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THIRD READING

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Bill No: SB 1262  
Author: Bradford (D)  
Introduced: 2/17/22  
Vote: 21

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SENATE PUBLIC SAFETY COMMITTEE: 5-0, 4/26/22  
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

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**SUBJECT:** Courts: indexes

**SOURCE:** Author

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**DIGEST:** This bill requires the clerk of the superior court to keep publicly accessible electronic indexes of defendants in criminal cases that may be searched and filtered based on a defendant's driver's license number or date of birth, or both.

**ANALYSIS:**

Existing law:

- 1) Requires the Department of Justice to maintain state summary criminal history information and requires the Attorney General to furnish state summary criminal history information only to statutorily authorized entities or individuals for employment, licensing, volunteering etc. (Pen. Code, § 11105.)
- 2) Requires local summary criminal history records to be maintained by local criminal justice agencies and prohibits furnishing this information except to those specifically authorized in statute. (Pen. Code, § 13300.)
- 3) Requires the clerk of the superior court to keep such indexes as will insure ready reference to any action or proceeding filed in the court. There shall be separate indexes of plaintiffs and defendants in civil actions and of defendants in criminal actions. The name of each plaintiff and defendant shall be indexed

and there shall appear opposite each name indexed the number of the action or proceeding and the name or names of the adverse litigant or litigants. (Gov. Code, § 69842.)

This bill requires publicly accessible electronic indexes of defendants in criminal cases to permit searched and filtering of results based on a defendant's driver's license number or date of birth, or both.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**SUPPORT:** (Verified 5/10/22)

American Financial Services Association  
American Staffing Association  
Apartment Association of Greater Los Angeles  
Asian American Hotel Owners Association  
Brea Chamber of Commerce  
California Apartment Association  
California Bankers Association  
California Building Industry Association  
California Cable & Telecommunications Association  
California Chamber of Commerce  
California Credit Union League  
California Financial Services Association  
California Hospital Association  
California Hotel & Lodging Association  
California Restaurant Association  
California Retailers Association  
California Staffing and Recruiting Association  
Carlsbad Chamber of Commerce  
Checkr, Inc.  
Coalition for Sensible Public Records Access  
Consumer Data Industry Association  
Corona Chamber of Commerce  
Danville Area Chamber of Commerce  
Family Business Association of California  
Fountain Valley Chamber of Commerce  
Freemont Chamber of Commerce  
Fresno Chamber of Commerce  
Gilroy Chamber of Commerce  
Greater Conejo Valley Chamber of Commerce

Greater High Desert Chamber of Commerce  
Imperial Valley Regional Chamber of Commerce  
LA Canada Flintridge Chamber of Commerce  
Laguna Niguel Chamber of Commerce  
Long Beach Area Chamber of Commerce  
Los Angeles Area Chamber of Commerce  
Mission Viejo Chamber of Commerce  
National Credit Reporting Association  
National Federation of Independent Business  
National Notary Association  
Newport Beach Chamber of Commerce  
Nonprofits Insurance Alliance of California  
Official Police Garages of Los Angeles  
Professional Background Screening Association  
Rancho Cordova Chamber of Commerce  
San Jose Chamber of Commerce  
Santa Maria Valley Chamber of Commerce  
Simi Valley Chamber of Commerce  
Southern California Rental Housing Association  
Tulare Chamber of Commerce  
Valley Industry & Commerce Association  
West Ventura County Business Alliance

**OPPOSITION:** (Verified 5/10/22)

A New Way of Life  
All of Us or None  
All of Us or None – Bakersfield Chapter  
Center for Employment Opportunities  
Homies Unidos – Los Angeles, California  
Legal Aid at Work  
Legal Services for Prisoners with Children  
Root & Rebound  
Starting Over, Inc.

**ARGUMENTS IN SUPPORT:** According to Checkr, Inc.:

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. 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. 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.

**ARGUMENTS IN OPPOSITION:** According to Root & Rebound:

A recent court case, *All Of Us Or None – Riverside vs Hamrick*, protects the privacy of people with criminal records by making it harder and more costly for unauthorized individuals to access those records by personal information such as driver's license number and date of birth and misuse them. Background check companies argue that one's criminal history information, compiled for law enforcement purposes, should be freely available for all purposes. SB 1262 flouts individual privacy and creates unnecessary barriers to stable housing and employment, which hurts all Californians.

The instant access to a person's criminal history information is often used by unauthorized employers or landlords to exclude people with old arrests or expunged convictions or convictions that have no relation to the purpose of the background check.

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When the vast majority of jobs require a criminal background check, unemployment and suppression of wages follow as a natural consequence. A recent study finds that 64% of all unemployed men by the age of 35 have an arrest record, while 46% have a conviction record. For those who are employed, a conviction record reduces the average annual income of black men by 32 percent (and white men by 25 percent).

The Hamrick ruling does not affect employers who already have access to an official report from the California Department of Justice.

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[Fn. omitted.]

Prepared by: Stella Choe / PUB. S. /  
5/11/22 15:08:41

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