



The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES
STATE HOUSE, BOSTON 02133-1054

FRANK I. SMIZIK
15TH NORFOLK DISTRICT
ROOM 274, STATE HOUSE

CHAIRMAN
House Committee on:
Global Warming and Climate Change

TEL: (617) 722-2676

E-MAIL: Rep.FrankSmizik@hou.state.ma.us

Testimony of Representative Frank I. Smizik
Presented to the Joint Committee on the Judiciary
In support of H3523/S1608

An Act to Reform CORI, Restore Economic Opportunities, and Improve Public Safety

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What is the problem:

While CORI is an essential tool for law enforcement, it is clear that our current criminal records system requires significant improvement. The stated purpose of the CORI system upon its inception was to encourage the re-integration of criminals who had paid their debt to society. However, the system has had the opposite effect.

As the system stands now, people who are arrested, but never convicted, are still entered into a database that is much too widely available. There are currently 2.8 million CORI reports in the Criminal History Systems Board Database (the population of Massachusetts is 6.4 million). The types of parties who can now access CORI records has expanded from its' original purpose, as these records were meant to aid law enforcement officials while still protecting individual privacy. However, this information is increasingly used by numerous companies and individuals to disqualify people from employment opportunities and exclude them from benefits and services.

Currently, anyone in this system, even those who have not been found guilty of any wrongdoing, are at a disadvantage when looking for a job, applying to college, or finding a place to live. These challenges make it exceedingly difficult for individuals to re-integrate into society because they are effectively held back by their past. Making matters worse, CORI data employers pay to see are often out-dated or wrong, but workers have limited rights to challenge the accuracy of those records.

Finally, CORI records follow people for their whole lives. Individuals who make mistakes as juveniles can end up paying for these mistakes as adults, finding themselves with decreased opportunities to improve their lives.

What this bill does:



While making it easier for employers to access CORI reports, this bill also protects the rights of ex-offenders. Employers will be required to obtain a waiver from the record-holder to access a report. Subsequently, the record-holder has a right to review the record and contest its relevancy *prior* to an employment decision based on that record. Additionally, the bill creates an economic incentive for employers to not use “the box” in the form of a reduced fee.

By making criminal history available to potential employers on the Internet, the Commonwealth will remove the mystery and uncertainty from the CORI system. Employers will have access to all sex crimes and homicides, felony convictions will be sealed after seven years, and misdemeanors will be sealed after three years, provided there is no subsequent offense. The state will charge a fee for any employer to access a CORI report. Because this system will be facilitated by a state agency, record subjects will receive notification of who has accessed their criminal history report.

With this bill employees will always know when their CORI is considered and they will always have a chance to contest its relevance. Under this bill, records will seal automatically after 3 and 7 years for misdemeanors and felonies, respectively. The old CORI system did not have an automatic sealing function.

Meanwhile, employers will pay a reasonable price for access to records, and that fee will be dedicated in-part to maintaining the online database by the state. In addition, better regulation and more clarity in the system provides employers with some protection from negligent hiring suits because their background checks will be directly from the Massachusetts database.

This bill also includes fair hiring provisions that prohibit employers to acquire into an applicant’s criminal history only after they decide the individual is qualified for the job and make a conditional offer, as well as forbid an employer from basing employment decisions on certain criminal record information, such as any arrest that did not result in conviction.

Why it is important:

I believe that a comprehensive reform of our CORI system is necessary, and that this bill levels the playing field for employers and employees by creating a clear and fair system. This bill reforms the CORI system in three major areas: 1) the bill improves accessibility and accuracy by creating an online database maintained by the state, 2) expands the rights of ex-offenders by imposing various limitations on inquiries, and 3) creates state revenue by charging a fee to employers who obtain CORIs. Not only will this bill improve record accessibility for employers, but it also goes a long way to protect the rights of employees.

We should be promoting rehabilitation, instead of focusing solely on punitive measures. I am indeed a supporter of H3523/S1608, as I believe it is a commonsense reform to the CORI system.

I respectfully urge the Joint Committee on the Judiciary to report favorably on H3523/S1608 “*An Act to Reform CORI, Restore Economic Opportunities, and Improve Public Safety*”.