



Massachusetts Criminal Offender Record Information System Reform Signed into Law

Massachusetts S. 2583 has been signed into law by Governor Patrick on August 6th. The new law is designed to reduce recidivism, protect public safety and expand employment opportunities. The law takes effect 18 months from signing, February 6, 2012.

This bill makes the below changes. Exceptions apply for those working or volunteering with the elderly or children or where state or federal law prohibits employment of ex-offenders.

- 1) The Department of Criminal Justice Information is required to maintain an electronic, web-based criminal offender record database for use in obtaining information to (1) evaluate current and prospective employees (including full- and part-time employees, contract employees, volunteers, or interns); (2) to evaluate applicants for rental or lease of housing; (3) to evaluate volunteers for services, and (4) to evaluate applicants for a professional or occupational license.
- 2) Criminal offender record information will be limited to felony convictions for 10 years (down from the current 15 years); misdemeanor convictions for five years (down from the current 10 years); and pending criminal charges, including cases continued without a finding until the case is dismissed.
- 3) Employers are prohibited from requesting criminal offender record information on initial written application forms, except where federal or state law disqualifies a person from employment in a position if a person is convicted of one or more types of criminal offenses. Employers will be able ask such information as part of the interview process **AFTER** providing the job applicant with a copy of his or her criminal record.
- 4) An employer in possession of an applicant's criminal offender record information must provide the applicant with such record **PRIOR TO** questioning the applicant about his or her criminal history or following an adverse decision made based on that criminal history information in connection with any decision relating to employment, volunteer opportunities, housing or professional licensing.
- 5) An employer that conducts five or more criminal background investigations must maintain a written criminal offender record information policy providing that it will (a) notify the applicant of the potential adverse decision based on the criminal offender record information; (b) provide a copy of the record information and policy to the applicant; and (c) provide information concerning the process for correcting a criminal record. Employers relying on such criminal record information will be protected from liability for decisions based on that information, provided the employment decision is made within 90 days from obtaining the information and provided proper policies and procedures were followed to verify the person's identifying information consistent with state law and regulations.

The bill also provides for confidentiality of criminal record information and provides that such information is not to be maintained for more than seven years from the last date of employment, volunteer service or residency, unless provided otherwise by law or court order.

Employers should seek guidance from their legal counsel to ensure they are in compliance with the new state law.

For more information, please visit <http://www.mass.gov/legis/laws/seslaw10/sl100256.htm>

If you would like more information about how this legislative update may affect your program and how GIS can help, please feel free to contact your account manager.

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