

## 110 CMR: DEPARTMENT OF CHILDREN AND FAMILIES

### 110 CMR 18.000: CRIMINAL OFFENDER RECORD CHECKS

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#### 18.01: Purpose

The purpose of 110 CMR 18.00 et seq. is to establish standardized procedures for the Department and Department funded or operated programs regarding the review of criminal records of candidates for employment or regular volunteer or training positions, as well as for foster and pre-adoptive parents. The Criminal History Systems Board (CHSB) has authorized Executive Office of Health and Human Services (EOHHS) agencies and their vendor agencies to receive criminal record information regarding present or prospective employees in any 411) program funded or operated by such agencies. The CHSB has also authorized the Department to receive criminal record information regarding present or prospective foster and adoptive parents and their household members.

#### 18.02: Policy

In order to ensure that employees or other persons regularly providing client or support services, including foster/pre-adoptive parents, in any program or facility of the Department or in vendor agency programs funded by the Department are appropriate for serving in their positions with potential for unsupervised contact, a Criminal Offender Record Information (CORI) check shall be performed on candidates for positions in such programs or facilities, as provided in 110 CMR 18.00. It is the policy of EOHHS and the Department that convictions of certain crimes pose an unacceptable risk to the vulnerable populations served by the Department and its vendor agencies. 110 CMR 18.00 sets forth minimum standards.

#### 18.03: Scope

110 CMR 18.00 applies to:

- (a) applicants for positions, including employment, trainee, volunteer or intern, which entail potential un-supervised client contact in the Department and/or Department funded vendor agency programs that provide people with Department services;
- (b) persons seeking to apply to become foster/pre-adoptive parents, foster/pre-adoptive parent applicants and foster/pre-adoptive parents for Department and any vendor agency providing foster or adoptive services for the Department;
- (c) candidates for positions in the Department, including employment, trainee, volunteer or intern, which do not entail the potential for unsupervised client contact; and
- (d) At the discretion of the Department vendor agency programs, the scope of 110 CMR 18.00 may be expanded to include volunteers, interns, students or other persons regularly offering support to any program or facility in either a paid or unpaid capacity whose services do not entail the potential for unsupervised client contact.

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### 18.04: Definitions

Applicant: Any person seeking employment or a position as a regular volunteer or trainee to provide services for or on behalf of the Department or its vendor agency programs, where such employment or position involves potential unsupervised contact with program clients. Employment includes but is not limited to placement in: state positions; federal positions; positions funded by grants, bonds or other capital outlay, and, vendor agency positions.

Candidate: Any person receiving a conditional offer for employment or a position as a regular volunteer or trainee or intern, subject to consideration of any criminal record, to provide services for or on behalf of the Department or its vendor agency programs, where such employment or position involves potential unsupervised contact with program clients. Employment includes but is not limited to placement in: state positions; federal positions; positions funded by grants, bonds or other capital outlay; and vendor agency positions.

Community Service Worker: Any individual who, as a condition of probation, is applying for a position.

CORI Cleared Employee: Any candidate hired as an employee after successfully satisfying the requirements of 110 CMR 18.00.

CORI Coordinator: The person designated by the hiring authority to send requests and receive responses from the CHSB EOHHS CORI Unit.

CORI Investigation: The process of requesting, receiving and evaluating CORI related to candidates for a position with the Department or a vendor agency program.

Criminal History Systems Board (CHSB) EOHHS CORI Unit: The EOHHS sponsored unit within the Criminal History Systems Board which processes requests for CORI information from EOHHS agencies and offers technical assistance with any question arising from the results of a search.

Criminal Justice Official: Either the candidate's probation officer, parole officer or correctional facility superintendent (or designee), depending upon the person having the most recent responsibility for supervision of the candidate. In cases where the candidate was last supervised in a correctional facility, the candidate may advise the hiring authority of any employee of the correctional facility who may have specific information about the candidate that would assist the superintendent or designee in his/her assessment process.

Criminal Offender Record information (CORI): Information regulated by the Criminal History Systems Board and maintained by the Board of Probation regarding the criminal histories of persons within the Massachusetts Court system.

Discretionary Disqualification: A candidate shall be ineligible for a position that entails potential unsupervised contact with persons receiving services at a Department funded or operated program if he or she has been convicted of any crime, or has pending any charge for any crime in 110 CMR 18.16: Table B or Table C, unless the hiring authority has complied with the provisions of 110 CMR 18.11.

Department Background Record Check (BRC): The Department Central Office unit which conducts all CORI investigations for the Department.

Department Funded or Operated Program: Any program operated by the Department or contracted and funded by the Department with a vendor agency that provides services for or on behalf of Department clients.

Foster/Pre-adoptive Parent: For the purpose of 110 CMR 18.00 et seq. Foster/pre-adoptive parent shall refer to persons seeking to apply to become foster/pre-adoptive parents, foster/pre-adoptive parent applicants and current foster/pre-adoptive parents.

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Hiring Authority: The person legally authorized or designated to make hiring decisions within the affected agency, department, office, program, or facility. For the purpose of foster/pre-adoptive parents, the hiring authority shall be the management level of the agency authorized to make approval/licensing decisions in accordance with Department policy.

Household Member: Any individual, regardless of age, who resides or spends substantial time in the home. This may include, but is not limited to, a non-custodial parent who visits the home; relatives, paramours, and/or other individuals who spend overnights in the home; an individual who routinely baby-sits in the home and/or otherwise assumes some degree of caretaking responsibility, in the home, for any child in that home.

Kinship Placement: The placement of a child, who is in Department care or custody, with a person(s) related either by blood, marriage or adoption (i.e. adult sibling, grandparent, aunt, uncle, first cousin) or a significant other adult to whom a child and the child's parent(s) ascribe the role of family based on cultural and affectional ties or individual family values.

Lifetime Presumptive Disqualification: A category of offenses, compiled as 110 CMR 18.16: Table A, for which conviction of any such offense results in a presumption of disqualification for employment or other service which entails potential unsupervised contact with persons receiving services in Department or any Department funded or operated program, due to the presumed unacceptable risk posed by the nature of the crime to person receiving services. A lifetime presumptive disqualification shall become a discretionary disqualification:

(a) if the candidate's criminal justice official concludes in writing that the candidate, within the position sought, does not pose an unacceptable risk of harm to the person served by the program, or

(b) if the criminal justice official has been determined by the hiring authority to be unavailable or has indicated to the hiring authority that she has insufficient information to render an assessment, then the hiring authority shall, at the candidate's request, seek an assessment of the candidate's risk of harm from a qualified mental health professional and the qualified mental health professional concludes in writing that the candidate, within the position sought, does not pose an unacceptable risk of harm to the persons served by the program.

(c) For foster/pre-adoptive parents one of the provisions of 110 CMR 18.10(1) apply.

No Record: The conclusion from a CORI search that convictions or pending charges relating to the candidate have not been found. A finding of "no record" does not necessarily mean, however, that criminal information is not present in the CORI database.

Pending: A criminal offense shall be considered pending if the CORI report indicates that the offense remains open and without final resolution, including that the case has been continued without a finding.

Position: Employment, service by a regular volunteer, trainee, or intern.

Potential Unsupervised Contact: Potential for contact with a person who is receiving or applying for services in Department or Department vendor agency program when no other CORI cleared employee is present. A person having only the potential for incidental unsupervised contact with clients in commonly used areas such as elevators, hallways and waiting rooms shall not be considered to have the potential for unsupervised contact for purposes of 110 CMR 18.00. These excluded areas do not include bathrooms and other isolated areas (not commonly utilized or separated by sight and sound from other staff) that are accessible to clients.

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Qualified Mental Health Professional: A psychiatrist, licensed to practice medicine under M.G.L. c. 112, § 2, a psychologist, licensed under M.G.L. c. 112, §§ 118 through 121, or a licensed independent clinical social worker licensed under M.G.L. c. 112, §§ 130 through 132; provided that the psychiatrist, psychologist, or licensed independent clinical social worker (LICSW) has at least 1,000 hours of experience over a minimum of two years involving assessment, treatment, and consultation concerning individuals with behavior that presents a risk of harm to others in the community, in the workplace, in treatment settings, or in correctional facilities; provided further that the psychiatrist, psychologist, or licensed independent clinical social worker has not provided treatment to the candidate.

Trainee: Any person enrolled in an academic program or participating in a pre or post-doctoral training program that is affiliated with an accredited educational institution or hospital, who receives a placement within the Department or a vendor agency program.

Vendor Agency Program: The provision of client services by any individual, corporation, partnership, organization, trust, association or other entity through funding by the Department.

Volunteer: Any person who works in an unpaid capacity on a regular basis for the Department or a vendor agency program. For the purposes of 110 CMR 18.04: Volunteer, means a current client of services at a facility or program who provides unpaid services at that facility or program shall not be considered a volunteer at that facility or program.

Work Release Program: A program of unpaid work performed by any individual who is under the custody of the state or county correctional system.

### 18.05: Applicant Disclosure of Criminal Record Information

All applicants for a position in the Department or a vendor agency program shall complete an application form that contains a section requiring the applicant to disclose whether or not he/she has a criminal record and what crimes, if any, he or she has been convicted of, consistent with the requirements of M.G.L. c. 151B, § 4, para 9. The application shall not require an applicant to disclose:

- (a) an arrest, detention, or disposition regarding any violation of law in which no conviction resulted; or
- (b) a first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbance of the peace; or
- (c) any conviction of a misdemeanor where the date of such conviction or the completion of any period of incarceration resulting therefrom, whichever date is later, occurred five or more years prior to the date of such application for employment or such request for information, unless such person has been convicted of any offense within five years information. No application for employment shall be considered complete unless the applicant completes this section.

Prospective foster/pre-adoptive parents or foster/pre-adoptive parent applicants for the Department or a vendor agency program will be required to disclose whether or not he/she has a criminal record, including the crimes charged and the disposition of the charge.

### 18.06: Community Service and Work Release Workers

Any Department or vendor agency program that participates in either a criminal justice related community service program or a work release program shall require all individuals who participate and would have potential unsupervised contact with clients to disclose his/her criminal record in conformance with 110 CMR 18.05 on a form signed by the candidate's criminal justice official. In addition, as a condition of participation, the candidate's criminal justice official must conclude in writing that the individual will not pose an unacceptable risk to program clients or the community service program or work release program will take responsibility for providing supervision for the individual at all times.

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### 18.07: Hiring Authority Responsibilities

- (1) The hiring authority shall ensure that each applicant provides consent to a CORI investigation as part of his/her application and to the periodic conduct of further CORI investigations during the course of employment with Department or the vendor agency program. The hiring authority shall also inform the applicant that his or her CORI may be utilized by the criminal justice official or qualified mental health professional conducting themselves in conformance with 110 CMR 18.06, 18.10, 18.11; and Department personnel responsible for carrying out the provisions of 110 CMR 18.08, 18.09, 18.10, 18.11 and 18.13. Such consent and notification shall be included in the hiring authority's employment application form.
- (2) The hiring authority shall require, as a condition of an offer of a position, the satisfactory completion of the CORI investigation. The hiring authority shall confirm an offer of a position only after the hiring authority receives written confirmation that the criminal record investigation has resulted in a finding of "no record" or until the hiring authority has complied with the requirements of 110 CMR 18.08, 18.09, 18.10 and 18.11
- (3) The hiring authority shall review positive findings from the CORI
- (4) The hiring authority shall not permit any candidate to commence employment or other service until after the candidate is cleared as a result of the CORI investigation, in accordance with 110 CMR 18.00.
- (5) For all foster/pre-adoptive parents, the hiring authority shall conduct a CORI investigation on the foster/pre-adoptive parents as well as any household member 14 years of age or older. The hiring authority may conduct a CORI investigation on any household member under 14 years of age about whom the hiring authority has concerns that the person may pose a risk to a child placed in the home.

### 18.08: CORI Investigations

#### (1) Department Employees, Volunteers, Interns, Trainees.

- (a) All applicants shall complete the appropriate CORI request form.
- (b) After the hiring authority makes a conditional offer of a position to an individual, subject to consideration of any criminal record, the completed CORI request form or electronic equivalent shall be forwarded to the Department Central Office Background Record Check (BRC) Unit, in accordance with Department policy.
- (c) All CORI investigations that result in a finding of "no record" shall be transmitted back to the hiring authority and shall provide sufficient evidence of suitability for hire for 60 business days. A "no record" finding may be valid for consideration for other positions during this 60 day period.
- (d) All CORI investigations that show findings of criminal records shall be sent immediately to the hiring authority for review consistent with 110 CMR 18.00.

#### (2) Department Foster/Pre-adoptive Parents.

- (a) Whenever an individual contacts the Department for the purpose of applying to be a foster or pre-adoptive parent, the Department shall conduct a CORI investigation as part of the Department initial screening process on the individual(s) applying and household members 14 years and older.
- (b) The Department shall conduct a CORI investigation of any household member 14 years of age or older during the initial homestudy/evaluation of the foster/pre-adoptive home and during the annual reassessment of the foster/pre-adoptive home.
- (c) The Department BRC Unit shall conduct the CORI investigations for the Department in accordance with policies and procedures established by the Department.
- (d) The results of the CORI investigation shall be transmitted back to the Department employee requesting the CORI investigation. If the CORI investigation shows findings of a criminal record, the Department shall proceed consistent with 110 CMR 18.00, M.G.L. c. 119, § 26A, M.G.L. c. 210, § 3B and Department policy and procedures for background record checks.

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(3) Department Vendors not Licensed by the Department of Early Education Care.

- (a) All applicants shall complete the appropriate CORI request form.
- (b) After the hiring authority makes a conditional offer of a position to an individual, subject to consideration of any criminal record, the completed CORI request form or electronic equivalent shall be forwarded to the CHSB EOHHS CORI Unit, in accordance with the policies of the CHSB.
- (c) All CORI investigations that result in a finding of "no record" shall be transmitted back to the hiring authority and shall provide sufficient evidence of suitability for hire for 60 business days. A "no record" finding may be valid for consideration for other positions during this 60 day period.
- (d) All CORI investigations that show findings of criminal records shall be sent immediately to the hiring authority for review consistent with 110 CMR 18.00.

(4) Department Vendors Licensed by the Department of Early Education and Care. Department Vendors Licensed by EEC shall conduct CORI investigations in accordance with EEC regulations found at 102 CMR.

(5) Poster/Pre-adoptive Parents Approved and/or Licensed by a Department Contracted Provider Agency.

- (a) Before a child in the Department's care or custody can be placed in a foster/pre-adoptive home of a Department vendor agency, a CORI investigation must have been conducted on the foster/pre-adoptive parent(s) and any household member 14 years of age or older.
- (b) The CORI investigation may be conducted by the Department BRC Unit in accordance with policy and procedures established by the Department
- (c) If the Department conducts the CORI investigation, the results shall be transmitted back to the Department unit having responsibility for overseeing the contracted provider agency.
- (d) The Department unit having responsibility for overseeing the contracted provider agency shall contact the provider agency to discuss the CORI Investigation results and determine, if needed, whether to proceed in accordance with 110 CMR 18.10 and 110 CMR 18.11, M.G.L. c. 119, § 26A, M.G.L. c. 210, § 3B and the Department's policy and procedures for background record checks.

18.09: Findings from CORI Investigations

(1) If the CORI investigation reveals a finding of "no record", such finding shall be documented in the candidate's file.

(2) If the CORI investigation reveals a "lifetime presumptive disqualification" on the candidate's record, as specified in 110 CMR 18.10(1), the candidate shall be informed by the hiring authority that he or she is ineligible for any position in a Department or a vendor agency program where there is potential unsupervised contact with persons applying for or receiving services, unless there is compliance with the provisions of 110 CMR 18.10 and 18.11. If the CORI investigation reveals a "lifetime presumptive disqualification" on the foster/pre-adoptive parent's record, as specified in 110 CMR 18.10(1), the foster/pre-adoptive parents shall be informed by the Department or vendor agency program that he or she is ineligible to be a foster/pre-adoptive parent unless there is compliance with the provisions of 110 CMR 18.10 and 18.11.

(3) If the CORI investigation reveals a "discretionary disqualification" on the candidate's record, as specified in 110 CMR 18.10(2), the candidate shall be informed by the hiring authority that he or she is ineligible for any position in a Department or vendor agency program where there is potential unsupervised contact with persons applying for or receiving services, unless there is compliance with the provisions of 110 CMR 18.10 and 18.11. If the CORI investigation reveals a "discretionary disqualification" on the foster/pre-adoptive parent's record, as specified in 110 CMR 18.10(3), the foster/pre-adoptive parents shall be informed by the Department or vendor agency program that he or she is ineligible to be a foster/pre-adoptive parent unless there is compliance with the provisions of 110 CMR 18.10 and 18.11.

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(4) If the CORI investigation reveals that the candidate has an outstanding warrant for any offense, the candidate shall be informed by the hiring authority that he or she is ineligible for any position in the Department or a Department funded or operated program where there is potential unsupervised contact with persons applying for or receiving services, unless the warrant is removed.

### 18.10: Disqualification

(1) Lifetime Presumptive Disqualification. A candidate shall be ineligible for a position in the Department or a Department funded or operated program which entails potential unsupervised contact with persons receiving services if he or she has been convicted of, has any pending charges, involving crimes listed in 110 CMR 18.16: Table A unless:

(a) the candidate's criminal justice official

1. concludes in writing that the candidate, within the position sought in the Department or in a Department vendor agency program, does not pose an unacceptable risk of harm to the persons served by the program, or

2. has been determined by the hiring authority to be unavailable or has indicated to the hiring authority that he/she has insufficient information to render an assessment, then the hiring authority shall, at the candidate's request, seek an assessment (the cost of which shall be borne by the hiring authority) of the candidate's risk of harm from a qualified mental health professional and the qualified mental health professional concludes in writing that the candidate, within the position sought in Department or a Department funded or operated program, does not pose an unacceptable risk of harm to the persons served by the program; and

(b) the hiring authority has complied with the provision of 110 CMR 18.11.

(c) In the case of an individual seeking to serve as a foster/pre-adoptive kinship placement for a child in the care or custody of Department, the Department shall not be precluded from placing the child(ren) in a kinship foster/pre-adoptive home where the Commissioner, Deputy Commissioner for Field Operations and General Counsel have conducted a review Ell pursuant to 110 CMR 18.11(9) and determined the placement is in the best interest of the child.

(2) Discretionary Disqualification. A candidate shall be ineligible for any position in Department or a Department funded or operated program which entails potential unsupervised contact with persons receiving services if he/she has been convicted of, has any pending charges, involving any of the crimes listed in 110 CMR 18.16: Table B or Table C, unless the hiring authority has complied with the provisions of 110 CMR 18.11.

(3) Provisions Pertaining to Foster/Pre-adoptive Parents.

(a) In the case of a foster/pre-adoptive parent, 110 CMR 18.10(1)(2) shall apply as if the foster/adoptive parent was a candidate for a position.

(b) When determining eligibility, approval or licensing of a foster/pre-adoptive parent the Department shall conduct a review of any misdemeanor offense in accordance with 110 CMR 18.11(10) in order to assist the Department in accurately evaluating whether the mere existence of the offense has a substantial effect on the foster/pre-adoptive parent's current or future ability to assume and carry out the responsibilities of a foster/pre-adoptive parent in such a manner that the rights of the child to sound health and normal physical, mental, spiritual and moral development are insured.

### 18.11 Provisions for Review of a Candidate in any Discretionary Category

(1) Each candidate for whom the CORI investigation reveals a "lifetime presumptive disqualification", who has otherwise met the requirements for further consideration set forth in 110 CMR 18.10, or a "discretionary disqualification" shall, unless the hiring authority has decided to withdraw the conditional offer of a position, receive additional review by the hiring authority to determine if the candidate poses an unacceptable risk of harm to the persons served by the program within the position sought. In reviewing the candidate's appropriateness for employment given the concern for client safety, due weight shall be given to the following factors:

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- (a) Time since the conviction;
- (b) Age of the candidate at the time of the offense;
- (c) Seriousness and specific circumstances of the offense;
- (d) The nature of the work to be performed;
- (e) The number of offenses;
- (f) Any relevant evidence of rehabilitation or lack thereof;
- (g) Any other relevant information, including information submitted by the candidate or requested by the hiring authority.

Information considered pursuant to 110 CMR 18.11(1)(g) may include documentation from the candidate's criminal justice official, if not already supplied pursuant to 110 CMR 18.10(1), or treating professional or other knowledgeable source, such as, the police, courts, or prosecuting attorneys.

(2) Following the review, the hiring authority shall determine whether:

- (a) To hire the candidate based upon a determination that the candidate does not pose a danger to the program's clients; or
- (b) To not hire the candidate;

Nothing herein shall be construed as preventing the hiring authority from deciding not to hire the candidate for any other reason.

(3) If a decision is made to hire the candidate, the hiring authority shall make a written determination of such decision, documenting the considerations outlined in 110 CMR 18.11(1)(a) through (g), and the rationale for the conclusion that the candidate does not pose a danger to the program's clients within the position sought.

(4) The hiring authority shall submit such written determination to the Department immediately upon a decision to hire the individual.

- (a) If the candidate has been convicted of or has a pending charge for any of the crimes listed in 110 CMR 18.16: Table A and B, the hiring authority shall not proceed to hire the individual for five business days during which time the Commissioner may, after review of the determination, disapprove the hire.
- (b) If the candidate has been convicted of or has a pending charge for any of the crimes listed in 110 CMR 18.16: Table C, the hiring authority may proceed to hire the individual, unless the provisions of 110 CMR 18.11(6) apply.

(5) The Department shall conduct an annual review of such written determinations for candidates with crimes listed in 110 CMR 18.16: Table C to ensure compliance with the requirements of 110 CMR 18.09, 18.10, and 18.11.

(6) Based on the annual review pursuant to 110 CMR 18.11(5) or other relevant information obtained by the Department that raises concerns about the hiring authority's compliance with these requirements, the Department may require the hiring authority to submit such written determinations prior to hiring the individual. The Commissioner shall have five business days following receipt of the determination to disapprove the hire. The Department may require the hiring authority to follow such prior review process for as long a period as it determines is necessary to ensure that the hiring authority is complying with the requirements of 110 CMR 18.09, 18.10, and 18.11.

(7) In the case of a foster/pre-adoptive parent, 110 CMR 18.11(1), (2) and (3) shall apply as if the foster/adoptive parent was a candidate for a position.

(8) In the case of a foster/pre-adoptive parent who is being considered or has been approved and/or licensed by the Department, the Department shall proceed in accordance with its policy in meeting the requirements of 110 CMR 18.11(4), (5) and (6).

In the case of a foster/pre-adoptive parent who is being considered or has been approved and/or licensed by the Department vendor agency program and will be used as a placement for a child in Department care or custody, the Department vendor agency must proceed in accordance with the Department's policy and procedures on back ground record checks in meeting the requirements of 110 CMR 18.11(4), (5) and (6).



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(9) In reviewing a request for an individual to serve as a kinship foster/pre-adoptive parent pursuant to 110 CMR 18.10(1) the Commissioner, Deputy Commissioner for Field Operations and General Counsel must find:

- (a) That the prospective foster/pre-adoptive parent, or any household member, does not present a risk of harm to the child based on the existence of a criminal conviction;
- (b) That the conviction did not involve a crime against or involving a child;
- (c) That the foster/pre-adoptive parent has a pre-existing relationship and bond with the child;
- (d) That the foster/pre-adoptive parent agrees to submit to an assessment by a qualified mental health professional within 30 days of placement; and
- (e) That the Department has reviewed the enumerated factors set forth in 110 CMR 18.11(1) in determining that it is in the best interests of the child to be placed with the kinship foster/pre-adoptive parent notwithstanding the existence of a criminal conviction that would otherwise disqualify them.

(10) In reviewing a misdemeanor crime for any foster/pre-adoptive parent the Department shall consider at a minimum the following:

- (a) the time that has elapsed between the date of the offense and the date of the screening, assessment or reassessment;
- (b) The seriousness and specific circumstances of the offense;
- (c) The number and nature of other offenses;
- (d) The age of the offender at the time of the offense;
- (e) The findings and recommendations of the family resource worker assigned by the Department to discuss the facts surrounding the misdemeanor with the foster/pre-adoptive parent;
- (f) The recommendations given to the family resource worker by personal or employment references chosen by the foster/pre-adoptive parent or received otherwise;
- (g) The current and future needs of the child to be placed and the probable effect that the misdemeanor would have on the foster/pre-adoptive parent's ability to fulfill those needs;
- (h) Any reports or recommendations received by the Department from the foster/pre-adoptive parent's parole or probation officer should one have been assigned;
- (i) A copy of the police report pertaining to the offense in question if obtainable within a reasonable period of time or discussions with a police officer familiar with the facts surrounding the offense; and
- (j) Unless inappropriate, discussions with the child to be placed regarding his/her current and past relationship with the foster/pre-adoptive parent.

Nothing in 110 CMR 18.11(7), (8) or (9) shall be construed as preventing the Department or a vendor agency program from deciding not to approve or license a foster/pre-adoptive home for any other reason.

18.12: Dissemination

CORI records may be disseminated only to individuals certified by the CHSB to receive such information, such as designated representatives of the hiring authority or the CORI Coordinator. The hiring authority shall maintain a listing of persons so certified. Willful dissemination of Criminal Offender Record Information to unauthorized individuals is punishable by a jail sentence of up to one year and/or a fine of \$ 5,000 in addition to civil penalties, pursuant to M.G.L c. 6, § 178.

18.13: Incidents

Any hiring authority receiving an allegation that an employee with a positive CORI history has harmed a client in a Department or vendor agency program shall immediately report the allegation to the person designated by the Department for such purposes. Upon request, the hiring authority shall provide the Department with documentation of the basis for the hiring decision.

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18.14: Severability

If any provisions of 110 CMR 18.01 through 18.14, or the applications of such provisions to any person or circumstance are held invalid, the other provisions of 110 CMR 18.01 through 18.14, or the application of such provisions to any person or circumstance other than that as to which it is held invalid, shall not be affected thereby.

18.15: Application

To the extent 110 CMR 18.00 conflict with existing Department regulations or policies, 110 CMR 18.00 shall control. 110 CMR 18.00 shall apply to persons who apply to the Department on or after October 12, 2001.

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18.16: Tables of Offenses

All of the offenses included in 110 CMR 18.16: Tables A, B and C, are to be construed as including all violations of Massachusetts law or like violation of the law of another state, the United States, or a military, territorial or Native American tribal authority. The Hiring Authority shall contact the CHSB EOHHS CORI Unit whenever a CORI investigation reveals an offense that is not included in 110 CMR 18.16: Tables A, B, and C and it appears similar in seriousness to included offenses. The CHSB EOHHS CORI Unit, in consultation with the EOHHS General Counsel, shall determine, taking into account the purposes of 110 CMR 18.00, if the offense is similar to one of the included offenses. If it is determined to be similar, then it shall be considered to be included in the same table as the included offenses. If it is determined to be not similar, then it shall be considered for inclusion into the appropriate table through the regulatory process. Nothing herein shall preclude the hiring authority from considering any criminal conviction not included in 110 CMR 18.16: Tables A, B and C.

Table A

MGL

A&B, Dangerous Weapon, Vict 60+	c. 265, § 15A(a)
A&B Child w/Injury	c. 265, § 13J
A&B on Retarded Person	c. 265, § 13F
Administering Drugs/Sex	c. 272, § 3
Armed Assault w/Intent to Murder or Rob	c. 265, § 18(b)
Armed Assault w/Intent to Murder or Rob, Vict 60	c. 265, § 18(a)
Armed Assault, Dwelling, w/Felony Intent	c. 265, § 18A
Armed Carjacking	c. 265, § 21A
Armed Robbery	c. 265, § 17
Assault w/Intent to Murder or Maim	c. 265, § 15
Assault w/Intent to Rape	c. 265, § 24
Assault w/Intent to Rape Child	c. 265, § 24B
Attempt Escape or Escape by Prisoner or Sex/Dang	c. 268, § 16
Attempt to Murder	c. 265, § 16
Burning Dwelling House	c. 266, § 1
Distribute Controlled Substan, Minor	c. 94C, § 32F
Exhibit Posing Child	c. 272, § 29A
Extortion	c. 265, § 25
Home Invasion	c. 265, § 18C
Incest	c. 272, § 17
Indecent A&B, Child 14 or Over	c. 265, § 13H
Indecent A&B, Child under 14	c. 265, § 13B
Indecent A&B, Retarded Person	c. 265, § 13F
Induce Minor to Prostitution	c. 272, § 4A
Intimidation of Witness	c. 268, § 13B
Kidnapping	c. 265, § 26
Malicious Explosion	c. 266, § 101
Manslaughter, Negligence (Minor/Child)	c. 265, § 13
Manslaughter	c. 265, § 13
Mayhem	c. 265, § 14
Murder	c. 265, § 1
Perjury	c. 268, § 1
Rape	c. 265, § 22(b)
Rape Aggravated	c. 265, § 22(a)
Rape, Statutory	c. 265, § 23
Trafficking in Cocaine	c. 94C, § 32E(b)(4)
Trafficking in Heroin	c. 94C, § 32E(c)(4)
Trafficking in Marijuana	c. 94C, § 32E(a)(4)
Unnatural Acts w/Child under 16	c. 272, § 35A
Conspiracy to Commit any of above Offenses	
Accessory Before any Crime in this Category	
Attempts to Commit any Crime in this Category	

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<u>Table B</u>	<u>MGL</u>
A&B Dangerous Weapon	c. 265, § 15A
A&B Intimidation, Race/Color/Religion	c. 265, § 39(a)
Accessory after Fact (variable)	c. 274, § 4
Aid Escape from Custody	c. 268, § 17
Assault by Dangerous Weapon	c. 265, § 15B(b)
Assault by Dangerous Weapon, Victim 60 and Older	c. 265, § 15B(a)
Attempt to Burn Dwelling House	c. 266, § 5A
Attempted Extortion	c. 265, § 25
Bomb Scare	c. 269, § 14
B&E Day, Intent Comm Felony	c. 266, § 18
B&E Day, Intend Comm Felony, Fear	c. 266, § 17
B&E Night, Bldg/Ship/M/V, Intend Comm Felony	c. 266, § 16
B&E Truck, Intend Comm Felony	c. 266, § 20A
Bribery of a Police Officer	c. 268, § 2
Burglary, Armed	c. 266, § 14
Burglary, Unarmed	c. 266, § 15
Burning Building	c. 266, § 2
Burning M/V or Personal Property	c. 266, § 5
Burning to Defraud Insurance Co.	c. 266, § 10
Carrying Dangerous Weapon, Committing Felony	c. 269, § 10(b)
Carrying Dangerous Weapon, Sub Offense	c. 269, § 10(d)
Carrying Loaded Rifle/Shotgun, Public Way	c. 269, § 124
Civil Rights Violation, Bodily Injury	c. 265, § 37
Compounding Felony	c. 268, § 36
Contribute Delinquency Child	c. 119, § 63
Deliver Articles to Inmate	c. 268, § 31
Deliver Drugs to Prisoner	c. 268, § 28
Deriving Support from Prostitute	c. 272, § 7
Distributing Obscene Pictures	c. 272, § 28
Drug Paraphenelia	c. 94C, § 321(a)
Enter w/o Brk, Bldg/Shp/M/V, Int Fel. Fear	c. 266, § 17
Enter w/o Brk, Night, Dwell, Intend Comm Felony	c. 266, § 18
Entice Female, Sex, Intercourse	c. 272, § 2
Escape, Furlough	c. 268, § 16
Escape by Prisoner	c. 268, § 16
False Information for Gun Permit	c. 140, § 129
Forgery, Alter Prescription	c. 94C, § 33(b)
Fugitive from Justice	c. 276, § 20A
Induce Prostitution	c. 272, § 6
Induce Sex, Minor	c. 272, § 4
Involuntary Manslaughter	c. 265, § 13
Kidnapping Minor by Relative	c. 265, § 26A
Kidnapping Minor by Relative, Endanger Safety	c. 265, § 26A
Larceny, Bank Employee or Officer	c. 266, § 52
Larceny, Controlled Substance, from Authorized Person	c. 94C, § 37
Larceny Firearm	c. 266, § 30
Larceny, Person	c. 266, § 25
Larceny, Person 65+	c. 266, § 25
Manufacture/Distribute Class A Substance	c. 94C, § 32
Manufacture/Distribute Class B Substance	c. 94C, § 32A
Manufacture/Distribute Class C Substance	c. 94C, § 32B
Manufacture/Distribute Class D Substance	c. 94C, § 32C
Manufacture/Distribute/Dispense Class B Substance	c. 94C, § 32A
Mfg/Dist/Dispense CL A w/in 1000 ft School	c. 94C, § 32J
Mfg/Dist/Dispense CL B w/in 1000 ft School	c. 94C, § 32J
M/V Homicide, Negligent Operation	c. 90, § 24G(b)

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M/V Homicide, Reckless Operation	c. 90, § 24G(b)
M/V Homicide, under Influence Drugs, Negligent or Reckless	c. 90, § 24G(a)
M/V Homicide, under Influence Liquor	c. 90, § 24G(b)
M/V Homicide, under Influence Liquor, Negligent or Reckless	c. 90, § 24G(b)
Operate M/V under Influence, Serious Injury	c. 90, § 24(1)(a)(1)
Operate M/V under Influence, Drugs, 3rd Offense	c. 90, § 24(1)(a)(1)
Operate M/V under Influence, Liquor, 3rd Offense	c. 90, § 24
Possess Burglarious Tools	c. 266, § 49
Poss CL A Sub w/int to Dist w/int 1000 ft School	c. 94C, § 32J
Poss CL B Sub w/int to Dist w/int 1000 ft School	c. 94C, § 32J
Poss CL B Sub w/int to Dist/Mfg/Cult w/in 1000 ft School	c. 94C, § 32J
Possess Class A Substance	c. 94C, § 34
Possess Class A Substance, Intent to Distribute	c. 94C, § 32(a)
Possess Class B Substance	c. 94C, § 34
Possess Class B Substance, Intent to Distribute	c. 94C, § 32A(a)
Possess Class B Substance, w/Intent Dist/Mfg	c. 94C, § 32A
Possess Class C Substance, Intent to Distribute	c. 94C, § 32B(a)
Possess Class C Substance, Sub Offense	c. 94C, § 34
Possess Class D Substance, Intent to Distribute	c. 94C, § 32C(a)
Possess Class D Substance, Sub Offense	c. 94C, § 34
Pass Class D Sub w/int to Dist w/int 1000 ft School	c. 94C, § 32J
Possess Class B Substance, Intent to Distribute	c. 94C, § 32D
Possess Controlled Subs w/intent Distrib, Sub off	c. 94C, § 32(b)
Possess Firearm w/o License	c. 269, § 10(h)
Possess Firearm, Serial/ID Num Oblit	c. 269, § 11C
Possess Firearm, Serial/ID Num Oblit, Comm Felony	c. 269, § 11B
Possess Infernal Machine	c. 266, § 102A
Possess Machine Gun w/o License	
Possess Machine Gun or Sawed off Shot Gun, Sub Offense	c. 269, § 10d
Possess Matter Harmful Minor	c. 272, § 28
Possess M/V Master Key	c. 266, § 49
Possess Shotgun, Barrel Und 18 "Sawed Off"	c. 269, § 10(c)
Possess Shotgun, Barrel Und 18 "Sawed Off, Sub off	c. 269, § 10d
Receive/Buy Stolen M/V	c. 266, § 28(a)
Sell Ammunition w/o License	c. 140, § 122B
Sell Obscene Literature, under 18	c. 272, § 28
Sell Firearm w/o License	c. 140, § 128
Throw Explosives	c. 266, § 102
Trafficking in Cocaine w/in 1000 ft School	c. 94C, § 32J
Trafficking in Heroin w/in 1000 ft School	c. 94C, § 32J
Trafficking in Marij w/in 1000 ft School	c. 94C, § 32J
Unarmed Assault, Intent to Rob	c. 265, § 20
Unarmed Robbery	c. 265, § 19(b)
Unarmed Robbery, Victim 60+	c. 265, § 19(a)
Unlawful Possession, Bomb	c. 148, § 35
Unlawful Possession, Firearm, Commission Felony	c. 265, § 18B
Unlawfully Place Explosives	c. 266, § 102
Unnatural Acts	c. 272, § 35
Utter False Prescription	c. 94C, § 33
Vandalize Church/Synagogue/Cemetery	c. 266, § 127A
Vandalize School/Church/Educational Bldg	c. 266, § 98
Violate Domestic Protective Order	c. 208, § 34C
Violate Stalking Law	c. 265, § 43(a)
Violation of Protective Order (209a)	c. 209A, § 7

Conspiracy to Commit any of above Offenses  
 Attempts to Commit any Crime in this Category  
 Accessory Before any Crime in this Category

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<u>Table C</u>	<u>MGL</u>
A&B	c. 265, § 13A
A&B on Public Servant	c. 265, § 13D
A&B on Police Officer	c. 265, § 13D
A&B or Assault on Correctional Officer	c. 127, § 38B
Abandon w/o Support of Spouse, or Minor Child	c. 273, § 1(1)
Abandon M/V	c. 90, § 22B
Accosting	c. 272, § 53
Adulteration Alcoholic Beverage	c. 138, § 16
Affray	c. 272, § 53
Alien in Possess of Firearm	c. 140, § 131H
Annoying Phone Calls	c. 269, § 14A
Assault	c. 265, § 13A
Attempt to Injure Depository of Valuables	c. 266, § 16
B&E, Intend to Comm Misdemeanor	c. 266, § 16A
B&E Railroad Car	c. 266, § 19
B&E Recognizance Violation	c. 276, § 82A
Being Present Where Heroin Rept	c. 94C, § 35
Civil Rights Violation, No Bodily Injury	c. 265, § 37
Credit Card, Larceny of	c. 266, § 37B
Cruelty to Animals	c. 272, § 77
Discharging Firearm, 500 ft	c. 269, § 12E
Discharging Weapon near Highway/Dwell, Hun	c. 131, § 58
Dispense Controlled Substance, Not Registered	c. 94C, § 25
Distribute Controlled, Substan w/o Prescription	c. 94C, § 25(1)
Engaging in Sex, Prostitution, "John"	c. 272, § 53A
Enter w/o Brk, Truck, Intend Comm Felony	c. 266, § 20A
Fail to Keep Records on Controlled Substance	c. 94C, § 15
Gaming, Implements Found Present, Manager	c. 271, § 17
Gaming, Implements Found Present, Owner	c. 271, § 17
House of Ill Fame	c. 272, § 24
Illegal Possess Class C Substance	c. 94C, § 34
Illegal Possess Class D Substance	c. 94C, § 34
Illegal Possess Class E Substance	c. 94C, § 34
Indecent Exposure	c. 272, § 53
Larceny by Check	c. 266, § 37
Larceny More	c. 266, § 30
Larceny in Bldg, Ship, Vessel, or Rr Car	c. 266, § 20
Larceny in Truck/Trailer	c. 266, § 20B
Larceny, M/V or Trailer	c. 266, § 28
Leave Comm w/o Support Minor Child out of Wdlock	c. 273, § 15
Leave Comm w/o Support of Sponse & Minor Child	c. 273, § 1
Leave Scene after Personal Injury, M/V	c. 90, § 24(2)(a 1/2)(1)
Lewd & Lascivious Speech & Behavior	c. 272, § 53
Malicious Destruc, Pers/Real Prop, over \$ 250	c. 266, § 127
Manufacture/Distribute Class E Substance	c. 94C, § 32D(a)
Non-support of Minor Child out of Wedlock	c. 273, § 15
Non-support of Minor Child(ren)	c. 273, § 1
Obscene Telephone Calls	c. 269, § 14A
Obstruct Justice	c. 268, § 34
Open & Gross Lewdness	c. 272, § 16
Operate M/V After License Revoked For Drunk Driving	c. 90, § 23
Operate M/V under Influence, Drugs	c. 90, § 24(1)(a)(1)
Operate M/V under Influence, Liquor	c. 90, § 24
Possess Altered FID Card	c. 140, § 131I
Possess Counterfeit Subs W/intent Distribute	c. 94C, § 32G
Possess Dangerous Weapon Unlawfully	c. 269, § 10(b)
Possess Hypodermic Syringe or Needle	c. 94C, § 27
Possess Obscene "Pornographic" Material	c. 272, § 29

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Procure Liquor for Minor	c. 138, § 34
Prostitution	c. 272, § 53A
Receive Stolen Property, over \$ 250	c. 266, § 60
Riot	c. 269, § 1
Sell/Deliver Alcoholic Beverages Person under 21	c. 138, § 34
Soliciting Prostitute	c. 272, § 8
Shoplifting, 3rd or Sub Offense	c. 266, § 30A
Sodomy	c. 272, § 34
Taking M/V w/o Authority, Steal Parts	c. 266, § 28
Telecommunications Fraud	c. 166, § 42A
Unauthorized Use, Credit Card, over \$ 250	c. 266, § 37C
Unlawful Possession, Shotgun	c. 140, § 129C
Unlawfully Obtain Controlled Substance	c. 94C, § 33
Use M/V, Commission of Felony	c. 90, § 24(2)(a)
Utter Forged Instrument	c. 267, § 5
Violate Support Order	c. 273, § 1
Violate Support Order, Minor Child out of Wdlock	c. 273, § 15
Wanton Destruction, Pers/Real Property	c. 272, § 73
Willfully & Maliciously Burn M/V	c. 266, § 127
Willfully & Maliciously Kill Beast	c. 266, § 127

Conspiracy to Commit any of above Offenses  
Attempts to Commit any Crime in This Category  
Accessory Before any Crime in this Category

REGULATORY AUTHORITY

110 CMR 18.00: M.G.L. c. 18B, § 7(i) and c. 30A.