

113TH CONGRESS
1ST SESSION

S. 1837

To amend the Fair Credit Reporting Act to prohibit the use of consumer credit checks against prospective and current employees for the purposes of making adverse employment decisions.

IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2013

Ms. WARREN (for herself, Mr. BLUMENTHAL, Mr. BROWN, Mr. LEAHY, Mr. MARKEY, Mrs. SHAHEEN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Fair Credit Reporting Act to prohibit the use of consumer credit checks against prospective and current employees for the purposes of making adverse employment decisions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Employment
5 for All Act of 2013”.

1 **SEC. 2. USE OF CREDIT CHECKS PROHIBITED FOR EMPLOY-**
2 **MENT PURPOSES.**

3 (a) PROHIBITION FOR EMPLOYMENT AND ADVERSE
4 ACTION.—Section 604 of the Fair Credit Reporting Act
5 (15 U.S.C. 1681b) is amended—

6 (1) in subsection (a)(3)(B), by inserting “within
7 the restrictions set forth in subsection (b)” after
8 “purposes”;

9 (2) by redesignating subsections (b) through (g)
10 as subsections (c) through (h), respectively; and

11 (3) by inserting after subsection (a) the fol-
12 lowing new subsection:

13 “(b) USE OF CERTAIN CONSUMER REPORT PROHIB-
14 ITED FOR EMPLOYMENT PURPOSES OR ADVERSE AC-
15 TION.—

16 “(1) GENERAL PROHIBITION.—Except as pro-
17 vided in paragraph (3), a person, including a pro-
18 spective employer or current employer, may not use
19 a consumer report or investigative consumer report,
20 or cause a consumer report or investigative con-
21 sumer report to be procured, with respect to any
22 consumer where any information contained in the re-
23 port bears on the consumer’s creditworthiness, credit
24 standing, or credit capacity—

25 “(A) for employment purposes; or

1 “(B) for making an adverse action, as de-
2 scribed in section 603(k)(1)(B)(ii).

3 “(2) SOURCE OF CONSUMER REPORT IRRELE-
4 VANT.—The prohibition described in paragraph (1)
5 shall apply even if the consumer consents or other-
6 wise authorizes the procurement or use of a con-
7 sumer report for employment purposes or in connec-
8 tion with an adverse action with respect to such con-
9 sumer.

10 “(3) EXCEPTIONS.—Notwithstanding the prohi-
11 bitions set forth in this subsection, and consistent
12 with the other sections of this Act, an employer may
13 use a consumer report with respect to a consumer
14 in the following situations:

15 “(A) When the consumer applies for, or
16 currently holds, employment that requires na-
17 tional security clearance.

18 “(B) When otherwise required by law.

19 “(4) EFFECT ON DISCLOSURE AND NOTIFICA-
20 TION REQUIREMENTS.—The exceptions described in
21 paragraph (3) shall have no effect upon the other re-
22 quirements of this Act, including requirements in re-
23 gards to disclosure and notification to a consumer
24 when permissibly using a consumer report for em-

1 ployment purposes or for making an adverse action
2 against such consumer.”.

3 (b) CONFORMING AMENDMENTS AND CROSS REF-
4 ERENCES.—The Fair Credit Reporting Act is further
5 amended as follows:

6 (1) In section 603 (15 U.S.C. 1681a)—

7 (A) in subsection (d)(3), by striking
8 “604(g)(3)” and inserting “604(h)(3)”; and

9 (B) in subsection (o), by striking “A” and
10 inserting “Subject to the restrictions set forth
11 in subsection 604(b), a”.

12 (2) In section 604 (15 U.S.C. 1681b)—

13 (A) in subsection (a), by striking “sub-
14 section (e)” and inserting “subsection (d)”;

15 (B) in subsection (e), as redesignated by
16 subsection (a)(2) of this section—

17 (i) in paragraph (2)(A), by inserting
18 “and subject to the restrictions set forth in
19 subsection (b)” after “subparagraph (B)”;
20 and

21 (ii) in paragraph (3)(A), by inserting
22 “and subject to the restrictions set forth in
23 subsection (b)” after “subparagraph (B)”;

24 (C) in subsection (d)(1), as redesignated
25 by subsection (a)(2) of this section, by striking

1 “subsection (e)” in both places that term ap-
2 pears and inserting “subsection (f)”;

3 (D) in subsection (f), as redesignated by
4 subsection (a)(2) of this section—

5 (i) in paragraph (1), by striking “sub-
6 section (c)(1)(B)” and inserting “sub-
7 section (d)(1)(B)”;

8 (ii) in paragraph (5), by striking
9 “subsection (c)(1)(B)” and inserting “sub-
10 section (d)(1)(B)”.

11 (3) In section 607(e)(3)(A) (15 U.S.C.
12 1681e(e)(3)(A)), by striking “604(b)(4)(E)(i)” and
13 inserting “604(c)(4)(E)(i)”.

14 (4) In section 609 (15 U.S.C. 1681g)—

15 (A) In subsection (a)(3)(C)(i), by striking
16 “604(b)(4)(E)(i)” and inserting
17 “604(c)(4)(E)(i)”;

18 (B) in subsection (a)(3)(C)(ii), by striking
19 “604(b)(4)(A)” and inserting “604(c)(4)(A)”.

20 (5) In section 613(b) (15 U.S.C. 1681k(b)) by
21 striking section “604(b)(4)(A)” and inserting “sec-
22 tion 604(c)(4)(A)”.

23 (6) In section 615 (15 U.S.C. 1681m)—

1 (A) in subsection (d)(1), by striking “sec-
2 tion 604(c)(1)(B)” and inserting “section
3 604(d)(1)(B)”;

4 (B) in subsection (d)(1)(E), by striking
5 “section 604(e)” and inserting “section
6 604(f)”; and

7 (C) in subsection (d)(2)(A), by striking
8 “section 604(e)” and inserting “section
9 604(f)”.

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