

## 122 CMR: SOLDIERS' HOME IN MASSACHUSETTS (CSH)

### 122 CMR 1.00: CRIMINAL OFFENDER RECORD CHECKS

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#### 1.01: Purpose

The purpose of 122 CMR 1.00 *et seq.* is to establish standardized policy and procedures for the Soldiers' Home in Massachusetts (CSH) and CSH funded programs regarding the review of criminal records of candidates under consideration for employment or regular volunteer or training positions. 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 program funded or operated by such agencies.

#### 1.02: Policy

In order to ensure that employees or other persons regularly providing services or support services in any program or facility of the Soldiers' Home in Massachusetts or in vendor agency programs funded by CSH are appropriate for serving in their positions with potential for unsupervised contact, a Criminal Offender Record Information (CORI) check shall be performed on all candidates for positions or facilities as provided in 122 CMR 1.00. It is the policy of EOHHS and the Soldiers' Home in Massachusetts that convictions of certain crimes may pose an unacceptable risk to the vulnerable populations served by the Soldiers' Home in Massachusetts and its vendor agencies. 122 CMR 1.00 sets forth minimum standards.

#### 1.03: Scope

122 CMR 1.00 applies to candidates for positions which entail potential unsupervised contact in CHS funded or operated programs that provide people with CHS services, including volunteers and trainees. At the discretion of the hiring authority, the scope of 122 CMR 1.00 may be expanded to include residents, 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, upon appropriate certification by the CHSB.

#### 1.04: Authority

122 CMR 1.00 is promulgated pursuant to M.G.L. c. 115A.

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### 1.05: Definitions

Candidate: Any person seeking employment or a position as a regular volunteer or trainee to provide services for or on behalf of the CHS 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 former candidate who was hired as an employee after successfully satisfying the requirements of 122 CMR 1.00.

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 and receiving CORI related to candidates for positions with CHS funded or a vendor agency programs.

Criminal History Systems Board (CHSB) EOHHS CORI Unit: The EOHHS-sponsored unit within the Criminal History Systems Board which processes requests for CORI information 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 whomever had 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 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 criminal information of persons within the Massachusetts Court system.

Discretionary Disqualification: A category of offenses that may result in disqualification for a position which entails potential unsupervised contact with persons receiving services, as provided in 122 CMR 1.11(4).

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

Final Disposition: The date of release from all custody, probation, or parole, or the date of conviction, whichever date is the most recent.

Five Year Presumptive Disqualification: A category of offenses where the final disposition of any included offense occurred within five years of the application date for a position in any CHS funded or operated program. 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 any CHS funded or operated program, due to the presumed unacceptable risk posed by the nature of the crime to persons receiving services. A five year presumptive disqualification shall become a discretionary disqualification if:

- (a) five years or more have passed since the final disposition of the offense; or
- (b) 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 persons served by the program; or
- (c) 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 may 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.

1.05: continued

Hiring Authority: The person legally authorized or designated to make hiring decisions within the affected agency, department, office, program, or facility.

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

- (a) the candidates criminal justice official 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; or
- (b) 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 may 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.

No Record: The conclusion from a CORI search that applicable criminal records 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, or trainee.

Potential Unsupervised Contact: Potential for contact with a person who is receiving or applying for CHS services 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 122 CMR 1.00. These excluded areas do not include bathrooms and other isolated areas (not commonly utilized or sight and sound separate from other staff).

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 and is not an employee of the hiring authority.

Ten Year Presumptive Disqualification: A category of offenses where the final disposition of any included offense occurred within ten years of the application date for employment or a person in any CHS funded or operated program. 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, due to the presumed unacceptable risk posed by the nature of the crime to persons receiving services. A ten year presumptive disqualification shall become a discretionary disqualification if:

- (a) ten years or more have passed since the final disposition of the offense; or
- (b) 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 persons served by the program; or

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### 1.05: continued

(c) 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 may 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.

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 CHS 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 or contract with CHS.

Volunteer: Any person who works in an unpaid capacity for CSH or a vendor agency program. For the purposes of 122 CMR 1.05: Volunteer, a current consumer of 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.

### 1.06: Candidate Disclosure of Criminal Record Information

All candidates for a position with CSH or a vendor agency program shall complete an application form that contains a section requiring the candidate 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 M.G.L. c. 151B, § 4, para 9. The application shall not require a candidate 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 immediately preceding the date of such application for employment or such request for information. No application for employment shall be considered complete unless the candidate completes 122 CMR 1.06.

### 1.07: Community Service and Work Release Workers

CSH or any vendor agency that participates in either a criminal justice related community service program or a work release program shall require all individuals who participate to disclose his/her criminal record in conformance with 122 CMR 1.06. 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 of harm to CHS clients or will be supervised at all times.

### 1.08: Hiring Authority Responsibilities

(1) The hiring authority shall ensure that each candidate 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 CHS or the vendor agency program. The hiring authority shall also inform the candidate that his or her CORI may be utilized by the criminal justice official or qualified mental health professional conducting themselves in conformance with 122 CMR 1.07, 1.11(1), (2) (3) and CHS personnel responsible for carrying out the provisions of 122 CMR 1.15 and 1.16. Such consent and notification shall be included in the hiring authority's employment application form.

1.08: continued

(2) The hiring authority shall require, as a condition of an offer of employment, the completion of the CORI investigation. The hiring authority shall confirm an offer of employment 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 122 CMR 1.09, 1.11 and 1.12.

(3) The hiring authority shall not permit any candidate to commence employment or volunteer service until after the candidate is cleared as a result of the CORI investigation in accordance with 122 CMR 1.00.

1.09: CORI Investigations

(1) All candidates shall complete a CORI Supplement form.

(2) After the hiring authority makes a preliminary decision to hire or accept the services of an individual, the completed CORI Supplement (authorization) form or electronic equivalent shall be sent to the CHSB EOHHS CORI Unit.

(3) All CORI investigations that result in a finding of "no record" shall be transmitted back to the hiring authority and shall be sufficient evidence of suitability for hire for 45 business days. A "no record" finding may be valid for consideration for other positions during such 45 days.

(4) All CORI investigations that show findings of criminal records shall be sent immediately to the hiring authority for review and action consistent with 122 CMR.

(5) All hiring authorities shall develop procedures which will ensure that EOHHS can audit compliance with 122 CMR 1.00 pursuant to 122 CMR 1.15.

1.10: 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, the candidate shall be informed by the hiring authority that he or she is ineligible for any position which has the potential for unsupervised contact with persons receiving services in an CHS funded or operated program, unless the provisions of 122 CMR 1.11 and 1.12 are complied with.

(3) If the CORI investigation reveals a "ten year presumptive disqualification" on the candidate's record, the candidate shall be informed by the hiring authority that he or she is ineligible for any position which has the potential for unsupervised contact with persons receiving services in an CHS funded or operated program, unless the provisions of 122 CMR 1.11 and 1.12 are complied with.

(4) If the CORI investigation reveals a "five year presumptive disqualification" on the candidate's record, the candidate shall be informed by the hiring authority that he or she is ineligible for any position which has the potential for unsupervised contact with persons receiving services in an CHS funded or operated program, unless the provisions of 122 CMR 1.11 and 1.12 are complied with.

(5) If the CORI investigation reveals a "discretionary disqualification" on the candidate's record, the candidate shall be informed by the hiring authority that he or she is ineligible for any position which has the potential for unsupervised contact with persons receiving services in an CHS funded or operated program, unless the provisions of 122 CMR 1.11 and 1.12 are complied with.

1.11: Disqualifications

(1) Lifetime Presumptive Disqualification. A candidate shall be ineligible for a position in a CHS funded or operated program which entails potential unsupervised contact with persons receiving services if he or she has been convicted of any of the crimes listed in 122 CMR 1.18: *Table A*, has any pending charges involving crimes listed in 122 CMR 1.18: *Table A*, or has any outstanding warrants unless:

- (a) 1. the candidate's criminal justice official concludes in writing that the candidate, within the position sought in a CHS or the vendor agency program, does not pose an unacceptable risk of harm to the persons served by the program; or
- 2. if the candidate's 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 may 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 an CHS 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 provisions of 122 CMR 1.12.

(2) Ten Year Presumptive Disqualification. A candidate shall be ineligible for a position in a CHS funded or operated program which entails potential unsupervised contact with persons receiving services if he or she has been convicted of any of the crimes listed in 122 CMR 1.18: *Table B* or if he or she has any pending charges involving crimes listed in 122 CMR 1.18: *Table B*, unless:

- (a) 1. ten years or more have passed since the final disposition of the offense; or
- 2. the candidate's criminal justice official concludes in writing that the candidate, within the position sought in a CHS or the vendor agency program, does not pose an unacceptable risk of harm to the persons served by the program; or
- 3. the candidate's 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 may 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 an CHS 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 provisions of 122 CMR 1.12.

(3) Five Year Presumptive Disqualification. A candidate shall be ineligible for a position in a CHS funded or operated program which entails potential unsupervised contact with persons receiving services if he or she has been convicted of any of the crimes listed in 122 CMR 1.18: *Table C* or if he or she has any pending charges involving crimes listed in 122 CMR 1.18: *Table C*, unless:

- (a) 1. five years or more have passed since the final disposition of the offense; or
- 2. the candidate's criminal justice official concludes in writing that the candidate within the position sought in a CHS or the vendor agency program does not pose an unacceptable risk of harm to the persons served by the program; or
- 3. the candidate's 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 may 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 an CHS 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 provisions of 122 CMR 1.12.

1.11: continued

(4) Discretionary Disqualification. A candidate shall be ineligible for a position in a CHS funded or operated program which entails potential unsupervised contact with persons receiving services if he or she has been convicted of or has pending any of the crimes listed in 122 CMR 1.18: *Table D*, or if he or she has any pending charges involving crimes listed in 122 CMR 1.18: *Table D*, unless the hiring authority has complied with the provisions of 122 CMR 1.12.

1.12: Provisions for Review of a Candidate in any Discretionary Disqualification Category

(1) Every candidate for whom the CORI investigation reveals a "lifetime presumptive disqualification", a "ten year presumptive disqualification," a "five year presumptive disqualification," or a "discretionary disqualification", and who has otherwise met the requirements for further consideration, if any, of 122 CMR 1.11, shall 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:

- (a) Age of the conviction;
- (b) Age of the candidate at the time of the offense;
- (c) Seriousness and specific circumstances of the offense;
- (d) Relationship of the criminal act to 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; the hiring authority shall inform the candidate of the opportunity to submit other relevant information.

(2) In reviewing the criminal record of a candidate, the Hiring Authority may request that the candidate submit additional information, including a letter from the candidate's probation, parole officer, treating professional or other knowledgeable source, if not already supplied pursuant to 122 CMR 1.11(1), (2) or (3). The Hiring Authority may also seek additional information from the police, courts, or prosecuting attorneys. Following the review, the Hiring Authority shall determine whether:

- (a) To hire the candidate.
- (b) To not hire the candidate; or
- (c) To hire the candidate to either a different position or to the requested position with certain restrictions, including but not limited to close supervision or limited access to client care areas.

The Hiring Authority shall require clear and convincing evidence demonstrating the candidate's appropriateness for employment given the concern for client safety. The Hiring Authority shall document, in writing, the reasons for his or her approval of the candidate for the position.

The Hiring Authority shall maintain a written record, including the rationale for the determination of appropriateness for the position for all candidates awarded a position pursuant to 122 CMR 1.00. Nothing herein shall be construed as preventing the hiring authority from deciding not to hire the candidate for any other reason.

1.13: Exemption from Certain Requirements

CHS may grant a funded or operated program an exemption from the requirements of 122 CMR 1.11(2)(a) and (3)(a) upon a determination by CHS that an exemption is warranted following consideration of the following criteria:

- (1) the service needs and level of vulnerability of the clients served by the program;
- (2) the potential benefits and risks to those clients as a result of the exemption;
- (3) the hiring authority's capacity to perform the review required by 122 CMR 1.12.

1.13: continued

Whenever CHS grants an exemption, it shall document, in writing, the basis for determining that the exemption is warranted, including providing its assessment of the level of vulnerability of the clients served by the program. No program shall be eligible for an exemption pursuant to 122 CMR 1.13 if it serves clients 16 years of age or younger or if it serves a population that is primarily 65 years of age or older:

1.14: Dissemination

CORI records may be disseminated only to individuals certified by the CHSB to receive such information, such as the hiring authority or 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.

1.15: Agency Audits

EOHHS shall periodically review statistical information on all CORI requests and investigations maintained by each hiring authority in accordance with EOHHS policy and procedures. In addition, EOHHS may establish further requirements for checking CORI findings and the interpretation of such findings by the hiring authority.

1.16: Incidents

Any hiring authority who receives an allegation that a CHS or vendor agency employee with a positive CORI history has harmed an CHS client shall immediately report the allegation to the General Counsel of EOHHS. Notification shall include documentation of the hiring decision of the hiring authority.

1.17: Severability

If any provisions of 122 CMR 1.01 through 1.18, or the applications of such provisions to any person or circumstance are held invalid or unconstitutional, the other provisions of said 122 CMR 1.01 through 1.18, or the application of such provisions to any person or circumstance other than that as to which it is held invalid or unconstitutional, shall not be affected thereby.

1.18: Tables of Offenses

The offenses included in 122 CMR 1.18: *Tables A, B, C and D* 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 Indian tribal authority.

The Hiring Authority shall contact the CHSB EOHHS CORI Unit whenever a CORI investigation reveals an offense that is not included in any of the tables 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 122 CMR 1.00, 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 offense. If it is determined to be dissimilar, 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 any of the tables in its hiring decisions.

TABLE A: Lifetime Presumptive Disqualification	M.G.L.
A&B, DANGEROUS WEAPON, VICT 65+	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 65	c.265 § 18(a)
ARMED ASSAULT, DWELLING, W/FELONY INTENT	c.265 § 18A



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Table A: continued

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	

TABLE B: Ten Year Presumptive Disqualification	M.G.L.
A& B DANGEROUS WEAPON	c.265 § 15A
A&B INTIMIDATION, RACE/COLOR/RELIGION	c.265 § 39(a)
AID ESCAPE FROM CUSTODY	c.268 § 17
ASSAULT BY DANGEROUS WEAPON, VICTIM 65 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, INTEND COMM FELONY, FEAR	c.266 § 17
BRIBERY OF A POLICE OFFICER	c.268 § 2
BURGLARY, ARMED	c.266 §14
BURGLARY, UNARMED	c.266 § 15
BURNING BUILDING	c.266 § 2
CARRYING DANGEROUS WEAPON, COMMITTING FELONY	c.269 § 10(b)
CARRYING DANGEROUS WEAPON, SUB OFFENSE	c.269 § 10(d)
CIVIL RIGHTS VIOLATION, BODILY INJURY	c.265 § 37
COMPOUNDING FELONY	c.268 § 36
CONTRIBUTE DELINQUENCY CHILD	c.119 § 63
DELIVER DRUGS TO PRISONER	c.268 § 28
DERIVING SUPPORT FROM PROSTITUTE	c.272 § 7
DISTRIBUTING OBSCENE PICTURES	c.272 § 28
ESCAPE BY PRISONER	c.268 §16
FORGERY, ALTER PRESCRIPTION	c.94C § 33(b)
FUGITIVE FROM JUSTICE	c.276 § 20A

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Table B: continued

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 FIREARM	c.266 § 30
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/DISPENSE CLASS B SUBSTANCE	c.94C § 32A
MFG/DIST/DISPENSE CL A W/IN 1000FT SCHOOL	c.94C § 32J
MFG/DIST/DISPENSE CL B W/IN 1000FT SCHOOL	c.94C § 32J
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)
POSSESS CL A SUB W/INT TO DIST W/INT 1000FT SCHOOL	c.94C § 32J
POSSESS CL B SUB W/INT TO DIST W/INT 1000FT SCHOOL	c.94C § 32J
POSSESS CL B SUB W/INT TO DIST/MFG/CULT W/INT 1000FT SCHOOL	c.94C § 32J
POSSESS CLASS A SUBSTANCE, INTENT TO DISTRIBUTE	c.94C § 32(a)
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 CONTROLLED SUB 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 SHOTGUN, BARREL UND 18 “SAWED OFF”	c.269 § 10C
POSSESS MACHINE GUN OR SAWED OFF SHOT GUN, SUB OFFENSE	c.269 § 10D
POSSESS SHOTGUN, BARREL UND 18 “SAWED OFF, SUB OFF	c.269 § 10D
SELL AMMUNITON 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 1000FT SCHOOL	c.94C § 32J
TRAFFICKING IN HEROIN W/ IN 1000FT SCHOOL	c.94C § 32J
TRAFFICKING IN MARIJ W/ IN 1000FT SCHOOL	c.94C § 32J
UNARMED ROBBERY	c.265 § 19(b)
UNARMED ROBBERY, VICTIM 65+	c.265 § 19(a)
UNLAWFUL POSSESSION, BOMB	c.148 § 35
UNLAWFUL POSSESSION, FIREARM, COMMISSION FELONY	c.265 § 18B
UNLAWFULLY PLACE EXPLOSIVES	c.266 § 102
UTTER FALSE PRESCRIPTION	c.94C § 33
VIOLATE DOMESTIC PROTECTIVE ORDER	c.208 § 34C
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	

TABLE C: Five Year Presumptive Disqualification	M.G.L.
ACCESSORY BEFORE FACT	c.274 § 2
ACCESSORY AFTER FACT(VARIABLE)	c.274 § 4
ASSAULT BY DANGEROUS WEAPON	c.265 § 15B(b)
ATTEMPT TO COMMIT CRIME (VARIABLE)	c.274 §6
B&E DAY, INTENT COMM FELONY	c.266 § 18
B&E NIGHT, BLDG/SHIP/M/V, INTEND COMM FELONY	c.266 § 16
B&E TRUCK, INTEND COMM FELONY	c.266 § 20A
BURNING M/V OR PERSONAL PROPERTY	c.266 § 5

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Table C: continued

BURNING TO DEFRAUD INSURANCE CO.	c.266 § 10
CARRYING LOADED RIFLE/SHOTGUN, PUBLIC WAY	c.269 § 12D
DELIVER ARTICLES TO INMATE	c.268 § 31
DRUG PARAPHENELIA	c.94C § 32I(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
FALSE INFORMATION FOR GUN PERMIT	c.140 § 129
LARCENY, BANK EMPLOYEE OR OFFICER	c.266 § 52
LARCENY, CONTROLLED SUBSTANCE, FROM AUTHORIZED PERSON	c.94C § 37
LARCENY, PERSON	c.266 § 25
MANUFACTURE/DISTRIBUTE CLASS D SUBSTANCE	c.94C § 32C
M/V HOMICIDE, NEGLIGENCE OPERATION	c.90 § 24G(b)
M/V HOMICIDE, RECKLESS OPERATION	c.90 § 24G(b)
OPERATE M/V UNDER INFLUENCE, SERIOUS INJURY	c.90 §24(1)(a)(1)
OPERATE M/V UNDER INFLUENCE, DRUGS, 3 <sup>RD</sup> OFFENSE	c.90 §24(1)(a)(1)
OPERATE M/V UNDER INFLUENCE, LIQUOR, 3 <sup>RD</sup> OFFENSE	c.90 § 24
POSSESS CLASS A SUBSTANCE	c.94C §34
POSSESS CLASS B SUBSTANCE	c.94C §34
POSSESS CLASS C SUBSTANCE, SUB OFFENSE	c.94C §34
POSSESS CLASS D SUBSTANCE, SUB OFFENSE	c.94C §34
POSSESS CLASS D SUBSTANCE, INTENT TO DISTRIBUTE	c.94C § 32C(a)
POSSESS CLASS E SUBSTANCE, INTENT TO DISTRIBUTE	c.94C § 32D
POSSES CLASS D SUB W/INT TO DIST W/INT 1000FT SCHOOL	c.94C §32J
POSSESS BURGLARIOUS TOOLS	c.266 § 49
POSSESS M/V MASTER KEY	c.266 § 49
POSSESS MATTER HARMFUL MINOR	c.272 § 28
RECEIVE/BUY STOLEN M/V	c.266 § 28(a)
UNARMED ASSAULT, INTENT TO ROB	c.265 § 20
UNNATURAL ACTS	c.272 § 35
VANDALIZE CHURCH/SYNAGOGUE/CEMETERY	c.266 § 127A
VANDALIZE SCHOOL/CHURCH/EDUCATIONAL BLDG	c.266 § 98
VIOLATE STALKING LAW	c.265 § 43(a)
CONSPIRACY TO COMMIT ANY OF ABOVE OFFENSES	
ATTEMPTS TO COMMIT ANY CRIME IN THIS CATEGORY	
ACCESSORY BEFORE ANY CRIME IN THIS CATEGORY	

TABLE D: Discretionary Disqualification

M.G.L.

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 § 13H
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 KEPT	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, 500FT	c.269 § 12E

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Table D: continued

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 SPOUSE & MINOR CHILD	c.273 § 1
LEAVE SCENE AFTER PERSONAL INJURY, M/V	c.90 § 24(2)(a1/2)(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 § 1311
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
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, 3 <sup>RD</sup> 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
WILLFULLY & MALICIOUSLY BURN M/V	c.266 § 127
WILLFULLY & MALICIOUSLY KILL BEAST	c.266 §127
WANTON DESTRUCTION, PERS/REAL PROPERTY	c.272 § 73

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Table D: continued

CONSPIRACY TO COMMIT ANY OF ABOVE OFFENSES  
ATTEMPTS TO COMMIT ANY CRIME IN THIS CATEGORY  
ACCESSORY BEFORE ANY CRIME IN THIS CATEGORY

REGULATORY AUTHORITY

122 CMR 1.00: M.G.L. c. 115A.