

April 18, 2022

The Honorable Steven Bradford  
Chair, California Senate Public Safety Committee  
Sacramento, CA 95814

Re: Support for [S.B. 1262](#), concerning access to court records

Dear Chair Bradford:

[Checkr, Inc.](#) and [Checkr.org](#) (collectively, “Checkr”) strongly support Senate Bill 1262, which would resolve the delays in the background check process that disproportionately impact individuals with criminal records and common names, hurting their ability to get to work on a timely basis.

Checkr, headquartered in San Francisco, California, is a background check company that promotes fair chance hiring practices through its product and fair chance hiring initiatives. We serve a number of California businesses and nonprofits that run background checks for the purposes of employment, volunteering, and independent contracting. We offer our customers efficient screening solutions that incorporate fair chance hiring tools to get people to work. Since May 2021, however, process changes in the courts have significantly impacted our ability to complete screenings on a timely basis, and these delays disproportionately impact individuals with common names and those with criminal records. Senate Bill 1262 would resolve these delays, ensuring that all individuals – regardless of commonality of name or criminal history – would be able to get to work on a timely basis.

### **The Background Check Process is Highly Regulated and Contains a Number of Protective Provisions**

As a Consumer Reporting Agency (“CRA”) regulated under the federal Fair Credit Reporting Act (“FCRA”) and California’s Investigative Consumer Reporting Agencies Act (“ICRAA”), Checkr conducts background checks for statutorily authorized purposes, including employment, volunteering, and independent contracting. FCRA and ICRAA contain a number of protections for individuals during this process, including limiting the types of information that can be included on a background check; for example, under ICRAA, non-convictions and expunged records cannot be reported, and convictions can only be reported for seven years.<sup>1</sup>

As part of the background check process for the purposes listed above, an individual provides their written consent to a background check<sup>2</sup> and certain personally identifying information such as name and date of birth (“DOB”). Based on this information, Checkr conducts a search of a court’s electronic index to determine whether there are any records that should be included in the background report. Prior to May 2021, Checkr could search a court’s electronic index by using an individual’s name and DOB to determine whether there were any associated records.<sup>3</sup> If no results returned, then the search was complete. If records were returned, then Checkr would conduct a clerk-assisted search to retrieve more information about the record to determine

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<sup>1</sup> [Cal. Civ. Code § 1786.18](#); see also [15 U.S. Code § 1681c](#).

<sup>2</sup> [15 U.S. Code § 1681b\(b\)\(2\)](#); [Cal. Civ. Code § 1786.16\(a\)\(2\)](#).

<sup>3</sup> The search results do not disclose an individual’s DOB or DLN; this information is already in the possession of the researcher, who uses DOB/DLN to help limit the number of results returned in a search.

whether the record belonged to the individual at issue and whether the record should be included in the background check. A clerk-assisted search would usually take a few days to complete. Given the ability to conduct searches with unique identifiers such as DOB, searches in this latter category returned limited results. Based on Checkr's data, approximately 8% of index searches returned results, which would then require a clerk-assisted search.

### **Delays in the Background Check Process Impacting Common Names and People with Criminal Records**

In May 2021, some California courts began removing the ability to search an electronic index by DOB as a result of [\*All of Us or None of Us - Riverside Chapter v. Hamrick\*](#), (2021) 64 Cal.App.5th 751 based on [California Court Rule 2.507](#), which prohibits disclosure of certain personally identifying information in court indexes. Checkr agrees with the importance of protecting privacy, but believes that privacy interests are adequately protected when an individual provides their identifiers and consents to a background check.

The removal of DOB as a search field has resulted in substantial delays in the background check process for individuals with common names and criminal records. Due to the inability to filter out results by a unique identifier like DOB, the number of searches requiring a clerk-assisted search has nearly doubled to 14% of all searches. **This means that the number of searches requiring clerk assistance has gone from tens of thousands to more than six figures. This has created a substantial backlog for these searches, resulting in these checks taking weeks to months as opposed to a few days prior to May 2021.** Not only do these delays impact people with criminal records, but it also affects those with common names. Based on the data in Checkr's system, these delays disproportionately impact individuals with Spanish surnames (see Appendix A, top 50 impacted names of delayed background checks). Looking at searches conducted in Los Angeles County (one of the first courts to remove the ability to search by DOB), Checkr has been averaging more than 20,000 background checks that have been pending for more than 30 days.<sup>4</sup> The most impacted individuals all have Spanish surnames.

Given the barriers to employment that already exist for people with criminal records and those with Spanish surnames, we believe that it is essential to eliminate the additional barrier of a delayed background check. We strongly support SB 1262, which would help people with criminal records and Spanish surnames get to work quicker.

Respectfully submitted,

Ken Oliver, Executive Director, Checkr.org  
Jennifer Yeh, General Counsel, Checkr, Inc.

# Checkr

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<sup>4</sup> Sacramento recently removed the ability to search by DOB, resulting in more than two thousand searches that now require a clerk-assisted search. Prior to the removal of DOB, clerk-assisted searches took approximately four to six weeks to complete; the time to complete these searches will only increase in light of the larger number of searches that now require clerk assistance.

**Appendix A – Individuals With Background Checks Pending for More Than 30 Days in Los Angeles**

<b>First Name</b>	<b>Last Name</b>	<b># of impacted individuals</b>
JOSE	RODRIGUEZ	29
JOSE	HERNANDEZ	28
JOSE	MARTINEZ	26
JOSE	LOPEZ	22
JOSE	GARCIA	19
JOSE	GONZALEZ	17
JOSE	RAMIREZ	16
JOSE	FLORES	14
JOSE	PEREZ	13
CARLOS	HERNANDEZ	13
JUAN	LOPEZ	12
JUAN	MARTINEZ	12
JUAN	GARCIA	12
JUAN	HERNANDEZ	12
CARLOS	LOPEZ	12
CARLOS	GARCIA	11
JUAN	GONZALEZ	11
JUAN	RAMIREZ	10
FRANCISCO	GARCIA	10
JOSE	SANCHEZ	10
JUAN	TORRES	9
RICARDO	HERNANDEZ	9
LUIS	GARCIA	9
JORGE	HERNANDEZ	9
MIGUEL	LOPEZ	9
JUAN	RODRIGUEZ	9
CARLOS	RODRIGUEZ	9
MARIO	MARTINEZ	9
LUIS	MARTINEZ	8
DAVID	LOPEZ	8
DAVID	MARTINEZ	8
FRANCISCO	ROSARIO	8

JESUS	RODRIGUEZ	7
ALEJANDRO	MARTINEZ	7
DANIEL	RODRIGUEZ	7
JAVIER	HERNANDEZ	7
SERGIO	LOPEZ	6
FRANCISCO	HERNANDEZ	6
CARLOS	GONZALEZ	6
MARIA	LOPEZ	6
MIGUEL	RAMIREZ	6
EDUARDO	GARCIA	6
JUAN	RUIZ	6
MIGUEL	HERNANDEZ	6
MIGUEL	GARCIA	6
JOSE	ESPINOZA	6
MARIA	GARCIA	6
NICHOLAS	ZIGLIO	6
MIGUEL	GONZALEZ	6