



**SCS CSHB 65(JUD): "An Act relating to breaches of security involving personal information, credit report and credit score security freezes, protection of social security numbers, care of records, disposal of records, identity theft, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rules 60 and 82, Alaska Rules of Civil Procedure; and providing for an effective date."**

00 SENATE CS FOR CS FOR HOUSE BILL NO. 65(JUD)  
01 "An Act relating to breaches of security involving personal information,  
02 and credit score security freezes, protection of social security numbers,  
03 disposal of records, identity theft, credit cards, and debit cards, and t  
04 the office of administrative hearings; amending Rules 60 and 82, Alaska R  
05 Procedure; and providing for an effective date."

06 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

07 \* **Section 1.** [AS 40.21.110](#) is amended to read:

08 **Sec. 40.21.110. Care of records.** Except for public records law  
09 possession of a person other than the state, public records of exis  
10 agencies of the state, territorial, and Russian governments in Alas  
11 of the state and shall be created, maintained, preserved, stored, t  
12 or disposed of, and otherwise managed in accordance with the provis  
13 chapter **and AS 45.48.500 - 45.48.530**. Records shall be delivered by  
14 officials and employees to their successors, and may not be removed

01 disposed of, except as provided in this chapter **and AS 45.48.500 -**

02 \* **Sec. 2.** [AS 44.64.030](#)(a) is amended by adding a new paragraph to read  
03 (40) [AS 45.48.080](#)(c) (breach of security involving perso  
04 information).

05 \* **Sec. 3.** [AS 45](#) is amended by adding a new chapter to read:

06 **Chapter 48. Personal Information Protection Act.**

07 **Article 1. Breach of Security Involving Personal Information.**

08 **Sec. 45.48.010. Disclosure of breach of security.** (a) If a cov  
09 or licenses personal information in any form that includes personal  
10 state resident, and a breach of the security of the information sys  
11 personal information occurs, the covered person shall, after discov  
12 notified of the breach, disclose the breach to each state resident  
13 information was subject to the breach.

14 (b) An information collector shall make the disclosure requir  
15 section in the most expeditious time possible and without unreasona  
16 as provided in [AS 45.48.020](#) and as necessary to determine the scope  
17 restore the reasonable integrity of the information system.

18 (c) Notwithstanding (a) of this section, disclosure is not re  
19 appropriate investigation and after written notification to the att

20 state, the covered person determines that there is not a reasonable  
21 to the consumers whose personal information has been acquired has r  
22 result from the breach. The determination shall be documented in wr  
23 documentation shall be maintained for five years.

24 **Sec. 45.48.020. Allowable delay in notification.** An informatio  
25 may delay disclosing the breach under [AS 45.48.010](#) if an appropriat  
26 enforcement agency determines that disclosing the breach will inter  
27 criminal investigation. However, the information collector shall di  
28 the state resident in the most expeditious time possible and withou  
29 after the law enforcement agency informs the information collector  
30 disclosure of the breach will no longer interfere with the investig  
31

**Sec. 45.48.030. Methods of notice.** An information collector sh  
01 disclosure required by [AS 45.48.010](#)

02 (1) by a written document sent to the most recent addres  
03 information collector has for the state resident;

04 (2) by electronic means if the information collector's p  
05 of communication with the state resident is by electronic means, or  
06 disclosure by the electronic means is consistent with the provision  
07 electronic records and signatures required for notices legally requ  
08 under 15 U.S.C. 7001 et seq. (Electronic Signatures in Global and N  
09 Act); or

10 (3) if the information collector demonstrates that the c  
11 notice would exceed \$150,000, that the affected class of state resi  
12 exceeds 300,000, or that the information collector does not have su  
13 information to provide notice, by

14 (A) electronic mail if the information collector ha  
15 electronic mail address for the state resident;

16 (B) conspicuously posting the disclosure on the Int  
17 website of the information collector if the information collec  
18 Internet site; and

19 (C) providing a notice to major statewide media.

20 **Sec. 45.48.040. Notification of certain other agencies.** (a) If  
21 collector is required by [AS 45.48.010](#) to notify more than 1,000 sta  
22 breach, the information collector shall also notify without unreasona  
23 consumer credit reporting agencies that compile and maintain files  
24 nationwide basis and provide the agencies with the timing, distribu  
25 the notices.

26 (b) This section may not be construed to require the informat  
27 provide the consumer reporting agencies identified under (a) of thi  
28 names or other personal information of the state residents whose pe  
29 was subject to the breach.

30 (c) This section does not apply to an information collector w  
31 the Gramm-Leach-Bliley Financial Modernization Act.

01 (d) In this section, "consumer reporting agency that compiles  
02 files on consumers on a nationwide basis" has the meaning given in  
03 1681a(p).

04 **Sec. 45.48.050. Exception for employees and agents.** In [AS 45.4](#)  
05 45.48.090, the good faith acquisition of personal information by an  
06 of an information collector for a legitimate purpose of the informa

07 a breach of the security of the information system if the employee  
08 use the personal information for a purpose unrelated to a legitimat  
09 information collector and does not make further unauthorized disclo  
10 personal information.

11 **Sec. 45.48.060. Waivers.** A waiver of [AS 45.48.010](#) - 45.48.090  
12 unenforceable.

13 **Sec. 45.48.070. Treatment of certain breaches.** (a) If a breach  
14 of the information system containing personal information on a stat  
15 maintained by an information recipient occurs, the information reci  
16 required to comply with [AS 45.48.010](#) - 45.48.030. However, immediat  
17 information recipient discovers the breach, the information recipie  
18 information distributor who owns the personal information or who li  
19 the personal information to the information recipient about the bre  
20 with the information distributor as necessary to allow the informat  
21 comply with (b) of this section. In this subsection, "cooperate" me  
22 information distributor information relevant to the breach, except  
23 business information or trade secrets.

24 (b) If an information recipient notifies an information distr  
25 under (a) of this section, the information distributor shall comply  
26 45.48.030 as if the breach occurred to the information system maint  
27 information distributor.

28 **Sec. 45.48.080. Violations.** (a) If an information collector wh  
29 governmental agency violates [AS 45.48.010](#) - 45.48.090 with regard t  
30 information of a state resident, the information collector

31 (1) is liable to the state for a civil penalty of up to  
01 resident who was not notified under [AS 45.48.010](#) - 45.48.090, but t  
02 penalty may not exceed \$50,000; and

03 (2) may be enjoined from further violations.

04 (b) If an information collector who is not a governmental age  
05 [AS 45.48.010](#) - 45.48.090 with regard to the personal information of  
06 the violation is an unfair or deceptive act or practice under [AS 45](#)  
07 However,

08 (1) the information collector is not subject to the civi  
09 imposed under [AS 45.50.551](#) but is liable to the state for a civil p  
10 for each state resident who was not notified under [AS 45.48.010](#) - 4  
11 that the total civil penalty may not exceed \$50,000; and

12 (2) damages that may be awarded against the information  
13 under

14 (A) [AS 45.50.531](#) are limited to actual economic dam  
15 do not exceed \$500; and

16 (B) [AS 45.50.537](#) are limited to actual economic dam

17 (c) The Department of Administration may enforce (a) of this  
18 governmental agency. The procedure for review of an order or action  
19 department under this subsection is the same as the procedure provi  
20 (Administrative Procedure Act), except that the office of administr  
21 ([AS 44.64.010](#)) shall conduct the hearings in contested cases and th  
22 appealed under [AS 44.64.030](#)(c).

23 **Sec. 45.48.090. Definitions.** In [AS 45.48.010](#) - 45.48.090,

24 (1) "breach of the security" means unauthorized acquisit  
25 reasonable belief of unauthorized acquisition, of personal informat

26 compromises the security, confidentiality, or integrity of the pers  
27 maintained by the information collector; in this paragraph, "acquis  
28 acquisition by

- 29 (A) photocopying, facsimile, or other paper-based m
- 30 (B) a device, including a computer or a radio frequ
- 31 identification device, that can read, write, or store informat

01 represented in numerical form; in this subparagraph, "radio fr  
02 identification device" means an electronic tagging and trackin  
03 wirelessly transmits identifying information to a remote reade

- 04 (C) a method not identified by (A) or (B) of this p

05 (2) "covered person" means a

06 (A) person doing business;

07 (B) a governmental agency; or

08 (C) a person with more than 10 employees;

09 (3) "governmental agency" means a state or local governm  
10 agency, except for an agency of the judicial branch;

11 (4) "information collector" means a covered person who o  
12 licenses personal information in any form if the personal informati  
13 personal information on a state resident;

14 (5) "information distributor" means a person who is an i  
15 collector and who owns or licenses personal information to an infor

16 (6) "information recipient" means a person who is an inf  
17 collector but who does not own or have the right to license to anot  
18 collector the personal information received by the person from an i  
19 distributor;

20 (7) "personal information" means information in any form  
21 individual that is not encrypted or redacted, or is encrypted and t  
22 been accessed or acquired, and that consists of a combination of

23 (A) an individual's name; in this subparagraph, "in  
24 name" means a combination of an individual's

25 (i) first name or first initial; and

26 (ii) last name; and

27 (B) one or more of the following information elemen

28 (i) the individual's social security number;

29 (ii) the individual's driver's license number

30 identification card number;

31 (iii) except as provided in (iv) of this subpa

01 individual's account number, credit card number, or debit

02 (iv) if an account can only be accessed with a

03 code, the number in (iii) of this subparagraph and the pe

04 this sub-subparagraph, "personal code" means a security c

05 access code, a personal identification number, or a passw

06 (v) passwords, personal identification numbers

07 access codes for financial accounts.

## 08 **Article 2. Credit Report and Credit Score Security Freeze.**

09 **Sec. 45.48.100. Security freeze authorized.** A consumer may pro  
10 consumer credit reporting agency from releasing the consumer's cred  
11 score without the express authorization of the consumer by placing  
12 on the consumer's credit report.

13           **Sec. 45.48.110. Placement of security freeze.** (a) To place a s  
14 consumer shall make the request to the consumer credit reporting ag  
15           (1) by mail to the address designated by the consumer cr  
16 agency to receive security freeze requests; or

17           (2) as allowed by (b) of this section.

18           (b) A consumer may make a request under (a) of this section b  
19 by fax, the Internet, or other electronic media if the consumer cre  
20 has developed procedures for using the telephone or an electronic m  
21 and process the request in an expedited manner.

22           (c) A consumer credit reporting agency shall place a security  
23 five business days after receiving a request under (a) or (b) of th  
24 identification from the consumer.

25           **Sec. 45.48.120. Confirmation of security freeze.** (a) Within 10  
26 after a consumer makes the request under [AS 45.48.110](#), a consumer c  
27 agency shall send a written confirmation of the placement of the se  
28 consumer. The confirmation must also inform the consumer that the c  
29 reporting agency may charge, as allowed by [AS 45.48.160](#), a fee for  
30 during the security freeze.

31           (b) At the same time that the consumer credit reporting agenc

01 confirmation under (a) of this section, the consumer credit reporti  
02 provide the consumer with a unique personal identification number,  
03 similar device to be used by the consumer when the consumer authori  
04 the consumer's credit report or credit score under [AS 45.48.130](#).

05           **Sec. 45.48.130. Access and actions during security freeze.** (a)  
06 security freeze is in place, a consumer credit reporting agency sha  
07 access to a consumer's credit report or credit score if the consume  
08 consumer credit reporting agency allow the access.

09           (b) To make a request under (a) of this section, the consumer  
10 consumer credit reporting agency by mail at the address designated  
11 credit reporting agency to receive security freeze requests or as a  
12 section, authorize the consumer credit reporting agency to allow th  
13 provide the consumer credit reporting agency with

14           (1) proper identification to verify the consumer's ident

15           (2) the unique personal identification number, password,  
16 device provided under [AS 45.48.120](#)(b); and

17           (3) the proper information necessary to identify the thi  
18 whom the consumer credit reporting agency may allow the access or t  
19 during which the consumer credit reporting agency may allow the acc  
20 parties who request the access.

21           (c) In addition to making the request by mail, a consumer may  
22 under (a) of this section by telephone or by fax, the Internet, or  
23 if the consumer credit reporting agency has developed procedures fo  
24 telephone or an electronic medium to receive and process the reques  
25 manner.

26           (d) A consumer credit reporting agency that receives a reques  
27 consumer under (b) or (c) of this section shall comply with the req  
28 minutes after receiving the request by telephone or by an electroni  
29 three business days after receiving the request by mail.

30           (e) If a security freeze is in place, a consumer credit repor  
31 release the credit report or credit score to a third party without



01 authorization of the consumer.

02 (f) If a security freeze is in place on a consumer's credit r  
03 and if a third party applies to a consumer credit reporting agency  
04 party with access to the consumer's credit report or credit score,  
05 reporting agency and the third party may treat the third party's ap  
06 incomplete unless the consumer authorizes the access under (a) of t

07 (g) If a security freeze is in place, a consumer credit repor  
08 change the consumer's official information in the consumer's credit  
09 score without sending a written statement of the change to the cons  
10 days after the change is made. A consumer credit reporting agency i  
11 send a written statement if the consumer credit reporting agency ma  
12 change in the consumer's official information. If a consumer credit  
13 makes a change, other than a technical change, in a consumer's addr  
14 credit reporting agency shall send the written statement to the con  
15 new address and the former address. In this subsection,

16 (1) "official information" means name, birth date, socia  
17 number, and address;

18 (2) "technical change" means changing spelling, transpos  
19 or letters, abbreviating a word, or spelling out an abbreviation.

20 (h) This section is not intended to prevent a consumer credit  
21 from advising a third party that requests access to a consumer's cr  
22 score that a security freeze is in effect.

23 (i) The procedures used by a consumer credit reporting agency  
24 implementing the provisions of this section may include the use of  
25 facsimile, or electronic means if making the disclosure by the elec  
26 consistent with the provisions regarding electronic records and sig  
27 notices legally required to be in writing under 15 U.S.C. 7001 et s  
28 Signatures in Global and National Commerce Act).

29 **Sec. 45.48.140. Removal of security freeze.** (a) Except as prov  
30 [AS 45.48.130](#), a consumer credit reporting agency may not remove a s  
31 unless

01 (1) the consumer requests that the consumer credit repor  
02 remove the security freeze under (b) of this section; or

03 (2) the consumer made a material misrepresentation of fa  
04 consumer credit reporting agency when the consumer requested the se  
05 under [AS 45.48.110](#); if a consumer credit reporting agency intends t  
06 security freeze on a consumer's credit report under this paragraph,  
07 reporting agency shall notify the consumer in writing before removi  
08 freeze.

09 (b) A consumer credit reporting agency shall remove a securit  
10 three business days after receiving a request for removal from the  
11 requested the security freeze.

12 (c) To make a request under (b) of this section, the consumer  
13 consumer credit reporting agency by mail or as allowed by (d) of th  
14 authorize the consumer credit reporting agency to remove the securi  
15 provide the consumer credit reporting agency with

16 (1) proper identification to verify the consumer's ident

17 (2) the unique personal identification number, password,  
18 device provided under [AS 45.48.120](#)(b).

19 (d) In addition to mail, a consumer may make a request under  
20 section by telephone or by fax, the Internet, or other electronic m  
21 credit reporting agency has developed procedures for using the tele  
22 electronic medium to receive and process the request in an expedite

23 **Sec. 45.48.150. Prohibition.** When dealing with a third party,  
24 credit reporting agency may not suggest, state, or imply that a con  
25 freeze reflects a negative credit score, history, report, or rating

26 **Sec. 45.48.160. Charges.** (a) Except as provided by (b), (c), o  
27 section, a consumer credit reporting agency may not charge a consum  
28 remove a security freeze, to provide access under [AS 45.48.130](#), or  
29 action, including the issuance of a personal identification number,  
30 device under [AS 45.48.120](#), that is related to the placement of, rem  
31 access to a credit report or credit score on which a security freez

01 (b) A consumer credit reporting agency may charge a consumer  
02 a security freeze.

03 (c) If a consumer makes more than two access requests during  
04 a consumer credit reporting agency may charge the consumer \$2 for e  
05 access request made by the consumer during that calendar year. In t  
06 "access request" means a request made by the consumer under [AS 45.4](#)  
07 third-party access to the consumer's credit report or credit score  
08 freeze has been placed.

09 (d) If a consumer fails to retain a personal identification n  
10 similar device issued under [AS 45.48.120](#), a consumer credit reporti  
11 charge the consumer up to \$5 for each time after the first time tha  
12 reporting agency issues the consumer another personal identificatio  
13 password, or similar device because the consumer failed to retain t  
14 identification number, password, or similar device.

15 (e) A consumer credit reporting agency may not charge a consu  
16 under (b) or (c) of this section if the consumer has been a victim  
17 provides the consumer credit reporting agency with a complaint file  
18 with a law enforcement agency.

19 **Sec. 45.48.170. Notice of rights.** When a consumer credit repor  
20 required to give a consumer a summary of rights under 15 U.S.C. 168  
21 Credit Reporting Act, a consumer credit reporting agency shall also  
22 the following notice:

23 **Consumers Have the Right to Obtain a Security Freeze**

24 You may obtain a security freeze on your credit report an  
25 credit score for \$5 to protect your privacy and ensure that cr  
26 granted in your name without your knowledge. You may not have  
27 pay the \$5 charge if you are a victim of identity theft. You h  
28 to place a "security freeze" on your credit report and credit  
29 state law ([AS 45.48.100](#) - 45.48.290).

30 The security freeze will prohibit a consumer credit repor  
31 agency from releasing your credit score and any information in

01 credit report without your express authorization or approval.

02 The security freeze is designed to prevent credit, loans,  
03 other services from being approved in your name without your c  
04 However, you should be aware that using a security freeze to t  
05 control over who gets access to the personal and financial inf

06 in your credit report and credit score may delay, interfere with  
07 prohibit the timely approval of any subsequent request or application  
08 you make regarding a new loan, credit, a mortgage, a government  
09 service, a governmental payment, a cellular telephone, a utility  
10 Internet credit card application, an extension of credit at point  
11 and other items and services.

12 When you place a security freeze on your credit report and  
13 credit score, within 10 business days you will be provided a point  
14 identification number, password, or similar device to use if you  
15 to remove the freeze on your credit report and credit score or  
16 temporarily authorize the release of your credit report and credit  
17 to a specific third party or specific third parties or for a specific  
18 of time after the freeze is in place. To provide that authorization  
19 must contact the consumer credit reporting agency and provide  
20 the following:

- 21 (1) proper identification to verify your identity;
- 22 (2) the personal identification number, password, or  
23 similar device provided by the consumer credit reporting agency;
- 24 (3) proper information necessary to identify the third  
25 party or third parties who are authorized to receive the credit  
26 credit score or the specific period of time for which the credit  
27 and credit score are to be available to third parties.

28 A consumer credit reporting agency that receives your request  
29 to temporarily lift a freeze on a credit report and credit score  
30 to comply with the request within 15 minutes after receiving your  
31 request if you make the request by telephone, or an electronic

01 the agency provides an electronic method, or within three business  
02 days after receiving your request if you make the request by mail.  
03 For the first two requests in a year, the consumer credit reporting agency  
04 cannot charge you \$2 to temporarily lift the freeze.

05 A security freeze does not apply to circumstances where you  
06 have an existing account relationship and a copy of your credit  
07 report and credit score are requested by your existing creditor or its  
08 affiliates for certain types of account review, collection, or  
09 other similar activities.

10 If you are actively seeking credit, you should understand  
11 the procedures involved in lifting a security freeze may slow  
12 down applications for credit. You should plan ahead and lift a freeze  
13 completely if you are shopping around, or specifically for a new  
14 creditor, days before applying for new credit.

15 You have a right to bring a civil action against someone  
16 who violates your rights under these laws on security freezes. The  
17 action may be brought against a consumer credit reporting agency.

18 **Sec. 45.48.180. Notification after violation.** If a consumer credit  
19 reporting agency violates a security freeze by releasing a consumer's credit  
20 score, the consumer credit reporting agency shall notify the consumer  
21 within five business days after discovering or being notified of the release, and  
22 the notice must include an identification of the information released to  
23 the party who received the information.

24 **Sec. 45.48.190. Resellers.** A consumer credit reporting agency



25 reseller of consumer information shall honor a security freeze plac  
26 credit report and credit score by another consumer credit reporting  
27 **Sec. 45.48.200. Violations and penalties.** (a) A consumer who s  
28 damages as a result of a person's violation of [AS 45.48.100](#) - 45.48  
29 action in court against the person and recover, in the case of a vi  
30 person acted

31 (1) negligently, actual economic damages, court costs al

01 rules of court, and full reasonable attorney fees;

02 (2) knowingly,

03 (A) damages as described in (1) of this subsection;

04 (B) punitive damages that are not less than \$100 no  
05 \$5,000 for each violation as the court determines to be approp

06 (C) other relief that the court determines to be ap

07 (b) A consumer may bring an action in court against a person  
08 threatened violation of [AS 45.48.100](#) - 45.48.290 for injunctive rel  
09 the consumer seeks another remedy under this section.

10 (c) Notwithstanding (a)(2) of this section, a person who know  
11 [AS 45.48.100](#) - 45.48.290 is liable in a class action for an amount  
12 allows. When determining the amount of an award in a class action u  
13 subsection, the court shall consider, among the relevant factors, t  
14 actual damages awarded, the frequency of the violations, the resour  
15 and the number of consumers adversely affected.

16 (d) In this section, "knowingly" has the meaning given in [AS](#)

17 **Sec. 45.48.210. Exemptions.** (a) The provisions of [AS 45.48.100](#)  
18 do not apply to the use of a credit report by

19 (1) a person, the person's subsidiary, affiliate, or age  
20 assignee with whom a consumer has or, before the assignment, had an  
21 contract, or debtor-creditor relationship if the purpose of the use  
22 consumer's account or to collect a financial obligation owing on th  
23 or debt;

24 (2) a subsidiary, an affiliate, an agent, an assignee, o  
25 assignee of a person to whom access has been granted under [AS 45.48](#)  
26 purpose of the use is to facilitate the extension of credit or anot

27 (3) a person acting under a court order, warrant, or sub

28 (4) an agency of a state or municipality that administer  
29 establishing and enforcing child support obligations;

30 (5) the Department of Health and Social Services, its ag  
31 assigns when investigating fraud;

01 (6) the Department of Revenue, its agents, or its assign  
02 investigating or collecting delinquent taxes or unpaid court orders  
03 implementing its other statutory responsibilities;

04 (7) a person if the purpose of the use is prescreening a  
05 U.S.C. 1681b(c) of the Fair Credit Reporting Act;

06 (8) a person administering a credit file monitoring subs  
07 to which the consumer has subscribed;

08 (9) a person providing a consumer with a copy of the con  
09 report or credit score at the consumer's request;

10 (10) a person if the data base or file of the consumer c  
11 agency consists entirely of information concerning and used solely

12 the following purposes:

- 13 (A) criminal record information;
- 14 (B) personal loss history information;
- 15 (C) fraud prevention or detection;
- 16 (D) tenant screening; or
- 17 (E) employment screening; or

18 (11) a person for use for insurance purposes in setting  
19 a rate, adjusting a claim, or underwriting, except that this paragr  
20 interpreted to authorize an insurance practice that is prohibited b

21 (b) Except as provided by [AS 45.48.190](#), the provisions of [AS](#)  
22 45.48.290 do not apply to a person when acting only as a reseller o  
23 information.

24 **Sec. 45.48.290. Definitions.** In [AS 45.48.100](#) - 45.48.290,

25 (1) "account review" means activities related to account  
26 account monitoring, credit line increases, and account upgrades and

27 (2) "consumer" means an individual who is the subject of  
28 report or credit score;

29 (3) "consumer credit reporting agency" has the meaning g  
30 [AS 45.48.990](#), but does not include a person who issues reports

31 (A) on incidents of fraud or authorizations for the

01 approving or processing negotiable instruments, electronic fun  
02 similar methods of payments; or

03 (B) regarding account closures because of fraud, su  
04 overdrafts, automated teller machine abuse, or similar negativ  
05 regarding a consumer to inquiring banks or other financial ins  
06 only in reviewing consumer requests for deposit accounts at th  
07 banks or financial institutions;

08 (4) "reseller of consumer information" means a person wh  
09 and merges information contained in the data bases of consumer cred  
10 agencies and does not maintain a permanent data base of consumer in  
11 which new consumer credit reports are produced;

12 (5) "security freeze" means a prohibition against a cons  
13 reporting agency from releasing a consumer's credit report or credi  
14 express authorization of the consumer;

15 (6) "third party" means a person who is not

16 (A) the consumer who is the subject of the consumer  
17 report or credit score; or

18 (B) the consumer credit reporting agency that is ho  
19 consumer's credit report or credit score.

20 **Article 3. Protection of Social Security Number.**

21 **Sec. 45.48.400. Use of social security number.** (a) A person ma

22 (1) intentionally communicate or otherwise make availabl  
23 general public an individual's social security number;

24 (2) print an individual's social security number on a ca  
25 the individual to access products or services provided by the perso

26 (3) require an individual to transmit the individual's s  
27 number over the Internet unless the Internet connection is secure o  
28 number is encrypted;

29 (4) require an individual to use the individual's social

30 to access an Internet site unless a password, a unique personal ide  
31 or another authentication device is also required to access the sit

01 (5) print an individual's social security number on mate  
02 mailed to the individual unless

03 (A) local, state, or federal law, including a regul  
04 under [AS 45.48.470](#), expressly authorizes placement of the soci  
05 number on the material; or

06 (B) the social security number is included on an ap  
07 other form, including a document sent as a part of an applicat  
08 enrollment process, sent by mail to establish, amend, or termi  
09 contract, or a policy, or to confirm the accuracy of the socia  
10 however, a social security number allowed to be mailed under t  
11 subparagraph may not be printed, in whole or in part, on a pos  
12 mailer that does not require an envelope, or in a manner that  
13 security number visible on the envelope or without the envelop  
14 opened.

15 (b) The prohibitions in (a) of this section do not apply if t  
16 engaging in the business of government and

17 (1) is authorized by law to communicate or otherwise mak  
18 to the general public the individual's social security number; or

19 (2) the communicating or otherwise making available of t  
20 individual's social security number is required for the performance  
21 duties or responsibilities as provided by law.

22 **Sec. 45.48.410. Request and collection.** (a) A person who does  
23 state, including the business of government, may not request or col  
24 individual the individual's social security number. This subsection  
25 person from asking for another form of identification from the indi

26 (b) The prohibition in (a) of this section does not apply

27 (1) if the person is authorized by local, state, or fede  
28 a regulation adopted under [AS 45.48.470](#), to demand proof of the ind  
29 security number, to request or collect the individual's social secu  
30 submit the individual's social security number to the local, state,  
31 government;

01 (2) if the person is engaging in the business of governm

02 (A) is authorized by law to request or collect the  
03 social security number; or

04 (B) the request or collection of the individual's s  
05 number is required for the performance of the person's duties  
06 responsibilities as provided by law;

07 (3) to a person subject to or a transaction regulated by  
08 Leach-Bliley Financial Modernization Act for a purpose authorized b  
09 Leach-Bliley Financial Modernization Act;

10 (4) to a person subject to or a transaction regulated by  
11 Reporting Act for a purpose authorized by the Fair Credit Reporting

12 (5) if the request or collection is for a background che  
13 individual, fraud prevention, medical treatment, law enforcement or  
14 purposes, or the individual's employment, including employment bene

15 (6) if the request or collection does not have independe  
16 value, is incidental to a larger transaction or a larger anticipate

17 necessary to verify the identity of the individual.

18 **Sec. 45.48.420. Sale, lease, loan, trade, or rental.** (a) A per  
19 lease, loan, trade, or rent an individual's social security number

20 (b) The prohibition in (a) of this section does not apply if  
21 trade, or rental is

22 (1) authorized by local, state, or federal law, includin  
23 adopted under [AS 45.48.470](#);

24 (2) by a person subject to or for a transaction regulate  
25 Leach-Bliley Financial Modernization Act for a purpose authorized b  
26 Leach-Bliley Financial Modernization Act;

27 (3) by a person subject to or for a transaction regulate  
28 Credit Reporting Act for a purpose authorized by the Fair Credit Re

29 (4) part of a report prepared by a consumer credit repor  
30 response to a request by a person and the person submits the social  
31 part of the request to the consumer credit reporting agency for the

01 report.

02 (c) Nothing in this section prevents a business from transfer  
03 numbers to another person if the transfer is part of the sale or ot  
04 business to the other person.

05 (d) A transfer of an individual's social security number for  
06 identifying a person about whom a report or database check is order  
07 provided is not a sale, lease, loan, trade, or rental of a social s  
08 this section.

09 (e) A person who knowingly violates (a) of this section is gu  
10 misdemeanor. In this subsection, "knowingly" has the meaning given

11 **Sec. 45.48.430. Disclosure.** (a) A person doing business, inclu  
12 business of government, may not disclose an individual's social sec  
13 third party.

14 (b) The prohibition in (a) of this section does not apply if

15 (1) the disclosure is authorized by local, state, or fed  
16 a regulation adopted under [AS 45.48.470](#);

17 (2) the person is engaging in the business of government

18 (A) is authorized by law to disclose the individual  
19 security number; or

20 (B) the disclosure of the individual's social secur  
21 required for the performance of the person's duties or respons  
22 provided by law;

23 (3) the disclosure is to a person subject to or for a tr  
24 by the Gramm-Leach-Bliley Financial Modernization Act, and the disc  
25 purpose authorized by the Gramm-Leach-Bliley Financial Modernizatio  
26 facilitate a transaction of the individual;

27 (4) the disclosure is to a person subject to or for a tr  
28 by the Fair Credit Reporting Act, and the disclosure is for a purpo  
29 Fair Credit Reporting Act;

30 (5) the disclosure is part of a report prepared by a con  
31 reporting agency in response to a request by a person and the perso

01 security number as part of the request to the consumer credit repor  
02 preparation of the report; or

03 (6) the disclosure is for a background check on the indi

04 verification, fraud prevention, medical treatment, law enforcement  
05 government purposes, or the individual's employment, including empl  
06 **Sec. 45.48.440. Interagency disclosure.** Notwithstanding the ot  
07 of [AS 45.48.400](#) - 45.48.480, a state or local governmental agency m  
08 individual's social security number to another state or local gover  
09 an agency of the federal government if the disclosure is required i  
10 agency to carry out the agency's duties and responsibilities.

11 **Sec. 45.48.450. Exception for employees, agents, and independe**  
12 **contractors.** (a) Notwithstanding the other provisions of [AS 45.48.4](#)  
13 person may disclose an individual's social security number to an em  
14 the person for a legitimate purpose established by and as directed  
15 the employee or agent may not use the social security number for an  
16 make an unauthorized disclosure of the individual's personal inform

17 (b) Notwithstanding the other provisions of [AS 45.48.400](#) - 45  
18 except as provided for an agent under (a) of this section, a person  
19 individual's social security number to an independent contractor of  
20 facilitate the purpose or transaction for which the individual init  
21 social security number to the person, but the independent contracto  
22 social security number for another purpose or make an unauthorized  
23 individual's personal information. In this subsection, "independent  
24 includes a debt collector.

25 **Sec. 45.48.460. Employment-related exception.** The provisions c  
26 [AS 45.48.400](#) - 45.48.480 may not be construed to restrict a person'  
27 of an individual's social security number

28 (1) in the course of the administration of a claim, bene  
29 related to the individual's employment by the person, including the  
30 termination from employment, retirement from employment, and injury  
31 during the course of employment; or

01 (2) to check on an unemployment insurance claim of the i

02 **Sec. 45.48.470. Agency regulations.** If regulations are necessa  
03 state agency to carry out the state agency's duties and responsibil  
04 may adopt regulations under [AS 44.62](#) (Administrative Procedure Act)  
05 when the state agency or a person regulated by the state agency may

06 (1) print an individual's social security number on mate  
07 mailed to the individual;

08 (2) demand proof from an individual of the individual's  
09 number, collect from an individual the individual's social security  
10 an individual's social security number to a local, state, or federa

11 (3) ask an individual to provide the state agency with t  
12 social security number;

13 (4) disclose an individual's social security number to a

14 (5) sell, lease, loan, trade, or rent an individual's so  
15 to a third party.

16 **Sec. 45.48.480. Penalties.** (a) A person who knowingly violates  
17 - 45.48.430 is liable to the state for a civil penalty not to excee

18 (b) An individual may bring a civil action in court against a  
19 knowingly violates [AS 45.48.400](#) - 45.48.430 and may recover actual  
20 damages, court costs allowed by the rules of court, and full reason

21 (c) In this section, "knowingly" has the meaning given in [AS](#)

22 **Article 4. Disposal of Records.**



23           **Sec. 45.48.500. Disposal of records.** (a) When disposing of rec  
24 contain personal information, a business and a governmental agency  
25 reasonable measures necessary to protect against unauthorized acces  
26 records.

27           (b) Notwithstanding (a) of this section, if a business or gov  
28 has otherwise complied with the provisions of [AS 45.48.500](#) - 45.48.  
29 selection of a third party engaged in the business of record destru  
30 governmental agency is not liable for the disposal of records under  
31 45.48.590 after the business or governmental agency has relinquishe

01 records to the third party for the destruction of the records.

02           (c) A business or governmental agency is not liable for the d  
03 under [AS 45.48.500](#) - 45.48.590 after the business or governmental a  
04 relinquished control of the records to the individual to whom the r

05           **Sec. 45.48.510. Measures to protect access.** The measures that  
06 to comply with [AS 45.48.500](#) include

07           (1) implementing and monitoring compliance with policies  
08 procedures that require the burning, pulverizing, or shredding of p  
09 containing personal information so that the personal information ca  
10 read or reconstructed;

11           (2) implementing and monitoring compliance with policies  
12 procedures that require the destruction or erasure of electronic me  
13 nonpaper media containing personal information so that the personal  
14 cannot practicably be read or reconstructed;

15           (3) after due diligence, entering into a written contrac  
16 party engaged in the business of record destruction to dispose of r  
17 personal information in a manner consistent with [AS 45.48.500](#) - 45.

18           **Sec. 45.48.520. Due diligence.** In [AS 45.48.510](#)(3), due diligen  
19 includes performing one or more of the following:

20           (1) reviewing an independent audit of the third party's  
21 its compliance with [AS 45.48.500](#) - 45.48.590;

22           (2) obtaining information about the third party from sev  
23 or other reliable sources and requiring that the third party be cer  
24 trade association or similar organization with a reputation for hig  
25 review; or

26           (3) reviewing and evaluating the third party's informati  
27 policies and procedures, or taking other appropriate measures to de  
28 competency and integrity of the third party.

29           **Sec. 45.48.530. Policy and procedures.** A business or governmen  
30 shall adopt written policies and procedures that relate to the adeq  
31 proper disposal of records containing personal information and that

01 [AS 45.48.500](#) - 45.48.590.

02           **Sec. 45.48.540. Exemptions.** (a) A business or a governmental a  
03 required to comply with [AS 45.48.500](#) - 45.48.530 if federal law req  
04 business or governmental agency act in a way that does not comply w  
05 - 45.48.530.

06           (b) A business is not required to comply with [AS 45.48.500](#) -

07           (1) the business is subject to and in compliance with th  
08 Leach-Bliley Financial Modernization Act; or

09           (2) the manner of the disposal of the records of the bus

10 to 15 U.S.C. 1681w of the Fair Credit Reporting Act and the business  
11 with 15 U.S.C. 1861w.

12 **Sec. 45.48.550. Civil penalty.** (a) An individual, a business,  
13 agency that knowingly violates [AS 45.48.500](#) - 45.48.590 is liable to  
14 civil penalty not to exceed \$3,000.

15 (b) In this section, "knowingly" has the meaning given in [AS](#)

16 **Sec. 45.48.560. Court action.** An individual who is damaged by  
17 [AS 45.48.500](#) - 45.48.590 may bring a civil action in court to enjoin  
18 and to recover for the violation actual economic damages, court costs  
19 rules of court, and full reasonable attorney fees.

20 **Sec. 45.48.590. Definitions.** In [AS 45.48.500](#) - 45.48.590,

21 (1) "business" means a person who conducts business in the  
22 person who conducts business and maintains or otherwise possesses personal  
23 information on state residents; in this paragraph,

24 (A) "conducts business" includes engaging in activities of a  
25 financial institution organized, chartered, or holding a license or  
26 certificate under the laws of this state, another state, the United States,  
27 or another country;

28 (B) "possesses" includes possession for the purpose of  
29 destruction;

30 (2) "dispose" means

31 (A) the discarding or abandonment of records containing

01 personal information;

02 (B) the sale, donation, discarding, or transfer of

03 (i) any medium, including computer equipment or other  
04 computer media, that contains records of personal information;

05 (ii) nonpaper media, other than that identified in  
06 this subparagraph, on which records of personal information  
07 are stored; and

08 (iii) equipment for nonpaper storage of information;

09 (3) "governmental agency" means a state or local government  
10 agency, except for an agency of the judicial branch;

11 (4) "personal information" means

12 (A) an individual's passport number, driver's license number,  
13 state identification number, bank account number, credit card  
14 card number, other payment card number, financial account information,  
15 or information from a financial application; or

16 (B) a combination of an individual's

17 (i) name; and

18 (ii) medical information, insurance policy number, social security number,  
19 employment information, or employment history;

20 (5) "records" means material on which information that is  
21 drawn, spoken, visual, or electromagnetic is recorded or preserved, in  
22 physical form or characteristics, but does not include publicly available  
23 information containing names, addresses, telephone numbers, or other information  
24 that the individual has voluntarily consented to have publicly disseminated or listed.

## 25 **Article 5. Factual Declaration of Innocence after Identity Theft; Right to** 26 **Report Regarding Identity Theft.**

27 **Sec. 45.48.600. Factual declaration of innocence after identity theft.**  
28 A victim of identity theft may petition the superior court for a declaratory

29 victim is factually innocent of a crime if  
30 (1) the perpetrator of the identity theft was arrested f  
31 convicted of the crime using the victim's identity;

01 (2) a criminal complaint was filed against the perpetr  
02 identity theft; and

03 (3) the victim's identity was mistakenly associated with  
04 conviction for a crime.

05 (b) In addition to a petition by a victim under (a) of this s  
06 department may petition the superior court for a determination unde  
07 section, or the superior court may, on its own motion, make a deter  
08 of this section.

09 **Sec. 45.48.610. Basis for determination.** A determination of fa  
10 innocence under [AS 45.48.600](#) may be heard and made on declarations,  
11 police reports, or other material, relevant, and reliable informati  
12 parties or ordered to be made a part of the record by the court.

13 **Sec. 45.48.620. Criteria for determination; court order.** (a) A  
14 determine that a petitioner under [AS 45.48.600](#) is factually innocen  
15 court finds beyond a reasonable doubt that

16 (1) the petitioner is a victim of identity theft;

17 (2) the petitioner did not commit the offense for which  
18 of the identity theft was arrested, cited, or convicted;

19 (3) the petitioner filed a criminal complaint against th  
20 the identity theft; and

21 (4) the petitioner's identity was mistakenly associated  
22 conviction for the crime.

23 (b) If a court finds under this section that the victim is fa  
24 crime, the court shall issue an order indicating this determination  
25 and shall provide the victim with a copy of the order.

26 **Sec. 45.48.630. Orders regarding records.** After a court issues  
27 [AS 45.48.620](#), the court may order the name and associated personal  
28 the victim of identity theft that is contained in the files, indexe  
29 the court that are accessible by the public labeled to show that th  
30 information of the victim of identity theft is incorrect.

31 **Sec. 45.48.640. Vacation of determination.** A court that has is

01 under [AS 45.48.620](#) may, at any time, vacate the order if the petiti  
02 information submitted in support of the petition, is found to conta  
03 misrepresentation, omission, or false information.

04 **Sec. 45.48.650. Court form.** The supreme court of the state may  
05 form to be used for the order under [AS 45.48.620](#).

06 **Sec. 45.48.660. Data base.** The department may establish and ma  
07 base of individuals who have been victims of identity theft and who  
08 order under [AS 45.48.620](#). The department shall provide a victim or  
09 authorized representative access to a data base established under t  
10 establish that the individual has been a victim of identity theft.  
11 base established under this section is limited to criminal justice  
12 identity theft, and individuals and agencies authorized by the vict

13 **Sec. 45.48.670. Toll-free telephone number.** The department may  
14 and maintain a toll-free telephone number to provide access to info  
15 base established under [AS 45.48.660](#).

16           **Sec. 45.48.680. Right to file police report regarding identity**  
17 if the local law enforcement agency does not have jurisdiction over  
18 individual's identity, if an individual who has learned or reasonable  
19 individual has been the victim of identity theft contacts, for the  
20 complaint, a local law enforcement agency that has jurisdiction over  
21 actual place of residence, the local law enforcement agency shall matter  
22 and provide the individual with a copy of the report. The local  
23 agency may refer the matter to a law enforcement agency in a different

24           (b) This section is not intended to interfere with the discretion  
25 enforcement agency to allocate its resources to the investigation of  
26 enforcement agency is not required to count a complaint filed under  
27 as an open case for purposes that include compiling statistics on identity

28           **Sec. 45.48.690. Definitions.** In [AS 45.48.600](#) - 45.48.690,

- 29           (1) "crime" has the meaning given in [AS 11.81.900](#);  
30           (2) "department" means the Department of Law;  
31           (3) "perpetrator" means the person who perpetrated the

01 individual's identity;

02           (4) "victim" means an individual who is the victim of identity

03           **Article 6. Truncation of Card Information.**

04           **Sec. 45.48.750. Truncation of card information.** (a) A person who  
05 credit cards or debit cards for the transaction of business may not  
06 last four digits of the card number or the expiration date on any  
07 physical record of the transaction provided at the point of the sale

08           (b) This section applies only to receipts that are electronic  
09 not apply to transactions in which the sole means of recording a credit  
10 card account number is by handwriting or by an imprint or copy of the

11           (c) A person may not sell a device that electronically prints  
12 four digits of a credit card or debit card on a consumer receipt for  
13 transaction or on a copy retained by a business person for a business

14           (d) An individual may bring a civil action in court against a  
15 knowingly violates (a) of this section and may recover actual economic  
16 court costs allowed by the rules of court, and full reasonable attorney

17           (e) A person who knowingly violates this section is liable to  
18 civil penalty not to exceed \$3,000.

19           (f) In this section,

20           (1) "credit" means the right granted by a creditor to a  
21 payment of debt, to incur debts and defer payment of the debt, or to  
22 or services and defer payment of the purchase; in this paragraph, "person  
23 person who regularly extends, renews, or continues credit, a person  
24 arranges for the extension, renewal, or continuation of credit, or  
25 original creditor who participates in the decision to extend, renew

26           (2) "credit card" means a card, plate, coupon book, or other  
27 device existing for the purpose of obtaining money, property, labor  
28 credit;

29           (3) "debit card" means a card issued by a financial institution  
30 consumer for use in initiating an electronic fund transfer from the  
31 consumer at the financial institution for the purpose of transferring

01 accounts or obtaining money, property, labor, or services;

02           (4) "knowingly" has the meaning given in [AS 11.81.900](#).

03 **Article 7. General Provisions.**

04 **Sec. 45.48.990. Definitions.** In this chapter, unless the conte  
05 otherwise,

06 (1) "consumer" means an individual;

07 (2) "consumer credit reporting agency" means a person wh  
08 monetary fees, dues, or on a cooperative nonprofit basis, regularly  
09 in part in the practice of assembling or evaluating consumer credit  
10 other information on consumers for the purpose of furnishing credit  
11 parties;

12 (3) "credit report" means a written, oral, or other comm  
13 information by a consumer credit reporting agency bearing on a cons  
14 worthiness, credit standing, credit capacity, character, general re  
15 characteristics, or mode of living if the communication is used or  
16 or collected in whole or in part to serve as a factor in establishi  
17 eligibility for

18 (A) credit or insurance to be used primarily for pe  
19 family, or household purposes;

20 (B) employment purposes; or

21 (C) any other permissible purpose authorized under  
22 U.S.C. 1681b;

23 (4) "Fair Credit Reporting Act" means 15 U.S.C. 1681 - 1

24 (5) "Gramm-Leach-Bliley Financial Modernization Act" mea  
25 U.S.C. 6801 - 6827;

26 (6) "identity theft" means the theft of the identity of

27 (7) "information system" means any information system, i  
28 system consisting of digital data bases and a system consisting of

29 (8) "person" has the meaning given in [AS 01.10.060](#) and i  
30 state or local governmental agency, except for an agency of the jud

31 (9) "state resident" means an individual who satisfies t

01 requirements under [AS 01.10.055](#).

02 **Sec. 45.48.995. Short title.** This chapter may be cited as the  
03 Information Protection Act.

04 \* **Sec. 4.** [AS 45.50.471](#)(b) is amended by adding a new paragraph to read

05 (53) an information collector, other than a governmental  
06 violating [AS 45.48.010](#) - 45.48.090 (breach of security involving pe  
07 information); in this paragraph,

08 (A) "governmental agency" has the meaning given in  
09 [AS 45.48.090](#);

10 (B) "information collector" has the meaning given i  
11 [AS 45.48.090](#).

12 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by addi  
13 read:

14 **INDIRECT COURT RULE AMENDMENTS.** (a) [AS 45.48.640](#), enacted by sec. 3  
15 this Act, has the effect of changing Rule 60(b), Alaska Rules of Civil Pr  
16 a court to vacate an order on its own motion and at any time and by estab  
17 criterion for vacating the order under [AS 45.48.640](#).

18 (b) [AS 45.48.200](#)(a), 45.48.480(b), 45.48.560, and 45.48.750(d), en  
19 this Act, have the effect of changing Rule 82, Alaska Rules of Civil Proc  
20 the criteria for determining the amount of attorney fees to be awarded to  
21 under [AS 45.48.200](#)(a), 45.48.480(b), 45.48.560, or 45.48.750(d).



22 \* **Sec. 6.** The uncodified law of the State of Alaska is amended by addi  
23 read:

24 TRANSITION: REGULATIONS. A state agency may proceed to adopt regula  
25 necessary to implement this Act. The regulations take effect under [AS 44.](#)  
26 Procedure Act), but not before the effective date of the law implemented

27 \* **Sec. 7.** [AS 45.48.470](#), enacted by sec. 3 of this Act, takes effect im  
28 [AS 01.10.070](#)(c).

29 \* **Sec. 8.** Section 6 of this Act takes effect immediately under [AS 01.1](#)

30 \* **Sec. 9.** Except as provided by secs. 7 and 8 of this Act, this Act ta  
31 2009.