



June 9, 2021

Chief Justice Bridget Mary McCormack
Michigan Supreme Court
Michigan Hall of Justice
925 W. Ottawa Street
Lansing, MI 48915

RE: PBSA CONCERNS WITH ADM FILE NO. 2020-26: DATE OF BIRTH REDACTION IN COURT RECORDS

Chief Justice McCormack,

Good afternoon. As you know, I, on behalf of the Professional Background Screening Association, along with several colleagues and interested parties have been communicating with you and your State Court Administrative staff (SCAO) for a number of months about the proposed ADM File No. 2020-26 and its impact on the background screening industry, especially the redaction of Dates of Birth on court records (letters dated 4/1/21 and 5/18/21) and the concomitant change in court clerk procedures to cease matching records using date of birth. As we have discussed, implementation of this redaction requirement will severely impact our entire industry's ability to conduct background searches in Michigan.

If implemented, this rule will likely cause a halt in hiring and rental housing placements in Michigan. It is not merely inconvenient; it is set to upend all rental housing and employment decisions in Michigan. Background checks are a critical component of the employment and rental process. Employers, property managers, and consumers-alike depend on our members to search public records to determine whether a particular record belongs to a candidate being considered for employment or housing. Without a complete background check, the consumer can't be hired or placed in housing – in many industries like those dealing with vulnerable populations background screening is not just a best practice but a legal requirement the employer MUST comply with before hiring the individual.

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Without a date of birth, our members are usually unable to determine whether the record belongs to the candidate being considered. In a small minority of cases, they would be able to overcome the problem of missing data by additional exhaustive effort – which will delay candidates in obtaining employment and housing, cost Michigan businesses and non-profit organization more, and still result in lower safety through missed disqualifying records. Further, consumers being screened have consented to the background check and provided the date of birth for this very purpose.

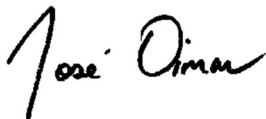
On June 3, we met by phone with 2 attorneys from SCAO about the proposed rule. They proposed an unworkable solution that would require court researchers to present consent forms for every background screening they undertake. Carrying a consent form is not only a cumbersome process for court researchers, it includes printing and production of documents with the date of birth the court is proclaiming to protect, and it will also inundate court clerks with hundreds of excess pieces paper each day for every background check being performed. Court staff workloads will easily double with this process and new rule.

Further, our industry has not had the time to prepare for such a change, which could require flowing a form all the way from the candidate, through the employer or property manager, through the background screener, to a local researcher for presentation to the court clerk. Michigan would be unique in requiring this process, so every member of our industry would have to build and automate this process from scratch. At a minimum, the industry cannot achieve this within a year. But the attorneys with whom we met were unwilling postpone the rule from its July 1 implementation date to allow us to find a solution that would not overburden court staff or our researchers.

Therefore, we would appeal to you one last time to exercise your authority as Chief Justice to stop this DOB redaction requirement from taking place until a reasonable compromise can be reached that protects the economic recovery that is starting in Michigan. If you do not, we will be informing our members of this damaging rule and undertaking a business-centered, public relations campaign that will highlight for the public – especially Michigan employers – the negative impact on business hiring and the impending job loss in Michigan.

Thank you for your time and attention to this matter. We are prepared to discuss this matter with you immediately. If we do not hear back from you or someone authorized to speak on your behalf by end of business tomorrow, Thursday, June 10th, 2021, we will be calling on our members, Michigan employers, and the press to contact you and your colleagues to address this problem. My contact information is jose.dimas@thepbsa.org/202.603.8950 and I am standing by.

Sincerely,



Jose Dimas
Government Relations Director
of Public Records Access

