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AFTER THE SENTENCE, MORE CONSEQUENCES: A NATIONAL REPORT OF BARRIERS TO WORK

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Introduction

The negative effects of a conviction rarely end when a person has completed their criminal sentence. A complex web of local, state, and federal statutes and regulations—known as collateral consequences of conviction—can make it all but impossible for some people with criminal records to truly rebuild their lives. While these consequences can affect everything from housing to public benefit eligibility, no area is more impacted than the ability to find and retain meaningful employment. Some of these barriers to work may be responsive to legitimate public safety concerns, but many others pose unnecessary barriers to employment opportunities that are critical in reducing recidivism and supporting the long-term success of people in the justice system.

In this report, The Council of State Governments (CSG) Justice Center presents a national overview of the scope, features, and operation of the employment-related collateral consequences imposed by state and federal law. The data were gathered from the National Inventory of Collateral Consequences of Conviction (NICCC), a searchable online database that catalogs these provisions across the country. This analysis also provides a blueprint for policymakers seeking to mitigate the impact of these increasingly significant barriers to work.

Overview of the NICCC

The [NICCC](#) was originally launched by the American Bar Association in 2013 as the result of a national study commissioned by the U.S. Congress.¹ In 2018, the CSG Justice Center overhauled the structure and functionality of the database, making it easier for users and policymakers to identify and understand the consequences cataloged in the database.

Now operated by the American Institutes for Research as part of the National Reentry Resource Center, the database catalogs and describes over 40,000 collateral consequences imposed by statutory and regulatory provisions from all 50 states; the federal system; Puerto Rico; Washington, DC; and the U.S. Virgin Islands. Not strictly limited to employment, these consequences also affect access to housing, education, public benefits, and other rights, benefits, and opportunities. Across the 53 non-federal jurisdictions included in the database, the average number of consequences per jurisdiction is nearly 750; this is in addition to the 950 federal consequences that apply across the board, making the average

number of active consequences closer to 1,700 per jurisdiction. (This figure does not account for consequences imposed by the ordinances of local municipalities, which are not included in the NICCC and have not yet been the subject of comprehensive analysis.)

The NICCC can be searched in a number of different ways, including by jurisdiction, consequence type, or offense.² For each consequence, the NICCC provides a brief description of the consequence, its legal citation, and a variety of attributes that describe the scope and operation of the consequence, including

- Specific types of rights, benefits, and opportunities the consequence impacts;
- Categories of offenses that may trigger the imposition of the consequence;
- Whether the consequence must be imposed or may be imposed subject to the discretion of a decision-maker; and
- Whether the consequence lasts indefinitely or for a finite period of time.

The NICCC also includes direct links to the statutory and regulatory text that imposes each consequence, and lists similar and duplicative consequences together, making it easier for users to review the current law in its full context and gain a better understanding of the nuances and interplay among specific consequences.

While the NICCC helps users identify the consequences that may apply to an individual with a specific conviction, it can also be used to generate high-level overviews of particular types of consequences. For example, policymakers and advocates can use the database to easily identify all of the employment-related consequences that must be imposed by one or more jurisdictions upon a person's conviction for any felony offense. Those consequences and their attributes can then be analyzed to identify specific areas for further evaluation or reform.

The Significance of Collateral Consequences

Before exploring the scope and operation of employment-related consequences, it is useful to place them in the context of the broader universe of collateral consequences. Although collateral consequences have existed since the United States' inception,³ they have become increasingly significant in recent decades due to a number of factors:

- More people than ever, particularly people of color, are subject to collateral consequences. Rising rates of incarceration and increased criminalization have caused dramatic growth in the portion of the U.S. population with criminal conviction records and, in turn, the portion of the population subject to collateral consequences. In the past 40 years, there has been a 500-percent increase in the number of people serving time in state and federal prisons.⁴ Millions of Americans have a criminal record of some sort.⁵ The number of people with felony conviction records was estimated to be as high as 25 million in 2010,⁶ and the portion of the population with misdemeanor conviction records—which, like felony records, often trigger collateral consequences—is likely much higher, although the exact number remains unknown.⁷ For the growing number of Americans with convictions, collateral consequences pose significant barriers to long-term success while providing little public benefit in instances where those consequences do not further legitimate public safety concerns.

Long-standing racial disparities within the criminal justice system also mean that the burdens of collateral consequences are far more likely to be shouldered by communities of color.⁸ According to the Bureau of Justice Statistics, the black federal prison population was almost six times the size of the white population in 2016, and the Latino population was almost three times the size of the white population.⁹ Research has also shown that black men between the ages of 18 and 19 are 11.8 times more likely to be incarcerated than white men of the same age, and black women of any age are twice as likely to be imprisoned as white women.¹⁰ The impact of collateral consequences on communities of color—particularly consequences that limit access to employment opportunities—only exacerbates existing economic disparities.¹¹

- The number of collateral consequences has grown significantly. As the number of people with convictions has grown, so too has the number of consequences imposed by state and federal law. The rise of collateral consequences, especially those that impact employment opportunities, can be partially attributed to an increase in state regulatory power over occupations, professions, and employment. This authority has been particularly exemplified by the increase of occupational and professional licensure requirements: in the late 1940s, less than 5 percent of the U.S. workforce required a state-issued license to perform their job; by 2015, that number had risen to 25 percent.¹² New collateral consequences also proliferated during the “tough on crime” era that began in the early 1980s.¹³ Although attitudes toward second chances for people with criminal histories have shifted dramatically since then, few jurisdictions have scrutinized collateral consequences. As a result, many consequences remain in effect despite the fact that they no longer align with current policy priorities or research that demonstrates the negative effects they may have on public safety, the economy, and communities.
- Collateral consequences remain obscure and are increasingly complex. Because collateral consequences are civil in nature—and not part of a person’s criminal punishment—they are generally imposed without the involvement of sentencing courts and are not referenced alongside the state and federal laws that govern criminal offenses or procedure. Instead, they are scattered throughout various portions of state statutory and regulatory codes, making it difficult for a person to identify all of the consequences that may stem from a conviction for a particular crime in a particular jurisdiction. In a single state, employment barriers may be embedded in a state’s civil service code, trade and occupations code, and any other place that regulates business practices. And because collateral consequences are not criminal, they are generally implemented by state agencies through obscure and often complex administrative policies and internal practices that may drastically alter their operation and impact.

National Landscape of Employment-Related Collateral Consequences

No area is more impacted by collateral consequences than the opportunity to work. Collateral consequences that limit employment opportunities account for over 70 percent of the 40,000-plus consequences cataloged in

the NICCC (see Figure 1). Each of these employment-related consequences represents the potential loss of opportunity for an otherwise qualified worker with a criminal conviction and the potential loss of a valuable employee for employers seeking to fill positions in high-demand fields and industries.

Employment-related consequences impact a broad variety of jobs, from accounting to plumbing, either by limiting the ability of employers to hire people with certain convictions or by limiting access to licenses and other similar credentials necessary for work. And, as with all other consequences, those related to employment vary widely in how they operate and whom they impact.

The breadth of these consequences raises important policy concerns given what research has shown about the individual, social, and economic costs of the underemployment and decreased earning potential of people with criminal histories. One study estimated that formerly incarcerated men work nine fewer weeks per year and take home 40 percent less annual pay than those who have not been incarcerated, resulting in an average earnings loss of nearly \$179,000 by age 48.¹⁴ Studies have also demonstrated that employment is a key factor in reducing recidivism. Research has found that twice as many people who were employed after reentering the community avoided further justice system involvement after two years, as compared to people who were not employed after release.¹⁵ Employment also promotes strong families and communities¹⁶ and supports economic growth at the local and national levels—underemployment of people with criminal records has been estimated to cost the U.S. between \$78.1 and \$86.7 billion a year in unearned revenue.¹⁷ These economic losses are felt by society as a whole since diminished earning potential leads both to shrinking local and national tax bases and to increased reliance on public assistance funded by those very bases.¹⁸

FIGURE 1

MOST COLLATERAL CONSEQUENCES IMPACT EMPLOYMENT OPPORTUNITIES



Scope of Employment-Related Consequences

Consequences related to employment take many forms, but there are three broad ways they can impact opportunities to work (see Figure 2):

1. Limitations on hiring or retaining workers

These policies, which account for more than 10,000 of the employment-related consequences in the NICCC, either require employers to reject or terminate applicants or employees convicted of certain offenses, or strongly imply that they should do so.¹⁹ Direct limitations on hiring or retaining workers are most common in the realm of public employment or appointment to public office, but they also frequently apply to private employment in jobs where employees are required to have significant contact with vulnerable populations such as children or the elderly.²⁰

In the public sector, these types of consequences often ban outright the hiring of people with certain convictions for certain jobs. The Kentucky law governing who can serve as a city firefighter provides one of the most direct examples of this type of consequence, stating plainly that “[n]o person convicted of a felony is eligible for appointment.”²¹

In the private sector, consequences related to hiring and retention often apply in a less direct way. Instead of prohibiting the hiring of employees with particular convictions outright, laws regulating private sector employment frequently create strong disincentives to hiring while still technically permitting it. Often these laws require or authorize state agencies to revoke or suspend the business license of an employer that hires people with certain records. In New Mexico, for example, a license to operate an adolescent mental health facility may be revoked or suspended if the facility employs a person convicted of “a felony or misdemeanor including a misdemeanor involving moral turpitude.”²²

Functionally, these “indirect” consequences are nearly indistinguishable from policies that directly prohibit hiring or retention since no rational employer would hire a person if doing so would mean jeopardizing the license to operate their business.²³ But because they technically penalize employers rather than workers, these consequences can be especially difficult for workers, reentry service providers, and policymakers to identify and understand. (The NICCC captures all of these indirect consequences and categorizes them the same as more direct employment-related consequences.)

2. Limitations on occupational and professional licensing

Over 13,000 of the consequences cataloged in the NICCC limit the ability of otherwise eligible workers to obtain occupational or professional licensure necessary to perform certain jobs. The impact of these consequences is large given that one in four U.S. workers is now required to obtain licensure, certification, or a similar credential to practice their occupation or profession.²⁴ (About 50 occupations and professions require licensure by every state. Across the country, there are approximately 800 occupations and professions that require licensure in one or more states.²⁵) Many of these consequences impact some of the most in-demand jobs, with a large number of them impacting the health care sector, one of the fastest-growing employment sectors in the country.²⁶

Many states give most of their occupational and professional licensing boards and agencies broad authority to deny, suspend, or revoke licenses due to an applicant's criminal conviction.²⁷ In South Carolina, for example, state law authorizes most occupational and professional licensing boards to "cancel, fine, suspend, revoke, or restrict the authorization to practice of an individual who . . . has been convicted of or has pled guilty to or [no contest] to a felony or a crime involving drugs or moral turpitude."²⁸ As in most states, South Carolina's general authority to deny a license based on conviction is compounded by more specialized laws pertaining to particular types of licenses, such as the state's law governing licensing of anesthesiology assistants that requires "revocation, suspension, probation, reprimand, restrictions, or denial of a license" if an applicant has been convicted of a felony or a crime involving moral turpitude or drugs.²⁹

The NICCC data suggest that, in the private sector, licensing barriers have at least as great an impact as consequences that explicitly affect hiring and retention. Consequences limiting the ability of private employers to hire are generally confined to jobs where employees with certain convictions could pose an immediately identifiable risk to the public (such as industries involving contact with vulnerable populations and businesses where employees would have fiduciary duties), but licensing consequences tend to affect a wide variety of licensed occupations and professions, even those that do not involve any immediately identifiable risk to the public. Barriers to barber and cosmetology licensing are often cited as examples of consequences with a tenuous relationship to public safety, but many other licensing consequences, including those affecting fields such as HVAC installation and service, are susceptible to similar criticism.

3. Limitations on business licensure and participation

Being employed does not necessarily mean being an “employee,” and this is becoming true for more people with the expansion of the “gig economy” and the rise of non-traditional contract work. These new entrepreneurial work structures are exemplified by rideshare companies like Uber and Lyft, where contract drivers work on their own schedule with minimal supervision, often while holding other full- or part-time jobs. For people with convictions, though, creating their own jobs, whether through piecemeal contract work or starting a business of their own, may be more of a necessity than a choice given the barriers to traditional employment they face, in the form of both collateral consequences imposed by law and informal, stigma-based discrimination.

FIGURE 2
*CONSEQUENCES IMPACT EMPLOYMENT OPPORTUNITIES
IN THREE MAJOR WAYS*

TYPE / NUMBER OF CONSEQUENCES	
OCCUPATIONAL & PROFESSIONAL LICENSING	13,787
BUSINESS LICENSING	11,137
HIRING & RETENTION	10,658

For these reasons, reentry service providers and advocates recognize that expanding access to self-employment and entrepreneurial opportunities is an important part of encouraging successful reentry and reducing recidivism.³⁰ But opportunities for self-employment, entrepreneurship, and business participation are not without their own legal hurdles. Over 11,000 collateral consequences limit the ability of people with certain convictions to get or retain a business license; to participate in a business as an investor, officer, or director; or work in “self-employed” contract positions—including driving for so-called “transportation network providers” like Uber and Lyft, who are now required by the statutes of most states to screen out applicants with certain convictions.³¹

THE RELATIONSHIP BETWEEN STATE AND FEDERAL POLICY

The relationship between federal and state law can be complicated when it comes to understanding employment-related collateral consequences. Occupational, professional, and business licensing is almost exclusively a function of the states, and they have broad latitude with regards to regulating private hiring and retention. But there are many fields and industries, even those that are licensed by the state, where federal policy prerogatives have an enormous impact due to state reliance on federal funding.

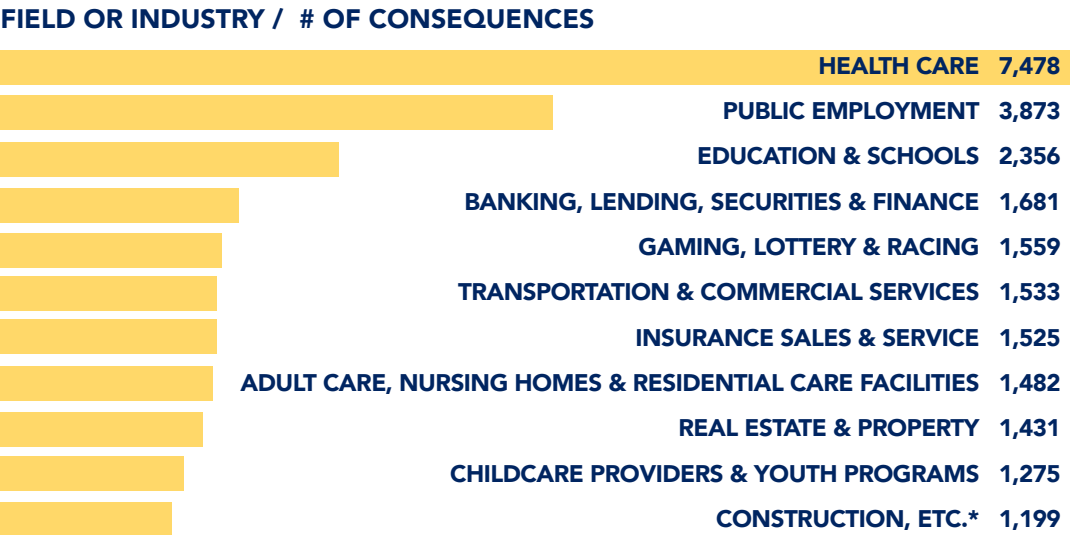
This is illustrated by the 2014 changes to the federal statute governing the distribution of Child Care and Development Block Grants, a federal program that distributes over \$2.5 billion to the states each year to support childcare and child welfare programs. With the 2014 changes, access to the funding became conditioned on state implementation of comprehensive new screening standards for childcare workers with convictions. The standards call for the exclusion of people with convictions for violent crimes and drug offenses (states were permitted to waive the drug exclusion).³² The end result was the proliferation of a fairly uniform set of state-level childcare worker screening laws, all of which were aligned with federal priorities, but not directly enforced or administered by the federal government. Federal priorities are enforced by state law in other areas as well: federal highway grants have long dictated the convictions upon which states must base commercial motor vehicle licensure eligibility, for example.

Fields and Industries Impacted by Employment-Related Consequences

The NICCC identifies nearly 80 narrowly defined fields and industries that are impacted by employment-related collateral consequences. Common to most of these fields and industries is the fact that they tend to be subject to general government regulation even apart from any consideration of criminal conviction. Although few industries are regulated for the sole purpose of excluding individuals convicted of crimes, such exclusions tend to follow once the law authorizes state regulation of a particular field or industry to achieve broader policy priorities, such as ensuring that a person has the knowledge to safely and properly perform a particular job.³³

Unsurprisingly, it is the fields and industries where the state exerts the most control—such as health care—that are impacted the most by collateral consequences (see Figure 3).³⁴ On the other hand, fields and industries not heavily regulated by state law, such as customer service, general food service, software development, and many others remain almost entirely unaffected by employment-related consequences.

FIGURE 3
FIELDS MOST IMPACTED



* Includes construction, improvement & repair, engineering, plumbing, HVAC, surveying, design & architecture

The fact that collateral consequences are generally limited to fields and industries already subject to broad regulation does not mean that the range of jobs affected by them is small. On the contrary, most states regulate a broad array of industries, from interior design to plumbing, and many of these tend to be fields where job growth, pay, and upward mobility are relatively high.

It is important to note that the number of collateral consequences that impact a particular field or industry does not necessarily correlate with the number of workers that may be impacted. For example (and as touched upon above), when it comes to indirect consequences that impair the business licenses of employers that hire people with certain convictions, it is often only higher-level positions—such as manager, officer, or director positions—that are impacted by the consequence, not employees at large.³⁵ And the consequences that affect high-level positions will only impact a small subset of the workforce with convictions, since the disparities that generally exist between the education level of people who have convictions and those who do not mean that people with convictions are statistically less likely to be qualified for those higher-level positions. (In part, these disparities may be impacted by other, education-related collateral consequences and stigma-based discrimination that often result from a conviction.)

At the same time, a single collateral consequence can have an enormous impact on the ability of convicted individuals to obtain employment at any level in certain fields or industries. For example, there is only one provision of law in Connecticut that directly imposes a collateral consequence on workers in the automotive repair industry,³⁶ but it states that the commissioner of motor vehicles may deny, suspend, or revoke the automotive repair license of any person convicted of an offense “involving fraud, larceny or deprivation or misappropriation of property.” This single provision of law subjects all licensed automotive repairers to a barrier that can be based on a broad variety of convictions, from bank robbery to writing a bad check. Ultimately, the impact of collateral consequences on a particular field comes down to the scope and operation of each individual consequence, which vary widely within and among various fields, industries, and jurisdictions.

ROADBLOCKS ON CAREER PATHWAYS

Although collateral consequences may have a disproportionate impact on employment opportunities that require relatively high levels of education and/or experience (particularly in fields such as health care, banking, and teaching), their impact may still be felt by people with disqualifying convictions that do not presently meet the general qualifications for those higher-level positions.

Finding stable and meaningful employment is as much about viable long-term career options and pathways to economic mobility as it is about immediate economic needs; and collateral consequences that limit access to jobs that require moderate or high levels of experience or education can significantly limit the incentives to pursuing lower-level work in the same field or industry. From an employer's perspective, barriers to higher-level employment strongly disincentivize the hiring and retention of workers at lower-level positions if their ability to advance and assume greater job responsibilities would be limited by a past conviction.

Operation of Employment-Related Consequences

The operation of employment-related collateral consequences varies widely, even within the same fields and industries. The NICCC uses three key attributes to describe the operation of a collateral consequence: (1) whether the consequence must be imposed in all instances where a person has a disqualifying conviction or may be imposed at the discretion of a decision-maker; (2) whether it lasts indefinitely or for a finite period of time; and (3) which categories of offenses may give rise to the consequence. These key attributes describe the basics of who can work where and when.³⁷

1. Mandatory versus discretionary consequences

Collateral consequences, particularly those related to employment, do not always take the form of outright bans on employment or licensure. Those that do are generally referred to as “mandatory” consequences because they require employers, licensing boards, and other decision-makers to deny opportunities to people with specified disqualifying convictions or otherwise absolutely prohibit people with certain convictions from working in certain jobs. Nebraska’s statute governing pawnbroker permits illustrates the typical requirement of a mandatory consequence: “No permit shall be issued to any applicant who has been convicted of a felony.”³⁸ Mandatory consequences represent less than half of the employment-related consequences cataloged in the NICCC (see Figure 4).

FIGURE 4

JUST OVER HALF OF CONSEQUENCES ARE SUBJECT TO THE DISCRETION OF DECISION-MAKERS



The remaining consequences are “discretionary,” meaning that the law authorizes an employer, licensing body, or other entity to take adverse action against a person with a particular conviction but does not require that it do so. For example, the Florida statute governing licensure of medical telecommunications and transportation providers states that “[t]he

department may deny, suspend, or revoke a license, certificate, or permit . . . for . . . the conviction in any court in any state or in any federal court of a felony.”³⁹ (As is often the case, the Florida statute provides no guidance with respect to which felonies should be disqualifying or how a particular felony should be evaluated to determine whether the consequence is appropriate.)

It is not uncommon for the distinction between mandatory and discretionary consequences to be unclear. Consequences that appear mandatory on their face may be discretionary in practice if the types of offenses that trigger the consequence are not clearly defined. For example, laws that mandate the exclusion of workers with vaguely defined categories of convictions, such as “any offense related to the practice of nursing,” require decision-makers to exercise discretion in determining which specific offenses are related to the practice of nursing. Disqualifying offenses that are not defined by state law may also allow a decision-maker to consider convictions beyond those envisioned by lawmakers. Mandatory disqualifications for undefined “crimes of violence” or “crimes of moral turpitude” are among the most common examples of offenses susceptible to interpretation that can be fairly narrow or exceedingly broad.

THE ROLE OF BACKGROUND CHECKS

Among the 56 percent of discretionary employment-related consequences are over 3,700 provisions of law that authorize criminal background checks of applicants or employees/licensees, but do not dictate what action a decision-maker must take based upon the criminal history that the checks may reveal. Without stating so, these “background check-only” provisions imply that criminal history should be a factor in an employment or licensing decision.⁴⁰ Although employers seem increasingly receptive to hiring people with criminal convictions, research has consistently shown that job applicants are at a clear disadvantage when an employer is aware of their criminal history.⁴¹ Even if the criminal history of an applicant is not ultimately taken into account, the mere existence of a background check (or a requirement that applicants disclose their convictions) may have the effect of deterring workers with criminal histories from even applying due to the assumption that their conviction will be disqualifying.⁴²

2. Duration of effect

Unlike a person's criminal sentence, the collateral consequences of a conviction often have no clear end date. Eighty-three percent of employment-related consequences disqualify individuals with convictions for either a permanent or undefined ("indefinite") period of time (see Figure 5). Unless a person seeks and receives relief from these consequences—in the form of expungement, executive pardon, or administrative waiver, for example—a person subject to an employment-related collateral consequence will usually be subject to it for life, or at least until the consequence is removed from the law.

Just 17 percent of employment-related collateral consequences are explicitly limited in the duration of their effect. These include disqualifications from employment or licensure that last for a period of months or years, with the period usually beginning on the date a person completes their sentence, including terms of probation or parole. They also include license suspensions and other similar impairments that last for a limited time period beginning on the date at which the impairment is imposed.⁴³

FIGURE 5

THE OVERWHELMING MAJORITY OF EMPLOYMENT-RELATED CONSEQUENCES PERSIST INDEFINITELY



3. Offenses that trigger employment-related collateral consequences

Employment-related collateral consequences may be imposed for both misdemeanors and felonies, and it is not uncommon for many of the offenses that trigger a particular consequence to have no clear relationship to public safety in the context of the job at issue. In addition to determining which consequences a person may be subject to, the specific offense that a person was convicted of will often determine whether a consequence is mandatory or time limited. For example, Nevada law authorizes denial of a permit to operate a charter bus if a person has been convicted of a non-sexual felony offense in the previous five years, but provides that a felony sex offense can always be a basis for denial.⁴⁴

Although employment-related consequences can be triggered by a range of offenses, there are certain categories of offenses that are more likely to give rise to employment-related barriers than others (see Figure 6). At the top of this list are offenses classified as felonies by state or federal law. Half of the employment-related consequences in the NICCC may be triggered by a conviction for “any felony,”⁴⁵ a category that includes convictions for a range of crimes, many of which have no clear relationship to the job a person is seeking to perform. While employers, licensing entities, and other decision-makers often have discretion to hire or license a person with a potentially disqualifying felony, 40 percent of mandatory employment-related consequences are triggered by “any felony” conviction.

Broader still are consequences that may be triggered by any conviction, whether a felony or a misdemeanor; these “any crime” consequences account for nearly a quarter of all employment-related consequences in the NICCC. However, they tend to be either discretionary or limited to employer or licensing board notification requirements and barriers to fast-track or provisional licensing. Among the 23 percent of consequences that may be triggered by “any crime” are also those triggered by categories of crimes that are so ambiguously defined that any offense may fall within the category. These include consequences triggered by “crimes indicating a lack of good moral character,” those indicating “a lack of fitness to practice” a particular trade or occupation, and those triggered by any offense “related to” the practice of a particular occupation or profession.

FIGURE 6

CONSEQUENCES ARE TRIGGERED BY A BROAD VARIETY OF OFFENSES

TRIGGERING OFFENSES CATEGORY* / PERCENTAGE OF EMPLOYMENT-RELATED OFFENSES TRIGGERED BY CATEGORY**



Figure Notes:

**Note that a consequence assigned to a triggering offense category like “controlled substances offenses” may be triggered by only one specific type of controlled substance offense in the jurisdiction, not necessarily all controlled substance offenses.*

***Many consequences are triggered by more than one category of offenses, resulting in the sum of the percentages displayed exceeding 100%.*

When it comes to categories of offenses that are more specifically defined, those that may have the most direct implications for physical safety—crimes of violence and sex offenses—are less prevalent in the overall number of consequences than one may assume. Consequences explicitly triggered by crimes of violence or sex offenses account for only 10 percent of the employment-related consequences in the NICCC. (However, those crimes will often be accounted for when a consequence is triggered by broader categories of offenses like “any felony”).⁴⁶

More common are offenses that may suggest a risk to property and/or financial loss. Just over 30 percent of all employment-related consequences are explicitly triggered by one or more crimes involving fraud, dishonesty, misrepresentation, or money laundering.

Sixteen percent of employment-related consequences may be triggered by one or more controlled substances offenses. Although many of these impact jobs in which a person has access to controlled substances or jobs in the transportation industry (where collateral consequences are often triggered by controlled substance offenses that involved a motor vehicle), the nexus between a controlled substance offense and the relevant job,

field, or industry is often unclear. For example, the South Carolina law discussed on page 9 authorizes most occupational and professional licensing boards (including the board of architectural examiners, board of barber examiners, board of funeral service, manufactured housing board, and many others) to deny, suspend, or revoke a license for any “crime involving drugs.”⁴⁷

Apart from the types of triggering offenses discussed above, there are a variety of narrowly defined regulatory offenses⁴⁸ that fall into categories such as “public corruption” and “motor vehicle” offenses. Fifteen percent of employment-related collateral consequences are explicitly and exclusively triggered by offenses that fall within these other categories.

CONNECTIONS TO GENERAL RELIEF PROVISIONS AND OTHER LAWS AND POLICIES

The negative impact that collateral consequences can have on a person’s ability to thrive in the community, recidivism rates and public safety, and the local and national economy have not gone unnoticed by state or federal policymakers. Many states have enacted record clearance mechanisms, such as sealing and expungement, that offer direct relief from the imposition of many employment-related collateral consequences.⁴⁹ Other legal mechanisms, such as “certificates of relief” that effectively convert mandatory consequences into discretionary ones are available in a number of states, including Colorado, New York, North Carolina, Ohio, Tennessee, and five others.⁵⁰ Recent years have also seen a significant increase in the number of states that have enacted “fair licensing” laws that limit the types of offenses that a licensing body may consider when making discretionary determinations based on a person’s criminal history. In the past two years alone, states including Arizona, California, Indiana, Kansas, and New Hampshire have enacted broad new licensing legislation that limits the types of convictions that can be considered, generally by requiring boards to evaluate the relationship between a particular conviction and the activity being licensed before issuing a denial.⁵¹

(Continued)

CONNECTIONS TO GENERAL RELIEF PROVISIONS AND OTHER LAWS AND POLICIES
(Continued)

All of these mechanisms frequently act as qualifiers to the scope and operation of most employment-related consequences. A barrier described as indefinite in duration may no longer be so once a person's criminal record is expunged. A barrier described as mandatory may be discretionary as applied to an applicant that has received a certificate of relief. And the statutory authority of a licensing body to consider any criminal conviction of an applicant may be restricted by broader superseding statutory authority that limits the types of convictions that may be considered.

CONSIDERATIONS FOR POLICYMAKERS

The volume of data contained in the NICCC—even when limited to employment-related consequences—is substantial, but the laws the NICCC catalogs and digests are often more nuanced than a rigid system of categorization can fully reflect. Still, the broad trends discernable through a high-level analysis of the NICCC data raise a number of important considerations for policymakers and suggest the need for a thorough examination of employment-related collateral consequences and their impact. The guidance that follows is designed to help states maximize employment opportunities for people with convictions by ensuring that the impact of employment-related collateral consequences is no broader than necessary to protect against legitimate risks to public safety.

1. Limit mandatory collateral consequences.

Individualized consideration of applicants and their criminal history has become the foundational concept behind recent “fair chance” hiring and licensing policies and campaigns, including “ban-the-box policies,”⁵² limitations on consideration of criminal history in licensing,⁵³ and the continued implementation of the Equal Employment Opportunity Commission’s guidance on the use of criminal records in employment.⁵⁴ Yet nearly half of all employment-related collateral consequences are mandatory and imposed automatically without regard to the specifics of the offense, how it relates to the job at hand, and whether the person has been sufficiently rehabilitated. Jurisdictions should limit mandatory consequences only to those instances where a particular conviction will always raise significant public safety concerns in the context of a particular job.

2. Promote fair, consistent, and transparent application of discretionary consequences.

While discretionary consequences are inherently more flexible than their mandatory counterparts, they often remain subject to broad interpretation

and implementation that may lead to the disqualification of workers whose convictions do not suggest a significant public safety risk. Many states have recognized the need for limits on broad discretionary authority, particularly in the licensing context. As discussed above, several states now require public employers and licensing boards to thoughtfully determine the relationship between a particular conviction and the particular job before denying a job or license to an otherwise qualified applicant. In making these determinations, public employers and boards are often required to consider time since conviction, the nature of the offense, and other relevant factors.

Requirements for public employers and licensing boards to consider the rehabilitation of applicants with convictions are also increasingly common. For example, Oklahoma’s licensing law, enacted in 2019, requires decision-makers to consider statements provided by the applicant that describe “additional information . . . including, but not limited to, information about his or her current circumstances, the length of time since conviction and what has changed since the conviction, evidence of rehabilitation, testimonials or personal reference statements and his or her employment aspirations.”⁵⁵

States should also take steps to encourage transparent application of discretionary consequences. A number of states now require licensing boards to provide applicants who are denied because of their conviction a written statement detailing the specific reasons for that denial.⁵⁶ These policies require decision-makers to consider the applicant and their crime and articulate why the characteristics of the applicant and the crime warrant a denial authorized by law. The statement may also be used by the applicant to challenge an unfavorable determination through administrative or judicial processes that may allow the applicant to present evidence that demonstrates their fitness and/or rehabilitation.

3. Limit the potential deterrent effects of discretionary consequences.

Legal limits on discretion are useful even when employers and licensing boards take a favorable view toward applicants with convictions, since they clarify the role that convictions will play in the decision-making process. Absent such clarification, discretionary consequences have the potential to deter potential applicants who would be reluctant to invest the time and money necessary to meet job qualifications without an understanding

of how their conviction will factor into the process and whether it will ultimately result in rejection. Jurisdictions interested in limiting the deterrent effects of discretionary consequences should also consider whether state-developed applicant resources and application materials clearly communicate how an applicant's conviction will be considered and what its impact may be. Jurisdictions should also consider whether application materials require overbroad disclosure of criminal history and limit questions about criminal history only to the types of convictions that public employers and licensing boards are authorized to consider.

To further address the potential deterrent effects of discretionary consequences, many states have implemented licensing "pre-qualification" processes for people with convictions.⁵⁷ These policies allow a person to ask a licensing body at any time, even prior to beginning necessary training or education, for a determination about whether their particular criminal history will disqualify them. This allows individuals to work toward licensure and plan their career trajectory with greater certainty about the ultimate outcome of their efforts.⁵⁸

4. Limit the offenses that trigger a consequence to those that indicate an increased risk to public safety for the particular job.

Collateral consequences are ostensibly justified as regulations necessary to protect public safety, but the breadth of offenses that trigger them seem to suggest that the connection between past conviction, current public safety risk, and the duties and responsibilities of a job is not always particularly strong. Jurisdictions may wish to review the offenses that trigger each collateral consequence to determine whether they have clear public safety implications in the context of the job at issue.

Jurisdictions should also identify and reevaluate ambiguously defined categories of triggering offenses like "crimes of moral turpitude," "crimes involving violence," and "offenses indicating a lack of moral character." Many state licensing laws now include provisions that prohibit licensing bodies from using such terms, and some require licensing entities to list in their regulations each of the specific criminal offenses that may be a basis for adverse action. For example, provisions recently added to Kansas's general licensing law provide that "in no case shall non-specific terms, such as moral turpitude or good character . . . be used to disqualify an

individual's application for licensure, certification or registration."⁵⁹ The law also requires that "any person, board, commission or similar body that determines the qualifications of individuals for licensure, certification or registration shall revise their existing requirements to list the specific civil and criminal records that could disqualify an applicant from receiving a license, certification or registration."⁶⁰ Listed convictions must be "directly related to protecting the general welfare and the duties and responsibilities for such entities."⁶¹

5. Limit the duration of time that consequences remain in effect.

Studies suggest that time since conviction and/or completion of sentence is among the most significant factors in determining whether a person convicted of a crime will recidivate or pose a risk to public safety or welfare. One prominent study found that the chance of recidivism was highest during the first three years after a person's initial arrest, but after seven years without an arrest, the likelihood of a person engaging in criminal activity is about the same as it is for someone who has never been arrested.⁶² In spite of this, only 17 percent of the employment-related consequences cataloged in the NICCC are explicitly time-limited in duration of their effect, suggesting that few employment-related consequences are enacted with an appreciation of the important role that time plays in assessing the public safety risks posed by workers with convictions.

Jurisdictions interested in aligning their collateral consequences with current research about recidivism and rehabilitation should closely examine employment-related consequences that remain in effect for an indefinite period of time, particularly those that are also mandatory and triggered by broad categories of offenses. Providing general limitations on the age of convictions that decision-makers can consider may also be appropriate in some contexts. California adopted this approach in 2019 by enacting a broad statute that will prohibit most occupational and professional licensing agencies from considering less serious offenses that are more than seven years old.⁶³

6. Expand the availability and effect of relief mechanisms.

Record clearance mechanisms, such as expungement and sealing, and certificates of relief can significantly mitigate the negative impact of collateral consequences, either by removing them altogether in appropriate cases, or by converting mandatory consequences into discretionary consequences that allow for greater individualized consideration.⁶⁴ Jurisdictions that already enacted similar forms of broadly effective relief should consider expanding access to them and ensuring that they are maximally effective at mitigating the impact of collateral consequences.

Many states have acknowledged the role that time plays in reducing the risk of recidivism by making record clearance and certificates of relief available earlier, sometimes as soon as a person is convicted. Colorado's "Order of Collateral Relief" and Vermont's "Order of Limited Relief" both allow sentencing courts to convert specified mandatory consequences into discretionary ones the moment a person is sentenced.⁶⁵ A number of states have expungement and sealing laws that explicitly state that expunged records may not be considered in employment or licensing decisions, and a number of those, including laws in Massachusetts and North Carolina, have dramatically reduced waiting periods to make that relief available earlier.⁶⁶

Although mechanisms like record clearance and certificates of relief can be quite effective at removing a broad range of consequences, they often remain legally or practically out of reach for many workers.⁶⁷ With this in mind, it is important that jurisdictions also offer targeted relief from the effects of individual collateral consequences, such as robust procedures for appealing discretionary decisions and individual waivers from the imposition of consequences that would otherwise be mandatory.

Conclusion

Despite the continued growth and success of state and national initiatives aimed at encouraging stable and meaningful employment for people with criminal convictions, the number of legally imposed barriers to employment remains staggeringly high. Each one of the nearly 30,000 employment-related collateral consequences cataloged in the NICCC makes it harder for workers to contribute to the economy, their communities, and their own personal and social growth. Although some of these barriers may be justified by demonstrable public safety concerns, the sheer volume of employment-related consequences that are mandatory, have an indefinite duration, or are imposed based on an exceedingly broad variety of offenses suggests that the relationship between many employment-related barriers and their public safety rationale may be tenuous.

With that in mind, policymakers and advocates interested in maximizing employment opportunities for people with criminal convictions should give serious consideration to the impacts of collateral consequences. Many states across the country have rightly determined that collateral consequence reform is an important component of comprehensive criminal justice reform and broader efforts to increase access to work. Through innovation and attention to policy and data, these states are finding that it is possible to put people back to work while also promoting public safety. As these efforts continue, more people with criminal convictions will be able to move beyond their conviction to become contributing members of their communities and the country at large.

Endnotes

1. See “About,” National Inventory of Collateral Consequences of Conviction, accessed November 17, 2019, niccc.nationalreentryresourcecenter.org/#about.
2. A more detailed guide to the organization and functionality of the NICCC is available on the NICCC’s “Help” page at niccc.nationalreentryresourcecenter.org/help.
3. See generally Gabriel J. Chin, “The New Civil Death: Rethinking Punishment in the Era of Mass Conviction,” *University of Pennsylvania Law Review* 160 (2012): 1789.
4. See Danielle Kaeble and Mary Cowhig, *Correctional Populations in the United States* (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2018).
5. See Matthew Friedman, “Just Facts: As Many Americans Have Criminal Records As College Diplomas,” Brennan Center for Justice, November 17, 2015, <https://www.brennancenter.org/blog/just-facts-many-americans-have-criminal-records-college-diplomas>; see also Anastasia Christman and Michelle Natividad Rodriguez, *Research Supports Fair Chance Policies* (New York: National Employment Law Project, 2016).
6. See Sarah Shannon et al., “The Growth, Scope, and Spatial Distribution of People with Felony Records in the United States, 1948–2010,” *Demography* 54, no. 5 (2017): 1795.
7. See Gabriel Chin, “Collateral Consequences of Criminal Conviction,” *Criminology, Criminal Justice, Law & Society* 18, no. 3 (2017): 2–3.
8. See generally *ibid.*, 18–20.
9. E. Ann Carson, *Prisoners in 2016* (Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics, 2018), 6.
10. *Ibid.*
11. See, e.g., Ashley Bozarth, “Racial Disparities in the Labor Market,” *Workforce Currents*, February 28, 2018, <https://www.frbatlanta.org/cweo/workforce-currents/2018/02-racial-disparities-in-the-labor-market-2018-02-28.aspx>; Valerie Wilson, “Racial Inequalities in Wages, Income and Wealth Show That MLK’s Work Remains Unfinished,” *Economic Snapshot* (blog), January 11, 2018, <https://www.epi.org/publication/racial-inequalities-in-wages-income-and-wealth-show-that-mlks-work-remains-unfinished/>.
12. Morris M. Kleiner, *The Influence of Occupational Licensing and Regulation* (Bonn, Germany: IZA World of Labor, 2017), 2.
13. See generally “Criminal Justice Facts,” The Sentencing Project, accessed December 12, 2019, <https://www.sentencingproject.org/criminal-justice-facts>.
14. The Pew Charitable Trusts, *Collateral Costs: Incarceration’s Effect on Economic Mobility* (Washington, DC: The Pew Charitable Trusts, 2010), 11.
15. Mark Berg and Beth Huebner, “Reentry and the Ties That Bind: An Examination of Social Ties, Employment, and Recidivism,” *Justice Quarterly* 28 (2011): 382–410. See also Christy Visser, Sara Debus, and Jennifer Yahner, *Employment after Prison: A Longitudinal Study of Releases in Three States* (Washington, DC: Urban Institute, Justice Policy Center, 2008); *Safer Foundation Three-Year Recidivism Study* (Chicago: Safer Foundation, 2008). Incarcerated people with one year of employment had a 16-percent recidivism rate over three years as compared to a 52.3-percent recidivism rate for all Department of Correction releases.
16. See generally Saneta deVunono-powell et al., *Who Pays? The True Cost of Incarceration on Families* (Oakland, CA: Ella Baker Center for Human Rights, Forward Together, and Research Action Design, 2015).
17. Cherrie Bucknor and Alan Barber, *The Price We Pay: Economic Costs of Barriers to Employment for Former Prisoners and People Convicted of Felonies* (Washington, DC: Center for Economic and Policy Research, 2016), 9.

18. An analysis in the state of Washington found that providing job training and employment to a formerly incarcerated person returned more than \$2,600 to taxpayers. See Elizabeth K. Drake, Steve Aos, and Marna G. Miller, "Evidence-Based Public Policy Options to Reduce Crime and Criminal Justice Costs: Implications in Washington State," *Victims and Offenders* 4 (2009): 170–196. A 2003 study found that nearly one-fifth of heads of households relying on Temporary Assistance for Needy Families (TANF) had been convicted of a felony or arrested. See Gretchen Kirby, Thomas Fraker, LaDonna Pavetti, and Martha Kovac, *Families on TANF in Illinois: Employment Assets and Liabilities* (Washington, DC: Mathematica Policy Research Inc., 2003).
19. In limited instances they may simply obligate employees or prospective employees to notify their employer of a conviction they have received, which may result in an employer taking adverse action not necessarily required by law.
20. See, e.g., 23 Pa. Cons. Stat. § 6344 (ineligible for employment with childcare service or provider); Or. Admin. Rule 411-054-0025 (ineligible for employment in residential care facility/assisted living facility).
21. Ky. Rev. Stat. § 95.440.
22. 7.20.12.18(c) NMAC.
23. This is true even when the law merely allows for the suspension or revocation of a business license, as opposed to requiring it. Although the New Mexico mental health facility law states that a license may be revoked or suspended for hiring a person with a listed conviction, the employer has no way of knowing whether the license will, in fact, be impaired if they make a hiring decision. As such, rational employers will err on the side of rejecting an applicant with such a conviction to avoid any potential impairment to their license.
24. Morris Kleiner, "Licensing of More Occupations Hurts the Economy," Humphrey School News, University of Minnesota, January 23, 2018, <https://www.hhh.umn.edu/news/professor-morris-kleiner-licensing-more-occupations-hurts-economy>.
25. Ibid.
26. Elka Torpey, "Healthcare: Millions of Jobs Now and in the Future," *Occupational Outlook Quarterly*, Spring 2014; see also Office of the Assistant Secretary for Planning and Evaluation, *Linking People with Criminal Records to Employment in the Healthcare Sector: 5 Things to Consider* (Washington, DC: U.S. Department of Health and Human Services, 2018).
27. See, e.g., S.C. Code Ann. § 40-1-110: "In addition to other grounds contained in this article and the respective board's chapter ... a [licensing] board may cancel, fine, suspend, revoke, or restrict the authorization to practice of an individual who: ... has been convicted of or has pled guilty to or nolo contendere to a felony or a crime involving drugs or moral turpitude." Perhaps counterintuitively, many of these broad authorizations were actually put in place to curtail the ability of licensing entities to consider particular convictions. For example, Cal. Bus. & Prof. Code § 480 authorizes most licensing entities to consider criminal convictions, regardless of whether their governing law specifically authorizes it, but it also states that a board can deny a license because of a conviction "only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made."
28. S.C. Code Ann. § 40-1-110.
29. S.C. Code Ann. § 40-47-1285(5).
30. See, e.g., Laura Winig, "From Prison to Prosperity: A Model for Job Creation and Economic Self-Sufficiency" *Communities & Banking*, Summer 2012; Matthew Sonfield, "Entrepreneurship and Prisoner Re-entry: The Development of a Concept," *Small Business Institute Research Review* 35 (2008): 193–200.

31. See, e.g., MCLS § 257.2107, which prohibits drivers from accepting transportation network company ride requests if they have been convicted of a felony offense in the previous five years for fraud, a sexual offense, theft, a crime involving property damage, “an act of violence,” and other offenses.
32. See Pub. L. 113-186, § 7 (2014). The Department of Health and Human Services, which is responsible for administering the grants, added its own additional requirement by requiring the same level of screening for any person over 18 that lives in a house where childcare services are provided. The statute did not require such screening. See CCRC Staff, “HHS Finalizes Rules on Child Care Worker Screening,” Collateral Consequences Resource Center, September 28, 2016, <http://ccresourcecenter.org/2016/09/28/hhs-finalizes-rules-on-child-care-worker-screening/>.
33. See, e.g., *NCSBN Model Act*, National Council of State Boards of Nursing (2012): a license may be denied for any criminal conviction or guilty plea; the stated purpose of the act is to “protect the health, safety and welfare of the residents of [the] state”; *Model Social Work Practice Act*, Association of Social Work Boards (2018): a license may be denied for lack of “good moral character,” tied to criminal conviction history; the stated purpose of the act is that it is “a matter of public interest and concern that the practice of social work ... merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice”; *Model Bill for State Licensure of Audiologists, Speech-Language Pathologists, and Audiology and Speech-Language Pathology Assistants*, American Speech-Language-Hearing Association (2014): denial/suspension/revocation of a license is authorized for conviction of any felony or “crime involving moral turpitude”; the stated purpose of the act is “to safeguard the public health, safety and welfare, protect the public from being misled by incompetent, unscrupulous, and unauthorized persons, and protect the public from unprofessional conduct by qualified [practitioners].”
34. Note that the NICCC breaks health care down into over 20 more narrowly defined areas, including “Nursing,” “Dentistry,” “Pharmacy & drugs,” “Respiratory care,” and “Chiropractics.”
35. For example, ORC Ann. 1321.37 provides that a license to make short-term loans may only be granted if “[n]either the applicant nor any senior officer, or partner of the applicant, has pleaded guilty to or been convicted of any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities or any violation of an existing or former law of this state, any other state, or the United States that substantially is equivalent to a criminal offense described in that division.” Interestingly, the law creates an exception for all non-theft offenses if “there is no basis in fact for believing that the applicant or other person will commit such an offense again.”
36. Conn. Gen. Stat. § 14-52a.
37. While these attributes are useful for understanding the broad contours of how collateral consequences operate, their impact upon a particular individual convicted of a particular crime will often depend on factors beyond the individual laws that impose them. For the operation of a particular consequence to be fully understood, it must be viewed in the greater context of related state and federal laws and the practices and policies of the entities responsible for their imposition.
38. R.R.S. Neb. § 69-202.
39. Fla. Stat. § 401.411 (emphasis added).
40. U.S. Commission on Civil Rights, *Collateral Consequences: The Crossroads of Punishment, Redemption, and the Effects on Communities* (Washington, DC: U.S. Commission on Civil Rights, 2019), 12.

41. See Society for Human Resource Management and Charles Koch Institute, *Workers with Criminal Records* (Arlington, VA: Society for Human Resource Management and Charles Koch Institute, 2018); Eric Lichtenberger, "Where Do Ex-Offenders Find Jobs? An Industrial Profile of the Employers of Ex-Offenders in Virginia," *Journal of Correctional Education* 57, no. 4 (2006): 297–311; Jennifer Fahey, Cheryl Roberts, and Len Engel, *Employment of Ex-Offenders: Employer Perspectives* (Boston: Crime & Justice Institute, 2006).
42. See Owen Bement, Shea Diaz, and Franziska Schroder, *From Prisons to Professions: Increasing Access to Occupational and Professional Licenses for D.C.'s Returning Citizens* (Washington, DC: The Community Justice Project and Council for Court Excellence, 2018), 16. One study of applicants for admission to the State University of New York found that applicants required to disclose the presence of a felony conviction on their application had an application attrition rate three times higher than that of the median attrition rate: Alan Rosenthal et al., *Boxed Out: Criminal History Screening and College Application Attrition* (Syracuse, NY: Center for Community Alternatives, 2015). While there is scant data on the deterrent effect of background checks or conviction disclosure requirements in the employment and licensing spheres, it is reasonable to assume that the mere presence of a background check or conviction disclosure requirement on an application may be enough to dissuade applicants with conviction histories from applying. This concern is one that increasingly popular "ban the box policies"—which delay questions about criminal history until the later stages of the application process—have sought to address. See generally Beth Avery, *Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies* (New York: National Employment Law Project, 2019).
43. Also included among these are consequences that terminate after a person has taken some sort of action, like attending driver improvement training or drug counseling. Employment-related consequences with "conditional" durations like these are few.
44. Nev. Rev. Stat. Ann. § 706.462.
45. Included in this figure are consequences triggered by "any felony," with certain exceptions, as well as formulations like "any felony in which a motor vehicle was used," which could be any felony, depending upon the circumstances of the offense in individual cases.
46. However, many of these types of convictions will be disqualifying by falling into broader offense categories like "any felony."
47. S.C. Code Ann. § 40-1-110(1)(h). S.C. Code Ann. § 40-1-140 places some vague limits on the boards' exercise of this authority by stating that "a board may refuse an authorization to practice if, based upon all information available, including the applicant's record of prior convictions, it finds that the applicant is unfit or unsuited to engage in the profession or occupation." However, the subjectivity inherent in the "unfit or unsuited" standard still leaves boards enormous latitude when considering a particular "crime involving drugs."
48. See, e.g., MCLS § 338.1070, which requires suspension/revocation of a security license when an employee is convicted of the misdemeanor of unlawfully disclosing information gained during employment to non-clients.
49. The record clearance authorities of states including Illinois, Indiana, Maryland, Pennsylvania, and North Carolina all prevent expunged or sealed records from being used in most licensing and employment determinations. See the Clean Slate Clearinghouse at <https://cleanslateclearinghouse.org/> for more information about record clearance authorities.
50. See generally "50-State Comparison—Consideration of Criminal Records in Licensing and Employment," Restoration of Rights Project, last modified August 2019, <http://ccresourcecenter.org/state-restoration-profiles/50-state-comparisoncomparison-of-criminal-records-in-licensing-and-employment/>.
51. Ibid.
52. See Avery, *Ban the Box: U.S. Cities, Counties, and States Adopt Fair Hiring Policies*.

53. See Michelle Natividad Rodriguez and Beth Avery, *Unlicensed & Untapped: Removing Barriers to State Occupational Licenses for People with Records* (New York: National Employment Law Project, 2016).
54. *Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act of 1964*, U.S. Equal Opportunity Commission Enforcement Guidance No. 915.002 (April 25, 2012).
55. 59 Okl. St. § 4000.1(B).
56. See, e.g., N.H. Rev. Stat. Ann. § 332-G:14; SB 2465; Tenn. Code Ann. § 62-76-104; Wis. Stat. §§ 111.335.
57. See, e.g., Ariz. Rev. Stat. § 41-1093.04; Ind. Code § 25-1-1.1-6; N.C.G.S. § 93B 8.1 (as amended by HB-770 [2019]); Utah Code Ann. § 58-1-310 (enacted by HB-90 [2019]).
58. See also *Collateral Consequences of Conviction in Occupational Licensing Act: Model Legislation*, Institute for Justice (2019).
59. Kan. Stat. Ann. § 74-120(b)(1). Many provisions of the Kansas law, including the prohibition on vague language, are based on the Institute for Justice's *Collateral Consequences of Conviction in Occupational Licensing Act*. See *ibid*. Provisions of that model law have been incorporated into a number of other states.
60. Kan. Stat. Ann. § 74-120(b)(1).
61. *Ibid*.
62. Alfred Blumstein and Kiminori Nakamura, "Redemption in the Presence of Widespread Criminal Background Checks," *Criminology* 47, no. 2 (2009): 327, 327–59; Shawn D. Bushway and Gary Sweeten, "Abolish Lifetime Bans for Ex-Felons," *Criminology and Public Policy* 6, no. 4 (2007): 697, 697–706.
63. Cal. Bus. & Prof. Code § 480.2(a) (added by Stats. 2018 ch. 995 § 4 [2138]).
64. See the Clean Slate Clearinghouse at <https://cleanslateclearinghouse.org/> for more information about record clearance authorities. Recent expansions to record clearance mechanisms, certificates of relief, and other general relief mechanisms are detailed in a periodically updated report published by the Collateral Consequences Resource Center. See Margaret Love and David Schluskel, *Reducing Barriers to Reintegration: Fair Chance and Expungement Reforms in 2018* (Washington, DC: Collateral Consequences Resource Center, 2019).
65. Colo. Rev. Stat. § 18-1.3-107; Vt. Stat. Ann. tit. 13, § 8010.
66. Mass. Gen. Law ch. 276, § 100A (waiting period reduced from 10 years for misdemeanors and 15 years for felonies to 5/10 years in 2012, and reduced again to 3/7 years in 2018); N.C. Gen. Stat. § 15A-145.5 (waiting period reduced from 15 years for all offenses to 10 years for felonies and 5 for misdemeanors in 2017).
67. The cost of filing a request for relief, requirements that court debt be paid before seeking relief, and lack of awareness of the availability or benefits of relief all contribute to the phenomenon whereby few of the people who qualify for relief actually seek and obtain it. See generally, Colleen Chien, "The Second Chance Gap," *Michigan Law Review* (forthcoming, 2019), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3265335. In an effort to close this so-called "second chance gap," states have begun considering policies that automatically seal or expunge records of certain convictions after a period of time. In 2018, Pennsylvania became the first state to enact a widely available automatic record clearance authority. See 2018 Act 56. The state's Clean Slate Act requires automated sealing of broad classes of misdemeanors after a ten-year waiting period. California and Utah both enacted their own similar "Clean Slate" laws in 2019. See AB-1076 (California, 2019); HB-431 (Utah, 2019).