



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

Department of Criminal Justice Information Services

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Karen E. Polito
Lieutenant Governor

Thomas A. Turco, III
Secretary of Public Safety and Security

James F. Slater, III
Commissioner

Criminal Record Information (CORI and CHRI)

Individual Agreement of Non-Disclosure

I, _____, acknowledge that I have read and understand the provisions of Massachusetts General Laws, c. 6, §§ 167-178B, of which section 178 provides that it is a criminal offense for an individual or entity to "knowingly request, obtain or attempt to obtain criminal offender record information or a self-audit from the department under false pretenses, knowingly communicate or attempt to communicate criminal offender record information to any other individual or entity except in accordance with the provisions of sections 168 through 175, or knowingly falsify criminal offender record information, or any records relating thereto, or to request or require a person to provide a copy of his or her criminal offender record information except as authorized pursuant to section 172." Unauthorized access to, or dissemination of, criminal offender information or a self-audit is punishable by a fine of not more than five thousand dollars (\$5,000.00), or imprisonment in a jail or house of correction for not more than one year, or both. If the offender is anyone other than a natural person, the fine may be increased to fifty thousand (\$50,000.00) for each offense. Any such violation also subjects me to a suit for civil damages and/or a civil fine of up to five thousand dollars (\$5,000.00) for each such violation. Furthermore, I acknowledge that I have read and understand the provisions of 28 C.F.R. 20.33 and the most recent version of the FBI CJIS Security Policy relating to access and dissemination of Federal Bureau of Identification (FBI) Criminal History Record Information (CHRI). Pursuant to 28 C.F.R. 20.33, I understand that CHRI may only be accessed and disseminated for one of the purposes set forth in 28 C.F.R. 20.33 and also understand that the penalty for a violation of said regulations may subject me to a civil fine of up to eleven thousand dollars (\$11,000.00), pursuant to 28 C.F.R. 20.25.

I also understand that a criminal record check will be conducted on me by the Criminal Justice Agency and/or the Department of Criminal Justice Information Services as a prerequisite to my having authorization to access CORI and/or CHRI. A fingerprint-supported criminal history record check may also be conducted depending on my level of access.

Signed this _____ day of _____, 20_____.

Signature

Print Full Name

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Section 167 DEFINITIONS APPLICABLE TO SECS. 167 AND 168 TO 178L

Section 167. The following words shall, whenever used in this section or in sections 168 to 178L, inclusive, have the following meanings unless the context otherwise requires:

"All available criminal offender record information", adult and youthful offender convictions, non-convictions, previous and pending hearings conducted pursuant to section 58A of chapter 276, including requests of such hearings, transfers by the court, disposition of such requests, findings and orders, regardless of the determination, and pending criminal court appearances, but excluding criminal records sealed under section 34 of chapter 94C or sections 100A to 100C, inclusive, of chapter 276 or the existence of such records.

"Board", the criminal record review board established under section 168.

"Commissioner", the commissioner of criminal justice information services under section 167A.

"Criminal justice agencies", those agencies at all levels of government which perform as their principal function, activities relating to (a) crime prevention, including research or the sponsorship of research; (b) the apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders; or (c) the collection, storage, dissemination or usage of criminal offender record information.

"Criminal offender record information", records and data in any communicable form compiled by a Massachusetts criminal justice agency which concern an identifiable individual and relate to the nature or disposition of a criminal charge, an arrest, a pre-trial proceeding, other judicial proceedings, previous hearings conducted pursuant to section 58A of chapter 276 where the defendant was detained prior to trial or released with conditions under subsection (2) of section 58A of chapter 276, sentencing, incarceration, rehabilitation, or release. Such information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any consequent proceedings related thereto. Criminal offender record information shall not include evaluative information, statistical and analytical reports and files in which individuals are not directly or indirectly identifiable, or intelligence information. Criminal offender record information shall be limited to information concerning persons who have attained the age of 18 and shall not include any information concerning criminal offenses or acts of delinquency committed by any person before he attained the age of 18; provided, however, that if a person under the age of 18 is adjudicated as an adult, information relating to such criminal offense shall be criminal

offender record information. Criminal offender record information shall not include information concerning any offenses which are not punishable by incarceration.

"Department", the department of criminal justice information services established pursuant to section 167A.

"Evaluative information", records, data, or reports concerning individuals charged with crime and compiled by criminal justice agencies which appraise mental condition, physical condition, extent of social adjustment, rehabilitative progress and the like, and which are primarily used in connection with bail, pre-trial or post-trial release proceedings, sentencing, correctional and rehabilitative planning, probation or parole.

"Executive office", the executive office of public safety and security.

"Intelligence information", records and data compiled by a criminal justice agency for the purpose of criminal investigation, including reports of informants, investigators or other persons, or from any type of surveillance associated with an identifiable individual. Intelligence information shall also include records and data compiled by a criminal justice agency for the purpose of investigating a substantial threat of harm to an individual, or to the order or security of a correctional facility.

"Interstate systems", all agreements, arrangements and systems for the interstate transmission and exchange of criminal offender record information. Such systems shall not include recordkeeping systems in the commonwealth maintained or controlled by any state or local agency, or group of such agencies, even if such agencies receive or have received information through, or otherwise participated or have participated in, systems for the interstate exchange of criminal record information.

"Person", a natural person, corporation, association, partnership or other legal entity acting as a decision maker on an application or interacting directly with a subject.

"Purge", remove from the criminal offender record information system such that there is no trace of information removed and no indication that said information was removed.

"Requestor", a person, other than a criminal justice agency, submitting a request for criminal offender record information to the department.

"Secretary", the secretary of public safety and security.

"Self-audit", an inquiry made by a subject or his legally authorized designee to obtain a log of all queries to the department by any individual or entity, other than a criminal justice agency, for the subject's criminal offender record information, but excluding any information relative to any query conducted by a criminal justice agency.

"Subject", an individual for whom a request for criminal offender record information is submitted.

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Section 167A DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SERVICES

Section 167A. (a) There shall be within the executive office a department of criminal justice information services which shall be under the supervision and control of a commissioner. The commissioner shall be appointed by the secretary and shall be a person of skill and experience in the field of criminal justice. The commissioner shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the provisions of law relative to the department and to each administrative unit thereof. The commissioner shall serve at the pleasure of the secretary, shall receive such salary as may be determined by law and shall devote his full time to the duties of his office. In the case of an absence or vacancy in the office of the commissioner, or in the case of disability as determined by the secretary, the secretary may designate an acting commissioner to serve as commissioner until the vacancy is filled or the absence or disability

ceases. The acting commissioner shall have all the powers and duties of the commissioner and shall have similar qualifications as the commissioner. The commissioner shall not be subject to the provisions of chapter 31 or section 9A of chapter 30.

(b) The commissioner may appoint such persons, including experts and consultants, as he shall deem necessary to perform the functions of the department. The provisions of chapter 31 and section 9A of chapter 30 shall not apply to any person holding any such appointment. Every person so appointed to any position in the department shall have experience and skill in the field of such position. So far as practicable in the judgment of the commissioner, appointments to such positions in the department shall be made by promoting or transferring employees of the commonwealth serving in positions which are classified under chapter 31 and such appointments shall at all times reflect the professional needs of the administrative unit affected. If an employee serving in a position which is classified under chapter 31 or in which an employee has tenure by reason of said section 9A of said chapter 30 shall be appointed to a position within the department which is not subject to said chapter 31, the employee shall, upon termination of his service in such position, be restored to the position which he held immediately prior to such appointment; provided, however, that his service in such position shall be determined by the civil service commission in accordance with the standards applied by said commission in administering said chapter 31. Such restoration shall be made without impairment of civil service status or tenure under said section 9A of said chapter 30 and without loss of seniority, retirement or other rights to which uninterrupted service in such prior position would have entitled the employee. During the period of such appointment, each person so appointed from a position in the

classified civil service shall be eligible to take any competitive promotional examination for which he would otherwise have been eligible.

(c) The department shall provide for and exercise control over the installation, operation and maintenance of data processing and data communication systems, hereinafter called the public safety information system, which shall include, but shall not be limited to, the criminal justice information system. The system shall be designed to ensure the prompt collection, exchange, dissemination and distribution of such public safety information as may be necessary for the efficient administration and operation of criminal justice agencies and to connect such systems directly or indirectly with similar systems in this or other states. The department shall be responsible for all data processing, management of the public safety information system, supervision of all personnel associated with the system and the appointment of all such personnel.

(d) The department shall provide access to the public safety information system to criminal justice agencies, as defined in section 167. The department may, subject to chapter 30A, hear and investigate complaints pertaining to misuse of the public safety information system and issue sanctions and penalties for misuse. The commissioner may refer complaints for further review to the criminal record review board, any state or federal agency or prosecuting authority.

(e) The department may, in consultation with the board, adopt rules and regulations for: (i) the implementation, administration and enforcement of this section; (ii) the control, installation and operation of the public safety information system accessed and utilized by criminal justice

agencies; (iii) the collection, storage, access, dissemination, content organization and use of fingerprint-based checks of the state and national criminal history databases; and (iv) the collection, storage, access, dissemination, content, organization and use of criminal offender record information by requestors; provided, however, any consumer reporting agency accessing the criminal offender record information from the department shall be deemed in compliance with any rule or regulation promulgated hereunder so long as its applicable policies are in compliance with the state and federal Fair Credit Reporting Acts.

(f) The department shall ensure that no backlog of criminal offender records requests develop that impedes the processing of necessary information related to employment, housing and other essential activities and services. If a backlog develops, the commissioner shall report the nature of the backlog and its impact on services to the secretary of public safety and shall take action to remediate the cause of the backlog.

(g) The department may enter into contracts and agreements with, and accept gifts, grants, contributions and bequests of funds from, any department, agency or subdivision of federal, state, county or municipal government and any individual, foundation, corporation, association, or public authority for the purpose of providing or receiving services, facilities or staff assistance in connection with its work. Such funds shall be deposited with the state treasurer and may be expended by the department in accordance with the conditions of the gift, grant, contribution or bequest, without specific appropriation.

(h) Notwithstanding any general or special law to the contrary, the department shall transmit to the attorney general of the United States any information in its control required or permitted under federal law to be

included in the National Instant Criminal Background Check System or any successor system maintained for the purpose of conducting background checks for firearms sales or licensing. No more information than is necessary for the purposes stated above shall be transmitted, and such information shall not be considered a public record under clause Twenty-sixth of section 7 of chapter 4 and section 10 of chapter 66.

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Section 168 CRIMINAL RECORD REVIEW BOARD

Section 168. (a) There shall be a criminal record review board within the department of criminal justice information services consisting of the following persons: the secretary of public safety and security, who shall serve as chair, the attorney general, the secretary of labor and workforce development, the chair of the Massachusetts sentencing commission, the chief counsel for the committee for public counsel services, the chair of the parole board, the commissioner of correction, the commissioner of probation, the commissioner of youth services, the colonel of state police and the presidents of the Massachusetts District Attorneys Association, the Massachusetts Sheriffs' Association and the Massachusetts Chiefs of Police Association, or their designees, all of whom shall serve ex officio, and 5 persons to be appointed by the governor, 1 of whom shall represent private users of criminal offender record information, 1 of whom shall be a victim of crime, 1 of whom shall have experience in the areas of

workforce development or ex-offender rehabilitation and 2 of whom shall be persons who have experience in issues relating to personal privacy. Upon the expiration of the term of any appointive member, his successor shall be appointed in a like manner for a term of 3 years.

The chair shall hold regular meetings, 1 of which shall be an annual meeting, and shall notify all board members of the time and place of all meetings. Special meetings may be called at any time by a majority of the board members and shall be called by the chair upon written application of 9 or more members. Members of the board shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the discharge of their official duties.

(b) The board may hear complaints and investigate any incidents alleging that a person that has requested or received criminal offender record information has failed to provide the subject with the criminal offender record information in his possession prior to questioning the subject about his criminal history in connection with a decision regarding employment, volunteer opportunities, housing or professional licensing or in connection with an adverse decision on such an application on the basis of the criminal offender record information. The board may hear complaints and investigate any incidents alleging any other violation of sections 168 to 178A, inclusive, or violation of board rules and regulations. The board may charge and collect a fee, established by the secretary, as a condition for filing a complaint, which fee may be waived upon a finding of indigency. Any complaint filed with the board shall be supported by a written declaration by the complainant that it is made under the penalties of perjury. An answer filed by a responding party shall be signed under the penalties of perjury by an individual with personal knowledge of its contents. In conducting investigations and

hearings, the board, or department staff designated by the board, shall have the power to summons witnesses, compel their attendance and testimony, require the production of books, records and documents, administer oaths and have access to all criminal offender record information. The chair of the board may appoint a member, panel of 3 board members or a hearing officer to conduct hearings, according to the standard rules of adjudicatory procedure or other rules which the department may adopt, in consultation with the board. Following review of a complaint by a member, panel or hearing officer, the board, by a vote of two-thirds of the members present and voting, shall issue a ruling as to the findings of the board. In accordance with its findings, the board may issue orders and sanctions enforcing this section and the board's rules and regulations, including, but not limited to, a remand for additional fact finding, the imposition of civil fines payable to the commonwealth not to exceed \$5,000 for each knowing violation and conditions on continued access to criminal offender record information or revocation of access; provided, however, that the board shall not issue any orders, sanctions or fines against a law enforcement officer who, in good faith, obtains or seeks to obtain, or communicates or seeks to communicate criminal offender record information in the furtherance of the officer's official duties. The board may at any time refer a complaint for criminal prosecution under section 178 of this chapter.

The board shall make an annual report of the volume and disposition of complaints without identifying data on any complainant or other information that would include criminal offender record information relative to any person reviewed by the board to the governor and file a

copy thereof with the state secretary, the attorney general, the clerk of the house of representatives and the clerk of the senate. The annual report shall also be available to the public upon request.

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Section 168A TRANSMISSION OF PROBATION AND PAROLE RECORDS TO THE
DEPARTMENT

Section 168A. The commissioner of probation, the commissioner of corrections, the chairman of the parole board and the county commissioners of counties other than Suffolk county shall transmit to the department in such form and at such times as the board shall require, detailed and complete records relative to all probation and parole cases, and permits to be at liberty granted or issued by them, respectively, the revoking of the same and the length of time served on each sentence of imprisonment by each prisoner so released specifying the institution where each such sentence was served; and under the direction of the board a record shall be kept of all such cases as the board may require. Police officials shall cooperate with the board in obtaining and reporting information concerning persons under the care and custody of the probation department and parole board. The commissioner of probation, commissioner of corrections, chairman of the parole board and

commissioner of youth services shall at all times give to the board such information as may be obtained from the records concerning persons under sentence or who have been released.

The information obtained and recorded shall not be regarded as public records and shall not be open for public inspection but shall be accessible to the justices, the departments of probation, corrections, and youth services, the parole board, the Massachusetts sentencing commission, and to such local and state governments as the board may determine. Upon payment of a fee of three dollars for each search, such records shall be accessible to such departments of the federal government and to such educational and charitable corporations and institutions as the board may determine.

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Section 168B RULES AND REGULATIONS

Section 168B. The executive director of the department shall promulgate rules and regulations to ensure the prompt collection, exchange, dissemination and distribution of firearms record information in accordance with sections 121 to 131P, inclusive, of chapter one hundred and forty.

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Section 168C POST-SECONDARY SCHOOLS; ANNUAL UNIFORM CRIME
REPORTS; CAMPUS SECURITY POLICIES

Section 168C. (a) Each public or private degree-granting post-secondary institution of higher education shall submit, on an annual basis, a uniform crime report, consistent with the Federal Bureau of Investigation's Uniform Crime Report, to the department. Said board shall file all such reports with the Federal Bureau of Investigation. In addition, said board shall keep a copy of such reports on file for at least five years. Upon submitting such crime report, each such institution shall provide public notice to its campuses that the institution makes such report available, upon request, to an applicant, student or employee of the institution and how any such individuals may obtain a copy of the report from the institution.

(b) In addition, each such institution shall certify that it has a campus security policy that has been made available, upon request, to an applicant, student or employee of the institution. Such policy shall provide information on campus security procedures including, but not limited to, the following: (1) the administrative office responsible for security on the campus; (2) policy regarding the possession, use and sale of alcoholic beverages and enforcement of underage drinking laws; (3) policy regarding the possession, use and sale of illegal drugs and enforcement of federal and state drug laws; (4) policy regarding the unauthorized possession and use of weapons by students and employees; (5) policy regarding access to institutional facilities and programs by students, employees, guests and other individuals; (6) procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports; (7) a description of the communication media used to inform the campus community about security matters as well as the frequency with which the information is usually provided.

(c) Any such campus security policy shall further provide information on security and access to grounds and buildings including, but not limited to, security considerations used in the maintenance of campus facilities.

(d) Any such policy shall further provide information on student housing safety measures, including, but not limited to: (1) policies concerning the identification and admission of visitors in student housing facilities; (2) measures to secure entrances to student housing facilities; (3) standard security features used to secure doors and windows in students' rooms; (4) the type and frequency of programs designed to inform student housing residents about housing security and enforcement procedures; (5)

policy and special security procedures for housing students during low-occupancy periods such as holidays and vacation periods; and (6) policy on the housing of guests and others not assigned to the student housing or not regularly associated with the institution of higher education.

(e) Any such policy shall further provide information on campus law enforcement, including: (1) a description of the type and number of security personnel utilized by the institution and a description of their training; (2) the enforcement authority of security personnel, including their working relationship with state and local police agencies; and (3) policy for reporting criminal incidents to state and local police.

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Section 171	REGULATIONS GENERALLY; CONTINUING EDUCATION PROGRAM; EVALUATIVE INFORMATION

Section 171. The department shall promulgate regulations (a) creating a continuing program of data auditing and verification to assure the accuracy and completeness of criminal offender record information; and (b) assuring the security of criminal offender record information from unauthorized disclosures at all levels of operation.

The department shall cause to be initiated for employees of all agencies that maintain, receive, or are eligible to maintain or receive criminal offender record information a continuing educational program in the proper use and control of such information.

The content and use of evaluative information, and the inspection, receipt of copies and challenge of such information by an individual shall not be governed by the provisions of this act except as provided in this paragraph. Each criminal justice agency holding evaluative information

shall, pursuant to section two of chapter thirty A, promulgate regulations to govern the content and use of evaluative information, and to govern, limit or prohibit the inspection, receipt of copies and challenge of such information by an individual referred to therein. Such regulations shall, at a minimum, provide that an agency which generates evaluative information shall make such information available within a reasonable time period upon request to the individual referred to therein unless such information falls within such exemptions as the agency shall establish in said regulations. No agency shall establish an exemption for evaluative material unless disclosure of such information would pose a direct and articulable threat to the safety of any individual or the security of a correctional facility, and such threat shall have been detailed in a certificate which is kept with such evaluative information. An agency shall reply in writing, upon the request of an individual for the release of their evaluative information. Said writing shall include the agency's decision to release or withhold the evaluative information in whole or in part and a listing of all sources of origin for all evaluative information generated by the custodial agency.

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Section 171A RIGHT OF APPLICANT TO CRIMINAL HISTORY RECORD PRIOR TO QUESTIONING OR ADVERSE DECISION; PENALTIES FOR FAILURE TO PROVIDE APPLICANT WITH CRIMINAL HISTORY INFORMATION; MAINTENANCE OF WRITTEN CRIMINAL OFFENDER RECORD INFORMATION POLICY

Section 171A. In connection with any decision regarding employment, volunteer opportunities, housing or professional licensing, a person in possession of an applicant's criminal offender record information shall provide the applicant with the criminal history record in the person's possession, whether obtained from the department or any other source prior to questioning the applicant about his criminal history. If the person makes a decision adverse to the applicant on the basis of his criminal history, the person shall also provide the applicant with the criminal history record in the person's possession, whether obtained from the department or any other source; provided, however, that if the person has provided the applicant with a copy of his criminal offender record

information prior to questioning the person is not required to provide the information a second time in connection with an adverse decision based on this information.

Failure to provide such criminal history information to an applicant pursuant to this section may subject the offending person to investigation, hearing and sanctions by the board. Nothing in this section shall be construed to prohibit a person from making an adverse decision on the basis of an individual's criminal history or to provide or permit a claim of an unlawful practice under chapter 151B or an independent cause of action in a court of civil jurisdiction for a claim arising out of an adverse decision based on criminal history except as otherwise provided under chapter 151B.

A person who annually conducts 5 or more criminal background investigations, whether criminal offender record information is obtained from the department or any other source, shall maintain a written criminal offender record information policy providing that, in addition to any obligations required by the commissioner by regulation, it will: (i) notify the applicant of the potential adverse decision based on the criminal offender record information; (ii) provide a copy of the criminal offender record information and the policy to the applicant; and (iii) provide information concerning the process for correcting a criminal record.

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Section 172 MAINTENANCE OF CRIMINAL OFFENDER RECORD INFORMATION IN ELECTRONIC FORMAT; ACCESSIBILITY VIA WORLD WIDE WEB; ELIGIBILITY FOR ACCESS TO DATABASE; USE AND DISSEMINATION OF CRIMINAL OFFENDER RECORD INFORMATION

Section 172. (a) The department shall maintain criminal offender record information in a database, which shall exist in an electronic format and be accessible via the world wide web. Except as provided otherwise in this chapter, access to the database shall be limited as follows:

(1) Criminal justice agencies may obtain all criminal offender record information, including sealed records, for the actual performance of their criminal justice duties. Licensing authorities, as defined in section 121 of chapter 140, may obtain all criminal offender record information, including sealed records, for the purpose of firearms licensing in accordance with sections 121 to 131P, inclusive, of chapter 140. The

criminal record review board may obtain all criminal offender record information, including sealed records, for the actual performance of its duties.

(2) A requestor authorized or required by statute, regulation or accreditation requirement to obtain criminal offender record information other than that available under clause (3) may obtain such information to the extent and for the purposes authorized to comply with said statute, regulation or accreditation requirement.

(3) A requestor or the requestor's legally designated representative may obtain criminal offender record information for any of the following purposes: (i) to evaluate current and prospective employees including full-time, part-time, contract, internship employees or volunteers; (ii) to evaluate applicants for rental or lease of housing; (iii) to evaluate volunteers for services; and (iv) to evaluate applicants for a professional or occupational license issued by a state or municipal entity. Criminal offender record information made available under this section shall be limited to the following: (i) felony convictions for 10 years following the disposition thereof, including termination of any period of incarceration or custody, (ii) misdemeanor convictions for 5 years following the disposition thereof, including termination of any period of incarceration or custody, and (iii) pending criminal charges, which shall include cases that have been continued without a finding until such time as the case is dismissed pursuant to section 18 of chapter 278; provided, however, that prior misdemeanor and felony conviction records shall be available for the entire period that the subject's last available conviction record is available under this section; and provided further, that a violation of section 7 of chapter 209A and a violation of section 9 of chapter 258E shall be treated as a felony for purposes of this section.

(4) Any member of the general public may upon written request to the department and in accordance with regulations established by the department obtain the following criminal offender record information on a subject: (i) convictions for any felony punishable by a term of imprisonment of 5 years or more, for 10 years following the disposition thereof, including termination of any period of incarceration or custody; (ii) information indicating custody status and placement within the correction system for an individual who has been convicted of any offense and sentenced to any term of imprisonment, and at the time of the request: is serving a sentence of probation or incarceration, or is under the custody of the parole board; (iii) felony convictions for 2 years following the disposition thereof, including any period of incarceration or custody; and (iv) misdemeanor convictions for 1 year following the disposition thereof, including any period of incarceration or custody.

(5) A subject who seeks to obtain his own criminal offender record information and the subject's legally designated representative may obtain all criminal offender record information from the department pertaining to the subject under section 175.

(6) The commissioner may provide access to criminal offender record information to persons other than those entitled to obtain access under this section, if the commissioner finds that such dissemination to such requestor serves the public interest. Upon such a finding, the commissioner shall also determine the extent of access to criminal offender record information necessary to sustain the public interest. The commissioner shall make an annual report to the governor and file a copy of the report with the state secretary, the attorney general, the clerk of the house of representatives and the clerk of the senate documenting all

access provided under this paragraph, without inclusion of identifying data on a subject. The annual report shall be available to the public upon request.

(7) Housing authorities operating pursuant to chapter 121B may obtain from the department conviction and pending criminal offender record information for the sole purpose of evaluating applications for housing owned by such housing authority, in order to further the protection and well-being of tenants of such housing authorities.

(8) The department of telecommunications and cable and the department of public utilities may obtain from the department all available criminal offender record information for the purpose of screening applicants for motor bus driver certificates and applicants who regularly transport school age children or students under chapter 71B in the course of their job duties. The department of public telecommunications and cable and the department of public utilities shall not disseminate such information for any purpose other than to further the protection of children.

(9) The department of children and families and the department of youth services may obtain from the department data permitted under section 172B.

(10) A person providing services in a home or community-based setting for any elderly person or disabled person or who will have direct or indirect contact with such elderly or disabled person or access to such person's files may obtain from the department data permitted under section 172C.

(11) The IV-D agency as set forth in chapter 119A may obtain from the department data permitted under section 172D and section 14 of chapter 119A.

(12) A long-term care facility, as defined in section 72W of chapter 111, an assisted living residence as defined in section 1 of chapter 19D, and any continuing care facility as defined in section 1 of chapter 40D may obtain from the department data permitted under section 172E.

(13) The department of early education and care may obtain from the department data permitted under section 172F.

(14) Operators of camps for children may obtain from the department data permitted under section 172G.

(15) An entity or organization primarily engaged in providing activities or programs to children 18 years of age or younger that accepts volunteers may obtain from the department data permitted under section 172H.

(16) School committees or superintendents that have contracted with taxicab companies to provide for the transportation of pupils pursuant to section 7A of chapter 71 may obtain from the department data permitted under section 172I.

(17) The commissioner of banks may obtain from the department data permitted under section 172J, section 3 of chapter 255E and section 3 of chapter 255F.

(18) A children's camp or school that plans to employ a person or accept a volunteer for a climbing wall or challenge course program may obtain from the department data permitted under section 172K.

(19) A victim of a crime, a witness or a family member of a homicide victim, as defined in section 1 of chapter 258B, may obtain from the department data permitted under section 178A.

(20) The motor vehicle insurance merit rating board may obtain from the department data permitted under section 57A of chapter 6C.

(21) The department of early education and care, or its designee, may obtain from the department data permitted under sections 6 and 8 of chapter 15D.

(22) The district attorney may obtain from the department data permitted under section 2A of chapter 38.

(23) A school committee and superintendent of any city, town or regional school district and the principal, by whatever title the position be known, of a public or accredited private school of any city, town or regional school district, may obtain from the department data permitted under section 38R of chapter 71.

(24) The Massachusetts Port Authority may obtain from the department data permitted under section 61 of chapter 90.

(25) The department of children and families may obtain from the department data permitted under section 26A of chapter 119, section 3B of chapter 210.

(26) The state racing commission may obtain from the department data permitted under section 9A of chapter 128A.

(27) A court, office of jury commissioner, and the clerk of court or assistant clerk may obtain from the department data permitted under section 33 of chapter 234A.

(28) The pension fraud unit within the public employee retirement administration commission may obtain from the department data permitted under section 1 of chapter 338 of the acts of 1990.

(29) Special education school programs approved under chapter 71B may obtain from the department all criminal offender record information provided for in paragraph (3) of subsection (a).

(30) The department shall configure the database to allow for the exchange, dissemination, distribution and direct connection of the criminal record information system to criminal record information systems in other states and relevant federal agencies including the Federal Bureau of Investigation and Immigration and Customs Enforcement that utilize fingerprint or iris scanning and similar databases.

(31) Navigator organizations certified by the commonwealth health insurance connector authority under 42 U.S.C. § 18031(i) may obtain from the department data permitted under section 172L.

(31) A person licensed pursuant to section 122 of chapter 140 may obtain from the department data permitted under section 172L.

(32) A person licensed pursuant to section 122 of chapter 140 may obtain from the department data permitted under section 172M.

[Clause 33 of subsection (a) added by 2016, 187, Sec. 1 effective November 3, 2016.]

(33) The department of public utilities and its departments or divisions may obtain from the department all available criminal offender record information, as defined in section 167, to determine the suitability of an applicant to obtain a transportation network driver certificate pursuant to chapter 159A1/2. Information obtained pursuant to this section shall not be disseminated for any purpose other than to further public protection and safety.

(b) Notwithstanding the foregoing, convictions for murder, voluntary manslaughter, involuntary manslaughter, and sex offenses as defined in section 178C of chapter 6 that are punishable by a term of incarceration in state prison shall remain in the database permanently and shall be available to all requestors listed in paragraphs (1) through (3), inclusive, of subsection (a) unless sealed under section 100A of chapter 276.

(c) The department shall specify the information that a requestor shall provide to query the database, including, but not limited to, the subject's name, date of birth and the last 4 digits of the subject's social security number; provided, however, that a member of the public accessing information under paragraph (4) of subsection (a) shall not be required to provide the last four digits of the subject's social security number. To obtain criminal offender record information concerning a subject pursuant to subsection (a)(2) or (a)(3), the requestor must certify under the penalties of perjury that the requestor is an authorized designee of a qualifying entity, that the request is for a purpose authorized under subsection (a)(2) or (a)(3), and that the subject has signed an acknowledgement form authorizing the requestor to obtain the subject's criminal offender record information. The requestor must also certify that he has verified the identity of the subject by reviewing a form of government-issued identification. Each requestor shall maintain acknowledgement forms for a period of 1 year from the date the request is submitted. Such forms shall be subject to audit by the department. The department may establish rules or regulations imposing other requirements or affirmative obligations upon requestors as a condition of obtaining access to the database; provided, however, that such additional rules and regulations are not in conflict with the state and federal Fair Credit Reporting Acts.

In connection with any decision regarding employment, volunteer opportunities, housing or professional licensing, a person in possession of an applicant's criminal offender record information shall provide the applicant with the criminal history record in the person's possession, whether obtained from the department or any other source, (a) prior to questioning the applicant about his criminal history and (b) if the person makes a decision adverse to the applicant on the basis of his criminal history; provided, however, that if the person has provided the applicant with a copy of his criminal offender record information prior to questioning the person is not required to provide the information a second time in connection with an adverse decision based on this information. Failure to provide such criminal history information to the individual in accordance with this section may subject the offending person to investigation, hearing and sanctions by the board.

(d) Except as authorized by this section, it shall be unlawful to request or require a person to provide a copy of his criminal offender record information. Violation of this subsection is punishable by the penalties set forth in section 178.

(e) No employer or person relying on volunteers shall be liable for negligent hiring practices by reason of relying solely on criminal offender record information received from the department and not performing additional criminal history background checks, unless required to do so by law; provided, however, that the employer made an employment decision within 90 days of obtaining the criminal offender record information and maintained and followed policies and procedures for verification of the subject's identifying information consistent with the requirements set forth in this section and in the department's regulations.

No employer shall be liable for discriminatory employment practices for the failure to hire a person on the basis of criminal offender record information that contains erroneous information requested and received from the department, if the employer would not have been liable if the information had been accurate; provided, however, that the employer made an employment decision within 90 days of obtaining the criminal offender record information and maintained and followed policies and procedures for verification of the individual's information consistent with the requirements set forth in this section and the department's regulations.

Neither the board nor the department shall be liable in any civil or criminal action by reason of any criminal offender record information or self-audit log that is disseminated by the board, including any information that is false, inaccurate or incorrect because it was erroneously entered by the court or the office of the commissioner of probation.

(f) A requestor shall not disseminate criminal offender record information except upon request by a subject; provided, however, that a requestor may share criminal offender record information with individuals within the requesting entity that have a need to know the contents of the criminal offender record information to serve the purpose for which the information was obtained; and provided further, that upon request, a requestor shall share criminal offender record information with the government entities charged with overseeing, supervising, or regulating them. A requestor shall maintain a secondary dissemination log for a period of one year following the dissemination of a subject's criminal offender record information. The log shall include the following information: (i) name of subject; (ii) date of birth of the subject; (iii) date

of the dissemination; (iv) name of person to whom it was disseminated; and (v) the purpose for the dissemination. The secondary dissemination log shall be subject to audit by the department.

Unless otherwise provided by law or court order, a requestor shall not maintain a copy, electronic or otherwise, of requested criminal offender record information obtained from the department for more than 7 years from the last date of employment, volunteer service or residency or from the date of the final decision of the requestor regarding the subject.

(g) The department shall maintain a log of all queries that shall indicate the name of the requestor, the name of the subject, the date of the query, and the certified purpose of the query. A self-audit may be requested for no fee once every 90 days. The commissioner may impose a fee in an amount as determined by the secretary of public safety and security, for self-audit requests made more than once every 90 days. Upon request, the commissioner may transmit the self-audit electronically. Further, if funding is available and technology reasonably allows, the department shall establish a mechanism that will notify a subject, or an advocate or agent designated by the subject, by electronic mail or other communication mechanism whenever a query is made regarding the subject. The self-audit log and query log shall not be considered a public record.

(h) Notwithstanding the provisions of this section, the motor vehicle insurance merit rating board may disseminate information concerning convictions of automobile law violations as defined in section 1 of chapter 90C, or information concerning a charge of operating a motor vehicle while under the influence of intoxicating liquor that results in assignment to a driver alcohol program as described in section 24D of

chapter 90, directly or indirectly, to an insurance company doing motor vehicle insurance business within the commonwealth, or to such insurance company's agents, independent contractors or policyholders to be used exclusively for motor vehicle insurance purposes.

(i) Notwithstanding any other provisions of this section, information indicating custody status and placement within the correction system shall be available to any person upon request; provided, however that no information shall be disclosed that identifies family members, friends, medical or psychological history, or any other personal information unless such information is directly relevant to such release or custody placement decision, and no information shall be provided if its release would violate any other provisions of state or federal law.

(j) The parole board, subject to sections 130 and 154 of chapter 127, the department of correction, a county correctional authority or a probation officer with the approval of a justice of the appropriate division of the trial court may, in its discretion, make available a summary, which may include references to criminal offender record information or evaluative information, concerning a decision to release an individual on a permanent or temporary basis, to deny such release, or to change the individual's custody status.

(k) Notwithstanding any other provision of this section or any other general or special law to the contrary, members of the public who are in fear of an offender may obtain from the department advance notification of the temporary or permanent release of an offender from custody, including but not limited to expiration of a sentence, furlough, parole, work release or educational release. An individual seeking access to

advance notification shall verify by a written declaration under the penalties of perjury that the individual is in fear of the offender and that advance notification is warranted for physical safety reasons.

(l) Any individual or entity that receives or obtains criminal offender record information from any source in violation of sections 168 through 175 of this chapter, whether directly or through an intermediary, shall not collect, store, disseminate, or use such criminal offender record information in any manner or for any purpose.

(m) Notwithstanding this section or chapter 66A, the following shall be public records: (1) police daily logs, arrest registers, or other similar records compiled chronologically; (2) chronologically maintained court records of public judicial proceedings; (3) published records of public court or administrative proceedings, and of public judicial administrative or legislative proceedings; and (4) decisions of the parole board as provided in section 130 of chapter 127.

(n) The commissioner, upon the advice of the board, shall promulgate rules and regulations to carry out the provisions of this section.

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Section 172A FEE FOR REQUEST FOR CRIMINAL OFFENDER RECORD INFORMATION OR SELF-AUDIT; PERMITTED USES OF REVENUES RECEIVED UNDER THIS SECTION

Section 172A. The commissioner shall assess a fee for each request for criminal offender record information or self-audit, according to a fee structure established by the secretary of public safety and security. No fee shall be assessed for a request made by a victim of crime or a witness or a family member of a homicide victim, all as defined in section 1 of chapter 258B, or for a request made by any local, state or federal government entity, including any requests from navigator organizations certified by the commonwealth health insurance connector authority under 42 U.S.C. \s 18031(i). The commissioner shall waive the fee or a portion of the fee from such other persons as provided in the department's rules and regulations. The department is authorized to enter into contracts and agreements for reduced or bulk fees for requestors who make extensive use of the database.

The department shall be authorized, subject to appropriation, to retain a portion of the revenues received by the commonwealth under this section for the following purposes: to assist ex-offenders in obtaining and maintaining employment, including, but not limited to, workforce development training and other applicable training programs, training and auditing requestors described in subsection (a) of section 172, providing education and assistance regarding the correction of criminal records, including but not limited to, training judges, providing the necessary information to employers and other applicable persons in possession of an applicant's criminal offender record information, and to operate and maintain the public safety information system and the criminal records review board.

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Section 172B CHILDREN AND FAMILIES DEPARTMENT; YOUTH SERVICES
DEPARTMENT; AVAILABLE INFORMATION

Section 172B. Notwithstanding any provision of section one hundred seventy-two of this chapter or of any other provision of law, the following information shall be available to the department of children and families and the department of youth services, upon request, for the purpose of evaluating any and all foster homes and adoptive homes, whether with public or private agencies, in order to further the protection of children: conviction data, arrest data, sealed record data, and juvenile arrest or conviction data. The department of children and families and the department of youth services shall not make, and shall prohibit, any dissemination of such information, for any purpose other than as set forth herein.

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Section 172B1/2 LOCAL FINGERPRINT SUBMISSION REQUIREMENT FOR APPLICANTS FOR LICENSES IN SPECIFIED OCCUPATIONS

Section 172B1/2. Municipalities may, by local ordinance, require applicants for licenses in specified occupations to submit a full set of fingerprints for the purpose of conducting a state and national criminal history records check pursuant to sections 168 and 172 and 28 U.S.C. § 534. Fingerprint submissions may be submitted by the licensing authority to the identification unit within the department of state police through the criminal history systems board, or its successor, for a state criminal records check and to the Federal Bureau of Investigation for a national criminal records check.

Municipalities may, by local ordinance, establish the appropriate fee charged to applicants for administering a fingerprinting system. For the purposes of section 2LLL of chapter 29, \$30 of the fee shall be deposited

into the Firearms Fingerprint Identity Verification Trust Fund and the remainder of the fee may be retained by the licensing authority for costs associated with the administration of the system.

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Section 172C DISSEMINATION OF CRIMINAL OFFENDER RECORD INFORMATION TO AGENCIES EMPLOYING OR REFERRING INDIVIDUALS TO PROVIDE SERVICES TO ELDERLY OR DISABLED PERSONS

Section 172C. For purposes of this section, the following words shall, unless the context requires otherwise, have the following meanings:--

"Elderly person", an individual who is sixty years of age or over.

"Disabled person", a person who is mentally retarded, as defined by section one of chapter one hundred and twenty-three B, or who is otherwise mentally or physically disabled and as a result of such mental or physical disability is wholly or partially dependent on others to meet his daily living needs.

Notwithstanding the provisions of section one hundred and seventy-two, criminal offender record information shall be available to any of the following entities which employ, accept as a volunteer or refer for

employment to a client any individual who will provide care, treatment, education, training, transportation, delivery of meals, instruction, counseling, supervision, recreation or other services in a home or in a community based setting for any elderly person or disabled person or who will have any direct or indirect contact with such elderly or disabled persons or access to such persons' files:

- (1) any agency which provides homemaker, home health aide, companion or other community based services to elderly persons or disabled persons in home or community based settings, including, but not limited to home health agencies certified under Title XVIII of the Social Security Act;
- (2) a home care corporation established pursuant to the provisions of chapter nineteen A;
- (3) a municipality; or
- (4) any agency or organization that employs or refers personal care attendants; or
- (5) any other entity receiving federal, state or local funds.

Such entities shall obtain all available criminal offender record information concerning any such individual from the department prior to employing such individual, accepting such individual as a volunteer or referring such individual for employment to an elderly or disabled person. Any entity obtaining information under this section shall not disseminate such information for any purpose other than to further the protection of the elderly or the disabled.

A violation of this section shall constitute a violation of section 2 of chapter 93A.

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Section 172D AVAILABILITY OF INFORMATION TO IV-D AGENCY

Section 172D. Notwithstanding any provision of section 172 or of any other provision of law, the following information shall be available to the IV-D agency as set forth in chapter 119A, upon request, for purposes connected with establishing paternity, or establishing, modifying or enforcing child support obligations pursuant to chapter 119A and Title IV, Part D of the Social Security Act: criminal offender record information, including, but not limited to, arrest, conviction, incarceration and rehabilitation information, and evaluative information pursuant to section 14 of chapter 119A; criminal offender record information obtained through any interstate system used by the commonwealth to locate an individual for purposes relating to motor vehicles or law enforcement as required by Title IV, Part D of the Social Security Act; youthful offender and adjudication of juvenile delinquency data; information contained in the warrant management system established

pursuant to section 23A of chapter 276; and to further the protection of children and victims of domestic violence, data in the statewide domestic violence record keeping system maintained by the commissioner of probation. The IV-D agency shall not make, and shall prohibit, any dissemination of such information for any purpose other than as set forth herein.

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Section 172E	DISSEMINATION OF CRIMINAL OFFENDER RECORD INFORMATION TO LONG TERM CARE FACILITIES, ASSISTED LIVING RESIDENCES AND CONTINUING CARE FACILITIES

Section 172E. Notwithstanding any provision of section 172 to the contrary, criminal offender record information shall be available to a long term care facility, as defined in section 72W of chapter 111, an assisted living residence as defined in section 1 of chapter 19D, and to any continuing care facility as defined in section 1 of chapter 40D, for the purpose of evaluating applicants under final consideration as, or an individual currently working as, an employee, a volunteer or a provider of care, treatment, education, training, transportation, delivery of meals, instruction, counseling, supervision, recreation or other services for an elderly or disabled person or for the purpose of evaluating applicants under final consideration for, or an individual currently working in, a position involving direct or indirect contact with such elderly or disabled persons or access to such persons' personal information. A long-term care

facility, assisted living residence or continuing care facility shall obtain all available criminal offender record information from the department on such applicant or current staff member. A long-term care facility, assisted living residence or continuing care facility which obtains information under this section shall prohibit the dissemination of such information for any purpose other than to further the protection of the elderly or the disabled; provided, further that dissemination among and between long term care facilities, assisted living residences or continuing care facilities shall be permitted.

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Section 172F CONVICTION AND ARREST DATA AVAILABLE TO DEPARTMENT
OF EARLY EDUCATION AND CARE

Section 172F. Notwithstanding section 172, the following information shall be available, upon request, to the department of early education and care for the purposes of evaluating any residence, facility, program, system or other entity licensed under chapter 15D whether public or private, or any non-relative, in-home child care provider that receives federal or state funding in order to further the protection of children: conviction data, arrest data, sealed record data and juvenile arrest or conviction data. The department of early education and care shall not disseminate this information for any purpose other than to further the protection of children.

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Section 172G CHILDREN'S CAMPS TO OBTAIN CRIMINAL AND JUVENILE DATA; EMPLOYEES AND VOLUNTEERS

Section 172G. Notwithstanding section 172, section 60 or 60A of chapter 119, or any other general or special law to the contrary, operators of camps for children shall obtain all available criminal offender record information and juvenile data as found in the court activity record information from the department of all employees or volunteers prior to employment or volunteer service. Information obtained under this section shall not be disseminated for any purpose other than to further the protection of children.

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Section 172H CHILDREN'S PROGRAMS TO OBTAIN CRIMINAL AND JUVENILE
DATA

Section 172H. Notwithstanding section 172 or any other general or special law to the contrary, any entity or organization primarily engaged in providing activities or programs to children 18 years of age or less, shall obtain all available criminal offender record information from the department prior to accepting any person as an employee, volunteer, vendor or contractor. Any entity or organization obtaining information under this section shall not disseminate such information for any purpose other than to further the protection of children.

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Section 172I SCHOOLS TO OBTAIN CRIMINAL RECORDS OF TAXICAB
EMPLOYEES

Section 172I. Notwithstanding section 172 or any other general or special law to the contrary, taxicab companies that have contracted to provide transportation of pupils pursuant to section 7A of chapter 71 shall submit the names of any employee who may have direct and unmonitored contact with pupils to the appropriate school committee or school superintendent prior to transporting any pupil. The school committee or superintendent shall obtain all available criminal offender record information on such employees from the department pursuant to section 38R of chapter 71.

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INFORMATION OF APPLICANTS FOR LICENSURE PURSUANT TO
CHAPTER 255F; RESTRICTION ON USE

Section 172J. Notwithstanding section 172 or any other general or special law to the contrary, the commissioner of banks may obtain all available criminal offender record information as found in the court activity record information from the department of all applicants for licensure pursuant to chapter 255F. Information obtained under this section shall not be disseminated for any purpose other than to provide mortgage protection for home owners.

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Section 172K CLIMBING WALL OR CHALLENGE COURSE PROGRAM EMPLOYEE OR VOLUNTEER PREVIOUSLY SUBJECT TO RECORD CHECK; SIMULTANEOUS APPLICATIONS FOR RECORD CHECK

Section 172K. Notwithstanding section 172 or any other general or special law to the contrary, any children's camp or school that plans to employ or accept as a volunteer for a climbing wall or challenge course program, a person who is or has previously been the subject of a record check pursuant to sections 172G, 172H, 172I or section 38R of chapter 71, shall not be required to conduct a second record check by reason of such person's employment or volunteering for a climbing wall or challenge course program, within 12 months of the previous record check. Such camp or school may either simultaneously submit to the department applications for a record check under sections 172G, 172H, 172I or section 38R of chapter 71 and this section, or use the information obtained within the prior 12 months under sections 172G, 172H, 172I or section 38R of chapter 71 for the purpose of the climbing wall or

challenge course program. If the camp or school submits simultaneous applications, the department shall conduct the most comprehensive record check required by either application, and the results of such record check shall satisfy the camp or school's obligations to request record information with respect to both job functions. The camp or school may also disseminate information obtained under this section to the department of public safety. The department shall only assess the camp or school 1 fee for simultaneous requests filed pursuant to this section. Information obtained pursuant to this section shall not be disseminated for any purpose other than to further the protection of children.

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Section 172L NAVIGATOR ORGANIZATIONS CERTIFIED BY THE
COMMONWEALTH HEALTH INSURANCE CONNECTOR UNDER
42 U.S.C. § 18031(I) REQUIRED TO OBTAIN CRIMINAL OFFENDER
RECORD INFORMATION PRIOR TO HIRING NEW EMPLOYEE

*[Text of section added by 2014, 165, Sec. 10. See also, Section 172L
added by 2014, 284, Sec. 3, below.]*

Section 172L. Navigator organizations certified by the commonwealth health insurance connector under 42 U.S.C. § 18031(i) shall obtain from the department all available criminal offender record information before accepting any person as a new employee. Navigator organizations shall obtain from the department periodically, but not less than every 3 years, all available criminal offender record information for current employees. A navigator organization obtaining information under this section shall not disseminate the information for any purpose other than for the protection of persons utilizing the services of the navigator organization.

Chapter 6: Section 172L. Person licensed pursuant to section 122 of chapter 140 required to obtain criminal offender record information prior to hiring new employee who may have direct and unmonitored contact with firearms, shotguns or rifles

[Text of section added by 2014, 284, Sec. 3 effective until March 31, 2015. Repealed by 2015, 10, Sec. 4. See also, Section 172L added by 2014, 165, Sec. 10, above.]

Section 172L. Notwithstanding section 172 or any other general or special law to the contrary, a person licensed pursuant to section 122 of chapter 140 shall obtain from the department all available criminal offender record information prior to accepting a person as an employee to determine the suitability of such employee who may have direct and unmonitored contact with firearms, shotguns or rifles. A person obtaining information pursuant to this section shall not disseminate such information for any purpose other than the further protection of public safety.

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140 REQUIRED TO OBTAIN CRIMINAL OFFENDER RECORD
INFORMATION PRIOR TO HIRING NEW EMPLOYEE WHO MAY
HAVE DIRECT AND UNMONITORED CONTACT WITH FIREARMS,
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[Text of section added by 2015, 10, Sec. 4 effective March 31, 2015.]

Section 172M. Notwithstanding section 172 or any other general or special law to the contrary, a person licensed pursuant to section 122 of chapter 140 shall obtain from the department all available criminal offender record information prior to accepting a person as an employee to determine the suitability of such employee who may have direct and unmonitored contact with firearms, shotguns or rifles. A person obtaining information pursuant to this section shall not disseminate such information for any purpose other than the further protection of public safety.

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Section 173 REGULATIONS FOR PROGRAM RESEARCH; MONITORING;
ACCESS RESTRICTED

Section 173. The commissioner may approve research programs to obtain criminal offender record information; provided, however, that said research programs shall not publish any information that either identifies or tends to identify the subject of the criminal offender record information, and the commissioner shall promulgate regulations to govern the use of criminal offender record information for purposes of program research. Such regulations shall require preservation of the anonymity of the individuals to whom such information relates, shall require the completion of nondisclosure agreements by all participants in such programs, and shall impose such additional requirements and conditions as the commissioner finds to be necessary to assure the protection of privacy and security interests.

The commissioner may monitor any such programs to assure their effectiveness. The commissioner may, if it determines that a program's continuance threatens privacy or security interests, prohibit access on behalf of any such program to criminal offender record information.

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Section 174 INTERSTATE SYSTEM FOR EXCHANGE OF RECORD
INFORMATION; SUPERVISION OF PARTICIPATION BY STATE
AND LOCAL AGENCIES; ACCESS LIMITED;
TELECOMMUNICATIONS ACCESS TERMINALS

Section 174. The board shall supervise the participation by all state and local agencies in any interstate system for the exchange of criminal offender record information, and shall be responsible to assure the consistency of such participation with the terms and purposes of sections one hundred and sixty-eight to section one hundred and seventy-eight, inclusive.

Direct access to any such system shall be limited to such criminal justice agencies as are expressly designated for that purpose by the board. Where any such system employs telecommunications access terminals, the board shall limit the number and placement of such terminals to those for which adequate security measures may be taken and as to which the board may impose appropriate supervisory regulations.

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Section 175	RIGHT OF SUBJECT TO INSPECT CRIMINAL OFFENDER RECORD INFORMATION; CORRECTION OF INACCURATE OR INCOMPLETE INFORMATION; PROCEDURE; RESTRICT

Section 175. A subject shall have the right to inspect, and if practicable, obtain a copy of all criminal offender record information from the department that refers to the subject. The commissioner shall publish and furnish, upon request, guidelines for individuals on how to correct inaccurate or incomplete information. Subject to appropriation, the department shall provide assistance to individuals that have requested assistance to correct inaccurate or incomplete criminal offender record information. Such assistance shall include but not be limited to cooperation with appropriate entities to correct, modify or appropriately supplement criminal offender record information that has been determined to be inaccurate or incomplete. If criminal offender record information is corrected by the office of the commissioner of probation or

the courts, any corrections made by such commissioner or court shall be transmitted forthwith to the department and the department's database shall reflect the corrected criminal offender record information.

Requestors shall prescribe reasonable hours and places for subjects to inspect their criminal offender record information under subsection (f) of section 172 and shall impose such additional restrictions as are reasonably necessary both to ensure the record's security and to verify the identities of those who seek to inspect them.

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Section 176 APPEAL; DE NOVO HEARING; EQUITABLE RELIEF

Section 176. Any individual or agency aggrieved by any order or decision of the board may appeal such order or decision to the superior court in the county in which he is a resident or in which the board issued the order or decision from which the individual or agency appeals. The court shall in each such case conduct a de novo hearing, and may order such relief as it finds equitable.

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Section 177 VIOLATIONS; CIVIL LIABILITY

Section 177. Any aggrieved person may institute a civil action in superior court for damages or to restrain any violation of sections one hundred and sixty-eight to one hundred and seventy-five, inclusive. If it is found in any such action that there has occurred a willful violation, the violator shall not be entitled to claim any privilege absolute or qualified, and he shall in addition to any liability for such actual damages as may be shown, be liable for exemplary damages of not less than one hundred and not more than one thousand dollars for each violation, together with costs and reasonable attorneys' fees and disbursements incurred by the person bringing the action.

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Section 178 REQUESTING OR OBTAINING CRIMINAL OFFENDER RECORD INFORMATION OR SELF-AUDIT UNDER FALSE PRETENSES; UNLAWFUL COMMUNICATION OF RECORD INFORMATION; FALSIFICATION OF RECORD INFORMATION; UNLAWFUL REQUEST OR REQUIREMENT THAT PERSON PROVIDE HIS OR HER RECORD INFORMATION; PUNISHMENT

Section 178. An individual or entity who knowingly requests, obtains or attempts to obtain criminal offender record information or a self-audit from the department under false pretenses, knowingly communicates or attempts to communicate criminal offender record information to any other individual or entity except in accordance with the provisions of sections 168 through 175, or knowingly falsifies criminal offender record information, or any records relating thereto, or who requests or requires a person to provide a copy of his or her criminal offender record information except as authorized pursuant to section 172, shall for each offense be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than \$5,000 or by both such

fine and imprisonment, and in the case of an entity that is not a natural person, the amount of the fine may not be more than \$50,000 for each violation.

An individual or entity who knowingly requests, obtains or attempts to obtain juvenile delinquency records from the department under false pretenses, knowingly communicates or seeks to communicate juvenile criminal records to any other individual or entity except in accordance with the provisions of sections 168 through 175, or knowingly falsifies juvenile criminal records, shall for each offense be punished by imprisonment in a jail or house of correction for not more than 1 year or by a fine of not more than \$7,500, or by both such fine and imprisonment, and in the case of an entity that is not a natural person, the amount of the fine may not be more than \$75,000 for each violation.

This section shall not apply to, and no prosecution shall be brought against, a law enforcement officer who, in good faith, obtains or seeks to obtain or communicates or seeks to communicate criminal offender record information in the furtherance of his or her official duties.

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Section USE OF CRIMINAL OFFENDER RECORD INFORMATION TO
1781/2 COMMIT CRIME AGAINST OR HARASS SUBJECT; PENALTY

Section 1781/2. Whoever uses criminal offender record information to commit a crime against the subject of the criminal offender record information or to engage in harassment of the subject, shall be punished by a fine of not more than \$5,000 or by imprisonment in a jail or house of correction for not more than 1 year, or by both such fine and imprisonment. For purposes of this section, "harassment" shall mean willfully and maliciously engaging in a knowing pattern of conduct or series of acts over a period of time directed at a specific person, which seriously alarms that person and would cause a reasonable person to suffer emotional distress.

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Section 178A RIGHT OF VICTIM OF CRIME, WITNESS OR FAMILY MEMBER OF
HOMICIDE VICTIM TO OBTAIN CRIMINAL OFFENDER RECORD
INFORMATION OF PERSON ACCUSED OR CONVICTED;
DISCLOSURE OF OTHER INFORMATION BY CRIMINAL JUSTICE
AGENCIES

Section 178A. A victim of crime, witness or family member of a homicide victim, all as defined by section 1 of chapter 258B, may obtain all available criminal offender record information of the person accused or convicted of said crime. Criminal justice agencies may also disclose to such persons such additional information, including, but not limited to, evaluative information, as such agencies determine is reasonably necessary for the security and well being of such persons.

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Section 178B DEATH OF OFFENDER; CESSATION OF RESTRICTIONS

Section 178B. The restrictions on the dissemination of criminal offender record information as provided in this chapter shall cease to exist at the death of the individual for whom a criminal justice agency has maintained criminal offender record information.

