

Unofficial Transcript
Senate Public Safety Committee Hearing on S.B. 1262
April 26, 2022

Speaker 2:

We will leave that bill open for our absent members. Senator Bradford. You have a second bill, SB 1262.

Senator Bradford:

Yes, we have 1262, which will return public court record access to the status quo by allowing a search and filter results of individual's date, birth and driver's license number on May 2001, I mean, 2021. All of Us or None versus Hamrick was decided by the California fourth district court of appeals in that ruling, the court called for the removal of two identifiers, date of birth and driver's license number from public records. Many courts have since removed the ability to search and filter records based on date of birth and of driver's license numbers. As a result, individuals who need to undergo a background check process to secure work or housing, or who have provided their identifiers for this process are being stalled or stopped completely in the background check process. This delay disproportionately impacts individuals with common names and prevents these individuals from being able to secure work or housing on a timely basis.

Senator Bradford:

If organizations, including those who are required to perform background checks on applicants can no longer use these identifiers when conducting record checks, they will be left with nothing but names and little or no way to associate the court record with the specific individual. The All of Us or None versus Hamrick decision did not. I'll say that again, did not prohibit the use of background checks entirely, nor did it prohibit being able to search the court indexes, companies, nonprofits, apartment owners, and others will continue to perform background checks on applicants, regardless of the outcome of this bill, whether it be for liability or insurance purposes or organizations wanting to maintain the safest environment. The Hamrick decision does not change these practices by prohibiting the use of these identifiers. When searching, we are allowing a delay in the person's background check by being completed and their application accepted, even if the applicant provides those identifiers willingly for the purpose of a background check.

Senator Bradford:

I'm committed to continue to work with the opposition to find an effective way to remedy this issue of these background checks not being completed in a timely manner, but ensuring that individuals with criminal records continue to have meaningful access to housing and employment. Testifying today in support is Kevin Oliver, ex executive director of Checker.org and Oscar Shuller, executive director of Morongo Gaming Agency. We also have Eric Elman, senior vice president of Consumer Data Industry Association, available to answer any technical questions and I respect [inaudible 00:03:23] [I vote 00:03:23].

Speaker 2:

Thank you, Senator Bradford. I believe we have Mr. Ken Oliver in person.

Ken Oliver:

Hi, my name is Ken Oliver. I'm the executive director at Checker.org. Great to see some familiar faces here in this hearing today. I'd like to start out just by giving a little bit of context about my own background. I am justice impacted. For those of you who don't know, I spent 24 years in the California Department of Corrections and upon my release to the Bay Area, went to work for a public interest law firm as a policy director. Some of the folks here I've testified for and with and the work. One of the things that was very important to me early on, was work around the Fair Chance Act in California, also known as Ban The Box. I had the opportunity to work with a lot of different companies up and down the state of California, educating them and doing advocacy work around Fair Chance Employment.

Ken Oliver:

Since I've been home, I've always looked for meaningful ways to impact the justice-impacted community in a positive way. After my stand as a policy director, I went on to lead a workforce development organization by the name of Crop, where I was the executive director and partnered with the state of California and the California workforce development board to build out the first residential reentry tech center program in this country. Since my work there, I now went on to work in the private sector at Checker.org whose company mission is fair chance employment. In fact, Checker is a tech company in California... Employs more justice-impacted people who've come from prison than any other company in California, tech company that is. Checker is a background check company, but their mission, as I mentioned, is fair chance employment. They employ over 70 justice-impacted people and they're fundamentally rethinking the background check space.

Ken Oliver:

When I look at this work and the work that I do every day to get people to livable wage and access to economic mobility, really, I see this as an extension of the fair chance act, because what we're talking about is access to livable wage jobs in the state of California. I support SB 1262 because it would resolve a lot of the delays that disproportionately affect black and brown people in California from accessing work. At the end of the day, that's really what this is about, is how can people access work the quickest and the fastest. That's especially true when individuals have given consent for background checks in order to access employment. For myself, I went through a background check, even though I did 24 years in a California prison at Checker and other companies that I've worked for. That was an important step in order for me to get through the HR process, talk about some of the mistakes that I'd made in my life and move on into the next trajectory and get that livable wage that I've been able to access.

Ken Oliver:

I want to express my support there. I also understand that there's some opposition to the commercial background check. I would just say, as much as I'm a proud member of All of Us or None, used to be the policy director at legal services for prisons, with children and I think that the approach about privacy is a good one, but I also think that once those of us who've been impacted, give that permission to companies to access our own personal information, which is... It's a public record it at that point, that we should be able to allow companies to access our information in an expedient manner, so that way it doesn't delay the hiring process, which sometimes can take 2, 3, 4, 5 months, depending on the court. LA county's gotten a lot better, but there's other counties that are a lot slower. It actually does hamper us from being able to access employment. That's my testimony today, and that's why I support 1262 and appreciate, and be more than glad to answer any questions if there are any.

Speaker 2:

Thank you, Mr. Oliver. We have a second witness in support, Oscar Shuller, and I believe you are on the line. Can you hear us Oscar? Madam moderator? Do we have Mr. Oscar Shuller on the line?

Moderator:

I do not see his line dialed in.

Speaker 2:

Okay. While we wait for our second lead witness, let's continue with any witnesses in room 112. Do we have any witnesses in support of SB 1262 here in room 112?

Estelle Pacheco:

Hello, Mr. chair members. Estelle Pacheco with the Los Angeles Area Chamber of Commerce and Support.

Bernie:

Good evening, madam, chair members, Bernie [Rasca 00:08:14] with the California Cable and Telecommunications Association and Support.

Ryan Elaine:

Good evening. My name is Ryan Elaine with the California Retailers Association and Support. Thank you.

Speaker 2:

Thank you. Do we have any other witnesses here in room 112 wishing to speak in support of SB 1262? Seeing none. Let's move on to witnesses waiting to testify via the teleconference service. We will take 10 minutes of testimony. Madam moderator, if you would, please prompt the individuals waiting to testify in support of SB 1262. We will begin.

Moderator:

Thank you. If you wish to speak in support of SB 1262, please press one, then zero at this time. Line 328, please go ahead.

Ashley Hoffman:

Good evening. Ashley Hoffman on behalf of the California Chamber of Commerce and Support. Thank you.

Moderator:

Line 333, please go ahead.

Melanie:

Melanie [inaudible 00:09:31] with the California Bankers Association, also in support. Thank you.

Moderator:

Thank you. Line 317, please go ahead.

Patt:

Good evening. [Patt Alan 00:09:43], president of the International faith-based Coalition, as well as the Congress of Racial Equality in support of this bill.

Moderator:

Line 322, please go ahead.

Emily:

Good evening. Emily [Udelle 00:09:55] on behalf of the California Credit Union League in support.

Moderator:

And once again, if you wish to speak in support of SB 1262, please press one, then zero at this time. I have no further comments. Thank you.

Speaker 2:

Thank you, madam moderator. If you wouldn't mind, please check the lines one more time just to make sure that we have heard from all our support witnesses.

Moderator:

Thank you. If you wish to speak in support of SB 1262, please press one, then zero at this time. I have no comments. Thank you.

Speaker 2:

Thank you, madam moderator. We give one last opportunity for or... I shouldn't say last. We'll give another opportunity for Oscar Shuller.

Moderator:

I do not see his line dialed in.

Speaker 2:

Okay, perfect. Thank you, madam moderator, we will now proceed with our lead opposition. We do have two witnesses on record. We have Joshua Kim, national director of Litigation for Economic Opportunity, Root and Rebound. I believe you are on the line, Joshua. Can you hear us?

Moderator:

I do not see the line for Joshua dialed in.

Speaker 2:

Oh, he does. Joshua. Madam moderator, we believe he is on the line.

Speaker 6:

Maybe he's on the phone [inaudible 00:11:45].

Moderator:

One moment. I do not see his line dialed in.

Speaker 2:

He's currently communicating with staff here in room 112, so he believes he is on the line.

Moderator:

Joshua, if you are on the line, please press star zero so I can open your line.

Speaker 2:

Should he hang up and call back again? You got him?

Moderator:

Joshua, your line is open.

Joshua Kim:

Yeah, thank you. I apologize. My line was connected. [inaudible 00:12:32] something. My name is Joshua Kim. I am the national director of litigation at Root and Rebound. We provide direct services for people with criminal records, including clean slate and licensing. I'm also the lead council in All of Us or None versus Hamrick, which is a case that was described extensively in the committee report. We respectfully oppose

SB 1262. Members of this committee are well aware how our addiction to fast and easy background checks, harm communities of color. [inaudible 00:13:07] this restores intended difficulty [inaudible 00:13:09] of obtaining a person's criminal history. SB 1262 and its supporters disagree. They say that a criminal history should be easy to obtain. It's worried that employers might refuse to hire a person of color if they cannot quickly verify that they have no criminal record while they [inaudible 00:13:30] that it is okay to deny implement quickly, if he does.

Joshua Kim:

Hamrick's case does not affect employers who [however 00:13:38] required to do a background check and have access to a DOJ background check report and refuse the person is not the only possible response to Hamrick. In fact, such a response would violate the fair [trans act 00:13:51] and we have yet to see any employer, in fact, taking that road in real life, but we have seen employers making a probationary hire, pending the result of a background check and we hope that in due time, employers would be encouraged to forego background checks altogether, making their hiring decisions based on more reliable [inaudible 00:14:13] character. This bill proposes that possibility. Finally, bill violates the constitutional right to privacy, the concern by the [community 00:14:23] report... He invites further litigation and respectfully encourage you to vote against the bill, as it's written today. Thank you

Speaker 9:

Very much.

Speaker 2:

Thank you very much, Joshua. We have a second witness online. Fidel Chagoya? Can you hear us?

Fidel:

Yes. Can you hear me?

Speaker 2:

Yes, Fidel, please proceed.

Fidel:

All right. Good evening chair and members of the committee. My name is Fidel Chagoya and I'm a graduate student in the school of education at the University of Redlands and an organizer with Riverside, All of Us or None. We're a local chapter of All of Us or None, a national organization led by formerly incarcerated people to fight for the rights of currently and formerly incarcerated people. We are here today as the name client in the Hamrick case, which this bill seeks to undermine. We ask that the subcommittee oppose this bill, because it would bring back the harmful practice of cheap and grand park background checks. When background checks can be conducted for any reason, by anyone, it harms formerly incarcerated people and prevents them from finding the employment and housing needed to successfully

reenter society. As a formerly incarcerated person, my experiences with background checks have been detrimental to my health and wellbeing.

Fidel:

I worked for a company when I first returned home after serving a 10 year sentence. After working with this company for two years, I was promoted to a manager position and experienced an additional background check, which led to the termination of my employment, based on not being out of prison for five of years. Experiences like this prevent people like me who have been justice-impacted from obtaining sustainable financial mobility to provide for myself and my family. My story is not unique. Formerly incarcerated people are constantly punished after they serve their time, including through the use of unnecessary background checks conducted by potential employers. If passed, SB 1262 would override the Hamrick ruling, which put important protections in place to prevent the use of unnecessary and discriminatory background checks. We strongly urge subcommittee to oppose SB 1262.

Speaker 10:

This download is taking a bit longer than I thought. It only has about five more minutes and then I'm done.

Speaker 2:

Thank you very much, Fidel, for your testimony today. We will move on to any witnesses here in room 112 in opposition of SB 1262. No witnesses in opposition. Okay. We will now move on to witnesses waiting to testify via the teleconference services. We will take 10 minutes of testimony.

Moderator:

Thank you. If you wish to speak in opposition to SB 1262, please press one, then zero at this time. Line 346, please go ahead.

Tatiana Lewis:

Hi, my name is Tatiana Lewis, with legal services for prisoners with children, calling in strong opposition of SB 1262. Thank you.

Moderator:

Thank you. Line 332, please go ahead.

Jeronimo Aguilar:

Hi, my name is Jeronimo Aguilar, calling on behalf of Legal Services for Prisoners With Children, calling in opposition to SB 1262. Thank you.

Moderator:

Thank you. Line 341, please go ahead.

Tina Naek:

Hello. Can you hear me?

Moderator:

Yes, please. Go ahead.

Tina Naek:

Hello. My name is [Tina Naek 00:17:53] with Community Legal Services in east Palo Alto and we respectfully oppose SB 1262. Thank you.

Moderator:

Thank you. Line 340, please go ahead. Line 345, please go ahead.

Henry:

Yes, this is Henry with All of Us or None. We respectfully, have to oppose [inaudible 00:18:14] based on the fact that our points were not considered in this field and it violates some of our housing rights. Thank you.

Moderator:

Thank you. Line 340, please go ahead. Line 340.

George:

Hello. Hello?

Moderator:

Yes, please go ahead.

George:

My name is [George 00:18:38] [inaudible 00:18:38]. I'm a founding member of All of Us or None and executive director of Legal Services for Prisons With Children and I absolutely oppose this bill and it's against everything we did around Ban The Box.

Moderator:

Thank you. I have no further comments. Thank you.

Speaker 2:

Thank you, madam moderator, if you wouldn't mind checking the lines one more time, just to make sure that we have heard from all opposition witnesses.

Moderator:

Thank you. If you wish to speak in opposition to SB 1262, please press one, then zero at this time. I do have one more comment in queue. It'll just be one moment. Line 347, please go ahead.

Christina Robinson:

Hi, my name is Christina Robinson and I'm with Time Done and Community Healers and I'm with All of Us or None, Sacramento and I oppose this bill. Please, no to this bill. Thank you.

Moderator:

Thank you. I have no further comments. Thank you.

Speaker 2:

Thank you madam, moderator and thank you to all our support and opposite witnesses will now bring the discussion back to our members. Do any of our members have any questions or comments? Okay. CNN Senator Bradford. Would you like to close?

Senator Bradford:

Yes. I want to thank you for this opportunity and I want thank those who called in in opposition, because I hear your concerns loud and clear, but I think this provides an additional safeguard that has now been a somewhat encumbrance to again, finding employment by confusing individuals with similar names and just imagine the number of Bernie or Roscos that might be out there that you confuse, so we want to make sure that we're looking at the right person instead of just individuals with similar last names, similar first names in which delays this process and I have all people, individuals and very much concerned with not unnecessarily looking into people's background. I did the first background, Ban The Box in 2010 when I was in the assembly, so I totally support, but even with Ban The Box, it doesn't prohibit someone from doing a background check.

Senator Bradford:

That's what people fail to understand. Even with Ban The Box, you can still do a background check on someone, because with the internet, nothing's private anymore more. All this does is streamlines that search or background check and narrows it down to a birthday and a driver's license, so we know we're looking at the right Jane Doe versus 50 other ones out there that might wind up not being employed or confusing them with someone else and preventing you from whatever housing opportunities or educational opportunities, so we will continue...

Speaker 10:

That makes no sense to me. They're already in there. [inaudible 00:21:56].

Senator Bradford:

...to address those concerns that have been expressed, but I think in the end of the day, I think it's going to create a greater safeguard of identifying the right individual when we're doing background checks, so I respectfully ask for [Ivo 00:22:10].

Speaker 2:

Thank you, Senator Bradford. Do we have a motion? Thank you, senator [com lager 00:22:18]. The motion is due pass, but first, we refer to the committee [appropriations 00:22:21]. Counsel, please call the role on SB 1262 please.

Speaker 1:

SB 1262, Bradford.

Senator Bradford:

Aye.

Speaker 1:

Bradford, Aye. Atro bog.

Speaker 2:

Aye.

Speaker 1:

Atro bog, Aye. Com Lager?

Com Lager:

Aye.

Speaker 1:

Com Lager, Aye. Skinner Wiener.

Speaker 2:

Thank you very much. We'll keep the bill open for our absent members. Senator Braford, you have another bill, SB 1273.