# CREDIT CHECKS: AN ILLEGITIMATE BARRIER TO EMPLOYMENT FOR SURVIVORS

The Center for Survivor Agency and Justice Consumer Rights for Domestic & Sexual Violence Survivors Initiative

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#### CSAJ's Webinar Series on Credit



Part I
Credit Reporting & Repair
for Survivors
Webinar Materials



Part II
Credit Checks: An
Illegitimate Barrier to
Employment for Survivors
NOW!



### Consumer Rights for Domestic Violence Survivors Initiative

- A national project that enhances economic justice for survivors by building the capacity of lawyers and advocates to provide consumer and economic civil legal advocacy and engage in systemic advocacy to remove barriers to economic security for survivors.
- Began in 2007 with funding from OVC.
- Currently a TA Project funded by OVW.
- Partners include:
  - National Consumer Law Center
  - Home Free
  - Center for Court Innovation
  - Wider Opportunities for Women
  - Expert Advisors



### Program Activities

- Guidebook & Advocacy Briefs
- Consumer Practice Webinars
- Consumer Rights Demonstration Sites
  - Texas Council on Family Violence
  - Women's Resource Center, Scranton, PA
  - Indiana Legal Services, Low-Income Taxpayers Clinic
  - University of Denver School of Law, Civil Litigation Clinic



### Agenda

- The issue: Employment Credit Checks
  - Disparate Impact of Employment Credit Checks
- ■Survivor Experience and Context
  - Advocacy Strategies
- NYC Ban on Employer Credit Checks
  - ■Systems Advocacy Strategies



### Objectives for Today

- Understand the connection between credit and employment access in the context of survivors' lives.
- Describe the practice of and current policies related to employment credit checks.
- Discuss individual advocacy strategies to enhance access to employment for survivors based on credit.
- Develop community and systems change strategies to remove credit-related barriers to employment for survivors.

# Credit Checks: An Illegitimate Barrier to Employment



In some countries, credit reporting is a public function. In the U.S. it's a for-profit industry.

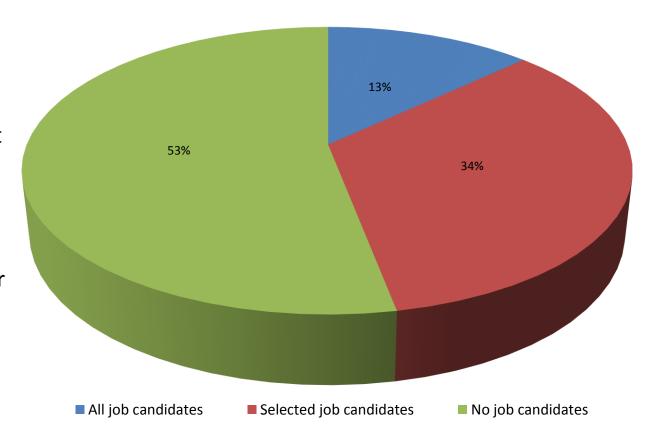






# Employment credit checks are common

Does your organization, or an agency hired by your organization, conduct credit background checks for any job candidates by reviewing the candidates' consumer reports?



Source: Society for Human Resources Management, 2012

#### Yoguristas Wanted @ iTopIt (Colorado Springs)

Date: 2011-12-20, 10:02AM MST

Reply to: job-qrxqw-2762371210@craigslist.org [Errors when replying to ads?]

prohibited spam/overpost

best of craigslist



(Do not reply to this posting before reading all the instructions.)

Currently accepting applications for mature, responsible candidates seeking part time employment (20-30 hours per week) with the potential for full-time (30-35 hours per week) employment. iTopIt, the first self-serve frozen yogurt shop in Colorado Springs, currently has open positions at both locations. We are not just looking for employees — we are seeking Yoguristas who enjoy working with a team to deliver remarkable customer service. That's because at iTopIt, the yogurt and toppings we serve our customers are the best, but the remarkable customer experience we deliver is the reason they will come back!

Responsibilities include serving customers, preparing frozen yogurt and toppings, cleaning, working in a team environment, and delivering remarkable customer service.

#### You are a fit for this opportunity if you:

- · Have Passion for customer service. You don't just pretend that customer service is important, you believe it!
- Take pride in your work. You have a strong work ethic and care about the quality of your work, and take pride in your workplace.
- Are a People-person who loves working and interacting with others.
- Have a great personality and character. You are friendly, kind, professional, honest, hard working, energetic, positive, self-motivated, dependable, and have a sense of humor.
- \* Are obsessed about cleanliness and organization. You clean and organize not because your boss tells you to, but because you can't stand it otherwise!
- Are Professional, Confident and Compassionate. You conduct yourself in a professional manner at all times. You have a strong and confident personality that allows you to handle difficult situations -- including handling customer complaints and receiving direction from your manager. You enjoy working with others as part of a great team.
- Desire to make a difference. You will share in our vision and desire to create a place that people talk about -- by delivering remarkable service and treating people (customers, employees, suppliers, neighbors, and the community) the right way.
- · Have high standards for yourself, your work environment and your team.
- · Enjoy challenges and learning. You truly enjoy new and constant challenges, and love to learn and get better at what you do.

#### Job Requirements include:

- Experience in a restaurant or other food service environment is helpful, but not required. Experience in the hospitality or retail industry is also helpful, but also not required.
- Excellent customer service skills.
- · Availability and flexibility to work a schedule that may include day shifts, night shifts, weekends, and holidays.
- Must be at least 16 years old, and have reliable transportation.
- · Must be willing to submit to a criminal background and credit check.
- High School Diploma or equivalent preferred, but not required.

#### Compensation and Benefits include:

- \$8.50 starting hourly rate.
- Team Bonus Plan.
- · Periodic rate increases based on individual and store performance.
- · Comprehensive training program.
- · A fun place to work, where you can take pride in delivering great service.
- · Free yummy yogurt!

#### If Interested, please follow these instructions carefully:

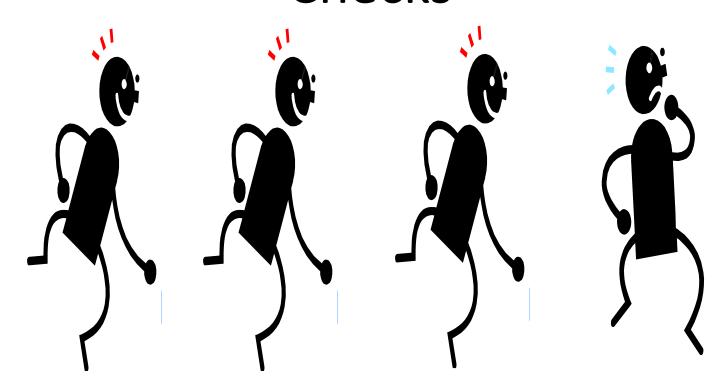
Do NOT e-mail us your resume. Instead, complete an iTopIt application which you can download from our website at <a href="http://www.itopit.com/employment">http://www.itopit.com/employment</a>. Once you have completed your application, please drop it off at one of our locations during our regular business hours. Visit our website for location information. If you have a resume, you can attach it to your completed application.

#### About iTopIt:

iTopIt is a self-serve frozen yogurt restaurant. We offer frozen yogurt, and related toppings, in a self-serve fashion. Customers choose from an assortment of frozen yogurt flavors, which they will dispense themselves from frozen yogurt machines. Then, they get to top it themselves with over 70 toppings to choose from! The toppings are arranged like a salad bar, allowing the customer the freedom to add as much or as little as they desire. When the customer finishes creating their own custom desert, they weigh it at the register and pay by-the-ounce. They pay a flat charge per-ounce, regardless of the combinations of yogurt and toppings they select. iTopIt is focused on delivering a remarkable customer experience, and our tag line says it all: yougurt. toppings. fun!

- Location: Colorado Springs
- Compensation: \$8.50 per hour plus bonus program.

# Prevalence of Employment Credit Checks



Among survey respondents who were unemployed, one in four recall that a prospective employer requested a credit check as part of a job application.

# People are denied jobs because of credit checks

- One in ten participants in our survey who are unemployed have been told that they would not be hired for a job because of the information in their credit report.
- One in seven survey participants with credit scores under 620 have been told they would not be hired for a job because of information in their credit report.

### The Pitch to Employers

"Protect your finances — run a credit check for jobs with to be SURE you're trusting the right person... you gain valuable insights into not only that person's financial stability, but also their sense of responsibility. Since stability and responsibility are two qualities high on any employer's hiring list, an employee credit check offers the perfect way to get that indicator of possible future behavior." -Accuscreen.com

### The Reality

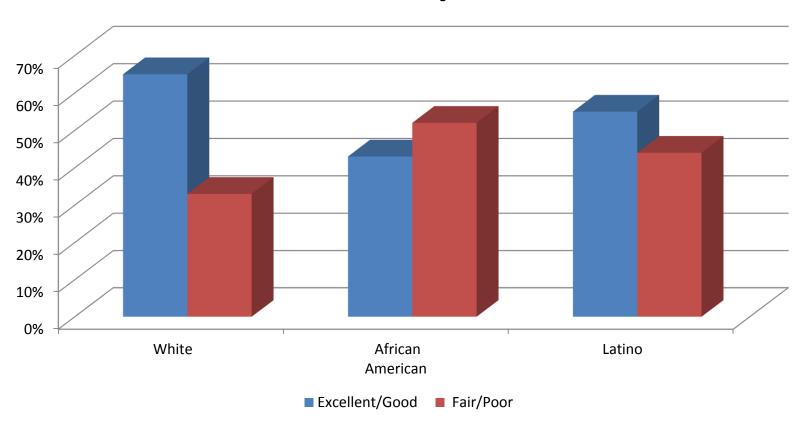
"At this point we don't have any research to show any statistical correlation between what's in somebody's credit report and their job performance or their likelihood to commit fraud."

-TransUnion lobbyist Eric Rosenberg, 2010

# Disparate Impact of Employment Credit Checks

# Employment credit checks are discriminatory

Which best describes your credit score?



# Impact of Credit Checks on Employees and Job Seekers

- Employment credit checks are discriminatory
- Credit checks penalize hardship
  - Low-income households borrowing to make ends meet
  - Medical debt
  - Unemployment
  - Identity theft
  - Credit reporting errors
- Credit checks are an invasion of privacy

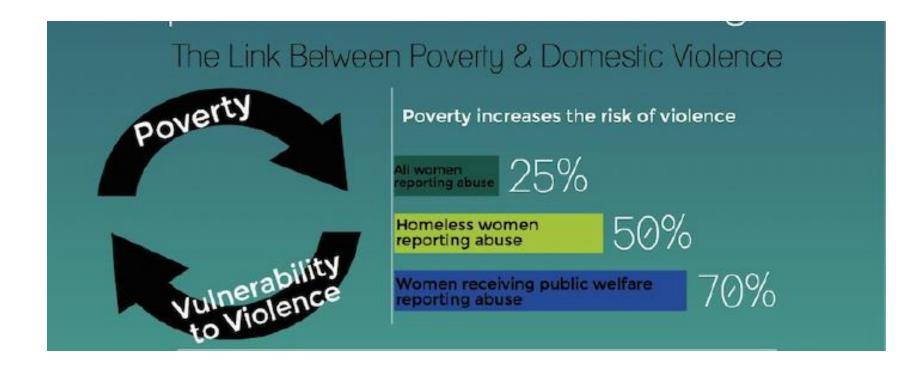
# Credit Checks: An Illegitimate Barrier to Employment



#### The Survivor Context







Women living in poverty experience domestic violence at twice the rate of those who do not.



#### Economic abuse

"Economic abuse involves behaviors that control a woman's ability to acquire, use, and maintain economic resources, thus threatening her economic security and potential for self-sufficiency."

Adams, Sullivan, Bybee, Greeson, <u>Development of the Scale of Economic Abuse</u>, 14(5) Violence Against Women Journal 563 (2008).

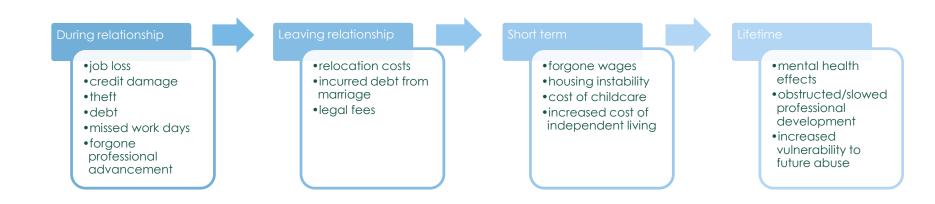
#### Economic impact of domestic violence



- Decreased safety options
- Increased risk of future violence



### The Ripple Effect: Collateral Costs





#### Questions

- What is the Impact of economic abuse on survivors' credit and employment?
- How does damaged credit "ripple" throughout survivors' lives?

How do you see survivors' employment opportunities impacted by credit?

### Impact of Economic Abuse on Credit & Employment

- What You Are Seeing
  - Role of shaming
  - Fearful to apply for higher paying jobs
  - Survivors get passed over because of bad credit
  - Relegated to minimum wage jobs
  - Not able to obtain credit
  - Threatens stabilization
  - After being under the manipulation of an abuser, bad/no credit makes reaching goals much harder
  - Denied housing

#### Reminder

# Impact of Credit Checks on Employees and Job Seekers

- Employment credit checks are discriminatory
- Credit checks penalize hardship
  - Low-income households borrowing to make ends meet
  - Medical debt
  - Unemployment
  - Identity theft
  - Credit reporting errors
- Credit checks are an invasion of privacy



#### Penalize >> Re-victimize

- Low-income households borrowing to make ends meet
- Medical debt
- Unemployment
- Identity theft
- Credit reporting errors

- Manifestation of economic abuse
- Impact of credit reporting errors
- Safety & Privacy Issues

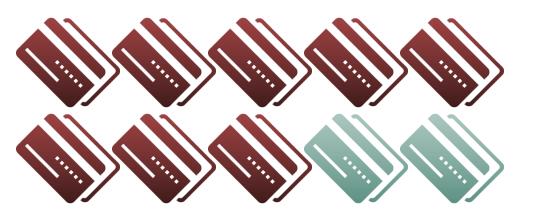


#### Catch 22

Abuse often produces bad credit, restricts employment & income opportunities AND credit checks prevent survivors from obtaining employment, leaving them vulnerable to further violence and economic insecurity.



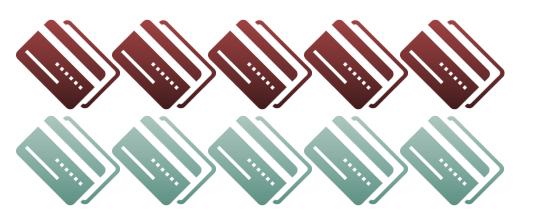
#### Coerced Debt



81% report "having trouble with your credit rating"



#### Coerced Debt



52% report "credit rating made it difficult to get a phone"

#### Coerced Debt & ID Theft

- General: Name, SSN, address. Too easy.
- Immigrant survivors: obtain an illegal SSN to work but then open credit cards
- LGBT survivors: impersonation, stealing passports & drivers licenses, <u>credit discrimination</u>
- No credit

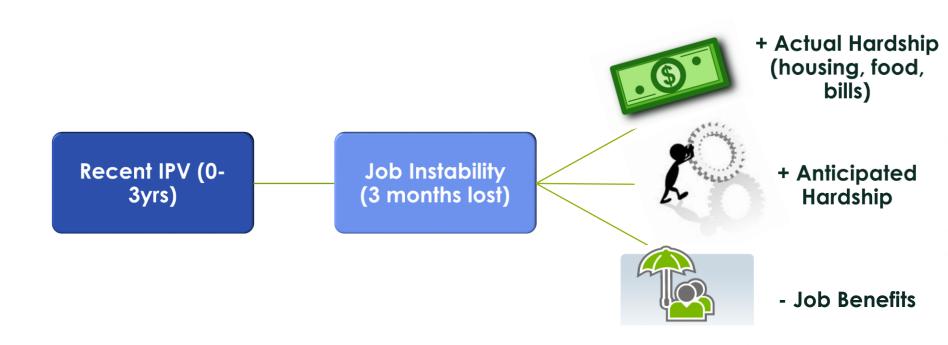


### Under- & Unemployment

- Employment a top need cited by survivors after a 10 week shelter stay (Sullivan & Rumptz, 2013)
- Multiple studies: **Unemployment** among common risk factors for IPV, and associated with persistent abuse over time (Magdol et al., 1997; Cunradi et al., 2002)



### Job Insecurity Impacts Economic Well-Being Over Time



### Impact of Credit Reporting Errors

National Consumer Assistance Plan

**CSAJ Factsheet** 

CSAJ Webinar:

Credit Reporting & Repair



#### NATIONAL CONSUMER ASSISTANCE PLAN Fact Sheet for Advocates and Attorneys Working with Survivors of Domestic Violence

On March 9, 2015, the three national Credit Reporting Agencies (CRAs) – Experian, Equifax, and TransUnion – launched the National Consumer Assistance Plan in response to an investigation conducted by the Office of the Attorney General of the State of New York.<sup>1</sup> The investigation arose primarily from concerns regarding credit report accuracy and the effect of medical debt on consumer credit scores. The National Consumer Assistance Plan (the Plan) aims to improve data accuracy and quality; enhance the efficiency of procedures for resolving credit report errors; and increase education on consumer's rights. The Plan will launch in three phases over the course of three years and ninety days.<sup>2</sup> Several provisions may offer some relief for domestic violence survivors who are facing credit issues as a result of coerced debt and economic abuse.

#### CREDIT ISSUES FACING SURVIVORS OF DOMESTIC VIOLENCE

Many survivors of domestic violence find themselves left with consumer debt and poor credit histories as the result of their partners' abuse. In particular, abusive partners may use the consumer credit system to control survivors through coerced debt.<sup>3</sup> Coerced debt includes opening credit cards in the survivor's name, coercing survivors to take out loans or sign titles, and forcing survivors to pay for financial responsibilities (such as rent, mortgage, or car payments). By incurring debt in the survivor's name through fraud or force, abusive partners assert financial control in the relationship and undermine a survivor's ability to leave and establish an independent household.<sup>4</sup> Credit scores are required to access everything from housing, utilities, insurance, and even employment; thus, coerced debt not only damages survivors' credit histories and scores, but creates long-term barriers to financial security and safety.<sup>5</sup> Despite the distinct impact of coerced debt on the creditworthiness of survivors, the consumer credit system currently lacks any specialized procedure for handling disputes related to domestic violence.<sup>6</sup>

Credit reporting procedures present unique challenges to survivors of domestic violence. Requesting credit reports raises privacy concerns, because CRAs require survivors to reveal personal information (such as current address and place of employment) before obtaining a

<sup>&</sup>lt;sup>1</sup> Settlement Agreement, In the Matter of the Investigation by Eric T. Schneiderman, Attorney General of the State of New York, of Experian Information Solutions, Inc.; Equifax Information Services, LLC; and TransLinion, LLC, 6-8 (March 8, 2015), http://www.ag.ny.gov/pdfs/CRA%20Agreement%20Fully%20Executed%203.8.15.pdf

<sup>- 48. 48.28.
3</sup> Angela Littwin, Coerced Debt: The Role of Consumer Credit in Domestic Violence, 100 Calif.L.Rev. 951, 954 (2012).

<sup>5</sup> Id. at 1000-01.

<sup>6</sup> Id. at 1007.



#### Privacy Issues for Survivors

- Disclosing Abuse
- Disclosing Marital/Relationship Status (risks for LGBT)
- Disclosing Divorce
- Disclosing Medical debt

"Despite common sense and legal recognition that questions about marital status ought to be out of bounds in the hiring process, many prospective employees asked to explain their credit problems now must choose between discussing a recent divorce and/or very personal details regarding the abusive dynamics in a relationship, or risk losing a job opportunity."



### Advocacy Approaches

#### Credit Repair



Credit Reporting & Repair Webinar

#### **Employment Advocacy**





## Advocacy Strategies

- Prepare the survivor for job application and interview process:
  - Does application indicate a credit check will be done? Can they opt out?
  - Is it legal for an employer to check my credit?
  - What to say if an employer asks about credit check?
  - What to say if an employer asks survivor to explain credit report?
- If Denied a Job
  - What are your rights/remedies?



# Rights & Legal Remedies

- Fair Credit Reporting Act: Job denial (EEOC Overview)
  - Entitled to an adverse action notice
  - Prior to taking adverse action, employer must provide applicant with notice that includes:
    - 1) a copy of the consumer report it relied on to make the decision
    - 2) a copy of <u>"A Summary of Your Rights Under the FCRA"</u>

#### \*Opportunity\*

- After taking adverse action, employer must notify the applicant or employee of that fact (orally, in writing, or electronically). The notice must include:
  - the name, address, and phone number of the CRA that supplied the report;
  - 2) a statement that the CRA that supplied the report did not make the decision to take the unfavorable action and can't give specific reasons for it; and
  - a notice of the person's right to dispute the accuracy or completeness of any information the CRA furnished, and to get an additional free report from the company if the person asks for it within 60 days.



# Rights & Legal Remedies

- <u>Title VII</u> prohibits employment discrimination based on race, color, religion, sex and national origin. (Civil Rights Act of 1964)
- Think you have a case?
  - Overview of Federal Anti-Discrimination Laws
  - Contact Employment/Title VII attorney
  - <u>File claim</u> with U.S. Equal Employment Opportunity Commission (EEOC)

# What strategies have been successful for you?

# System Change Work

# States and cities are taking action

- Laws passed in Connecticut, California, Colorado, Delaware, Illinois, Maryland, Vermont, Hawaii, Nevada, Oregon, and Washington State.
- New York City's strong law!
- Federal bills pending in Congress: H.R. 645/S.
   1981 the Equal Employment for All Act

#### Remember them?







# Other Systems Advocacy Strategies

- Do your research: prevalence of credit repair advocacy, employment issues
- Where to advocate? (job developers, city hall, major employers)
  - Credit Catch 22 Coalition
- Partnership building
  - Employment, workforce development, day labor organizations
  - Large/corporate employers
  - Coalition building: National advocates to support local/state efforts
- Framing the argument
  - ✓ Credit checks create a catch-22 for survivors job seeking
  - ✓ No evidence credit checks are good for business
  - ✓ Weak credit reflects the weak economy, not a lack of personal responsibility
  - ✓ Credit checks are an invasion of privacy and re-victimize survivors.
  - ✓ Credit checks disproportionately impact low-income, communities of color, immigrants with work visas, and survivors of IPV

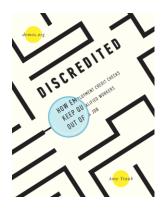
# What is one thing you can do to move this work forward locally?

Learn and/or Advocate

What would be helpful to you moving this work forward?



## Amy's Work



Research: Discredited



Advocacy:

<u>Equal Employment</u>

for All Act



Advocacy:

<u>Memo to NYC</u>

<u>Mayor de Blasio</u>



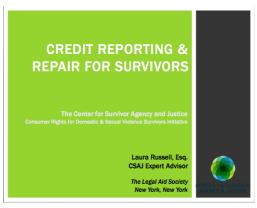
**Coalition Website** 



- General
- Small Business
- Testimonials



#### Resources: Credit



Credit Reporting & Repair
Recording
Materials



National Consumer Assistance Plan Factsheet



Workplace Rights for Survivors

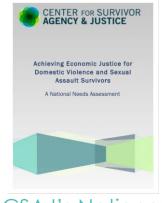


Criminal Records & Employment Rights Tool

- For Advocates
  - For Survivors
- LGBT Nondiscrimination Explained (Center for American Progress)
- A Summary of Your Rights Under the Fair Credit Reporting Act (Consumer Financial Protection Bureau)
- Factsheet: Losing Ground (National Partnership for Women & Families)



#### Resources: Economic Justice



CSAJ's National
Needs Assessment
Report



Economic Ripple Effect
DV Report Article



CSAJ's Pilot Site
Report



CSAJ's Assessment
Tool for Attorneys &
Advocates

- CSAJ's Resource Library
- Past <u>webinars</u> on consumer issues

#### Thank You!

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