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

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

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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

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SEC. 2. USE OF CREDIT CHECKS PROHIBITED FOR EMPLOYMENT PURPOSES.

(a) Prohibition for Employment and Adverse Action.—Section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b) is amended—

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

(2) by redesignating subsections (b) through (g) as subsections (e) through (h), respectively; and

(3) by inserting after subsection (a) the following new subsection:

“(b) Use of Certain Consumer Report Prohibited for Employment Purposes or Adverse Action.—

“(1) General prohibition.—Except as provided in paragraph (3), a person, including a prospective employer or current employer, may not use a consumer report or investigative consumer report, or cause a consumer report or investigative consumer report to be procured, with respect to any consumer where any information contained in the report bears on the consumer’s creditworthiness, credit standing, or credit capacity—

“(A) for employment purposes; or
“(B) for making an adverse action, as described in section 603(k)(1)(B)(ii).

“(2) Source of Consumer Report Irrelevant.—The prohibition described in paragraph (1) shall apply even if the consumer consents or otherwise authorizes the procurement or use of a consumer report for employment purposes or in connection with an adverse action with respect to such consumer.

“(3) Exceptions.—Notwithstanding the prohibitions set forth in this subsection, and consistent with the other sections of this Act, an employer may use a consumer report with respect to a consumer in the following situations:

“(A) When the consumer applies for, or currently holds, employment that requires national security clearance.

“(B) When otherwise required by law.

“(4) Effect on Disclosure and Notification Requirements.—The exceptions described in paragraph (3) shall have no effect upon the other requirements of this Act, including requirements in regards to disclosure and notification to a consumer when permissibly using a consumer report for em-
ployment purposes or for making an adverse action
against such consumer.”.

(b) CONFORMING AMENDMENTS AND CROSS REFERENCES.—The Fair Credit Reporting Act is further
amended as follows:

(1) In section 603 (15 U.S.C. 1681a)—

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

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

(2) In section 604 (15 U.S.C. 1681b)—

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

(B) in subsection (c), as redesignated by
subsection (a)(2) of this section—

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

and

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

(C) in subsection (d)(1), as redesignated
by subsection (a)(2) of this section, by striking
“subsection (e)” in both places that term appears and inserting “subsection (f)”;

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

(i) in paragraph (1), by striking “subsection (c)(1)(B)” and inserting “subsection (d)(1)(B)”; and

(ii) in paragraph (5), by striking “subsection (c)(1)(B)” and inserting “subsection (d)(1)(B)”.


(4) In section 609 (15 U.S.C. 1681g)—

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

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

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

(6) In section 615 (15 U.S.C. 1681m)—
(A) in subsection (d)(1), by striking “section 604(e)(1)(B)” and inserting “section 604(d)(1)(B)”;

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

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