****

**Background Record Checks**

**EEC BACKGROUND RECORD CHECK POLICY: Table of Disqualifying Offenses – Presumptive Disqualifications**

**DATE:** September 6, 2018

The following table of disqualifying offenses applies to all presumptive disqualifications appearing on a Massachusetts Criminal Offender Record Information (CORI) check, fingerprint-based check, or out of state criminal or fingerprint check. Each offense listed below is applicable for all Massachusetts crimes as well as the out of state equivalent as determined by EEC.

The purpose of this document is to guide EEC staff in applying EEC’s regulations.  This document is effective as of October 1, 2018, unless and until it is superseded by a new version approved by the Department’s General Counsel.  Crimes listed reflect EEC’s best understanding as of the date of issuance, and this document may be revised and updated at any time based on changes to state or federal law or EEC’s understanding of that law.  This document is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable by any person in any matter civil, criminal or administrative.

**TABLE OF DISQUALIFYING OFFENSES –**

**PRESUMPTIVE DISQUALIFICATIONS**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Offense** | **Offense Reference** | **Penalty**  **Type** | **Offense Seriousness Level** | **Max**  **H/C** | **Max**  **Prison** |
| A&B ON PUBLIC EMPLOYEE | c. 265 s. 13D | Misd. | 3 | 2 ½ years |  |
| A&B OR PROPERTY DAMAGE TO INTIMIDATE FOR RACE/RELIGION | c.265 s. 39(a) | Misd. | 3 | 2 ½ years |  |
| A&B OR PROPERTY DAMAGE TO INTIMIDATE FOR RACE/RELIGION, BODILY INJURY c. 265 s. 39(b) | c. 265 s. 39(b) | Felony | 4 |  | 5 years |
| A&B OR PROPERTY DAMAGE TO INTIMIDATE FOR RACE/RELIGION, BODILY INJURY, ARMED c. 265 s. 39(b) | c. 265 s. 39(b) | Felony | 6 | 2 ½ years | 10 years |
| ADOPTION, PROFIT FROM PLACING CHILD FOR | c. 210 s. 11A | Felony | 2 | 2 ½ years | 5 years |
| ADOPTION UNLICENSED | c. 15D s. 6(c) | Misd. | 2 | 2 ½ years | \_\_\_\_\_ |
| ANIMAL FIGHT, KEEP/PROMOTE | c. 272 s. 94 | Felony | 2 | 1 year | 5 years |
| ATTEMPT TO BURN PUBLIC BUILDING (AS ENUMERATED IN c. 266 s. 2) | c. 266 s. 5A | Felony | 4 | 2 ½ years | 10 years |
| B&E DAYTIME, ARMED, FIREARM, FOR FELONY | c. 266 s. 18 | Felony | 3,4,5 | 2 ½ years | 10 years |
| BOAT OUI - LIQUOR OR .08% OR DRUGS AND SERIOUS INJURY, RECKLESS/NEGLIGENT c. 90B s. 8A(2) | c. 90B s. 8A(2) | Felony | 4 | 2 ½ years | 10 years |
| BOAT OUI LIQUOR OR .08% OR DRUGS, 4TH OFF. c. 90B s. 8(a)(1)(A) | c. 90B s. 8(a)(1)(A) | Felony | 4 | 2 ½ years | 10 years |
| BOAT OUI LIQUOR OR .08% OR DRUGS, 5TH OFF. c. 90B s. 8(a)(1)(A) | c. 90B s. 8(a)(1)(A) | Felony | 4 | 2 ½ years | 10 years |
| BOAT OUI, LIQUOR OR .08% OR DRUGS & DEATH, RECKLESS OR NEGLIGENT c. 90B s. 8B(1) | c. 90B s. 8B(1) | Felony | 6 | 2 ½ years | 15 years |
| BURGLARY, UNARMED | c. 266 s. 15 | Felony | 5 |  | 20 years |
| BURGLARY, UNARMED, SUBSQ. OFF. | c. 266 s. 15 | Felony | 6 |  | 20 years |
| BURN BUILDING/ CONTENTS | c. 266 s. 2 | Felony | 4 | 2 ½ years | 10 years |
| BURN BUILDING/ PERSONALTY/M.V. TO DEFRAUD INSURER, OR ATTEMPT TO DO SO | c. 266 s. 10 | Felony | 4 | 2 ½ years | 5 years |
| CHILD ABUSE W/SERIOUS INJURY/DEATH, MANDATED REPORTER FL REPORT c. 119 s. 51A(c) | c. 119 s. 51A(c) | Misd. | 2 | 2 ½ years |  |
| CHILD CARE PROGRAM, ADVERTISING UNLICENSED | c. 15D s. 6(e) | Misd. | (2) | 2 ½ years |  |
| CHILD CARE PROGRAM, UNLICENSED | c. 15D s. 6(a) | Misd. | (2) | 2 ½ years |  |
| CHILD ENDANGERMENT WHILE OUI c. 90 s. 24V(a)(1) | c. 90 s. 24V(a)(1) | Misd. | 3 | 2 ½ years |  |
| CHILD LABOR VIOL. | c. 149 s. 78 | Misd. | 1 | 1 month |  |
| CHILD, PERMIT INJURY TO c. 265 s. 13J | c. 265 s. 13J | Misd. | 3 | 2 ½ years |  |
| CHILD UNDER 10, ABANDON | c. 119 s. 39 | Misd. | 2 | 2 years | \_\_\_\_\_ |
| COCAINE (c.94C s. 31(a)(4)), TRAFFICK IN c. 94C s. 32E(b)(2) - 36 to 100 g | c. 94C s. 32E(b)(2) | Felony | 6 |  | 20 years |
| COCAINE (c.94C s. 31(a)(4)), TRAFFICK IN c. 94C s. 32E(b)(3) - 100 to 200 g | c. 94C s. 32E(b)(3) | Felony | 7 |  | 20 years |
| COCAINE (c.94C s. 31(a)(4)), TRAFFICK IN c. 94C s. 32E(b)(4) - 200 or more g | c. 94C s. 32E(b)(4) | Felony | 8 |  | 20 years |
| COCAINE (c.94C s. 31(a)(4)), TRAFFICKING IN c. 94C s. 32E(b)(1) - 18 to 36 g | c. 94C s. 32E(b)(1) | Felony | 5 |  | 15 years |
| CONTRIBUTE TO DELINQUINCY OF CHILD | c. 119 s. 63 | Misd. | 2 | 1 year |  |
| CRIMINAL HARASSMENT, SUBSQ. OFF. | c. 265 s. 43A(b) | Felony | (6) | 2 ½ years | 10 years |
| DRUG, DISTRIBUTE OR POSSESS WITH INTENT, CLASS A, SUBSQ. OFF. | c. 94C s. 32(b) | Felony | 6 |  | 15 years |
| DRUG PARAPHERNALIA, SELL TO MINOR c. 94C s. 32I(b) | c. 94C s. 32I(b) | Felony | 3 |  | 5 years |
| ENTER DWELLING AT NIGHT FOR FELONY | c. 266 s. 18 | Felony | 4 | 2 years | 10 years |
| EXTORTION OR ATTEMPTS | c. 265 s. 25 | Felony | 4 | 2 ½ years | 15 years |
| FAMILY FOSTER CARE UNLICENSED | c. 15D s. 6(b) | Misd. | 2 | 2 ½ years | \_\_\_\_\_ |
| FIREARM IN FELONY, POSSESS | c. 265 s. 18B | Felony | 5 |  | 5 years |
| FIREARM IN FELONY, POSSESS, SUBSQ. OFF. | c. 265 s. 18B | Felony | 8 |  | 20 years (mand. time) |
| FIREARM IN FELONY, POSSESS, LGE CAPACITY | c. 265 s. 18B | Felony | 7 |  | 10 years |
| FIREARM IN FELONY, POSSESS, LGE CAPACITY, SUBSQ. OFF. | c. 265 s. 18B | Felony | 8 |  | 25 years (mand. time) |
| FIREARM POSSESS LARGE CAPACITY | c. 260 s. 10(m) | Felony | 5 | 2 ½ years | 10 years |
| FIREARM SALE TO MINOR/ALIEN | c. 140 s. 130 | Felony | 4 | 2 ½ years | 10 years |
| FIREARMS, TRAFFICKING IN 3-9 | c. 269 s. 10E | Felony | 5 | \_\_\_\_\_\_ | 10 years |
| FIREARMS, TRAFFICKING IN 10-19 | c. 269 s. 10E | Felony | 6 | \_\_\_\_\_\_ | 10 years |
| FIREARMS, TRAFFICKING IN +19 | c. 269 s. 10E | Felony | 8 | \_\_\_\_\_\_ | Life |
| FOSTER HOME PLACEMENT UNAPPROVED | c. 15D s. 6(d) | Misd. | 2 | 2 ½ years | \_\_\_\_\_ |
| GAMING ENTERPRISE, MANAGE | c. 271 s. 16A | Felony | 5 |  | 15 years |
| GLUE TO MINOR, SELL UNLAWFULLY | c. 270 s. 19 | Misd. | 1 | 6 months | \_\_\_\_\_ |
| HEROIN/MORPHINE/OPIUM, TRAFFICK IN c. 94C s. 32E(c)(1) - 18 to 36 g | c. 94C s. 32E(c)(1) | Felony | 6 |  | 20 years |
| HEROIN/MORPHINE/OPIUM, TRAFFICK IN c. 94C s. 32E(c)(2) - 36 to 100 g | c. 94C s. 32E(c)(2) | Felony | 7 |  | 20 years |
| HEROIN/MORPHINE/OPIUM, TRAFFICK IN c. 94C s. 32E(c)(3) - 100 to 200 g | c. 94C s. 32E(c)(3) | Felony | 7 |  | 20 years |
| HEROIN/MORPHINE/OPIUM, TRAFFICK IN c. 94C s. 32E(c)(4) - 200 or more g | c. 94C s. 32E(c)(4) | Felony | 8 |  | 20 years |
| HYPODERMIC FOR DRUGS, SELL TO MINOR | c. 94C s. 27 | Misd. | 3 | 1 year | \_\_\_\_\_ |
| HYPODERMIC FOR DRUGS, SELL TO MINOR, SUBSQ. OFF. | c. 94C s. 27 | Misd. | 4 | 2 years | \_\_\_\_\_ |
| LARCENY FROM PERSON +65, SUBSQ. OFF. | c. 266 s. 25 | Felony | 5 | 2 ½ years | 5 years |
| LEWDNESS, OPEN AND GROSS | c. 272 s. 16 | Felony | 2 | 2 years | 3 years |
| MACHINE GUN/SAWED-OFF SHOTGUN, POSSESS | c. 269 s. 10(c) | Felony | 5 | 2 ½ years | Life |
| MANSLAUGHTER | c. 265 s. 13 | Felony | 6,8 | 2 ½ years | 20 years |
| MANSLAUGHTER WHILE OUI | c. 265 s. 13 ½ | Felony | 8 | \_\_\_\_\_\_ | 20 years |
| METHAMPHETAMINE (c. 94C s. 31(c)(2)), TRAFFICKING IN c. 94C s. 32E(b)(1) - 18 to 36 g | c. 94C s. 32E(b)(1) | Felony | 5 |  | 15 years |
| METHAMPHETAMINE (c. 94C s. 31(c)(2)), TRAFFICK IN c. 94C s. 32E(b)(2) - 36 to 100 g | c. 94C s. 32E(b)(2) | Felony | 6 |  | 20 years |
| METHAMPHETAMINE (c. 94C s. 31(c)(2)), TRAFFICK IN c. 94C s. 32E(b)(3) - 100 to 200 g | c. 94C s. 32E(b)(3) | Felony | 7 |  | 20 years |
| METHAMPHETAMINE (c. 94C s. 31(c)(2)), TRAFFICK IN c. 94C s. 32E(b)(4) - 200 g or more | c. 94C s. 32E(b)(4) | Felony | 8 |  | 20 years |
| MOTOR VEH HOMICIDE OUI LIQUOR OR .08% OR DRUGS | c. 90 s. 24G(b) | Misd. | 4 | 2 ½ years | \_\_\_\_\_ |
| OBSCENE MATTER, DISTRIBUTE | c. 272 s. 29 | Felony | 1 | 2 ½ years | 5 years |
| OBSCENE MATTER, DISTRIBUTE, 2ND AND SUBSQ. OFF. | c. 272 s. 29 | Felony | 2 | 2 ½ years | 5 years |
| OUI LIQUOR OR .08% OR DRUGS & SERIOUS INJURY | c. 90 s. 24L(2) | Misd. | 3 | 2 ½ years | \_\_\_\_\_ |
| PHENMETRAZINE, TRAFFICKING IN c. 94C s. 32E(b)(1) - 18 to 36 g | c. 94C s. 32E(b)(1) | Felony | 5 |  | 15 years |
| PHENMETRAZINE, TRAFFICK IN c. 94C s. 32E(b)(2) - 36 to 100 g | c. 94C s. 32E(b)(2) | Felony | 6 |  | 20 years |
| PHENMETRAZINE, TRAFFICK IN c. 94C s. 32E(b)(3) - 100 to 200 g | c. 94C s. 32E(b)(3) | Felony | 7 |  | 20 years |
| PHENMETRAZINE, TRAFFICK IN c. 94C s. 32E(b)(4) - 200 g or more | c. 94C s. 32E(b)(4) | Felony | 8 |  | 20 years |
| PHOTOGRAPH OF UNSUSPECTING NUDE PERSON, DISSEMINATE | c. 272 s. 105(c) | Felony | 4 | 2 ½ years | 5 years |
| POISONING, ATTEMPTED | c. 265 s. 28 | Felony | 7 | \_\_\_\_\_\_ | Life |
| PRISON GUARD HAVE SEX RELATIONS W/ PRISONER | c. 268 s. 21A | Felony | 5 | \_\_\_\_\_\_ | 5 years |
| RECKLESS ENDANGERMENT TO CHILDREN | c. 265 s. 13L | Misd. | (3) | 2 ½ years |  |
| SEXUAL CONDUCT, PAY FOR | c. 272 s.53A(b) | Misd. | (3) | 2 ½ years |  |