

HIGHLIGHTS OF MASSACHUSETTS CORI REFORM
CHAPTER 256 OF THE ACTS OF 2010

1. WAITING PERIODS TO SEAL CONVICTIONS.

Section 128 of the bill. This section amends Chapter 276, § 100A pertaining to sealing of convictions to reduce the waiting period to 5 years to seal a misdemeanor and 10 years to seal a felony. Effective May 4, 2012.

Section 128 of the bill: Wording in Chapter 276, § 100A of the present law that is now construed in some cases to mean that probation before dismissal restarts the clock on conviction waiting periods is eliminated. Effective May 4, 2012.

Section 129 of the bill: Amends Chapter 276, § 100A to add that Chapter 209A violation convictions are treated as felonies for purposes of sealing. Effective May 4, 2012.

Section 129 of the bill: Amends Chapter 276, § Section 100A to add that people with sex offenses can seal these records after 15 years, BUT only if: (1) they have no duty to register as a sex offender for a crime in Massachusetts and if the offense was committed out of state, they would not have to register as sex offender had the crime occurred here; AND (2), they were never classified as a level 2 or 3 sex offender AT ANY TIME and at present, are not required to register as a sex offender. Effective May 4, 2012.

Section 129 of the bill: Convictions for crimes against public justice (perjury, witness intimidation, disrupting court proceedings, resisting arrest, etc.), state ethics violations (bribery of officials, etc) and firearms offenses under Chapter 140, §§121-131H are still NEVER sealable. Effective May 4, 2012.

Section 130 of the bill: Sealed convictions are admissible, if relevant, in Chapter 209A cases, adoption, guardianship, child custody or other cases where custody, visitation, or safety of a person are at issue after in camera review by a judge. Effective May 4, 2012.

2. SEALING NON-CONVICTIONS (CHAPTER 276, § 100C)

Section 131 of the bill: Probation before a dismissal is no longer a bar to sealing a record in court under Chapter 276, § 100C. Effective May 4, 2012.

3. LAW ENFORCEMENT AND OTHER ACCESS

Section 133 of the bill: Section 100D is added to Chapter 276. This new section gives criminal justice agencies “immediate access” to sealed CORI data and a person’s delinquency cases before age 17. Effective May 4, 2012.

Section 21 of the bill: Chapter 6, § 172 adds that licensing authorities for guns get all CORI, including sealed records. Effective May 4, 2012.

Section 132 of the bill: It amends § 100C of Chapter 276 to add that clerks of the District Court, Superior Court or Boston Municipal Court shall answer no record exists if inquiries are made after a record is sealed, unless the inquiry is made by law enforcement. Effective May 4, 2012. Note: This adds nothing new; clerks offices are already required to maintain confidentiality of sealed records.

4. ACCESS TO EVALUATE JOB AND HOUSING APPLICANTS

Section 19 of the bill: Chapter 6, § 171A added which requires employers, housing, and professional licensing entities to provide a copy of the CORI if they reject the person because of it.

Section 21 of bill: Chapter 6, § 172 (a)(3): Employers, housing and professional licensing authorities get convictions that are not yet aged out and pending cases.

Section 21 of bill: Chapter 6, § 172 (a)(7): Housing authorities get convictions and pending cases.

Section 21 of the bill: However, convictions for murder, voluntary manslaughter, involuntary manslaughter, and sex offenses stay in the database forever unless sealed under Chapter 276 , § 100A.

CAVEAT: It is important to note that the need for sealing is not eliminated. Many types of employers (schools, nursing homes, etc.) continue to get “all available” data which includes unsealed convictions and non-convictions. See section 21 and 25 of the bill for various employers with special access. Some employers and agencies (DYS, DCF, Dept. of Early Child Education, etc.) continue to get sealed CORI data.

5. BAN THE BOX.

Section 101 of the bill. Amends the anti-discrimination statute, Chapter 151B, § 4, to add a new section that prohibits asking about criminal offender information at the initial stages of the hiring process. However, the new section does not apply to state or federal jobs where there is a mandatory or presumptive disqualification for a conviction, or state or federal law prohibits hiring a person with one or more convictions. This goes into effect on November 4, 2010.

6. AGENCY SHIFTS CORI MANAGEMENT.

Section 1 to 9 of the bill. A new Department of Criminal Justice Information Services in the Executive Office of Public Safety takes over past functions of the Criminal History Systems Board (CHSB). CHSB becomes a different entity under section 9. The transition starts on November 4, 2010.

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