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Testimony regarding House Bill 5368 - requirement for date of birth to be included in publicly accessible personal identifying information in court proceedings

Dear Chairman Filler, Vice-Chair Mueller and members of the House Judiciary Committee,

On behalf of the Consumer Data Industry Association ("CDIA") we would like to offer comments and support for House Bill 5368, which creates a requirement for date of birth to be included in publicly accessible personal identifying information in court proceedings.

The Consumer Data Industry Association is the voice of the consumer reporting industry, representing consumer reporting agencies including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals, and to help businesses, governments and volunteer organizations avoid fraud and manage risk. Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition and expanding consumers' access to financial and other products suited to their unique needs.

The proposed legislation would ensure that consumer reporting agencies (CRAs) and employers background screeners are able to deliver accurate, affordable background checks to employers, nonprofits, and other community members. The legislation will continue to make necessary, publicly available identifying information, such as date of birth, in court records available for viewing. The legislation will also ease the burden on court clerks, who will be required to process substantially more paperwork and records requests if this legislation is not enacted, as they deal with the backlog from the pandemic closing courts for a significant amount of time.

The proposed legislation is needed for many reasons. One is to correct the consequences of amendments to rules 1.109 and 8.119 of Michigan Court Rules Embodied in ADM File No. 2020-26, which are set to go into effect on January 1, 2022, and significantly impact court records availability and the personal identifying information in such records. Reversing decades of established practice, the rule's cumbersome new documentation requirements would create new delays in verifying a person's identity using matching personal information like their name and date of birth.

Already, following publication of the rule, some courts are even refusing altogether to verify Michigan consumers' matching information, instead directing users to less accurate criminal records systems with big criminal history data gaps. This refusal would prevent employers from seeing the disqualifying information they need to know in a potential employee's background.

Specifically, following publication of the SCAO draft rule, courts have begun to suggest that the Michigan State Police's "iChat" be used as the sole source of criminal history for consumer reporting agencies. However, the iChat system often presents incomplete criminal history data, and notably even instructs users to use court records as the ultimate authority on a case. Active arrest warrants and several jailable offenses, such as serving alcohol to minors, could no longer be easily found in the courts for public safety background checks.

A key part of these background checks is verifying a person's identity. For example, if two people have the same name, sorting out their legal backgrounds gets very tricky. You would not want to lose out on a job over delayed or inaccurate checks. Prompt and accurate background checks are an important component of public safety and act as a bridge for Michiganders to access jobs, medical care, insurance and more.

With an unemployment rate slightly below the national average, Michigan's economy has signs of hope on the horizon. However, the State Supreme Court's order could undermine that progress. It is now more important than ever to prevent any delays that disadvantage Michiganders seeking employment and more. Allow employers, non-profits and many others to continue to have access to efficient and timely background checks and searches in Michigan.

Thank you for the consideration of our comments and I would be happy to answer any questions you may have.

Sincerely,

Mike Carone

Mike Carone
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Consumer Data Industry Association (CDIA)