

DRAFT
FOR DISCUSSION ONLY

UNIFORM ~~ACT ON~~ COLLATERAL CONSEQUENCES OF CONVICTION ACT

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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Without Prefatory Notes or Comments

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ON UNIFORM STATE LAWS

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~~February 24~~ April 27, 2009

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UNIFORM ~~ACT ON~~ COLLATERAL CONSEQUENCES OF CONVICTION ACT

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1 **UNIFORM ~~ACT ON~~ COLLATERAL CONSEQUENCES OF CONVICTION ACT**

2
3 **SECTION 1. SHORT TITLE.** This [act] may be cited as the Uniform ~~Act on~~
4 Collateral Consequences of Conviction Act.

5 **SECTION 2. DEFINITIONS.** In this [act]:

6 (1) “Collateral consequence” means a collateral sanction or a disqualification.

7 (2) “Collateral sanction” means a penalty, disability, or disadvantage, however
8 denominated, imposed on an individual as a result of the individual’s conviction for an offense
9 that applies by operation of law whether or not it is included in the judgment or sentence. The
10 term does not include imprisonment, probation, parole, supervised release, forfeiture, restitution,
11 fine, assessment, or costs of prosecution.

12 ~~——(3) (3) “Decisionmaker” means the state acting directly or through its departments,~~
13 ~~agencies, officers, or instrumentalities, including municipalities, political subdivisions,~~
14 ~~educational institutions, boards, or commissions, or their employees[, and government~~
15 ~~contractors, including subcontractors, made subject to this [act] by contract, by law other than~~
16 ~~this [act], or ordinance].~~

17 ~~——(4) “Disqualification” means a penalty, disability, or disadvantage, however~~
18 ~~denominated, that an administrative agency, governmental official, or a court in a civil~~
19 ~~proceeding is authorized, but not required, to impose on an individual on grounds relating to the~~
20 ~~individual’s conviction for an offense.~~

21 ~~(45) “Offense” means a felony, misdemeanor, or [insert term for lesser offenses and other~~
22 ~~adjudications in enacting state], when referring to] under the law of this state, or, when referring~~
23 ~~to the law of another state, or the United States,. The term includes a felony, misdemeanor or~~

1 ~~lesser offense under the law of that jurisdiction. [A juvenile adjudication is a conviction for an~~
2 ~~offense if the adjudication authorizes or imposes collateral consequences.]~~

3 (6) "Person" means an individual, corporation, business trust, estate, trust, partnership,
4 limited liability company, association, joint venture, public corporation, government or
5 governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

6 **SECTION 3. LIMITATION ON SCOPE.** This [act] does not:

7 (1) provide a basis for:

8 (A) invalidating a sentence, conviction, or plea;

9 (B) a cause of action for money damages; or

10 (C) a claim for relief from or defense to the application of a collateral
11 consequence based on ~~non-compliance~~ a failure to comply with Section 4, 5, or 6; or

12 (2) affect:

13 (A) the duty an individual's attorney owes to the individual;

14 (B) any claim or right held by a victim of an offense; or

15 (C) rights or relief under law other than this [act] available to an individual
16 convicted of an offense.

17 **SECTION 4. IDENTIFICATION, COLLECTION, AND PUBLICATION OF**
18 **LAWS REGARDING COLLATERAL CONSEQUENCES.**

19 (a) The [designated governmental agency or official]:

20 (1) shall identify or cause to be identified any provision in this state's
21 Constitution, statutes, and administrative rules that imposes a collateral sanction or authorizes the
22 imposition of a disqualification, and any provision of law that may afford relief from them;

23 (2) within [insert number of days] after the effective date of this [act], shall collect

1 or cause to be collected citations to, and the text or short descriptions of, the provisions identified
2 under paragraph (1);

3 (3) shall update or cause to be updated the collection within [specify period] after
4 each [regular session] of the [legislature]; and

5 (4) in complying with paragraphs (1) and (2), may rely on the study of this state's
6 collateral sanctions, disqualifications, and relief provisions prepared by the National Institute of
7 Justice described in Section 510 of the Court Security Improvements Act of 2007, Pub. L. 110-
8 177.

9 (b) The [designated governmental agency or official] shall include or cause to be
10 included the following statements in a prominent manner at the beginning of the collection
11 described in subsection (a):

12 (1) This collection has not been enacted into law and does not have the force of
13 law.

14 (2) An error or omission in this collection is not a reason for invalidating a
15 sentence, conviction, or ~~a~~ plea or for not imposing a collateral sanction or disqualification.

16 (3) The laws of the United States, other jurisdictions and [insert term for local
17 governments] impose additional collateral sanctions and disqualifications not listed in this
18 collection.

19 (4) This collection does not include any law or other provision regarding a
20 collateral sanction or a disqualification, or relief from them, enacted or adopted after the
21 collection was prepared or last updated.

22 (c) The [designated governmental agency or official] shall publish, or cause to be
23 published, the collection, created and updated as required under subsection (a). The collection

1 must be available to the public on the Internet without charge within [insert number] of [] days
2 after it is created or updated.

3 **SECTION 5. NOTICE OF COLLATERAL CONSEQUENCES IN PRETRIAL**
4 **PROCEEDING.**

5 (a) At or before arraignment ~~or other judicial proceeding at which an individual is~~
6 ~~formally advised of the potential sentence~~ for an offense with which the individual is charged,
7 [the designated government agency or official] shall communicate to the individual information
8 substantially similar to the following notice:

9 **NOTICE OF ADDITIONAL LEGAL CONSEQUENCES**

10 If you are convicted of an offense you may suffer additional legal consequences beyond
11 imprisonment, [probation] [insert jurisdiction's alternative term for probation], periods of [insert
12 term for post-incarceration supervision], and fines. These consequences may include:

- 13 • being unable to get or keep some licenses, permits, or jobs;
- 14 • being unable to get or keep benefits such as public housing or education;
- 15 • receiving a ~~higher~~longer sentence if you are convicted of another offense in the
16 future;
- 17 • having the government take your property; and
- 18 • being unable to vote or possess a firearm.

19 If you are not a United States citizen, conviction may also result in your deportation, removal,
20 exclusion from admission to the United States, or denial of citizenship.

21 The law may provide ways to obtain some relief from these consequences. Further
22 information about the consequences of conviction is available on the Internet at ~~[list website~~
23 ~~indicating where~~(insert Internet web address of the collection ~~described in~~of laws published

under Section 4(c) ~~can be found~~)).

**SECTION 6. NOTICE OF COLLATERAL ~~SANCTIONS AND~~
~~DISQUALIFICATIONS~~ CONSEQUENCES AT SENTENCING OR UPON RELEASE.**

(a) An individual convicted of an offense must be given notice:

(1) that collateral sanctions and disqualifications may apply because of the conviction;

(2) of ~~where in~~ the Internet web address of the collection of ~~relevant~~ laws published under Section 4(c) ~~can be found~~);

(3) that there may be ways to obtain relief from collateral sanctions and disqualifications;

(4) of contact information for government or nonprofit agencies, groups, or organizations, if any, offering assistance to individuals seeking relief from collateral sanctions and disqualifications; and

(5) of when an individual convicted of a crime may vote under this state's law.

(b) The [designated government agency or official] shall provide the information in ~~Paragraph~~ subsection (a) at sentencing if an individual is not sentenced to imprisonment or other incarceration. If an individual is sentenced to imprisonment or other incarceration, the officer or agency releasing the individual shall provide the information in ~~Paragraph~~ subsection (a) not more than [30] days, and, if practicable, at least [10] days before release.

**SECTION 7. AUTHORIZATION REQUIRED FOR COLLATERAL SANCTION;
APPLYING DISQUALIFICATION; CONSTRUCTION IN CASE OF AMBIGUITY.**

(a) ~~The state acting directly or through its departments, agencies, officers, or instrumentalities, including municipalities, political subdivisions, educational institutions,~~

1 ~~boards, or commissions, or their employees may impose~~ A collateral sanction may be imposed
2 only ~~pursuant to by~~ statute or ordinance, or ~~pursuant to by~~ a rule authorized by law and adopted in
3 accordance with [insert citation to State Administrative Procedure Act or any other applicable
4 law].

5 (b) In deciding whether to disqualify an individual, a decisionmaker shall undertake an
6 individualized assessment of whether the particular facts and circumstances involved in the
7 offense indicate that the applicant is presently unqualified for the opportunity or benefit at issue.
8 In making that decision, a decisionmaker may not consider the fact of a conviction itself, but
9 may consider the facts and circumstances involved in the offense, if such facts and circumstances
10 are substantially related to the benefit or opportunity. The decisionmaker shall also consider
11 other relevant information, including whether the individual has been granted relief such as an
12 order of limited relief from collateral sanctions or a certificate of restoration of rights.

13 (c) If a law is ambiguous as to whether creating a collateral consequence is ambiguous as
14 to whether it imposes a collateral sanction or authorizes a disqualification, it must be construed
15 as a disqualification.

16 **SECTION 8. EFFECT OF CONVICTION BY ANOTHER STATE OR THE**
17 **UNITED STATES; VACATED OR PARDONED CONVICTION.**

18 (a) For purposes of ~~imposing or~~ authorizing or imposing collateral consequences in this
19 state, a conviction for an offense in a court of another state or the United States is deemed a
20 conviction of the offense in this state with ~~identical~~the same elements. If there is no offense in
21 this state with ~~identical~~the same elements, the conviction is deemed a conviction ~~for of~~ the most
22 serious offense in this state which is ~~necessarily~~ established by the elements of the offense. An
23 offense graded as a misdemeanor in the jurisdiction of conviction ~~may not be deemed a felony~~

1 in this state, and an offense graded below a misdemeanor in the jurisdiction of conviction may
2 not be deemed a conviction of a crime in this state, ~~and an offense graded as a misdemeanor in~~
3 ~~the jurisdiction of conviction may not be deemed a felony in this state.~~ A juvenile adjudication
4 in another state or the United States may not be deemed a felony, misdemeanor, or offense below
5 a misdemeanor in this state, but may be deemed a juvenile adjudication for the juvenile violation
6 in this state with the same elements. If there is no juvenile violation in this state with the same
7 elements, the juvenile adjudication is deemed an adjudication of the most serious juvenile
8 violation in this state which is established by the elements of the juvenile adjudication.

9 (b) A conviction that is reversed, overturned, ~~set aside,~~ or otherwise vacated by ~~order of~~ a
10 court of competent jurisdiction of this state, another state, or the United States on grounds other
11 than rehabilitation or good behavior, ~~is~~ may not ~~deemed a conviction in this state and is not~~ serve
12 as the basis for authorizing or imposing a collateral consequence in this state.

13 (c) A pardon issued by another state or the United States ~~, or an order of a court of~~
14 ~~competent jurisdiction of another state or the United States expunging, sealing, annulling, setting~~
15 ~~aside, or otherwise vacating a conviction on grounds of rehabilitation or good behavior,~~ has the
16 same effect for purposes of ~~imposing,~~ authorizing, imposing, and relieving collateral
17 consequences in this state as it has in the issuing jurisdiction.

18 ——— (d) A charge **ALTERNATIVE A**

19 (d) A conviction that has been expunged, sealed, annulled, set aside, or otherwise
20 vacated by a court of competent jurisdiction of another state or the United States on grounds of
21 rehabilitation or good behavior, or for which civil rights were restored pursuant to statute, has the
22 same effect for purposes of authorizing, imposing, and relieving collateral consequences in this
23 state as it has in the jurisdiction of conviction, except that vacation or restoration of civil rights

does not relieve collateral consequences applicable under the law of this state for which relief could not be granted under Section 11, or for which relief was expressly withheld by the court order or by the law of the jurisdiction that vacated the conviction. An individual convicted in another jurisdiction may seek relief under Section 9 or 10 from any collateral consequence for which relief was not granted in the issuing jurisdiction, other than those listed in Section 11, and the [designated board or agency] shall consider that the conviction was vacated or civil rights restored in deciding whether to issue an order or certificate.

ALTERNATIVE B

(d) A conviction that has been expunged, sealed, annulled, set aside, or otherwise vacated by a court of competent jurisdiction of another state or the United States on grounds of rehabilitation or good behavior, or for which civil rights were restored pursuant to statute, is deemed a conviction for purposes of authorizing or imposing collateral consequences in this state as provided in subsection (a). An individual convicted in another jurisdiction may seek relief under Section 9 or 10 from any authorized or imposed collateral consequence, other than those listed in Section 11, and the [designated board or agency] shall consider that the conviction was vacated or civil rights restored in deciding whether to issue an order or certificate.

(e) A charge or prosecution in any jurisdiction that has been finally terminated without a judgment of conviction and imposition of sentence, based on ~~the defendant's~~ participation in a deferred prosecution or diversion program, ~~is may~~ not ~~deemed~~ serve as the basis for authorizing or imposing a conviction collateral consequence in this state. This subsection ~~shall~~ does not affect the validity of any restrictions or conditions imposed by law as part of participation in the deferred prosecution or diversion program, either before or after the termination of the charge or prosecution.

1 **SECTION 9. ORDER OF LIMITED RELIEF FROM COLLATERAL**
2 **SANCTIONS.**

3 ~~(a) Except as provided in Section 11, (a)~~ An individual convicted of an offense may
4 petition for an order of limited relief from one or more collateral sanctions related to
5 employment, education, housing, public benefits, or occupational licensing. The petition may be
6 presented to the:

7 (1) ~~the~~ sentencing court at or before sentencing; or

8 (2) ~~the~~ [designated board or agency] at any time after sentencing.

9 (b) Except as otherwise provided in Section 11, the court or the [designated board or
10 agency] may ~~grant a petition requesting relief, and~~ issue an order ~~of limited relief, from~~ relieving
11 one or more of the collateral sanctions described in subsection (a) if, after reviewing the record,
12 including the individual's criminal history ~~and any other evidence that would constitute a~~
13 ~~reasonable ground warranting {grant or} denial of the petition, and any,~~ any filing by a
14 prosecutor or victim under Section 14, and any other relevant evidence, it finds the individual
15 has established by a preponderance of the evidence that:

16 (1) granting the petition will materially assist the individual in obtaining or
17 maintaining employment, education, housing, public benefits, or occupational licensing;

18 (2) the individual has substantial need for the relief requested in order to live a
19 law-abiding life; and

20 (3) granting the petition would not pose an unreasonable risk to the safety or
21 welfare of the public or any individual.

22 (c) The order must specify:

23 ~~(c) An order of limited relief from collateral sanctions must specify:~~

1 (1) the particular collateral ~~sanctions~~ sanction from which relief is granted; and

2 (2) any restrictions imposed pursuant to Section 12(~~da~~).

3 (d) Issuance of an order ~~of limited relief~~ relieves a collateral sanction to the extent
4 provided in the order, ~~permitting the individual to be considered for the relevant employment,~~
5 ~~education, housing, occupational licensing, or public benefit on the same basis as any other~~
6 ~~applicant, but the decisionmaker.~~ A decision maker may consider the conduct ~~resulting~~
7 ~~in underlying~~ the conviction ~~if directly related to the opportunity or benefit sought. in the same~~
8 manner as provided in Section 7(b).

9 **SECTION 10. CERTIFICATE OF RESTORATION OF RIGHTS.**

10 (a) An individual convicted of an offense may petition the [designated board or agency]
11 for a certificate of restoration of rights relieving collateral sanctions not sooner than [five] years
12 after the individual's most recent conviction of a felony [or misdemeanor] in any jurisdiction, or
13 [five] years after the individual's release from confinement pursuant to a criminal sentence in
14 any jurisdiction, whichever is later.

15 (b) Except as otherwise provided in Section 11, the [designated board or agency] may
16 ~~grant a certificate of restoration of rights if it finds that~~ issue a certificate if after reviewing the
17 record, including the individual's criminal history, any filing by a prosecutor or victim under
18 Section 14, and any other relevant evidence, it finds the individual has established by a
19 preponderance of the evidence that

20 (1) the individual is engaged in, or seeking to engage in, a lawful occupation or
21 activity, including employment, training, education, or rehabilitative programs ~~or, if the~~
22 ~~individual is retired or disabled, that the individual, or otherwise~~ has a lawful source of support;

23 (2) the individual ~~hasis~~ not ~~violated~~ in violation of the terms of any criminal

1 sentence, or that any failure to comply is justified, involuntary, or insubstantial;

2 (3) no criminal charges are pending against the individual; and

3 (4) granting the petition would not pose an unreasonable risk to the safety or
4 welfare of the public or any individual.

5 (c) A certificate ~~of restoration of rights~~ must specify any restrictions imposed and
6 collateral sanctions from which relief has not been granted under Section 12(da).

7 (d) Issuance of a certificate ~~of restoration of rights~~ relieves all collateral sanctions, except those
8 ~~specified in the certificate and those~~ listed in Section 11, ~~permitting the individual to be~~
9 ~~considered for a benefit or opportunity on the same basis as~~ and any other applicant, ~~but the~~
10 ~~decision maker~~ others specifically excluded in the certificate. A decisionmaker may consider the
11 conduct ~~resulting in the conviction if it is determined to be so closely related to the opportunity~~
12 ~~or benefit at issue that it renders the individual unqualified. In making this determination, the~~
13 ~~decision maker may conduct any investigation it considers necessary, may require that an~~
14 ~~individual applying for an opportunity furnish copies of court records or other relevant~~
15 ~~information, and shall consider:~~

16 ~~_____ (1) the individual's age when the offense was committed;~~

17 ~~_____ (2) the time since commission of the offense and since release from any custody;~~

18 ~~_____ (3) the length and consistency of the individual's work history, including whether~~
19 ~~the individual has a recent record of consistent employment;~~

20 ~~_____ (4) the individual's education and training;~~

21 ~~_____ (5) the facts underlying the conviction and their relation, if any, to the duties or~~
22 ~~functions of the opportunity;~~

23 ~~_____ (6) the individual's other criminal history, if any, and rehabilitation and conduct~~

1 ~~since the offense, including the individual's receipt of an order of limited relief from collateral~~
2 ~~sanctions, a certificate of restoration of rights, a pardon, or other relief; and~~

3 ~~_____ (7) whether other individuals who engaged in the same manner as~~
4 ~~provided in similar prohibited conduct, whether or not convicted, have been or would be~~
5 ~~excluded on the ground that they present an unreasonable risk. Section 7(b).~~

6 ~~_____ (e) If a certificate of restoration of rights is issued and unrevoked at the time of decision,~~
7 ~~the underlying conviction is inadmissible as evidence that a decisionmaker was negligent or~~
8 ~~otherwise at fault for hiring, retaining, licensing, leasing to, admitting to a school or program, or~~
9 ~~otherwise transacting business or engaging in activity with the individual to whom the certificate~~
10 ~~was issued.~~

11 **SECTION 11. SANCTIONS NOT SUBJECT TO ORDER OF LIMITED RELIEF**
12 **~~FROM COLLATERAL SANCTIONS~~ OR CERTIFICATE OF RESTORATION OF**
13 **RIGHTS.** An order of limited relief from collateral sanctions or certificate of restoration of
14 rights may not be issued to relieve the following collateral sanctions:

15 (1) requirements imposed by [insert citation to state's "Megan's Law" enacted pursuant
16 to 42 U.S.C. Section 14071 or its associated regulations];

17 (2) a motor vehicle license suspension, revocation, limitation, or ineligibility pursuant to
18 [insert citation to state DWI laws], or a motor vehicle license suspension, revocation, limitation,
19 or ineligibility pursuant to [insert citation to provision providing for license suspension for traffic
20 offenses], for which restoration or relief is available pursuant to [insert citation to occupational,
21 temporary, and restricted licensing provisions]; [or]

22 (3) ineligibility for employment ~~with a law enforcement agency [as defined in pursuant~~
23 ~~to [insert reference to other law defining references to laws restricting employment of convicted~~

individuals with law enforcement agencies ~~including the attorney general, prosecutors' offices,~~
police departments, sheriffs' departments, the ~~state police,~~ and, or the ~~department of~~
corrections[.] [; or

(4) ineligibility pursuant to [insert references to ~~constitutional provisions~~ constitutionally
created collateral sanctions which the legislature has no power to remove, such as those
removing or suspending officeholders based on criminal charge or conviction.]

**SECTION 12. PROCEDURES FOR ISSUANCE, MODIFICATION, AND
REVOCATION, OF ORDERS OF LIMITED RELIEF ~~FROM COLLATERAL~~
~~SANCTIONS~~ AND CERTIFICATES OF RESTORATION OF ~~RIGHTS; VICTIMS'~~
RIGHTS.**

(a) ~~The [designated board or agency] shall give notice of the filing of~~ When a petition is
filed under Section 9 or 10, including a petition for an enlargement of an existing order of limited
relief from collateral sanctions ~~under Section 9, or for a~~ or certificate of restoration of rights
~~under Section 10, to,~~ the [designated board or agency] shall notify the office that prosecuted the
offense ~~for giving rise to the collateral consequence from~~ which ~~the order or certificate relief~~ is
sought; and, if the conviction was not obtained in a court of this state, ~~to~~ the [Office of the
Attorney General of this state or an appropriate prosecuting office in this state]. ~~If a petition for~~
~~an order of limited relief from collateral sanctions is filed with the sentencing court, applicable~~
~~rules of court govern notice. Any prosecutor so notified, and any other prosecuting agency in~~
~~this state, may participate in the process by which~~ The court or ~~the~~ [designated board or agency]
considers the petition.

—— (b) ~~Before issuing a~~ may issue an order or certificate subject to restriction, condition, or
additional requirement. When issuing, denying, modifying, or revoking an order or ~~certificate of~~

1 ~~restoration of rights~~, the [designated board or agency] ~~shall order preparation of a report of the~~
2 ~~type required before sentencing an individual convicted of a felony. The court or~~ may impose
3 conditions for reapplication.

4 (b) The [designated board or agency] may ~~order any test, report, investigation, or~~
5 ~~disclosure by the individual it believes necessary to its decision. If there are disputed issues of~~
6 ~~fact or law material to the decision, the individual and the prosecutor shall have the opportunity~~
7 ~~to submit evidence and be heard on those issues before decision.~~

8 ~~—— (c) The court or the [designated board~~ restrict ~~or agency] may grant any relief to which~~
9 ~~the individual is entitled, even if the individual did not request that relief. The [designated board~~
10 ~~or agency] may modify an order of limited relief from collateral sanctions issued previously by a~~
11 ~~court or by the [designated board or agency], or a certificate of restoration of rights issued~~
12 ~~previously by the [designated board or agency] on petition of the individual or the state. A~~
13 ~~petition for additional relief not included in an earlier order or certificate may be granted if the~~
14 ~~individual satisfies the requirements for the additional relief under Section 9(b) or Section 10(b).~~

15 ~~—— (d) The court or [designated board or agency] may grant relief subject to restriction,~~
16 ~~condition or additional requirement. If relief is denied, the [designated board or agency] may~~
17 ~~condition reapplication on satisfaction of additional requirements.~~

18 ~~—— (e) The [designated board or agency] may revoke an order for relief from collateral~~
19 ~~sanctions, or a certificate of restoration of rights, it previously issued or an order issued by a court~~
20 ~~in whole or part, this state if it finds just cause by a preponderance of the evidence that just cause~~
21 ~~exists for revocation.~~ Just cause includes subsequent conviction of the holder for a felony in this
22 state, or for an offense in another jurisdiction that ~~would be~~ is deemed a felony in this state under
23 Section 8(a). An order of restriction or revocation may be ~~entered~~ issued:

(1) ~~sua sponte or by on~~ motion of ~~a~~ the [designated board or agency] or the office of the prosecutor in this state; that obtained the conviction, or a government agency designated by that prosecutorial office;

(2) after notice to the individual to whom the order or certificate was issued and any other prosecutor that has appeared in the matter; and

(3) after a hearing pursuant to rules adopted under the [insert reference to the state administrative procedure act] if requested by the individual or the prosecutor who made the motion or any prosecutor that has appeared in the matter.

~~(f)~~ The [designated board or agency] ~~may adopt rules for application, determination, modification, and revocation of orders for relief from collateral sanctions and certificates of restoration of rights, in accordance with the provisions of [insert reference to state administrative procedure [act]]. The [designated board or agency] is not bound~~ shall order any test, report, investigation, or disclosure by the rules of evidence except those on privileges. individual it reasonably believes necessary to its decision to issue, modify or revoke an order or certificate. If there are material disputed issues of fact or law, the individual and any prosecutor notified under subsection (a) or another prosecutorial agency designated by a prosecutor notified under subsection (a) shall have the opportunity to submit evidence and be heard on those issues.

(d) The [designated board or agency] shall maintain a public record of the ~~application, determination~~ issuance, modification, and revocation of orders ~~of relief from collateral sanctions~~ and certificates. The system of restoration records of ~~rights~~ the [state criminal justice record agency] shall include ~~in its system of records~~ issuance, modification, and revocation of orders ~~of limited relief from collateral sanctions and certificates.~~

(e) The [designated board or agency] may adopt rules for application, determination,

modification, and revocation of orders and certificates ~~of restoration of rights, in accordance~~
with the provisions of [insert reference to state administrative procedure [act]].]

~~—(g) An individual holding an order of limited relief from collateral sanctions or a
certificate of restoration of rights may seek a declaration that a policy imposing a collateral
consequence is invalid because in conflict with this [act]. An individual who shows that an
opportunity was denied in violation of this [act] may seek an order that the individual's
application be reconsidered in accordance with this [act].~~

**[SECTION 13. RELIANCE ON ORDER OR CERTIFICATE AS EVIDENCE OF
DUE CARE.** In a judicial or administrative proceeding alleging negligence or other fault, an
order of limited relief from collateral sanctions or a certificate of restoration of rights may be
introduced by a ~~decisionmaker~~person as evidence of the ~~decisionmaker's~~person's due care in
hiring, retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting
business or engaging in activity with the individual to whom the order was issued, if the
~~decisionmaker had knowledge~~person knew of the order or certificate at the time of the alleged
negligence or other fault.~~.]~~

SECTION 14. VICTIM'S RIGHTS. A victim of an offense ~~shall has the right to be~~
~~notified of, and~~may participate in, proceedings for issuance, modification, and revocation of
orders of limited relief from collateral sanctions and certificates of restoration of rights [in the
same manner as at a sentencing proceeding pursuant to [insert citation to state crime victim's
act]] [to the extent permitted by rules adopted by the [designated board or agency]].

SECTION 15. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In
applying and construing this uniform act, consideration must be given to the need to promote
uniformity of the law with respect to its subject matter among states that enact it.

1 **SECTION 16. SAVINGS AND TRANSITIONAL PROVISIONS.**

2 (a) This [act] applies to collateral consequences whenever enacted or imposed, unless the
3 law creating the collateral consequence expressly states that this [act] does not apply.

4 (b) This [act] does not invalidate the imposition of a collateral sanction on an individual
5 before [the effective date of this [act]], but a collateral sanction validly imposed before [the
6 effective date of this [act]] may be the subject of relief under this [act].

7 **SECTION 17. EFFECTIVE DATE.** This [act] takes effect . . .