

110TH CONGRESS  
2D SESSION

# H. R. 7033

To provide safeguards with respect to the Federal Bureau of Investigation criminal background checks prepared for employment purposes, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2008

Mr. SCOTT of Virginia (for himself, Mr. LOBIONDO, and Mr. LATOURETTE) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide safeguards with respect to the Federal Bureau of Investigation criminal background checks prepared for employment 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. SHORT TITLE.**

4 This Act may be cited as the “Fairness and Accuracy  
5 in Employment Background Checks Act of 2008”.

6 **SEC. 2. SAFEGUARDS FOR BACKGROUND CHECKS.**

7 (a) IN GENERAL.—In any exchange of records and  
8 information for employment purposes through the records

1 system created under section 534 of title 28, United  
2 States Code, the Attorney General shall—

3 (1) before making the exchange, use reasonable  
4 procedures to ensure maximum possible accuracy  
5 and completeness of the records and information;

6 (2) at time of getting the consent of the indi-  
7 vidual inquired about for the inquiry, accord that in-  
8 dividual an opportunity to receive a copy of the  
9 records and information provided to the inquirer  
10 prior to release to the inquirer;

11 (3) provide an opportunity to the individual in-  
12 quired about to challenge the accuracy and com-  
13 pleteness of the records and information provided;

14 (4) investigate each such challenge by con-  
15 tacting the relevant Federal, State, and local law en-  
16 forcement officials and provide the specific findings  
17 and results of that investigation to the individual not  
18 later than 30 days after the challenge is made;

19 (5) notify the inquirer of any challenge by the  
20 individual to the accuracy or completeness of a  
21 record or information and provide to the inquirer a  
22 copy of any corrected records or information result-  
23 ing from the investigation;

24 (6) upon finding that a record or information is  
25 inaccurate, incomplete, or cannot be verified,

1 promptly delete that record or information, or cor-  
2 rect that record or information, as appropriate and  
3 notify each appropriate Federal, State, or local  
4 criminal history record repository of that finding;

5 (7) if the disposition of an arrest is not in-  
6 cluded in the record or information relating to that  
7 arrest, obtain that disposition or verify that the ar-  
8 rest has not occurred not later than 5 days after the  
9 request for the exchange was made, before reporting  
10 that record or information to the requesting entity;

11 and

12 (8) not include any record or information—

13 (A) about an arrest more than one year old  
14 that does not also include a disposition of that  
15 arrest if there has been such a disposition; or

16 (B) relating to an adult or juvenile non-  
17 serious offense of the sort described in 28 CFR  
18 Section 2032(b).

19 (b) FEES.—The Director of the Federal Bureau of  
20 Investigation may collect reasonable fees, other from the  
21 individual inquired about, to defray the expenses associ-  
22 ated with the investigation of missing, inaccurate, or in-  
23 complete information.

24 (c) REPORT.—The Attorney General shall include in  
25 an annual report to Congress—

1           (1) the number of exchanges of records and in-  
2           formation for employment purposes made with enti-  
3           ties in each State through the records system cre-  
4           ated under section 534 of title 28, United States  
5           Code;

6           (2) the number of such exchanges that included  
7           records and information about arrests that did not  
8           result in convictions;

9           (3) any failure of a State to comply with the re-  
10          quirement that dispositions of arrests be reported to  
11          the Federal Bureau of Investigation not later than  
12          120 days after the failure occurs;

13          (4) the percent of missing arrest dispositions lo-  
14          cated within the time limit provided in subsection  
15          (a)(7); and

16          (5) the results of any challenges to the accuracy  
17          and completeness of records and information, includ-  
18          ing the State where the records and information  
19          originated.

20          (d) REGULATIONS ON REASONABLE PROCEDURES.—  
21          Not later than 120 days after the date of the enactment  
22          of this Act, the Attorney General shall issue regulations  
23          to carry out this Act.

24          (e) DEFINITION.—As used in this section, the term  
25          “for employment purposes” means for the purpose of

1 screening an individual for employment or occupational li-  
2 censing , or for any other purpose relating to employment.

3 **SEC. 3. REPORT ON ALL THE EMPLOYMENT RESTRICTIONS**  
4 **AND DISQUALIFICATIONS BASED ON CRIMI-**  
5 **NAL RECORDS REQUIRED BY FEDERAL LAW**  
6 **AND POLICY.**

7 (a) IN GENERAL.—Not later than one year after the  
8 date of the enactment of this Act and annually thereafter,  
9 the Attorney General shall report to Congress on all the  
10 employment restrictions and disqualifications based on  
11 criminal records required by Federal law and policy.

12 (b) IDENTIFICATION OF INFORMATION.—In the re-  
13 port, the Attorney General shall identify—

14 (1) the job title, occupation, or positions subject  
15 to criminal background checks authorized by Federal  
16 law;

17 (2) the cause of the disqualification based on a  
18 criminal record (statutory, regulatory, policy, or  
19 practice) and the substance and terms of the dis-  
20 qualification, including a listing of the disqualifying  
21 offenses, the recency of the disqualifying offenses,  
22 and the duration of the disqualification;

23 (3) the year the disqualification was adopted  
24 and its rationale;

1           (4) the procedures, if any, to appeal, waive or  
2           exempt the disqualification based on a showing of  
3           rehabilitation or other relevant evidence;

4           (5) the numbers of individuals disqualified pur-  
5           suant to the applicable law or policy as a result of  
6           a criminal record; and

7           (6) the Federal agency with jurisdiction to im-  
8           plement and enforce the applicable employment re-  
9           strictions or disqualifications.

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