

June __, 2021

Contact name
Contact email address

Dear _____,

We write to express our deep concern and **strong** opposition to proposed redaction requirements in ADM File No. 2020-26. **Implementing these amendments will have tremendous impact our business. We provide background screening services to employers and property managers in Michigan who depend on timely and accurate background checks to place people in jobs and rental housing. This change will make background checks all but impossible to provide in your state.**

The background screening industry was one of the first industries to be impacted by the Covid-19 pandemic and like many, we are just now starting to emerge from the past 15 months. As you know, this crisis has caused much damage to our community and our business prospects. Therefore, we are astonished as to why the Michigan State Court Administrative Office would propose such a redaction requirement on court records. We ask that you **not impose** this redaction requirement on court records to help businesses, nonprofits, volunteer organizations, and health care providers put people to work in Michigan.

Since the proposed amendments to Rules 1.109 and 8.119 of Michigan court rules embodied in ADM File No. 2020-26 were issued, we have been concerned about the potential impact on our ability to complete timely and accurate background checks for employers and property managers in the state of Michigan. We refer to additions to Rule 1.109, paragraph 10, subparagraph (a), which state:

...The clerk of the court is required to redact protected personal identifying information before providing direct access to the document via the internet, such as through the court's website.

In addition, additions to Rule 8.119, paragraph (H):

...If a public document prepared or issued by the court contains protected personal identifying information, the information must be redacted before it can be provided to the public, whether the document is provided via a paper or electronic copy, direct access via a publicly accessible computer at the courthouse, or direct access via the internet, such as on the court's website...

Without access to basic identifying information (such as date of birth) on court records, we may be unable to verify if a criminal record truly belongs to a candidate. This puts our clients at risk of hiring an individual who will create an unsafe working environment. Further, because regulations require many employers to verify criminal history for some positions, our clients may be legally barred from hiring Michigan residents for those openings.

The availability of timely and accurate criminal history information helps us protect both our customers by 1) ensuring a safe working and living environment by reducing the likelihood of workplace and community violence, 2) reducing employee theft, and 3) meeting state law requirements designed to protect consumers and vulnerable populations like the elderly, disabled and children.

We appreciate that the judiciary proposed these revisions in an effort to reduce incidences of identity theft. But the risk of identity theft does not justify removing criminal defendants' date of birth from

court records. Currently, state court repositories across the country routinely capture and make DOBs available as an identifier, recognizing that DOBs are valuable to promoting accuracy and completeness in background screening, and do not pose a risk to identity theft. All potential job candidates agree that information about them, including their date of birth, may be used in verifying their identity through the course of their background check investigation. Indeed, it was the judgement of 47 of the 48 states with data breach notification legislation, including Michigan, to not classify DOB as an identifier that, if breached, would require notification. Identity theft is a nationwide problem, but the negative effects of implementing these revisions would outweigh the positives, and potentially leave thousands of Michigan residents without work.

Thank you for taking the time to hear our concerns and hope you will work with us to find a solution to help Michigan consumers access earning and rental opportunities and Michigan businesses and property managers find individuals to fit their openings. As you know, the Michigan annual jobless rate jumped from 4.1% in 2019 to 9.9% in 2020 (Source: Michigan DTMB). We are prepared to discuss any questions you may have and look forward to working with you further. Please feel free to contact us directly with any questions at _____.

Sincerely,

Contacts for Michigan date-of-birth redaction

- Chief Justice Bridget McCormack: McCormackB@courts.mi.gov
- State Court Administrator Thomas P. Boyd: BoydT@courts.mi.gov
- Members of Supreme Court
 - Justice David Viviano: VivianoD@courts.mi.gov
 - Justice Richard Bernstein: BernsteinR@courts.mi.gov
 - Justice Elizabeth Clement: ClementE@courts.mi.gov
 - Justice Brian Zahra: ZahraB@courts.mi.gov
 - Justice Meghan Cavanagh: CavanaghM@courts.mi.gov
 - Justice Elizabeth Welch: WelchE@courts.mi.gov
- Governor Gretchen Whitmer: 517-335-7858 or <https://sombgovweb.state.mi.us/GovRelations/ContactGovernor.aspx>
- Lieutenant Governor Garlin Gilchrist
- Representative Jason Wentworth, Speaker of the House of Representatives: JasonWentworth@house.mi.gov; 517.373.8962
- Senator Roger Victory, Chair of the Senate Judiciary & Public Safety Committee SenRVictory@senate.michigan.gov; (517) 373-6920
- Representative Graham Filler, Chair of the House Judiciary Committee: GrahamFiller@house.mi.gov; (517) 373-1778
- Your own state Senator; find them here: <https://senate.michigan.gov/fysbyaddress.html>
- Your own state Representative; find them here: <https://www.house.mi.gov/MHRPublic/frmFindaRep.aspx>
- Jackie Mosher, Clerk to the Senate Judiciary & Public Safety Committee: ofcsc@senate.michigan.gov, 517-373-5312
- Melissa Sweet, Clerk to the House Judiciary Committee: msweet@house.mi.gov; (517) 373-5176
- Michigan State Court Administrative Office
 - Anne Boomer, Counsel BoomerA@courts.mi.gov
 - Cami Pendell, General Counsel PendellC@courts.mi.gov
 - John Nevin, Public Information Officer NevinJ@courts.mi.gov