



The long awaited Final Massachusetts CORI Regulations were issued on May 25, 2012 from the Department of Criminal Justice Information Services (“DCJIS”). Accurate Background previously communicated some of the changes of the [Criminal Offender Record Information \(CORI\) Reform](#) legislation that went into effect May 4, 2012 ([CORI update](#)). We have summarized some of the areas below for you, but we recommend you read the [Regulations](#) in their entirety from the DCJIS.

It is recommended that all Massachusetts employers and employers outside of Massachusetts conducting criminal history searches on applicants or employees in Massachusetts review their background policies and procedures to ensure compliance with the regulations.

All requirements listed went into effect May 4, 2012 unless otherwise stated.

1. **Ban the Box** – effective November 2010
  - This legislation prohibits employers from requesting criminal history information from a candidate on any written application or form until later in the hiring process, typically after an interview.
2. **Increased access to criminal record information maintained by DCJIS**
  - Employers may obtain “standard access” to CORI for purposes of evaluating current and prospective employees
  - Some of the changes as to what CORI will report as a part of the “standard access” include:
    - Felony convictions for 10 years following the date of disposition or release from incarceration
    - Misdemeanor convictions for 5 years following the date of disposition or release from incarceration
    - All murder, manslaughter, and sex offense convictions; and
    - Pending criminal charges
  - If additional information is required beyond the “Standard access” to CORI in order to comply with particular statutes and regulations, DCJIS will grant the “required” access needed.
3. **Procedures to access an individual’s criminal record through DCJIS**
  - For an employer to conduct a criminal record check through CORI they must:
    - Have the individual sign a [CORI Acknowledgment Form](#) authorizing the employer to receive his/her record
    - Verify the subject’s identity
    - Sign the CORI Acknowledgment Form confirming that the subject was properly identified by the employer representative or have it notarized before a notary public
    - Retain CORI Acknowledgment Forms for a minimum of one year
    - Certify to the DCJIS that they have met the requirements and submit the necessary documentation to DCJIS
4. **Utilizing a Consumer Reporting Agency (CRA) in requesting CORI information**
  - As with the FCRA, the employer must notify the employee / applicant in a separate document consisting solely of such notice, that a consumer report may be used in the employment decision making process
  - The regulations require the written authorization to be separate from the notice
5. **Taking adverse action**
  - Prior to questioning an applicant about his or her criminal history, the CORI regulations require that the employer provide the applicant with a copy of the criminal history record, whether obtained from DCJIS **or any other source**
  - If the employer is going to take adverse action based on a criminal record, the employer must provide:
    - Notice to the applicant about the potential adverse decision ([View Sample Notification Letter](#))
    - A copy of the criminal record
    - A copy of the employer’s background check policy ([View Sample Policy](#))
    - [Information on how to correct a criminal record](#)
  - When an employer takes adverse action based on information obtained from DCJIS, the employer must notify the individual of the information in their CORI that is the basis for the decision

## LEGAL UPDATE

- When an employer takes adverse action based on information from a source other than DCJIS, the employer does not have to provide a reason, but must identify the source from which the criminal history information was obtained
6. **Policy** - Employers who conduct five or more criminal background checks each year, whether from **DCJIS or another source** must maintain a written criminal offender record information policy. Accurate Background previously provided a **sample policy** which employers may use as a template, but it should be reviewed and modified so that it accurately reflects their specific organization's practices.
  7. **Training** - In order to access CORI information, even if utilizing a CRA, an employer must register for an iCORI account each year and an employer representative must attend training annually.
  8. **Dissemination** –
    - An employer may disseminate criminal information as directed by the subject, to individuals within the employer's organization who have a need to review the information to evaluate the applicant or employee, and to certain governmental agencies
    - If an employer disseminates criminal history information outside of its organization, it must maintain a secondary dissemination log for one year following the dissemination
  9. **Storage** –
    - All hard copies of CORI must be stored in a separate, locked and secure location, such as a file cabinet, and access must be limited.
    - An employer must password protect and encrypt all electronically stored CORI and limit password access.
  10. **Retention / Destruction** –
    - No entity may maintain a copy, in any format including electronic, of criminal offender record information for more than **seven years** from the last date of employment or from the date the employer makes a final decision regarding the subject, whichever is longer.
    - Hard copies shall be destroyed by "shredding or otherwise" prior to disposal
    - Electronic copies must be deleted from hard drives and from any system back-up. In addition, the employer must clean all information by electronic or mechanical means before disposing.
  11. **Audits** – DCJIS may audit employers with respect to CORI and individuals (i.e. applicants/employees) may set up an account to see what entities have requested their CORI records