

# The Fair Credit Reporting Act

The Fair Credit Reporting Act (FCRA) governs commercial background-checking companies and the employers who use them. It is enforced by the Consumer Financial Protection Bureau.

## Requirements for commercial criminal record reporting agencies:

- Agencies can report convictions of any age. In some circumstances, agencies may not report arrests or other non-conviction cases that are more than 7 years old.
- Agencies must insure that their information is correct, complete, and up to date.
- If the consumer reporting agency gets notified about a potential error in a background check, the agency must investigate unless the dispute is frivolous.

## Requirements for employers using commercial criminal record reporting agencies:

- Employers must give job applicants written notice of intent to check criminal records and must receive written authorization from applicants to do the check.
- If the employer chooses to take action against you based on negative information in the report, the employer must give you: a copy of a standard FCRA notice form, notice of the adverse decision, a copy of the background check itself, and contact info for the background-checking agency. This is because background checks sometimes contain mistakes that could even cost applicants their jobs. If a job applicant finds a mistake on a background check, they may ask the background reporting agency to fix it and to send a corrected copy to the employer. The employer must offer reasonable time to correct this error.

## Your rights under the FCRA:

- Your information can only be disclosed to your employers if they have your written consent.
- You must be told if any information in your file has been used against you.
- You have the right to know what is in your file. You may receive full disclosure of your file if:
  - a person has taken adverse action against you because of information in your credit report;
  - you are the victim of identity theft and place a fraud alert in your file;
  - your file contains inaccurate information as a result of fraud;
  - you are on public assistance; or
  - you are unemployed but expect to apply for employment within 60 days.
- You have the right to dispute incomplete or inaccurate information. The agency must correct inaccurate information. **Contact Ohio Justice & Policy Center or a legal aid office for assistance in getting a correction.** Alternatively, you can pursue the correction yourself using the model letter on the next page.
- You may seek money damages if an employer using an agencies' report or the commercial criminal reporting agency violates the FCRA.

# Correcting a Commercial Background Check

If there is a problem with your background check provided by a commercial background check agency, you can contact the agency to get the information corrected. You can correct the inaccurate information by getting a certified court record and sending it to the agency with a cover letter stating the information that you would like to be corrected. Check the particular company's website for additional instructions and options for correction background check errors.

## Sample Cover Letter:

[Date]

[Name of Commercial Background Agency]

[Address of Agency]

To Whom It May Concern:

I am writing to request a correction to my criminal background check. Currently, your records show my case as:  
[Precisely state what the background check says.]

But I was not convicted of [...]. I have enclosed a copy of certified court records from [name of county, common pleas, or municipal court] for case number [...] that show that I was actually convicted of [precisely state final charge]. Please add this final disposition information to my Computerized Criminal History entry for this case.

Also, please send me a revised version of my background check once this correction is made. If you have any questions about this correction request, please contact me at [area code + phone number].

Sincerely,

Signature

[Name]

[Full mailing address]

# Correcting a State or Federal Criminal Record

You can correct an inaccurate state criminal record by getting a certified court record documenting the accurate information and sending it to BCI with a cover letter listing the corrections that need to be made. Once the record is fixed at the state level with the BCI, the corrections will instantly be recognized by the FBI.

Sample Cover Letter:

[Date]

Bureau of Criminal Identification and Investigation  
P.O. Box 365  
London, OH 43140

To Whom It May Concern:

I am writing to request a correction to my BCI criminal check. Currently, your records show my case as:  
[Precisely state what BCI check says.]

But I was not convicted of [...]. I have enclosed a copy of certified court records from [name of county, common pleas, or municipal court] for case number [...] that show that I was actually convicted of [precisely state final charge]. Please add this final disposition information to my Computerized Criminal History entry for this case.

Please be certain to electronically notify the FBI of this correction so that that office can also correct its records.

Also, please send me a revised version of my BCI check once this correction is made. If you have any questions about this correction request, please contact me at [area code + phone number].

Sincerely,  
Signature  
[Name]  
[Full mailing address]