



## 2010 CORI Reform Explained – How the law is changing, and when.\*

	<b>Rights of People with CORI &amp; Access to Records</b>	<b>Current Law</b>	<b>2010 CORI Reform</b>	<b>Date change goes into effect</b>
<b>1</b>	<b><i>No inquiry on job application (“ban the box”)</i></b>	<ul style="list-style-type: none"> <li>➤ Employers can ask applicants about all past felony convictions and some misdemeanors on job applications and in interviews.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Bans questions about criminal history from initial written job application, unless conviction information is required for a particular job by federal or state law. (§101)</li> </ul>	November 4, 2010
<b>2</b>	<b><i>Provide criminal record before use and after adverse decision</i></b>	<ul style="list-style-type: none"> <li>➤ Employers can reject applicants based on criminal history information without telling the applicant.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Before questioning an applicant about his/her criminal record, an employer (or other decision-maker), regardless of the source of the record must provide a copy of record. (§19)</li> <li>➤ When an adverse decision is made based on a criminal record,, the employer (or other decision-maker) must give the applicant a copy of the record the decision is based on. (§19)</li> </ul>	May 4, 2012

\* The new law, Chapter 256 of the Acts of 2010, does not take effect immediately. Various provisions, listed here, will take effect at different times.

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3	<b><i>Sealing waiting period</i></b>	<ul style="list-style-type: none"> <li>➤ 15 yrs for felonies; 10 yrs for misdemeanors.</li> <li>➤ Clock begins after all court supervision (parole and probation) is complete.</li> <li>➤ Intervening convictions reset the clock.</li> </ul>	<ul style="list-style-type: none"> <li>➤ 10 yrs for felonies; 5 yrs for misdemeanors. (§128)</li> <li>➤ Clock begins at release from incarceration or custody. If the sentence did not include incarceration, the clock begins at the time of disposition (the conclusion of court proceedings). (§128)</li> <li>➤ Intervening convictions reset the clock. (§128)</li> <li>➤ <u>Note</u>: Sealing does not occur automatically. When a person's record becomes eligible for sealing (after the waiting period), he or she can apply to have the record sealed by completing a form available through the Office of the Commissioner of Probation (1 Ashburton Place, Boston).</li> </ul>	May 4, 2012
4	<b><i>Procedure to correct inaccurate record</i></b>	<ul style="list-style-type: none"> <li>➤ CORI subjects have a right to inspect and obtain a copy of their own records.</li> <li>➤ CORI subjects can file complaint with CHSB to modify, supplement or purge inaccurate records.</li> <li>➤ But in practice, the procedure has been cumbersome. A person had to first go to the court where the record was created to seek a correction.</li> </ul>	<ul style="list-style-type: none"> <li>➤ CORI subjects have a right to inspect and obtain a copy of their own records. (§35)</li> <li>➤ The department of criminal justice information services will publish guidelines on how to correct inaccurate information, and may work with other agencies to help individuals fix inaccurate records. (§35)</li> <li>➤ Note that the new procedure is an improvement, but it took away the right to file a complaint to seek purging or modification of an inaccurate record.</li> </ul>	May 4, 2012
5	<b><i>Complaint procedure for violations of CORI law</i></b>	<ul style="list-style-type: none"> <li>➤ CORI subject can file complaint with CHSB for wrongful access or dissemination or other violations</li> </ul>	<ul style="list-style-type: none"> <li>➤ CORI subject can file complaint with new Criminal Record Review Board, which can hear violations, including failure to provide copy of record before questioning or after adverse decision. (§12)</li> </ul>	May 4, 2012

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6	<b><i>Auditing</i></b>	<ul style="list-style-type: none"> <li>➤ No formal mechanism exists to let CORI subjects know who has accessed their records.</li> </ul>	<ul style="list-style-type: none"> <li>➤ CORI subjects (and their lawyers) have a right to request a free “self-audit” every 90 days to learn who accessed their records, when, and for what purpose. (§21)</li> <li>➤ Unauthorized access is a criminal offense subject to imprisonment and fines. (§36)</li> </ul>	May 4, 2012
7	<b><i>Limitations on conviction dissemination<sup>1</sup></i></b>	<ul style="list-style-type: none"> <li>➤ Unless record is sealed, it will forever be disseminated by the state.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Prohibits dissemination of convictions after a specified waiting period. (§21) <ul style="list-style-type: none"> <li>• 10 yrs for felonies</li> <li>• 5 yrs for misdemeanors</li> <li>• violations of domestic abuse orders will be treated as felonies</li> </ul> </li> <li>➤ Prior records will remain available for as long as last conviction is still available to be disseminated. (§21)</li> <li>➤ Permanent access to convictions for murder, manslaughter, sex offenses. (§21)</li> </ul>	May 4, 2012
8	<b><i>Limitations on non-conviction dissemination</i></b>	<ul style="list-style-type: none"> <li>➤ Silent, in general, on dissemination of non-conviction to non-criminal justice entities.</li> <li>➤ In some instances, specific entities are granted access to non-convictions by statute (e.g., nursing homes).</li> </ul>	<ul style="list-style-type: none"> <li>➤ Non-conviction (not guilty, dismissed cases) will not be disseminated to most requestors. (§21)</li> <li>➤ Pending cases will be disseminated. (§21)</li> <li>➤ CWOFS will be treated as pending cases until they are dismissed, after which they will be treated as non-convictions. (§21)</li> <li>➤ Only entities with specific statutory access can receive non-convictions.</li> </ul>	May 4, 2012
9	<b><i>Access to CORI by non-statutorily authorized requestors</i></b>	<ul style="list-style-type: none"> <li>➤ Some entities are statutorily required or permitted to access CORI (e.g., children’s camps;</li> </ul>	<ul style="list-style-type: none"> <li>➤ Employers, landlords, and professional licensing authorities will have access to CORI (subject to content</li> </ul>	May 4, 2012

<sup>1</sup> Employers, landlords, and professional licensing authorities may request CORI reports to help make decisions about hiring employees and volunteers, renting property, and issuing professional licenses.

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		<p>elder care facilities).</p> <ul style="list-style-type: none"> <li>➤ Most entities must petition to be certified to access CORI. (About 9,000 entities are currently certified).</li> <li>➤ No restrictions on accessing criminal records information from private companies.</li> </ul>	<p>and time limits mentioned above) on the internet. (§21).</p> <ul style="list-style-type: none"> <li>➤ To obtain a CORI report, requestors will have to certify that they received signed authorization from the CORI subject. (§21).</li> <li>➤ Unauthorized access is a criminal offense subject to imprisonment and fines. (§36)</li> </ul>	
<b>10</b>	<b><i>Expanded access for special classes</i></b>	<p><u>Victims/witnesses</u> Access to CORI related to crime experienced/witnessed</p> <p><u>Long-term care facilities</u> May access all available CORI</p> <p><u>Family law</u> No special access to sealed CORI</p>	<p><u>Victims/witnesses</u> Access to all available CORI for the offender, including non-convictions. (§37)</p> <p><u>Long-term care facilities</u> Must perform CORI checks for staff and volunteers; granted access to all available CORI, including non-convictions. (§25) (Nursing homes are already required to check CORI).</p> <p><u>Family law</u> Permits access to sealed CORI by court order in domestic abuse/child custody actions and where a person's safety is at stake. (§130)</p>	May 4, 2012
<b>11</b>	<b><i>Access to CORI for occupational licensing</i></b>	<ul style="list-style-type: none"> <li>➤ State law permits CORI checks for occupational licensing</li> <li>➤ Licensing authorities determine whether CORI checks are required for particular occupations</li> </ul>	<ul style="list-style-type: none"> <li>➤ Municipalities can require fingerprinting for licensing of specified occupations in order to conduct state and national criminal record checks. (§23)</li> </ul>	May 4, 2012

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12	<b><i>Access by the general public</i></b>	<ul style="list-style-type: none"> <li>➤ Any member of the general public can access <i>all</i> conviction information about a specific individual for a limited time: <ul style="list-style-type: none"> <li>• During any period of probation, incarceration, or parole served by an individual who was either convicted of a crime punishable by 5 years or sentenced to imprisonment for any crime;</li> <li>• For 2 years after release from custody for a felony;</li> <li>• For 1 year after release from custody for a misdemeanor;</li> <li>• For 3 years after release from custody following denial or violation of parole.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>➤ Any member of the general public can – upon written request for CORI about a specific individual – access information about a particular conviction for a limited time (§21): <ul style="list-style-type: none"> <li>• Felony convictions punishable by 5 years of imprisonment</li> <li>• For any felony conviction, until 2 years after release from custody</li> <li>• For any misdemeanor conviction, until 1 year after release from custody</li> <li>• For period of incarceration, probation or parole if convicted and sentenced to prison</li> </ul> </li> </ul>	May 4, 2012
13	<b><i>Access by criminal justice agency</i></b>	<ul style="list-style-type: none"> <li>➤ Criminal justice agencies (including police, probation, etc.) can access CORI to perform their duties.</li> <li>➤ When CORI is sealed, can see that sealed record exists and petition in court to view its contents.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Restates criminal justice agencies' right to obtain CORI for performance of their duties. (§21)</li> <li>➤ Expands access by giving immediate and automatic access to sealed CORI. (§21)</li> </ul>	May 4, 2012
14	<b><i>Employer negligent hiring/liability protection</i></b>	<ul style="list-style-type: none"> <li>➤ Employers are not protected from negligent hiring decisions.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Employers that make decisions within 90 days of obtaining CORI from the state will not be held liable for negligent/discriminatory hiring practices by reason of reliance on the CORI. (§21)</li> <li>➤ No protection for employers using info from private companies.</li> </ul>	May 4, 2012