

## **Summary of Major Ideas in the New Proposed CORI Regulations**

### **Establish a Standardized Policy and Procedure of Review**

#### **Policy**

It is the intent of the proposed changes to balance the potential for rehabilitated offenders to have a fair opportunity to become employed and successfully reintegrate into the workforce while simultaneously minimizing the risk to vulnerable populations.

A major provision is to first determine that the prospective employee is qualified for the position. A CORI check would then occur if the content of a criminal record were relevant to the duties and qualifications of the position.

#### **Scope**

In order to protect vulnerable populations CORI histories will be required under the following circumstances:

- applicants and employees seeking positions that entails the potential for unsupervised contact with clients
- applicants for whom a CORI is legally required or deemed relevant to the duties and qualifications of the position
- employees applying for new positions falling within the new guidelines being developed

The intent is to give EOHHS licensed agencies flexibility to conduct searches of pending criminal matters in other states in addition to CORI checks. Such information would be viewed as if the crime occurred in Massachusetts. However, the procedures would follow the new proposed policies in line with protecting the ability of rehabilitated offenders to obtain employment.

Applicants for positions in or employees of vendor programs licensed by the Department of Early Childhood Education and Care shall remain under the guidelines of 606 CMR 14.00 previously established and not be affected by this new legislation.

In order to promote fair opportunities to be employed rehabilitated offenders will:

- not have any action taken based on criminal record reviews unless new criminal activity comes to light since the last CORI
- not be subjected to a CORI review if they hold a position where a CORI would be required but who were not previously the subject of a CORI

#### **Definitions**

The notable concept is that even volunteers, trainees, interns, or students regardless of whether they receive compensation are considered employees for the purpose of this proposed law.

The concept of “no record” does not necessarily mean that criminal information is absent in a CORI-just that a conviction and pending charges have not been found.

### **Community Service and Work Release Workers**

While CORI reviews are required for all those who participate in criminal justice related community service or work release programs disclosure is prohibited:

- for an arrest, detention or disposition of any violation of the law in which no conviction resulted,
- a first conviction for the misdemeanors of drunkenness, simple assault, speeding, minor traffic violations, affray, disturbance of the peace, or
- any conviction of a misdemeanor, or completion of incarceration resulting from one that occurred five or more years prior to application for employment

As a further precaution, the candidate’s criminal justice official must conclude in writing that the candidate does not pose an unacceptable risk of harm to clients, or the program will take responsibility for supervision of the candidate at all times.

### **Application Forms and CORI Investigations, Findings**

The intent of the proposed regulations is to provide adequate notice, authorization and consent for the candidate as to obtaining the CORI. A finding of “no record” provides sufficient evidence of suitability for hire for 60 days. The candidate’s file will be documented as such.

The hiring authority is not to consider Table B crimes that is a felony more than 10 years old or misdemeanors more than five years old.

However, a conviction for violating any protective order including domestic violence or abuse protective orders will be treated as felonies.

An outstanding warrant for any offense must be removed in order for the candidate to be eligible for employment.

### **Findings from CORI Investigations**

In the case of a conviction or a pending Table A crime, or a conviction of a Table B crime within the ten or five year time frame the hiring authority may take the following factors into account in deciding whether or not to hire a candidate:

- time since conviction,
- age of candidate at time of offense,
- nature and specific circumstances of the offense, sentence imposed and length of incarceration,
- relationship of the criminal act to the nature of the work to be performed,

- number of offenses
- whether offenses were committed with a dependence on drugs or alcohol from which the candidate has recovered,
- any relevant evidence of rehabilitation or lack thereof, such as compliance with parole or probation
- any other relevant information

After carefully reviewing the CORI and relevant information the hiring authority is required to document its decision to hire or not hire a candidate indicating the rationale for its decision.

Additional procedures to validate a positive hiring decision by a hiring authority include:

- waiting five days to allot time for the EOHHS Secretary or agency commissioner to approve or disapprove the hiring by
  - reviewing the candidate's criminal justice official's analysis of risk and if not available
  - obtaining an assessment by a qualified mental-health professional of the candidate's risk of harm

If the hiring authority chooses not to hire the candidate the candidate must be informed of the decision, given the opportunity to understand the hiring decision including which part of the CORI makes him ineligible for the position, be given an opportunity to dispute the accuracy and relevancy of the CORI and to review any additional documentation with the candidate.

CORI records are confidential may only be disseminated to individuals certified to receive such information