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TESTIMONY OF THE MICHIGAN PROCESS SERVERS ALLIANCE TO THE MICHIGAN HOUSE JUDICIARY COMMITTEE REGARDING SB-49, SB-834 and SB-881

I am Patrick M. Clawson, the Vice President and Director of Legislative Affairs for the Michigan Process Servers Alliance. Our organization represents Michigan Court Officers, professional private process servers and licensed private investigators who serve civil process across the State of Michigan.

We oppose these bills as drafted. These bills are not in the public interest because they restrict access to, and dissemination of, firearms records only to certain law enforcement personnel who are designated "peace officers." Unauthorized access or disclosure of information from these records to parties other than those "peace officers" would be a criminal offense. These bills in their present form are likely to result in the injury or death of other public and private law enforcement practitioners who are engaged in the investigation and enforcement of this state's criminal and civil laws but who are not classified as "peace officers." The bills, as drafted, will also impede and imperil the efficient functioning of the Michigan justice system because they do not authorize judges to order the disclosure of these records.

Michigan Court Officers serve civil process including judicial orders requiring the seizure of property, eviction of persons, and the physical arrest of persons wanted on bench warrants. They need access to firearms information for both officer safety and to effectively execute their duties. It is not uncommon for Court Officers to seize firearms when enforcing court orders. They have a need to determine ownership of those weapons which may be required to be seized and sold pursuant to court order. Court Officers are a mixture of court employees and private business persons who are deputized and appointed by the courts, but they are not classified under state law as "peace officers." We submit that civil law enforcement is just as important a function of Michigan's justice system as is criminal law enforcement and should be on equal standing.

Michigan's private investigators – who are licensed by the State of Michigan to engage in private law enforcement activities such as investigations and whose conduct is strictly regulated by the government - need access to this information when serving court process including Personal Protection Orders and when conducting investigations of both civil and criminal law violations involving the use of firearms.

Both Court Officers and private investigators are often subjected to assaults and physical attacks while serving civil process and executing court orders. The bills as presently drafted cripple their ability to obtain information needed for personal safety when fulfilling their licensed duties.

Further, private investigators and public defender investigators who have been appointed by court order or privately retained to conduct criminal defense investigations are not classified by law as "peace officers." They should have equal access to firearms records when conducting lawful investigations as do their public law enforcement counterparts so the rights of criminal defendants can be protected and the principles of fair and equal justice can be achieved.

Information about firearms ownership, the identity of CPL permit holders and the circumstances of their licensing, should be made available for legitimate civil and private investigation purposes including criminal defense and negligence or liability investigations resulting from firearms use.

Private businesses that employ appointed Court Officers, private investigators and private security officers have a legitimate need to access firearms information to verify that their employees and contractors are in compliance with Michigan gun laws. The bills in their present form do not permit access to firearms information by non-peace officer parties even with the written consent of the individual who is the subject of the record and there is no authority for court-ordered disclosure.

The Michigan Process Servers Alliance requests that the Committee amend these bills to include access provisions similar to those used by the Michigan Secretary of State that permit Court Officers and private law enforcement practitioners to access motor vehicle registration and drivers license information. Based on the language of the federal Drivers Privacy Protection Act of 1994 (18 U.S.C §. 2721 et. seq.), the access provisions provide a proper balance between protecting personal privacy rights and ensuring limited public access to information for those who have a bona fide need to know for lawful investigative and enforcement duties.

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(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(3) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court.

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(5) For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection.

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