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**House Bill 1826 – “Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in criminal history record information, further providing for definitions, for general regulations, for petition for limited access, for clean slate limited access, for exceptions and for effects of expunged records and records subject to limited access” – Opposed to § 9122.5. (a.1) unless amended**

Dear Chairman Kauffman, Chairman Briggs, and members of Pennsylvania’s House Judiciary Committee,

On behalf of the Consumer Data Industry Association (“CDIA”) we would like to offer comments regarding House Bill 1826, “An Act Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes”, and to § 9122.5. (a.1) specifically.

House Bill 1826 would restrict access to more records used in background checks by permitting a wider group of persons with convictions (those 7 years from their last conviction, down from 10 in current law) to petition for “limited access” and “clean slate limited access”, thus reducing available records and total years for background checks. House Bill 1826 would also make a smaller group not eligible for “limited access” (reducing periods since crime from 20 years to 15 and 15 to 10) and make felony drug crimes of less than 30 months now eligible for limited access.

The most concerning provision to CDIA in House Bill 1826 is § 9122.5. (a.1), which provides that “limited access” records may not be used in housing, employment, or school matriculation unless required by federal law. This would create a much broader set of prohibitions on the use of these records that the industry has not seen before. Sections 9122.2(b)(5) and 9122.2(c) also pose potential problems when combined with the issues in § 9122.5. (a.1) as well.

The provisions specifically including “employment, housing or school matriculation purposes” pose issues in the event there was an error on the courts part, or they did not conspicuously note the limited-access order in the docket and records were incorrectly obtained. We believe this language could be improved to factor in the possibility of such an error occurring and give CDIA members the ability to discover when there may be a mistake in releasing records.

Our members conduct screening pursuant to the terms of the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681 et seq. Consumer reporting agencies (“CRAs”) provide consumer reports to employers of all sizes, property owners/management companies (including nursing homes and apartment communities) and schools that conduct background checks on prospective employees, tenants, and students. They typically receive criminal background information consisting of damage to persons (including sex offender information) and property.

This information provides the employer/landlord/school with reliable predictors evaluating a prospective employee/tenant/student and assessing the risks associated with applicants. This information is valuable when evaluating the prospective employee/tenant/student potential to commit future crimes, cause harm to others or to even be legally qualified for employment, housing, or educational opportunities in certain settings. Employers, property managers and educational institutes have a financial and moral responsibility to assure the safety and wellbeing of their employees, residents, and guests.

The Consumer Data Industry Association is the voice of the consumer reporting industry, representing consumer reporting agencies including the nationwide credit bureaus, regional and specialized credit bureaus, background check and residential screening companies, and others. Founded in 1906, CDIA promotes the responsible use of consumer data to help consumers achieve their financial goals, and to help businesses, governments and volunteer organizations avoid fraud and manage risk. Through data and analytics, CDIA members empower economic opportunity all over the world, helping ensure fair and safe transactions for consumers, facilitating competition and expanding consumers’ access to financial and other products suited to their unique needs.

The FCRA provides for strictly controlled permissible purposes to limit access to consumer reports by data users. The FCRA also affords substantial identity theft prevention and mitigation rights for consumers and duties for businesses. For enforcement purposes, the FCRA provides for private rights of action, and enforcement by state attorneys general, the Consumer Financial Protection Bureau (CFPB), and the Federal Trade Commission (FTC).

We respectfully believe that employers, property managers and educational institutions should know if a prospective employee, tenant, or student has any form of criminal conviction(s) and have access to such records.

In conclusion, we believe there are many important benefits for the uses of the reports our members provide that protect applicants, employers, employees, residents, housing providers, schools, and the general public. For these reasons above, we would encourage your reconsideration against legislation that would negatively impact the structure that is currently in place. Thank you for the consideration of our comments and I would be happy to answer any questions you may have.

Sincerely,

*Mike Carone*

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