



WASHINGTON

SNAPSHOT OF EMPLOYMENT-RELATED COLLATERAL CONSEQUENCES

JANUARY 2021

The National Inventory of Collateral Consequences of Conviction (NICCC) is an online database that catalogs the state and federal statutes and regulations that limit or prohibit people convicted of crimes from accessing various rights, benefits, and opportunities.

As of 2020, the NICCC identifies 901 provisions of Washington law that impose these “collateral consequences,” a large majority of which act as barriers to employment for people with criminal convictions (see FIG. A). This fact sheet provides an overview of employment-related collateral consequences in Washington.

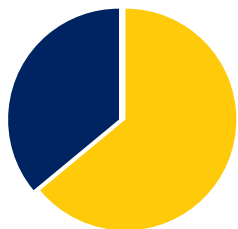


FIGURE A
PERCENTAGE OF TOTAL CONSEQUENCES RELATED TO EMPLOYMENT

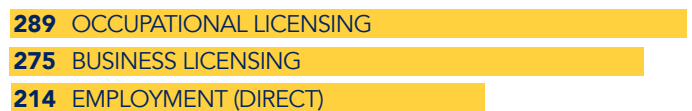
■ **EMPLOYMENT-RELATED 69%**
■ **OTHER 31%**

TYPES OF EMPLOYMENT-RELATED CONSEQUENCES

Collateral consequences impact employment opportunities either by restricting access to occupational licenses needed to work in certain fields, restricting access to business licenses needed to pursue self-employment, or directly limiting the ability of employers to hire or retain workers with certain conviction histories. FIG. B shows the number of Washington consequences that impact each of these three employment-related opportunities.

FIGURE B

NUMBER OF EMPLOYMENT-RELATED CONSEQUENCES BY TYPE



IMPACTED FIELDS

Collateral consequences affect a range of employment fields. FIG. C identifies the top 10 fields impacted by employment-related consequences in Washington. The figures indicate the number of employment-related consequences that impact each field.

FIGURE C

FIELDS MOST IMPACTED



DISCRETION IN APPLICATION

State law determines whether a consequence must be imposed or may be imposed. Mandatory consequences generally prohibit, without exception, the employment, retention, or licensing of a person with a conviction for a specified offense. Discretionary consequences

authorize employers, licensing entities, and other decision-makers to impose a consequence, but do not require that they do so. Note that some laws require criminal background checks of applicants for employment or licensure without indicating how the decision-maker should act in response to the results. For the purposes of FIG. D, these “background check-only” provisions are considered discretionary consequences. FIG. D indicates the percentage of Washington’s employment-related consequences that are either mandatory or discretionary.

FIGURE D
DISCRETION TO IMPOSE CONSEQUENCES



DURATION OF EFFECT

Employment-related consequences may remain in effect for a time-limited duration (usually a specific length of time, beginning on the date of conviction or completion of sentence) or may be indefinite in duration (i.e., no specific time included in the law). FIG. E indicates the percentage of Washington’s employment-related consequences that are either time-limited or indefinite. For the purposes of FIG. E, consequences that end once a person satisfies some legal condition, such as completing a drug treatment program or driver training course, are treated as time-limited. Note that a consequence described as indefinite may not be permanent if state or federal law allows the consequence to be removed through a legal process such as criminal record clearance or executive pardon (see General Relief from Collateral Consequences for more).

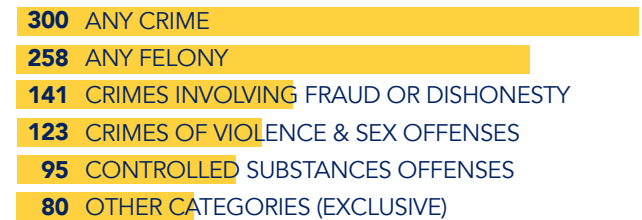
FIGURE E
CONSEQUENCE DURATION



TRIGGERING OFFENSES

Collateral consequences can be triggered by convictions for a wide range of criminal offenses. Some consequences are triggered by specific offenses, while others are triggered by broader categories of offenses such as “any felony” or “violent crimes.” FIG. F highlights some of the triggering offense categories used by the NICCC and the number of Washington’s employment-related consequences triggered by convictions within each category. Note that a consequence assigned to a triggering offense category like “controlled substances offenses” may be triggered only by one specific type of controlled substance offense in the jurisdiction, not all controlled substances offenses.

FIGURE F
NUMBER OF EMPLOYMENT-RELATED CONSEQUENCES TRIGGERED BY OFFENSE CATEGORIES



GENERAL RELIEF FROM COLLATERAL CONSEQUENCES

RECORD CLEARANCE: Most offenses may be vacated after a waiting period of 3 to 5 years, depending on the offense. Vacatur results in record sealing and limits the imposition of many consequences. Prior convictions may impact eligibility.

LIMITS ON CONSIDERATION OF CONVICTIONS: Licensing bodies and public employers may not generally base a denial upon a conviction unless it occurred within the previous 10 years and is “directly” related to the job or licensed activity.

JUDICIAL ORDERS OF RELIEF: A Certificate of Restoration of Opportunity may be issued by the courts to limit the imposition of employment-related consequences. Waiting periods of 1 to 5 years apply and depend on the offense.

For information on record clearance in Washington, see the Clean Slate Clearinghouse website at CleanSlateClearinghouse.org.

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