

115TH CONGRESS
1ST SESSION

S. 1786

To amend the Fair Credit Reporting Act to enhance the accuracy of credit reporting and provide greater rights to consumers who dispute errors in their credit reports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2017

Mr. SCHATZ (for himself, Ms. WARREN, Mr. MERKLEY, Mrs. McCASKILL, Mr. BLUMENTHAL, and Mr. SANDERS) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Fair Credit Reporting Act to enhance the accuracy of credit reporting and provide greater rights to consumers who dispute errors in their credit reports, 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 “Stopping Errors in
5 Consumer Use and REporting Act of 2017” or the “SE-
6 CURE Act of 2017”.

1 **SEC. 2. LEGAL RECOURSE FOR CONSUMERS.**

2 (a) INJUNCTIVE RELIEF.—The Fair Credit Report-
3 ing Act (15 U.S.C. 1681 et seq.) is amended—

4 (1) in section 616 (15 U.S.C. 1681n)—

5 (A) in subsection (a), in the subsection
6 heading, by striking “(a) IN GENERAL.—” and
7 inserting “(a) DAMAGES.—”;

8 (B) by redesignating subsections (c) and
9 (d) as subsections (d) and (e), respectively; and

10 (C) by inserting after subsection (b) the
11 following:

12 “(c) INJUNCTIVE RELIEF.—

13 “(1) IN GENERAL.—In addition to any other
14 remedy under this section, a court may award in-
15 junctive relief to require compliance with the re-
16 quirements imposed under this title with respect to
17 any consumer.

18 “(2) COSTS AND ATTORNEY’S FEES.—In the
19 event of any successful action for injunctive relief
20 under this subsection, a court may award to the pre-
21 vailing party costs and reasonable attorney’s fees (as
22 determined by the court) incurred by the prevailing
23 party during the action.”; and

24 (2) in section 617 (15 U.S.C. 1681o)—

1 (A) in subsection (a), in the subsection
 2 heading, by striking “(a) IN GENERAL.—” and
 3 inserting “(a) DAMAGES.—”;

4 (B) by redesignating subsection (b) as sub-
 5 section (c); and

6 (C) by inserting after subsection (a) the
 7 following:

8 “(b) INJUNCTIVE RELIEF.—

9 “(1) IN GENERAL.—In addition to any other
 10 remedy under this section, a court may award in-
 11 junctive relief to require compliance with the re-
 12 quirements imposed under this title with respect to
 13 any consumer.

14 “(2) COSTS AND ATTORNEY’S FEES.—In the
 15 event of any successful action for injunctive relief
 16 under this subsection, a court may award to the pre-
 17 vailing party costs and reasonable attorney’s fees (as
 18 determined by the court) incurred by the prevailing
 19 party during the action.”.

20 (b) ENFORCEMENT BY FEDERAL TRADE COMMIS-
 21 SION.—Section 621(a)(2)(A) of the Fair Credit Reporting
 22 Act (15 U.S.C. 1681s(a)(2)(A)) is amended—

23 (1) in the subparagraph heading, by striking
 24 “(A) KNOWING VIOLATIONS.—” and inserting “(A)

1 NEGLIGENT, WILLFUL, OR KNOWING VIOLATIONS.—

2 ”; and

3 (2) in the first sentence, by inserting “neg-
4 ligent, willful, or” before “knowing”.

5 **SEC. 3. INCREASED REQUIREMENTS FOR CONSUMER RE-**
6 **PORTING AGENCIES AND FURNISHERS OF IN-**
7 **FORMATION.**

8 (a) PROVISION AND CONSIDERATION OF DOCU-
9 MENTATION PROVIDED BY CONSUMERS.—The Fair Credit
10 Reporting Act (15 U.S.C. 1681 et seq.) is amended—

11 (1) in section 611 (15 U.S.C. 1681i)—

12 (A) in subsection (a)—

13 (i) in paragraph (2)—

14 (I) in subparagraph (A), in the
15 second sentence, by inserting “, in-
16 cluding all documentation provided by
17 the consumer” after “received from
18 the consumer or reseller”; and

19 (II) in subparagraph (B), by in-
20 serting “, including all documentation
21 provided by the consumer,” after
22 “from the consumer or the reseller”;
23 and

1 (ii) in paragraph (4), by inserting “,
2 including all documentation,” after “rel-
3 evant information”; and

4 (B) in subsection (f)(2)(B)(ii), by inserting
5 “, including all documentation,” after “relevant
6 information”; and

7 (2) in section 623 (15 U.S.C. 1681s-2)—

8 (A) in subsection (a)(8)(E), by striking
9 clause (ii) and inserting the following:

10 “(ii) review and consider all relevant
11 information, including all documentation,
12 provided by the consumer with the no-
13 tice;”; and

14 (B) in subsection (b)(1), by striking sub-
15 paragraph (B) and inserting the following:

16 “(B) review and consider all relevant infor-
17 mation, including all documentation, provided
18 by the consumer reporting agency under section
19 611(a)(2);”.

20 (b) GATHERING AND REPORTING OF INFORMATION
21 RELATING TO CONSUMER DISPUTES.—Section 611 of the
22 Fair Credit Reporting Act (15 U.S.C. 1681i) is amended
23 by adding at the end the following:

24 “(g) GATHERING AND REPORTING OF INFORMATION
25 RELATING TO CONSUMER DISPUTES.—

1 “(1) REPORTS REQUIRED.—The Bureau shall
 2 provide reports regarding the disputes described in
 3 subsection (a)(1) received by consumer reporting
 4 agencies in such intervals and to such parties as the
 5 Bureau deems appropriate.

6 “(2) GATHERING OF INFORMATION.—The Bu-
 7 reau shall prescribe rules for the gathering of infor-
 8 mation relating to disputes described in subsection
 9 (a)(1) received by consumer reporting agencies to be
 10 used in generating the reports under paragraph (1),
 11 including rules establishing—

12 “(A) the type and format of information
 13 that the Bureau shall receive from each con-
 14 sumer reporting agency; and

15 “(B) the frequency with which the Bureau
 16 shall receive the information from consumer re-
 17 porting agencies.”.

18 (c) ACCURACY COMPLIANCE PROCEDURES.—Section
 19 607 of the Fair Credit Reporting Act (15 U.S.C. 1681e)
 20 is amended by striking subsection (b) and inserting the
 21 following:

22 “(b) ACCURACY OF REPORT.—

23 “(1) IN GENERAL.—A consumer reporting
 24 agency shall follow reasonable procedures when pre-
 25 paring a consumer report to ensure the maximum

possible accuracy of the information concerning the individual to whom the consumer report relates.

“(2) BUREAU RULE TO ENSURE MAXIMUM POSSIBLE ACCURACY.—

“(A) PROPOSED RULE.—Not later than 1 year after the date of enactment of the Stopping Errors in Consumer Use and Reporting Act of 2017, the Bureau shall issue a proposed rule establishing the procedures that a consumer reporting agency shall follow to ensure maximum possible accuracy of all consumer reports furnished by the agency in compliance with this subsection.

“(B) CONSIDERATIONS.—When formulating the rule required under subparagraph (A), the Bureau shall consider if requiring the matching of the following information would improve the accuracy of consumer reports:

“(i) The first name and last name of a consumer.

“(ii) The date of birth of a consumer.

“(iii) All 9 digits of the social security number of a consumer.

“(iv) Any other information that the Bureau determines would aid in ensuring

1 maximum possible accuracy of all con-
 2 sumer reports furnished by consumer re-
 3 porting agencies in compliance with this
 4 subsection.”.

5 (d) RESPONSIBILITIES OF FURNISHERS OF INFOR-
 6 MATION TO CONSUMER REPORTING AGENCIES.—Section
 7 623(a)(8)(F)(i)(II) of the Fair Credit Reporting Act (15
 8 U.S.C. 1681s–2(a)(8)(F)(i)(II)) is amended by inserting
 9 “, and does not include any new or additional information
 10 that would be relevant to a reinvestigation” before the pe-
 11 riod at the end.

12 (e) DISCLOSURES TO CONSUMERS.—Section 609 of
 13 the Fair Credit Reporting Act (15 U.S.C. 1681g) is
 14 amended—

15 (1) in subsection (a)(3)(B)—

16 (A) in clause (i), by striking “and” at the
 17 end; and

18 (B) by striking clause (ii) and inserting the
 19 following:

20 “(ii) the address and telephone num-
 21 ber of the person; and

22 “(iii) the permissible purpose of the
 23 person for obtaining the consumer report,
 24 including the specific type of credit product

1 that is extended, reviewed, or collected, as
2 described in section 604(a)(3)(A).”;

3 (2) in subsection (f)—

4 (A) by amending paragraph (7)(A) to read
5 as follows:

6 “(A) supply the consumer with a credit
7 score that—

8 “(i) is derived from a credit scoring
9 model that is widely distributed to users by
10 the consumer reporting agency for the pur-
11 pose of any extension of credit or other
12 transaction designated by the consumer
13 who is requesting the credit score; or

14 “(ii) is widely distributed to lenders of
15 common consumer loan products and pre-
16 dicts the future credit behavior of the con-
17 sumer; and”;

18 (B) in paragraph (8), by inserting “, ex-
19 cept that a credit score shall be provided free
20 of charge to the consumer if requested in con-
21 nection with a free annual consumer report de-
22 scribed in section 612(a)” before the period at
23 the end; and

24 (3) in subsection (g)(1)—

1 (A) in subparagraph (A)(ii), by striking
 2 “subparagraph (D)” and inserting “subpara-
 3 graph (C)”;

4 (B) in subparagraph (B)(ii), by striking
 5 “consistent with subparagraph (C)”;

6 (C) by striking subparagraph (C); and

7 (D) by redesignating subparagraphs (D)
 8 through (G) as subparagraphs (C) through (F),
 9 respectively.

10 (f) NOTIFICATION REQUIREMENTS.—

11 (1) ADVERSE INFORMATION NOTIFICATION.—

12 The Fair Credit Reporting Act (15 U.S.C. 1681 et
 13 seq.) is amended—

14 (A) in section 612 (15 U.S.C. 1681j), by
 15 striking subsection (b) and inserting the fol-
 16 lowing:

17 “(b) FREE DISCLOSURE AFTER NOTICE OF AD-
 18 VERSE ACTION OR OFFER OF CREDIT ON MATERIALLY
 19 LESS FAVORABLE TERMS.—

20 “(1) IN GENERAL.—Not later than 14 days
 21 after the date on which a consumer reporting agency
 22 receives a notification under subsection (a)(2) or
 23 (h)(6) of section 615, or from a debt collection agen-
 24 cy affiliated with the consumer reporting agency, the
 25 consumer reporting agency shall make, without

1 charge to the consumer, all disclosures required in
2 accordance with the rules prescribed by the Bureau
3 under section 609(h).

4 “(2) TRANSITION PERIOD.—During the period
5 beginning on the effective date of the Stopping Er-
6 rors in Consumer Use and Reporting Act of 2017
7 and ending on the date on which the Bureau final-
8 izes the rule required under section 609(h), a con-
9 sumer reporting agency that is required to make dis-
10 closures under this subsection shall provide to the
11 consumer a copy of the current credit report on the
12 consumer and any other disclosures required under
13 this Act or the Stopping Errors in Consumer Use
14 and Reporting Act of 2017, without charge to the
15 consumer.”; and

16 (B) in section 615(a) (15 U.S.C.
17 1681m(a))—

18 (i) by redesignating paragraphs (2),
19 (3), and (4) as paragraphs (3), (4), and
20 (5), respectively;

21 (ii) by inserting after paragraph (1)
22 the following:

23 “(2) direct the consumer reporting agency that
24 provided the consumer report that was used in the
25 decision to take the adverse action to provide the

consumer with the disclosures described in section
612(b);” and

(iii) in paragraph (5), as so redesignated—

(I) in the matter preceding subparagraph (A), by striking “of the consumer’s right”;

(II) by striking subparagraph (A) and inserting the following:

“(A) that the consumer shall receive a copy of the consumer report with respect to the consumer, free of charge, from the consumer reporting agency that furnished the consumer report; and”;

(III) in subparagraph (B), by inserting “of the right of the consumer” before “to dispute”.

(2) NOTIFICATION IN CASES OF LESS FAVORABLE TERMS.—Section 615(h) of the Fair Credit Reporting Act (15 U.S.C. 1681m(h)) is amended—

(A) in paragraph (1), by striking “paragraph (6)” and inserting “paragraph (7)”;

(B) in paragraph (2), by striking “paragraph (6)” and inserting “paragraph (7)”;

1 (C) in paragraph (5)(C), by striking “may
2 obtain” and inserting “shall receive”;

3 (D) by redesignating paragraphs (6), (7),
4 and (8) as paragraphs (7), (8), and (9), respec-
5 tively; and

6 (E) by inserting after paragraph (5) the
7 following:

8 “(6) REPORTS PROVIDED TO CONSUMERS.—A
9 person who uses a consumer report as described in
10 paragraph (1) shall notify and direct the consumer
11 reporting agency that provided the consumer report
12 to provide the consumer with the disclosures de-
13 scribed in section 612(b).”.

14 (3) NOTIFICATION OF SUBSEQUENT SUBMIS-
15 SIONS OF NEGATIVE INFORMATION.—Section
16 623(a)(7)(A)(ii) of the Fair Credit Reporting Act
17 (15 U.S.C. 1681s–2(a)(7)(A)(ii)) is amended by
18 striking “account, or customer” and inserting “or
19 account”.

20 (4) BUREAU RULE DEFINING CERTAIN DISCLO-
21 SURE REQUIREMENTS.—Section 609 of the Fair
22 Credit Reporting Act (15 U.S.C. 1681g) is amended
23 by adding at the end the following:

24 “(h) BUREAU RULE DEFINING CERTAIN DISCLO-
25 SURE REQUIREMENTS.—

1 “(1) PROPOSED RULE.—Not later than 1 year
2 after the date of enactment of the Stopping Errors
3 in Consumer Use and Reporting Act of 2017, the
4 Bureau shall publish a proposed rule to implement
5 the disclosure requirements described in section
6 612(b).

7 “(2) CONSIDERATIONS.—In formulating the
8 rule required under paragraph (1), the Bureau shall
9 consider—

10 “(A) what information would enable con-
11 sumers to—

12 “(i) determine the reasons for which a
13 person—

14 “(I) took adverse action; or

15 “(II) offered credit on materially
16 less favorable terms; and

17 “(ii) verify the accuracy of that infor-
18 mation; and

19 “(B) how to provide the information de-
20 scribed in subparagraph (A) while protecting
21 consumer privacy, including procedures to en-
22 sure that the information is provided to the
23 consumer at the appropriate address.”.

1 **SEC. 4. REGULATORY REFORM.**

2 Section 621 of the Fair Credit Reporting Act (15
3 U.S.C. 1681s) is amended by adding at the end the fol-
4 lowing:

5 “(h) CONSUMER REPORTING AGENCY REGISTRY.—

6 “(1) ESTABLISHMENT OF REGISTRY.—Not later
7 than 180 days after the date of enactment of the
8 Stopping Errors in Consumer Use and Reporting
9 Act of 2017, the Bureau shall establish 3 publicly
10 available registries of consumer reporting agencies,
11 including a registry that contains—

12 “(A) each consumer reporting agency that
13 compiles and maintains files on consumers on a
14 nationwide basis;

15 “(B) each nationwide specialty consumer
16 reporting agency; and

17 “(C) all other consumer reporting agencies
18 that are not included under section 603(p) or
19 603(x).

20 “(2) REGISTRATION REQUIREMENT.—Each con-
21 sumer reporting agency shall register with a registry
22 established by the Bureau under this subsection in
23 a timeframe established by the Bureau.”.

1 **SEC. 5. IDENTITY THEFT PROTECTION FOR MINORS.**

2 (a) IN GENERAL.—The Fair Credit Reporting Act
 3 (15 U.S.C. 1681 et seq.) is amended by inserting after
 4 section 605B (15 U.S.C. 1681c–2) the following:

5 **“SEC. 605C. ADDITIONAL PROTECTIONS FOR CREDIT RE-**
 6 **PORTS OF MINOR CONSUMERS.**

7 “(a) DEFINITIONS.—In this section—

8 “(1) the term ‘blocked file’ means a file of a
 9 minor consumer with respect to which, under this
 10 section, a consumer reporting agency—

11 “(A) maintains with the name, social secu-
 12 rity number, date of birth, and, if applicable,
 13 any credit information of the minor consumer;

14 “(B) may not provide any person with a
 15 consumer report of the minor consumer; and

16 “(C) blocks the input of any information,
 17 except with permission from a covered guardian
 18 of the minor consumer;

19 “(2) the term ‘covered guardian’ means—

20 “(A) the legal guardian of a minor child;

21 “(B) the custodian of a minor child; or

22 “(C) in the case of a child in foster care,
 23 the State agency or Indian tribe or tribal orga-
 24 nization responsible for the foster care of the
 25 child; and

1 “(3) the term ‘minor consumer’ means a con-
2 sumer who has not attained 16 years of age.

3 “(b) BLOCKING A FILE.—A consumer reporting
4 agency that compiles and maintains files on consumers on
5 a nationwide basis shall, upon request by, and receipt of
6 appropriate proof of identity of, a minor consumer or the
7 covered guardian of a minor consumer—

8 “(1) create a blocked file for the minor con-
9 sumer; or

10 “(2) convert a file of the minor consumer al-
11 ready in existence to a blocked file.

12 “(c) UNBLOCKING A FILE.—A consumer reporting
13 agency that compiles and maintains files on consumers on
14 a nationwide basis shall unblock a blocked file—

15 “(1) upon request by the covered guardian of a
16 minor consumer;

17 “(2) if the file was blocked as a result of a ma-
18 terial misrepresentation, including a representation
19 that—

20 “(A) the consumer was a minor consumer
21 when the consumer was not a minor consumer
22 as of the date on which the representation was
23 made; and

24 “(B) an individual was the covered guard-
25 ian of a minor consumer when the individual

1 was not the covered guardian of the minor con-
2 sumer as of the date on which the representa-
3 tion was made;

4 “(3) on the date of the 16th birthday of the
5 minor consumer; or

6 “(4) if the minor consumer becomes emanci-
7 pated under the law of the State in which the minor
8 consumer resides, on the date of the emancipation of
9 the minor consumer.

10 “(d) REGULATIONS.—The Bureau shall promulgate
11 regulations to carry out this section.

12 “(e) FEES.—

13 “(1) IN GENERAL.—A credit reporting agency
14 may charge a fair and reasonable fee, as determined
15 by the Bureau, to create a blocked file or to unblock
16 a file.

17 “(2) EXEMPTION.—The Bureau may exempt an
18 individual who suspects that the individual has been
19 a victim of fraud or identity theft from a fee de-
20 scribed in paragraph (1).

21 “(f) EXCEPTIONS.—Nothing in this section may be
22 construed as requiring a consumer reporting agency that
23 compiles and maintains files on consumers on a nation-
24 wide basis to prevent a Federal, State, or local law en-
25 forcement agency from accessing a blocked file.”.

1 (b) TABLE OF CONTENTS AMENDMENT.—The table
 2 of contents of the Fair Credit Reporting Act (15 U.S.C.
 3 1681 et seq.) is amended by inserting after the item relat-
 4 ing to section 605B the following:

“605C. Additional protections for credit reports of minor consumers.”.

5 **SEC. 6. STUDY OF A PUBLIC CREDIT REPORTING SYSTEM.**

6 (a) STUDY.—Not later than 180 days after the date
 7 of enactment of this Act, the Comptroller General of the
 8 United States shall conduct a study—

9 (1) of credit systems in the international credit
 10 system with government-administered consumer
 11 credit reporting systems;

12 (2) of available information regarding the accu-
 13 racy of government-administered consumer credit re-
 14 porting systems that are in existence as of the date
 15 on which the Comptroller General begins conducting
 16 the study;

17 (3) to evaluate the feasibility of a national, gov-
 18 ernment-administered consumer credit reporting sys-
 19 tem;

20 (4) of any consumer benefits that might reason-
 21 ably be expected to result from a government-admin-
 22 istered consumer credit reporting system; and

23 (5) of any costs that might result from a gov-
 24 ernment-administered consumer credit reporting sys-
 25 tem in the United States.

1 (b) PUBLICATION OF FINDINGS.—Not later than 18
2 months after the date of enactment of this Act, the Comp-
3 troller General of the United States shall publish the find-
4 ings of the study conducted under subsection (a).

5 **SEC. 7. EFFECTIVE DATE.**

6 Except as otherwise provided in this Act and the
7 amendments made by this Act, this Act and the amend-
8 ments made by this Act shall take effect on the date that
9 is 180 days after the date of enactment of this Act.

○