



THE UNIFORM COLLATERAL CONSEQUENCES OF CONVICTION ACT

- A Summary -

Concern about the impact of collateral consequences has grown in recent years as the numbers and complexity of these consequences have mushroomed and the U.S. prison population has grown. Collateral consequences are the penalties, disabilities, or disadvantages imposed on a person as a result of a conviction of an offense. Examples of collateral consequences include the denial of government issued licenses or permits, ineligibility for public services and public programs, and the elimination or impairment of civil rights. A real concern exists on a societal level that collateral consequences may impose such harsh burdens on convicted persons that they will be unable to reintegrate into society.

Judges and lawyers are frequently unaware of collateral consequences that will likely have a substantial impact upon a defendant. Few jurisdictions provide a reliable way of avoiding or reducing these collateral sanctions based solely on conviction even years after the fact. Even fewer give decision-makers useful guidance in applying discretionary disqualifications on a case-by-case basis, or a measure of protection against liability. Jurisdictions are frequently at a loss about how to treat relief granted by other jurisdictions.

The Uniform Collateral Consequences of Conviction Act (UCCCA) is an effort to improve public and individual understanding of the nature of this problem and, in appropriate circumstances, to provide partial relief from these disabilities to people who suffer from them. The UCCCA requires all collateral consequences contained in state laws and regulations, and provisions for avoiding or lessening them, be collected in a single document. This document must include both collateral sanctions (automatic bars) and disqualifications (discretionary penalties). In fulfilling their obligations under the UCCCA, jurisdictions will be assisted by the federally-financed effort to compile collateral consequences for each jurisdiction, which was authorized by the Court Security Act of 2007.

The UCCCA also mandates that defendants must be notified about collateral consequences at important points in a criminal case:

- 1) At or before formal notification of charges, so a defendant can make an informed decision about how to proceed;
- 2) At sentencing; and
- 3) When leaving custody, so that a defendant can behave and conduct themselves in accordance with the law.

The act further states that trial courts must confirm that the defendant has received and understood the notice of collateral consequences and had an opportunity to discuss them with defense counsel. The UCCCA also provides standards for disqualifications. A decision-maker will be able to retain the ability to disqualify a person based on a criminal conviction, but only if it is determined that based on individual assessment, the essential elements that a state must prove in order to prove

that a person is guilty of a crime; or the particular facts and circumstances involved, are substantially related to the benefit or opportunity at issue.

Under the UCCCA, convictions that have been overturned or pardoned, including convictions from other jurisdictions, may not be the basis for imposing collateral consequences. Charges dismissed pursuant to deferred prosecution or diversion programs will not be considered a conviction for purposes of imposing collateral consequences. The act gives jurisdictions a choice about whether to give effect to other forms of relief granted by other jurisdictions based on rehabilitation or good behavior.

The act creates two different forms of relief, one to be available as early as sentencing in order to facilitate reentry (Order of Limited Relief) and the other after a period of law-abiding conduct (Certificate of Restoration of Rights). An Order of Limited Relief permits a court or agency to lift the automatic bar of a collateral sanction, leaving a licensing agency or public housing authority, for example, free to consider whether to disqualify an individual based on the facts and circumstances at issue. A Certificate of Restoration of Rights offers potential public and private employers, landlords and licensing agencies, concrete and objective information about an individual under consideration for an opportunity or benefit, and a degree of assurance about that individual's progress toward rehabilitation. A Certificate of Restoration of Rights will thereby facilitate the reintegration of individuals whose behavior demonstrates that they are making efforts to behave in accordance with the law.

The UCCCA is largely a procedural act, designed to rationalize and clarify policies and provisions that are already widely accepted in many states. The act is vital to creating judicial fairness and providing an opportunity for convicted individuals to reintegrate themselves into society.

For further information about the UCCCA, please contact ULC Legislative Program Director Katie Robinson at (312) 450-6600 or krobinson@uniformlaws.org.