



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

	Rights of People with CORI & Access to Records	Current Law	2010 CORI Reform	Date change goes into effect
1	<i>No inquiry on job application (“ban the box”)</i>	<ul style="list-style-type: none"> ➤ Employers can ask applicants about all past felony convictions and some misdemeanors on job applications and in interviews. 	<ul style="list-style-type: none"> ➤ 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) 	November 4, 2010
2	<i>Provide criminal record before use and after adverse decision</i>	<ul style="list-style-type: none"> ➤ Employers can reject applicants based on criminal history information without telling the applicant. 	<ul style="list-style-type: none"> ➤ An employer (or other decision-maker), must provide a copy of any criminal record information in the employer’s possession before questioning an applicant about his/her record. (§19) ➤ 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) 	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	<i>Sealing waiting period</i>	<ul style="list-style-type: none"> ➤ 15 yrs for felonies; 10 yrs for misdemeanors. ➤ Clock begins after all court supervision (parole and probation) is complete. ➤ Intervening convictions reset the clock. 	<ul style="list-style-type: none"> ➤ 10 yrs for felonies; 5 yrs for misdemeanors. (§128) ➤ 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) ➤ Intervening convictions reset the clock. (§128) ➤ <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). 	May 4, 2012
4	<i>Procedure to correct inaccurate record</i>	<ul style="list-style-type: none"> ➤ CORI subjects have a right to inspect and obtain a copy of their own records. ➤ CORI subjects can file complaint with CHSB to modify, supplement or purge inaccurate records. ➤ 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. 	<ul style="list-style-type: none"> ➤ CORI subjects have a right to inspect and obtain a copy of their own records. (§35) ➤ 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) ➤ 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. 	May 4, 2012
5	<i>Complaint procedure for violations of CORI law</i>	<ul style="list-style-type: none"> ➤ CORI subject can file complaint with CHSB for wrongful access or dissemination or other violations 	<ul style="list-style-type: none"> ➤ 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) 	May 4, 2012

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6	<i>Auditing</i>	<ul style="list-style-type: none"> ➤ No formal mechanism exists to let CORI subjects know who has accessed their records. 	<ul style="list-style-type: none"> ➤ 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) ➤ Unauthorized access is a criminal offense subject to imprisonment and fines. (§36) 	May 4, 2012
7	<i>Limitations on conviction dissemination¹</i>	<ul style="list-style-type: none"> ➤ Unless record is sealed, it will forever be disseminated by the state. 	<ul style="list-style-type: none"> ➤ Prohibits dissemination of convictions after a specified waiting period that begins after release from incarceration or custody. (§21) <ul style="list-style-type: none"> • 10 yrs for felonies • 5 yrs for misdemeanors • violations of domestic abuse orders will be treated as felonies ➤ Prior records will remain available for as long as last conviction is still available to be disseminated. (§21) ➤ Permanent access to convictions for murder, manslaughter, sex offenses. (§21) 	May 4, 2012
8	<i>Limitations on non-conviction dissemination</i>	<ul style="list-style-type: none"> ➤ Silent, in general, on dissemination of non-conviction to non-criminal justice entities. ➤ In some instances, specific entities are granted access to non-convictions by statute (e.g., nursing homes). 	<ul style="list-style-type: none"> ➤ Non-conviction (not guilty, dismissed cases) will not be disseminated to most requestors. (§21) ➤ Pending cases will be disseminated. ((§21) ➤ CWOFS will be treated as pending cases until they are dismissed, after which they will be treated as non-convictions. (§21) ➤ Only entities with specific statutory access can receive non-convictions. 	May 4, 2012
9	<i>Access to CORI by</i>	<ul style="list-style-type: none"> ➤ Some entities are statutorily 	<ul style="list-style-type: none"> ➤ Employers, landlords, and 	May 4, 2012

¹ 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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	<i>non-statutorily authorized requestors</i>	<p>required or permitted to access CORI (e.g., children's camps; elder care facilities).</p> <ul style="list-style-type: none"> ➤ Most entities must petition to be certified to access CORI. (About 9,000 entities are currently certified). ➤ No restrictions on accessing criminal records information from private companies. 	<p>professional licensing authorities will have access to CORI (subject to content and time limits mentioned above) on the internet. (§21).</p> <ul style="list-style-type: none"> ➤ To obtain a CORI report, requestors will have to certify that they received signed authorization from the CORI subject. (§21). ➤ Unauthorized access is a criminal offense subject to imprisonment and fines. (§36) 	
10	Expanded access for special classes	<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
11	Access to CORI for occupational licensing	<ul style="list-style-type: none"> ➤ State law permits CORI checks for occupational licensing ➤ Licensing authorities determine whether CORI checks are required for particular occupations 	<ul style="list-style-type: none"> ➤ Municipalities can require fingerprinting for licensing of specified occupations in order to conduct state and national criminal record checks. (§23) 	May 4, 2012

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12	Access by the general public	<ul style="list-style-type: none"> ➤ 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"> • 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; • For 2 years after release from custody for a felony; • For 1 year after release from custody for a misdemeanor; • For 3 years after release from custody following denial or violation of parole. 	<ul style="list-style-type: none"> ➤ 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"> • Felony convictions punishable by 5 years of imprisonment • For any felony conviction, until 2 years after release from custody • For any misdemeanor conviction, until 1 year after release from custody • For any conviction resulting in a prison sentence, throughout the period of incarceration, probation or parole. 	May 4, 2012
13	Access by criminal justice agency	<ul style="list-style-type: none"> ➤ Criminal justice agencies (including police, probation, etc.) can access CORI to perform their duties. ➤ When CORI is sealed, can see that sealed record exists and petition in court to view its contents. 	<ul style="list-style-type: none"> ➤ Restates criminal justice agencies' right to obtain CORI for performance of their duties. (§21) ➤ Expands access by giving immediate and automatic access to sealed CORI. (§21) 	May 4, 2012
14	Employer negligent hiring/liability protection	<ul style="list-style-type: none"> ➤ Employers are not protected from negligent hiring decisions. 	<ul style="list-style-type: none"> ➤ 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) ➤ No protection for employers using info from private companies. 	May 4, 2012