credit-reporting agency for a violation of this section. A consumer could obtain an injunction, damages, a civil penalty up to $10,000, expenses,

Section

court costs, investigative costs, and attorney fees.

2 **Definitions.** Creates definitions of terms used in sections 3 and 4.

3 **Police report regarding identity theft.** Requires local law enforcement agencies located where the victim of identity theft lives to write up a report on the crime, even if the crime was committed in some other, or unknown, jurisdiction.

4 **Factual declaration of innocence after identity theft.** Sets up a court process for identity theft victims to get a court determination that they are victims of identity theft. This is limited to situations in which the offender has been charged or convicted of a criminal offense under the victim's name. The Department of Public Safety would keep a database of court orders individuals might get under this section for individuals to access if they need to prove they have been victims of identity theft.

5 **Consumer-driven credit monitoring.** Requires credit-reporting agencies to provide a consumer with "all information in the consumer's file," except credit scores or other risk scores or predictors. This section specifies fees that may be charged in circumstances where the consumer is not eligible for a free report under federal law.

6 **Prevention of and protection from security breaches.** Provisions very similar to this section, requiring businesses to give notice of security breaches of consumer data, were enacted as Laws 2005, chapter 167.

7 **Social security number protection.** Provisions similar to section 7, which limits the uses businesses and government agencies may make of consumer social security numbers, were enacted in Laws 2005, chapter 163, section 85.

This bill contains a misdemeanor penalty, a civil penalty of up to $3,000, and the right to bring a civil action and recover actual damages or $5 000, whichever is greater. These remedies are not found in the 2005 act.

8 **Adequate destruction of personal records.** Requires businesses that operate in Minnesota or possess personal information about Minnesota residents to take precautions to prevent unauthorized access to personal information after disposal of records. Provides examples of reasonable measures businesses might use, without mandating any particular approach.

Provides a $3,000 civil penalty for violations. Allows an individual harmed by a violation to being a court action to enjoin future violations. Allows the individual to recover damages, costs, and attorney fees.

9 **Severability.** Specifies that if any provision is held invalid or is pre-empted by federal law, remaining provisions remain in effect.