

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

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DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

January 11, 2008

To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled "An Act To Reduce Recidivism by Increasing Employment Opportunities." This bill will simultaneously create economic opportunity and enhance public safety by increasing employment opportunities for rehabilitated individuals with criminal records.

The bill accomplishes this goal by redirecting the focus of the Criminal History Systems Board (CHSB) with respect to the dissemination of criminal offender record information (CORI) to employers, and changing the timeframes and mechanisms for the sealing and distribution of criminal records.

The bill expands the membership of the CHSB to include the Secretary of Labor and Workforce Development, two gubernatorial appointees with experience in workforce and economic development or ex-offender rehabilitation, and one additional representative of crime victim service providers. The bill also requires the CHSB to consider, as part of the CORI certification process, "the importance and value of successful reintegration of ex-offenders."

To help reduce recidivism by increasing employment opportunities, the bill also amends the time individuals must wait to seal their criminal records to ten years in the case of felonies and five years in the case of most misdemeanors, mirroring the standard for impeachment of witnesses in court. Sex offenses will not be eligible for sealing. To further improve employment prospects, the bill directs the CHSB not to provide CORI-certified employers access to records

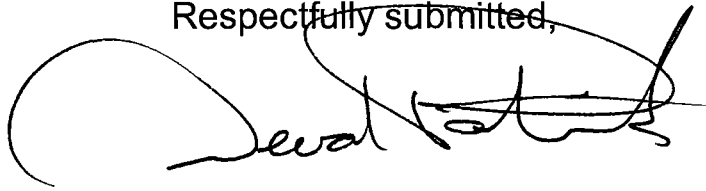


that are eligible for sealing under the new timelines. In addition, criminal justice agencies will be given full access to sealed records.

Simultaneously with the filing of this bill, and consistent with its twin goals of enhancing public safety and increasing economic opportunity, I am issuing an Executive Order to establish as the policy of the Executive Department that a criminal background check should occur only where a current or prospective employee is deemed otherwise qualified for a position, and the contents of a criminal record are relevant to the duties and qualifications of the position. The Executive Order includes a number of other initiatives to ensure the accuracy and relevance of CORI and facilitate the employment of rehabilitated individuals.

I urge your prompt and favorable consideration of this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", is written over the text "Respectfully submitted,". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND ^{EIGHT}

AN ACT TO REDUCE RECIDIVISM BY INCREASING EMPLOYMENT OPPORTUNITIES

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 168 of chapter 6 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be a criminal history systems board, hereinafter called the board, consisting of the following persons: the secretary of public safety and security, who shall serve as chairman, the secretary of labor and workforce development, the attorney general, the chairperson of the Massachusetts sentencing commission, the chief counsel for the committee for public counsel services, the chairman of the parole board, the commissioner of the department of correction, the commissioner of probation and commissioner of the department of youth services and the colonel of state police, or their designees, all of whom shall serve ex officio, and 10 persons to be appointed by the governor for a term of 3 years, 1 of whom shall represent the Massachusetts District

Attorneys Association, 1 of whom shall represent the Massachusetts Sheriffs Association, and 1 of whom shall represent the Massachusetts Chiefs of Police Association, 1 of whom shall represent private users of criminal offender record information, 1 of whom shall be a victim of crime, 1 of whom shall be a provider of victim services, 2 of whom shall have experience in the areas of workforce development, ex-offender rehabilitation, or economic development, and 2 of whom shall be persons who have experience in issues relating to personal privacy. Upon the expiration of the term of any appointive member, his successor shall be appointed in a like manner for a term of 3 years.

SECTION 2. Said section 168 is hereby further amended by striking out, in line 50, the word "hundred" and inserting in place thereof the following word:- thousand.

SECTION 3. Said section 168 is hereby further amended by striking out, in line 50, the word "willful" and inserting in place thereof the following word:- knowing.

SECTION 4. Said section 168 is hereby further amended by striking out the fourth and the sixth paragraphs.

SECTION 5. Chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after section 168 the following section:-

Section 168 ½. There shall be within the executive office of public safety and security a criminal justice information services department, hereinafter called the department. The department shall provide for and exercise control over the installation, operation and maintenance of data processing and data communication systems, hereinafter called the criminal justice information system. Said system shall be designed to ensure the prompt collection, exchange, dissemination and distribution of such criminal offender record information as may be necessary for the efficient administration and operation of

criminal justice agencies, and to connect such systems directly or indirectly with similar systems in this or other states. The secretary of public safety and security shall appoint an executive director who shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. Such executive director shall not be subject to the provisions of chapter 31 or section 9A of chapter 30. Said director shall be responsible for all data processing, for the management of the automated criminal offender record information and teleprocessing system, for the supervision of all personnel associated with that system and for the appointment of all such personnel. The director may appoint such other employees, including experts and consultants, as he deems necessary to carry out the department's responsibilities, none of whom shall be subject to the provisions of chapter 31 or of section 9A of chapter 30. The department is authorized to enter into contracts and agreements with, and accept gifts, grants, contributions, and bequests of funds from, any department, agency, or subdivision of federal, state, county, or municipal government and any individual, foundation, corporation, association, or public authority for the purpose of providing or receiving services, facilities or staff assistance in connection with its work. Such funds shall be deposited with the state treasurer and may be expended by the department in accordance with the conditions of the gift, grant, contribution, or bequest, without specific appropriation.

SECTION 6. Section 172 of chapter 6 of the General Laws, as so appearing, is hereby amended by inserting after the word "privacy", in line 14 and in line 40, the following words:- and the importance and value of successful reintegration of ex-offenders.

SECTION 7. Said section 172 is hereby further amended by inserting after the last paragraph the following paragraph:-

Notwithstanding the provisions of any general or special law, the board shall adopt regulations providing that agencies or individuals granted access under clause (b) or clause (c) shall not be given access to criminal offender record information that the commissioner of probation has the authority to seal under section 100A of chapter 276.

The board may condition these regulations upon the availability of technology, staffing and appropriations sufficient to give the department a reasonable ability to identify and segregate information eligible for sealing, and no member, officer, employee or agent of the board or the department shall be held liable, civilly or criminally, for the unintentional or negligent communication of such information.

SECTION 8. Section 178 of chapter 6 of the General Laws , as so appearing, is hereby amended by striking out, in line 1, the word “willfully” and inserting in place thereof the following word:- knowingly.

SECTION 9. Section 178 of chapter 6 of the General Laws , as so appearing, is hereby amended by striking out, in line 3, the words “willfully communicates” and inserting in place thereof the following words:- knowingly requests, obtains or seeks to obtain, uses, sells, communicates.

SECTION 10. Chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out section 18, as so appearing, and inserting in place thereof the following section:-

Section 18. The following state agencies are hereby declared to be within the executive office of public safety and security: the department of public safety; the department of fire

services; the office of grants and research and the highway safety division; the municipal police training committee; the criminal justice information services department; the statewide emergency telecommunications board; the merit rating board; the department of state police; the office of the chief medical examiner; the Massachusetts emergency management agency; the military department; the department of correction, including the parole board; the sex offender registry board; and all other agencies and boards within said departments, committees and boards.

SECTION 11. Section 100A of chapter 276 of the General Laws, as so appearing, is amended by striking out, in line 8, the word “ten” and inserting in place thereof the following word:- five.

SECTION 12. Said section 100A is further amended by striking out, in line 11, the word “fifteen” and inserting in place thereof the following word:- ten.

SECTION 13. Said section 100A is further amended by striking out, in line 13, the words “ten years preceding such request” and inserting in place thereof the following words:- in the case of a misdemeanor, five years preceding such request, and in the case of a felony, ten years preceding such request.

SECTION 14. Said section 100A is further amended by striking out, in line 19, the words “within the preceding ten years” and inserting in place thereof the following words:- in the case of a misdemeanor, within the preceding five years, and in the case of a felony, within the preceding ten years.

SECTION 15. Said section 100A is further amended by inserting, after line 40, the following words:-

5. For purposes of this section, any violation of section 7 of chapter 209A shall be treated as a felony.

6. Sex offenses, as defined in section 172C of chapter 6, shall not be eligible for sealing.

SECTION 16. Chapter 276 of the General Laws, as so appearing, is hereby amended by inserting after section 100C the following section:-

Section 100D. Notwithstanding any provision of section 100A, 100B, or 100C of this chapter, criminal justice agencies as defined in section 167 of chapter 6 shall have immediate access to, and be permitted to use as necessary for the performance of their criminal justice duties, any sealed criminal offender record information as defined in section 167 of chapter 6 and any sealed information concerning criminal offenses or acts of delinquency committed by any person before he attained the age of 17.