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.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:
(1) Having any kind of criminal record, including an arrest record, is often a major barrier to securing housing.

(2) Around 90% of housing providers run background checks on all potential tenants. Many housing providers assess tenants’ eligibility for housing based on reports furnished by specialized consumer reporting agencies known as tenant screening companies.

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

(4) Communities of color are disproportionately affected by high incarceration rates and collateral consequences, including the use of criminal background checks. African Americans are more than twice as likely to be arrested as whites, and while they make up only 12.3% of the overall population, more than 60% of people in prison are racial or ethnic minorities.

(5) Thousands of jurisdictions across the country offer diversion programs and other alternatives to incarceration. Many jurisdictions have laws allowing individuals to seal or expunge certain criminal
records. These programs reflect the recognition by lawmakers that steps must be taken to help individuals successfully reenter their communities and to reduce recidivism.

(6) Reporting a guilty plea as “conviction” even though an individual has completed an alternative-to-incarceration program or reporting sealed or expunged records undermines the intent of state lawmakers and greatly impedes an individual’s ability to secure housing.

(7) This bill reaffirms that dispositions that are not considered convictions under the law of the jurisdiction in which the proceeding was held should not be reported, for tenant screening purposes, as convictions.

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

SEC. 2. DEFINITION OF TENANT SCREENING PURPOSES.

(a) Definition of Tenant Screening Purposes.—Section 603(h) of the Fair Credit Reporting Act (15 U.S.C. 1681a(h)) is amended—
(1) by inserting “EMPLOYMENT PURPOSES AND TENANT SCREENING PURPOSES.—” before “The term”;  
(2) by striking “The term” and inserting “(1) EMPLOYMENT PURPOSES.—The term”; and  
(3) by adding at the end the following new paragraph: “(2) TENANT SCREENING PURPOSES.—The term ‘tenant screening purposes’ when used in connection with a consumer report means a report used for the purpose of evaluating a consumer for rental housing or retention as a renter or tenant.”.  
(b) ADVERSE ACTION DEFINITION.—Section 603(k)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681a(k)(1)(B)) is amended—  
(1) in clause (iii), by striking “and” at the end;  
(2) in clause (iv)(II), by striking the period at the end and inserting “; and”; and  
(3) by adding at the end the following new clause: “(v) a denial of rental housing based in whole or in part on a consumer report procured for tenant screening purposes.”.
(c) CONFORMING AMENDMENTS.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended—

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

(2) in section 605A(i)(4)(I), by striking “employment, tenant, or background screening purposes” and inserting “employment purposes, tenant screening purposes, or background screening purposes”;

(3) in section 606(d)(2)—

(A) by inserting “or tenant screening purposes” after “employment purposes”;

(B) by striking “of the consumer” and inserting “of the consumer, or by a housing provider or a prospective housing provider (as applicable)”; and

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

(4) in section 609(a)(3)(A)(i), by inserting “or tenant screening purposes” after “employment purposes”; and

(5) in section 613—
(A) in the section heading, by inserting

“OR TENANT SCREENING PURPOSES” after

“EMPLOYMENT PURPOSES”; and

(B) in subsection (a)—

(i) in the matter preceding paragraph

(1), by inserting “or tenant screening pur-

poses” after “employment purposes”; and

(ii) by inserting “or rental housing, as

applicable,” after “obtain employment”

each place it appears.

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

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

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

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

“(2) Any juvenile adjudication or conviction, in-
cluding convictions or adjudications in which a juve-
nile was tried as an adult.
“(3) Non-criminal citations by State or local law enforcement agencies.

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

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

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

SEC. 4. DUTIES OF USERS OF CONSUMER REPORTS FOR HOUSING PURPOSES.

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

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

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

“(2) shall provide the specific reasons for such denial.”.
SEC. 5. CONDITIONS FOR FURNISHING AND USING CONSUMER REPORTS FOR TENANT SCREENING PURPOSES.

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

(1) in the subsection heading, by inserting “OR TENANT SCREENING PURPOSES” after “EMPLOYMENT PURPOSES”;

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting “or tenant screening purposes” after “employment purposes”; and

(B) in subparagraph (A)(ii), by inserting “or fair housing” after “equal employment opportunity”;

(3) in paragraph (2)(A)—

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

(B) in clause (i), by inserting “or tenant screening purposes (as applicable)” after “employment purposes”; and

(4) in paragraph (3)(A), by inserting “or tenant screening purposes” after “employment purposes”.

[Discussion Draft]
SEC. 6. EXCLUSION OF CERTAIN RECORDS FROM CONSUMER REPORTS.

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

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

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

“(9) Any record of a conviction or arrest that has been expunged, sealed, or subject to similar relief, or any conviction for which a consumer has been pardoned or has had civil rights restored.”.