

107TH CONGRESS
1ST SESSION

H. R. 1543

To amend the Fair Credit Reporting Act to exempt certain communications from the definition of consumer report, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 2001

Mr. SESSIONS (for himself and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Fair Credit Reporting Act to exempt certain communications from the definition of consumer report, 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. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Civil Rights and Employee Investigation Clarification
6 Act”.

7 (b) FINDINGS.—The Congress finds as follows:

8 (1) The Fair Credit Reporting Act, as inter-
9 preted by the Federal Trade Commission, impedes
10 investigations of workplace misconduct.

1 (2) The Fair Credit Reporting Act undermines
2 the ability of employers to use experienced outside
3 organizations or individuals to investigate allegations
4 of drug use or sales, violence, sexual harassment,
5 other types of harassment, employment discrimina-
6 tion, job safety and health violations, as well as
7 criminal activity, including theft, fraud, embezzle-
8 ment, sabotage or arson, patient or elder abuse,
9 child abuse, and other types of misconduct related to
10 employment.

11 (3) Employers have been advised by agencies
12 and the courts to utilize such experienced outside or-
13 ganizations and individuals in many cases to assure
14 compliance with civil rights laws and other laws, as
15 well as written workplace policies.

16 (4) Employees and consumers are put at risk
17 because the Fair Credit Reporting Act frustrates or
18 impedes employers in their efforts to maintain a safe
19 and productive workforce.

20 (5) The Fair Credit Reporting Act should not
21 chill the use of experienced outside organizations or
22 individuals to assist employers in their investigations
23 of workplace misconduct or misbehavior by poten-
24 tially subjecting those employers to additional liabil-
25 ities or damages.

1 **SEC. 2. CERTAIN COMMUNICATIONS EXCLUDED FROM DEF-**
 2 **INITION OF CONSUMER REPORT.**

3 (a) AMENDMENT TO DEFINITION OF CONSUMER RE-
 4 PORT.—Section 603(d)(2)(D) of the Fair Credit Report-
 5 ing Act (15 U.S.C. 1681a(d)(2)(D)) is amended by insert-
 6 ing “or (q)” after “subsection (o)”.

7 (b) AMENDMENT RELATING TO EMPLOYMENT IN-
 8 VESTIGATION REPORTS.—Section 603 of the Fair Credit
 9 Reporting Act (15 U.S.C. 1681a) is amended by adding
 10 at the end the following new subsection:

11 “(q) EXCLUSION OF CERTAIN COMMUNICATIONS.—

12 “(1) SELF-REGULATORY ORGANIZATION DE-
 13 FINED.—For purposes of this subsection, the term
 14 ‘self-regulatory organization’ includes a self-regu-
 15 latory organization (as defined in section 3(a)(26) of
 16 the Securities Exchange Act of 1934), a board of
 17 trade designated by the Commodity Futures Trading
 18 Commission, and a futures association registered
 19 with such Commission.

20 “(2) COMMUNICATIONS DESCRIBED IN THIS
 21 SUBSECTION.—A communication is described in this
 22 subsection if—

23 “(A) but for subsection (d)(2)(D), the
 24 communication would be a consumer report;

25 “(B) the communication is made to an em-
 26 ployer in connection with an investigation of—

1 “(i) suspected misconduct relating to
2 employment; or

3 “(ii) compliance with Federal, State,
4 or local laws and regulations, the rules of
5 a self-regulatory organization, or any pre-
6 existing written policies of the employer;

7 “(C) the communication is not made for
8 the purpose of investigating a consumer’s credit
9 worthiness, credit standing, or credit capacity;
10 and

11 “(D) the communication is not provided to
12 any person except—

13 “(i) to the employer or an agent of
14 the employer;

15 “(ii) to any Federal or State officer,
16 agency, or department, or any officer,
17 agency, or department of a unit of general
18 local government;

19 “(iii) to any self-regulatory organiza-
20 tion with regulatory authority over the ac-
21 tivities of the employer or employee;

22 “(iv) as otherwise required by law; or

23 “(v) pursuant to section 608.

24 “(3) SUBSEQUENT DISCLOSURE.—After taking
25 any adverse action based in whole or in part on a

1 communication described in paragraph (2), the em-
2 ployer shall disclose to the consumer a summary
3 containing the nature and substance of the commu-
4 nication upon which the adverse action is based.”.

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