

**Testimony of Senator Mark Pryor (D-AR)**  
**Before the Committee on Banking, Housing, and Urban Affairs**  
**September 22, 2005**

Chairman Shelby, Ranking Member Sarbanes, and members of the Banking Committee, I thank you for your kind invitation to testify about identity theft and security freeze.

As you are all aware, identity theft is one of the fastest growing financial crimes in the country. According to the Federal Trade Commission, almost 10 million people per year become the victims of identity theft.

It is especially important to my constituents in Arkansas. Identity theft is in the top category of reported fraud in my state, with over 1,397 cases last year. It is an issue that I have cared about since my days as Arkansas Attorney General.

The Identity Theft Resource Center noted that identity theft victims spend on average about \$1500 and expend 600 hours of time to restore their credit histories after they realize what has happened to them.

In addition, this crime costs American business an estimated \$48 billion annually-this must be prevented. A person's sensitive personal information is better than gold bullion. It weighs nothing, and in the hands of an experienced thief, yields far more wealth than the victim may actually possess. And all of our sensitive personal information is very vulnerable.

The California notification law educated every American consumer about the difficulties of keeping our sensitive personal information safe.

Companies can lose it off a truck, accidentally expose it, or have it stolen from them. It seemed that there was a large breach at every turn. First, there was ChoicePoint, then Lexis-Nexis, Card Systems, DSW, and the list goes on and on.

The goal is to make sure that companies adequately safeguard the personal information they keep. Then, in the event of a breach or a loss of sensitive personal information, we want to make sure those consumers are notified as soon as possible so that they can protect themselves from the potential identity theft.

The issue that struck me is that we are not providing consumers the tools to protect themselves. And we should give consumers a broad array of positive actions they can take to protect their information. An ounce of prevention is worth a pound of cure.

The Federal government can place as many requirements as they please on businesses to

protect sensitive personal information, but breaches will still happen. Hopefully, after a strong identity theft law is passed there will be fewer occurrences, but they will still happen.

Sensitive personal information is readily available in paper sources and public records. Identity thieves will still steal mail and dig through trash for sensitive personal information.

As a quick example, my staff has received 11 prescreened credit offers at his home in the past week-several of them for previous occupants.

It is this environment that spurred me to introduce S. 1336, The Consumer Identity Protection and Security Act of 2005, to provide the opportunity for consumers to have a choice to place a security freeze on their credit reports.

There is a philosophical tension regarding passage of a national security freeze law. Several states have security freeze laws in force right now, including California, Louisiana, Texas, Vermont, and Washington state, and even more states are considering such a law. Maine and Nevada security freeze laws are scheduled to come online in the next few months.

Usually, in this situation, businesses come to Congress looking for a national law for uniformity. This is the case in terms of the notice issue and safeguarding information, but not when it comes to providing security freezes.

I see the provision of a national security freeze law as the means of providing consumers a choice to protect themselves financially and to exercise their right to privacy.

Security freezes are not for everyone. If a consumer enjoys having the ability to apply for instant credit and does not wish to surrender that convenience, he or she should not place a security freeze on their credit report.

On the other hand, if you are a consumer that is not interested in instant credit and wants to eliminate the possibility of identity theft being turned into a tremendous financial loss, then a security freeze may be the right tool.

The constituencies that argue against security freezes make the argument that consumers are too accustomed to having instant credit, and that having security freezes available to all consumers will have unintended consequences, such as missing sales or missing offers with short time frames. Or more simply stated, they do not want to lose customers for instant credit.

But what is the danger in giving consumers a choice? The credit reporting agencies

currently have to honor the security freeze laws for California, Louisiana, Texas, Vermont and Washington. The agencies will have to honor the security freeze laws of Colorado, Connecticut, Illinois, Maine, and Nevada, so impracticability is clearly not the issue.

There were 21 other states that considered security freeze legislation this year, with bills in New Jersey and North Carolina waiting for their governor's signature.

In fact, technology companies in California are currently in the development stage of products for one-stop shopping for consumers who wish to have their credit frozen at all three credit reporting agencies.

In as little as 60 days, this type of one-stop shopping for consumers could be available to all consumers in states where security freeze laws have been enacted.

People that elect to put a security freeze on their reports are not customers for instant credit, just like people who elect to put their names on the Do Not Call list are not customers for telemarketers.

To not provide consumers this choice because they will not understand the inconvenience a freeze may cause them does not strike me as a reason to deny Americans this protection. If this is truly a concern, educating the consumer would solve that problem.

Another criticism I heard while we were discussing this issue was that security freeze legislation would impede necessary functions that rely on access to credit reports.

After reviewing what the states have done, I am convinced that carefully crafted exceptions will insure that the flow of information needed for identity verification, fraud prevention, debt collection, government services and the maintenance of prior business relationships will ensure those functions can continue in the normal course while fully protecting the consumer.

California and Texas have had security freezes in place since 2003, and business continues to be conducted there with no incident.

Still, credit reports are legitimately needed for fraud protection, to collect current outstanding debts, and for the proof of identity.

Any national security freeze bill has to maintain the ability for proper and necessary uses of credit report information.

Yet another criticism I heard was that a security freeze is the same as a fraud alert, which can be placed on a consumer's account from the recently-passed FACTA. This is not true.

Fraud alerts, while providing a level of security, are not as comprehensive as a freeze. Fraud alerts last only ninety days.

In order to get an extended fraud alert, a consumer has to prove they have already been victimized by providing a police report or an affidavit.

In addition, fraud alerts do not prohibit the release of a consumer's credit information from a consumer reporting agency. There is room for a security freeze option.

Consumers that wish to have more flexibility in having instant credit but want a level of protection can use the fraud alert.

If a consumer wishes to deal with a level of inconvenience but wants certainty that no new credit will be issued from his or her credit report can elect to have a freeze.

In summary, Mr. Chairman and Senator Sarbanes, I believe that strengthening data safeguard and consumer breach notification requirements are important to help stop identity theft.

But requiring businesses to better safeguard data and notify consumers of breaches are not the only answers.

I believe we must also provide consumers with new tools to prevent identity theft. A national security freeze law will provide consumers with that additional tool.

Consumers will have a choice on whether to actively protect their credit through affirmative action or to trust credit reporting agencies, financial institutions, data brokers, and others to do it for them. This is an important choice.

The option of placing a security freeze on a consumer's credit file has proved to be a viable and workable one in several states across the country.

It is my hope that the Congress will agree to give this choice to all consumers across the country to help prevent them from becoming victims of identity theft and protect their most important personal information.

I thank the Chairman, Senator Sarbanes, and the members of the committee for inviting me to give testimony on this issue that is very important to me and my constituents. Thank you.