



Recent Updates to Massachusetts CORI Regulations

As part of continued reform efforts by Governor Charlie Baker, revisions to the Criminal Offender Record Information (CORI) process have been issued for 2017. These revisions affect both private and public employers, such as schools and long-term care facilities, which are required by law to obtain CORI information. A CORI report is a record of an individual's criminal court appearances in Massachusetts, including arrests, convictions, dismissals, and serious violations.

The following changes will have the biggest impact on employers who request CORI records:

Employee Protections:

- The definition of employee has been extended to include volunteers; subcontractors; contractors; vendors; and special state, municipal, or county employees. This broad inclusion differs from the definition of "employee" found in other state and federal laws.
- CORI records will no longer include information about convictions that happened before the age of 18, unless the person was adjudicated as an adult. This change was part of a larger effort by the legislature to expand juvenile jurisdiction.
- Employers must provide employees with a copy of their CORI report before asking any questions about their criminal history, and before making employment decisions based upon the information contained in the CORI. Additionally, employers must now disclose the source of the specific information obtained, before taking any adverse action. Regulations also require background screening companies to identify their source of criminal history information. Employers should document all pre-adverse action measures when questioning a subject's criminal history and taking subsequent action, to demonstrate that all relevant steps were taken to comply with the law.

Recordkeeping:

- [Template CORI Acknowledgment forms](#) are available on the Department of Criminal Justice Information Services (DCJIS) website. The new regulations urge employers to either use the model forms or incorporate the language into their own form.
- Employers may now store CORI-related records, including authorization and acknowledgment forms, on a password-protected cloud-based system or database, in an encrypted format. Employers must have a written agreement with the online storage provider, which is subject to inspection by the DCJIS and must be made available to the DCJIS upon request.
- Access to CORI records shall be limited to only those employees who have been approved to access such information on a "need to know" basis. Employers will be required to maintain a list of "need to know" employees and review the list for accuracy and necessity at least every six months. Employers must make the list available to both DCJIS as well as individual CORI subjects upon request.



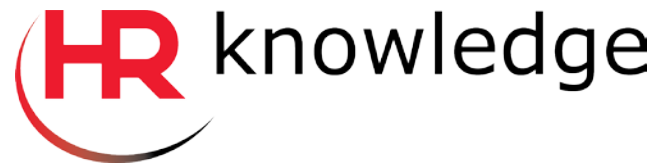
- Employers are now required to follow specific guidelines in the retention and destruction of both hard copy and digital versions of CORI reports and authorization forms including shredding, burning, deleting, and degaussing storage devices, and overwriting files. Complete CORI retention and destruction regulations can be found [here](#).

Requirements for Requestors:

- In addition to requirements to identify the CORI subject, regulations now require employers to verify identity using photo identification whenever possible. Various other forms of government-issued documentation are now acceptable including a driver's license, state ID, passport, military ID, or tribal identification cards. When a photo ID is not available, employers may now verify the individual's identity by reviewing a birth certificate or social security card. If an employer is unable to verify the identity of a CORI subject, acknowledgment forms may be completed and signed before a notary public.
- CORI acknowledgment forms must be renewed annually. Unless the information on the new acknowledgment form matches the information from the previous form exactly, employers must re-verify the subject's identity using the steps explained above. Employers may choose to re-verify all identifications annually to mitigate any risk involved in matching the previous year's data.
- An employer may request an additional CORI check within one year of an employee signing the original CORI Acknowledgment Form, as long as the requestor notifies the subject within the initial CORI Acknowledgment Form that a CORI check may be requested at any time within that one year. The requestor no longer needs to notify the subject 72 hours in advance of the CORI check.
- Employers using background check vendors, otherwise known as Consumer Reporting Agencies (CRAs), will meet additional obstacles before the agency can run a CORI report on the employer's behalf. Employers are now required to disclose to the CRA if the position the CORI subject is being considered for has a salary of over \$75,000.
- A new iCORI Agency Agreement is slated to be released soon. Going forward, all users must sign and agree to stipulations surrounding accessing the iCORI system (the electronic service used to request CORI reports). At a minimum, it will require employers and other requestors to agree to comply with CORI laws and regulations by maintaining up-to-date "need-to-know" lists; by providing their relevant staff with CORI training materials; and by acknowledging that both the organization and *individual employees* may be liable for violations of CORI laws or regulations.

Next Steps for Employers:

The recent CORI reform enhancements provide for additional protections surrounding confidential information and create greater employment opportunities for past criminal offenders. We recommend that all employers revisit their CORI policies, forms, and procedures to ensure they are compliant with the updated regulations. Employers that do not abide by the new CORI regulations may face hefty fines and penalties for noncompliance.



Please contact us at hr@hrknowledge.com for more information about CORI regulation changes and guidelines, or if you have questions about the topics above.

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