

[DISCUSSION DRAFT]117TH CONGRESS
1ST SESSION**H. R.** _____

To amend the Fair Credit Reporting Act to prohibit consumer reporting agencies that furnish consumer reports for tenant screening purposes from providing certain information, to establish duties of users of consumer reports for housing purposes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. PRESSLEY introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Fair Credit Reporting Act to prohibit consumer reporting agencies that furnish consumer reports for tenant screening purposes from providing certain information, to establish duties of users of consumer reports for housing purposes, and for other purposes.

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. FINDINGS.**

4 Congress finds the following:

1 (1) Having any kind of criminal record, includ-
2 ing an arrest record, is often a major barrier to se-
3 curing housing.

4 (2) Around 90% of housing providers run back-
5 ground checks on all potential tenants. Many hous-
6 ing providers assess tenants' eligibility for housing
7 based on reports furnished by specialized consumer
8 reporting agencies known as tenant screening com-
9 panies.

10 (3) Housing providers often refuse to rent to
11 people with a criminal record, regardless of context
12 or whether the record bears any relationship to the
13 individual's ability to be a responsible renter.

14 (4) Communities of color are disproportionately
15 affected by high incarceration rates and collateral
16 consequences, including the use of criminal back-
17 ground checks. African Americans are more than
18 twice as likely to be arrested as whites, and while
19 they make up only 12.3% of the overall population,
20 more than 60% of people in prison are racial or eth-
21 nic minorities.

22 (5) Thousands of jurisdictions across the coun-
23 try offer diversion programs and other alternatives
24 to incarceration. Many jurisdictions have laws allow-
25 ing individuals to seal or expunge certain criminal

1 records. These programs reflect the recognition by
2 lawmakers that steps must be taken to help individ-
3 uals successfully reenter their communities and to
4 reduce recidivism.

5 (6) Reporting a guilty plea as “conviction” even
6 though an individual has completed an alternative-
7 to-incarceration program or reporting sealed or ex-
8 punged records undermines the intent of state law-
9 makers and greatly impedes an individual’s ability to
10 secure housing.

11 (7) This bill reaffirms that dispositions that are
12 not considered convictions under the law of the ju-
13 risdiction in which the proceeding was held should
14 not be reported, for tenant screening purposes, as
15 convictions.

16 (8) This bill also codifies existing regulatory
17 and judicial interpretations that sealed or expunged
18 records cannot be reported by consumer reporting
19 agencies, including tenant screening companies.

20 **SEC. 2. DEFINITION OF TENANT SCREENING PURPOSES.**

21 (a) DEFINITION OF TENANT SCREENING PUR-
22 POSES.—Section 603(h) of the Fair Credit Reporting Act
23 (15 U.S.C. 1681a(h)) is amended—

1 (1) by inserting “EMPLOYMENT PURPOSES AND
2 TENANT SCREENING PURPOSES.—” before “The
3 term”;

4 (2) by striking “The term” and inserting
5 “(1) EMPLOYMENT PURPOSES.—The term”;
6 and

7 (3) by adding at the end the following new
8 paragraph:

9 “(2) TENANT SCREENING PURPOSES.—The
10 term ‘tenant screening purposes’ when used in con-
11 nection with a consumer report means a report used
12 for the purpose of evaluating a consumer for rental
13 housing or retention as a renter or tenant.”.

14 (b) ADVERSE ACTION DEFINITION.—Section
15 603(k)(1)(B) of the Fair Credit Reporting Act (15 U.S.C.
16 1681a(k)(1)(B)) is amended—

17 (1) in clause (iii), by striking “and” at the end;

18 (2) in clause (iv)(II), by striking the period at
19 the end and inserting “; and”; and

20 (3) by adding at the end the following new
21 clause:

22 “(v) a denial of rental housing based
23 in whole or in part on a consumer report
24 procured for tenant screening purposes.”.

1 (c) CONFORMING AMENDMENTS.—The Fair Credit
2 Reporting Act (15 U.S.C. 1681 et seq.) is amended—

3 (1) in section 604(a)(3)(B), by inserting “or
4 tenant screening purposes” after “employment pur-
5 poses”;

6 (2) in section 605A(i)(4)(I), by striking “em-
7 ployment, tenant, or background screening pur-
8 poses” and inserting “employment purposes, tenant
9 screening purposes, or background screening pur-
10 poses”;

11 (3) in section 606(d)(2)—

12 (A) by inserting “or tenant screening pur-
13 poses” after “employment purposes”;

14 (B) by striking “of the consumer” and in-
15 serting “of the consumer, or by a housing pro-
16 vider or a prospective housing provider (as ap-
17 plicable)”; and

18 (C) by inserting “or fair housing” after
19 “equal employment opportunity”;

20 (4) in section 609(a)(3)(A)(i), by inserting “or
21 tenant screening purposes” after “employment pur-
22 poses”; and

23 (5) in section 613—

1 (A) in the section heading, by inserting
2 “**OR TENANT SCREENING PURPOSES**” after
3 “**EMPLOYMENT PURPOSES**”; and

4 (B) in subsection (a)—

5 (i) in the matter preceding paragraph
6 (1), by inserting “or tenant screening pur-
7 poses” after “employment purposes”; and

8 (ii) by inserting “or rental housing, as
9 applicable,” after “obtain employment”
10 each place it appears.

11 **SEC. 3. PROHIBITION ON INFORMATION INCLUDED IN CON-**
12 **SUMER REPORTS FURNISHED FOR TENANT**
13 **SCREENING PURPOSES.**

14 Section 605 of the Fair Credit Reporting Act (15
15 U.S.C. 1681c) is amended by adding at the end the fol-
16 lowing new subparagraph:

17 “(i) **TENANT SCREENING PURPOSES.**—A consumer
18 reporting agency that furnishes a consumer report for ten-
19 ant screening purposes shall not include any information
20 relating to the following:

21 “(1) An arrest for an offense for which the con-
22 sumer was not subsequently charged or convicted.

23 “(2) Any juvenile adjudication or conviction, in-
24 cluding convictions or adjudications in which a juve-
25 nile was tried as an adult.

1 “(3) Non-criminal citations by State or local
2 law enforcement agencies.

3 “(4) A disposition received through successful
4 completion of diversion, deferred adjudication, de-
5 ferred entry of judgment, drug court, or a similar
6 judicial program established under State law.

7 “(5) A conviction for which the consumer was
8 only sentenced to probation.

9 “(6) An offense or offenses related to fees or
10 back payments associated with incarceration.”.

11 **SEC. 4. DUTIES OF USERS OF CONSUMER REPORTS FOR**
12 **HOUSING PURPOSES.**

13 Section 615 of the Fair Credit Reporting Act (15
14 U.S.C. 1681m) is amended by adding at the end the fol-
15 lowing new subsection:

16 “(i) **USERS FOR TENANT SCREENING PURPOSES.—**
17 If a person who has procured a consumer report of a con-
18 sumer for tenant screening purposes denies rental housing
19 to such consumer based on the report, the person—

20 “(1) shall provide to the consumer to whom the
21 report relates a notice containing the information
22 described in subsection (a) within 3 days after such
23 denial; and

24 “(2) shall provide the specific reasons for such
25 denial.”.

1 **SEC. 5. CONDITIONS FOR FURNISHING AND USING CON-**
2 **SUMER REPORTS FOR TENANT SCREENING**
3 **PURPOSES.**

4 Section 604(b) of the Fair Credit Reporting Act (15
5 U.S.C. 1681b(b)) is amended—

6 (1) in the subsection heading, by inserting “OR
7 TENANT SCREENING PURPOSES” after “EMPLOY-
8 MENT PURPOSES”;

9 (2) in paragraph (1)—

10 (A) in the matter preceding subparagraph
11 (A), by inserting “or tenant screening pur-
12 poses” after “employment purposes”; and

13 (B) in subparagraph (A)(ii), by inserting
14 “or fair housing” after “equal employment op-
15 portunity”;

16 (3) in paragraph (2)(A)—

17 (A) in the matter preceding clause (i), by
18 inserting “or tenant screening purposes” after
19 “employment purposes”; and

20 (B) in clause (i), by inserting “or tenant
21 screening purposes (as applicable)” after “em-
22 ployment purposes”; and

23 (4) in paragraph (3)(A), by inserting “or ten-
24 ant screening purposes” after “employment pur-
25 poses”.

1 **SEC. 6. EXCLUSION OF CERTAIN RECORDS FROM CON-**
2 **SUMER REPORTS.**

3 Section 605(a) of the Fair Credit Reporting Act (15
4 U.S.C. 1681c(a)) is amended—

5 (1) in paragraph (5), by striking “other than
6 records of convictions of crimes” and inserting “in-
7 cluding records of convictions of crimes,”; and

8 (2) by adding at the end the following new
9 paragraph:

10 “(9) Any record of a conviction or arrest that
11 has been expunged, sealed, or subject to similar re-
12 lief, or any conviction for which a consumer has
13 been pardoned or has had civil rights restored.”.