

American Civil Liberties Union of Massachusetts · Charles Hamilton  
Houston Institute for Race and Justice · Coalition for Social Justice · Demos ·  
EMPATH · EPOCA · Greater Boston Legal Services · Greater Boston Legal  
Services CORI & Re-entry Project · Institute for Career Transitions · Jewish  
Community Relations Council · Jobs NOT Jails · MCAN · Massachusetts  
Employment Lawyers Association · Massachusetts Jobs with Justice  
Massachusetts Law Reform Institute · Massachusetts Public Interest  
Research Group · Midas Collaborative · NAACP, New England Area  
Conference · National Consumer Law Center · National Employment Law  
Project · Operation A.B.L.E.

June 13, 2018

Hon. Robert A. DeLeo  
Speaker of the House of Representatives  
State House, Room 356  
Boston, MA 02133

Hon. Theodore Speliotis  
Chairman, House Committee on Bills in Third Reading  
State House, Room 20  
Boston, MA 02133

Re: Support for House 3153: An Act Regulating the Use of Credit  
Reports by Employers

Dear Speaker DeLeo and Chairman Speliotis:

The undersigned organizations submit this letter of support for House 3153, An Act Regulating the Use of Credit Reports by Employers, now pending in the House Committee on Bills in Third Reading following a favorable report from the Joint Committee on Labor and Workforce Development. Our organizations advocate for a wide variety of interests -- civil liberties, consumer rights, racial justice, economic, religious, political and social equality, worker training and worker rights. We all share an interest in advancing this legislation, which would restrict the harmful and unfair practice by employers of using credit histories as a screening tool.

A credit check includes not only the name, address and social security number of the person being checked, but also information about mortgages, student loans, car loans, credit card usage, tax liens, bankruptcies, and any debts – including medical debts – reported to collection agencies. These elements of very personal information do not predict how a person will perform on the job: a study conducted by Demos found that, for low and middle income families

surveyed, “poor or declining credit is associated with households experiencing job loss, lacking health coverage, or having medical debt,”<sup>[1]</sup> and not, as is too often assumed, evidence of bad character or other unsuitability for employment. Low and middle class families in Massachusetts and nationwide can experience problems when credit checks are made part of employment applications -- in this state, 48 percent of residents have subprime credit scores<sup>[2]</sup> and in 2013, “nearly one of five [adults] reported problems paying medical bills or reported paying them off over time.”<sup>[3]</sup>

A second set of problems with credit reports is that they are frequently inaccurate and correcting the errors they contain is a difficult job. The Demos study reported data from the Federal Trade Commission showing that 21 percent of consumers had an error on a report from at least one reporting agency and 13 percent had errors that actually changed their score.<sup>[4]</sup> Correcting these errors “can be a time-consuming, nearly impossible three-party negotiation between the credit bureau, the creditor and the individual.”<sup>[5]</sup>

Combined with providing irrelevant and potentially incorrect information, the use of credit reports as a screening tool perpetuates a history of discrimination against people of color. Past discrimination in housing, lending, and employment has contributed to “a large and growing racial wealth gap,” making people of color more vulnerable to predatory lenders, foreclosure, and default.<sup>[6]</sup> As a result, using credit reports punishes communities that have been targets of past discrimination.

House 3153 would address these issues by limiting when and how credit reports may be used and by providing enforcement mechanisms when there are violations. The bill prohibits use of credit reports for employment purposes unless required by federal or state law, or unless the job at hand falls into a few other limited categories. This includes any use related to decisions in hiring, termination, promotion, demotion, discipline, compensation, etc. The bill also prohibits employers from using credit reports in a way that would result in adverse employment discrimination under federal or state law.

When federal or state law requires review of a credit report, the bill provides protections by requiring employers to:

- Obtain written consent from the employee or applicant;
- Disclose their reasoning for accessing the report;
- Disclose their reasoning for taking action based on the report and provide the employee or applicant with an opportunity to dispute that reasoning; and
- Refrain from taking adverse action if an employee or applicant provides the employer with notice that they have disputed the accuracy of the report.

To enforce these protections, the bill allows any person aggrieved by a violation to file a complaint with the Massachusetts Commission Against Discrimination. It also prohibits retaliation, discrimination, or adverse action against persons exercising their rights. Combined, these measures ensure that those with poor credit are not punished for difficult circumstances, mistakes by credit agencies, or past racial discrimination. We urge the House to endorse the goal of fairness in employment evaluations and to give this bill a prompt favorable report. Thank you for your consideration.

Sincerely,

American Civil Liberties Union of Massachusetts  
Charles Hamilton Houston Institute for Race and Justice  
Coalition for Social Justice  
Demos  
EMPATH  
EPOCA (Ex-Prisoners and Prisoners Working for Community Advancement)  
Greater Boston Legal Services  
Greater Boston Legal Services CORI & Re-entry Project  
Institute for Career Transitions  
Jewish Community Relations Council  
Jobs NOT Jails Coalition  
Massachusetts Communities Action Network (MCAN)  
Massachusetts Employment Lawyers Association  
Massachusetts Jobs with Justice  
Massachusetts Law Reform Institute  
Massachusetts Public Interest Research Group  
Midas Collaborative  
NAACP, New England Area Conference  
National Consumer Law Center (on behalf of its low-income clients)  
National Employment Law Project  
Operation A.B.L.E.

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<sup>[1]</sup> Amy Traub, Discredited: How Employment Credit Checks Keep Qualified Workers Out of a Job, Demos, 5 (Feb. 2013).

<sup>[2]</sup> Jennifer Lowe, Ruth J. Liberman, Charlotte Benishek, From Opportunity to Burden: Profiles of Low-Income Households Caught in the Credit Trap, Crittenton Women's Union, 3 (2014).

<sup>[3]</sup> Carol Gyurina, Jennifer Rosinski, Robert Seifert, Rising Health Care Costs in Massachusetts: What it Means for Consumers, Blue Cross Blue Shield of Massachusetts Foundation, 1 (April 2015).

<sup>[4]</sup> Traub, *supra* note 1, at 10.

<sup>[5]</sup> *Id.*, at 12

<sup>[6]</sup> *Id.*, at 9.