



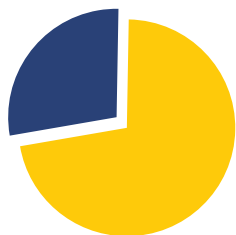
# WEST VIRGINIA

## 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 815 provisions of West Virginia 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 West Virginia.



**FIGURE A**  
*PERCENTAGE OF TOTAL CONSEQUENCES RELATED TO EMPLOYMENT*

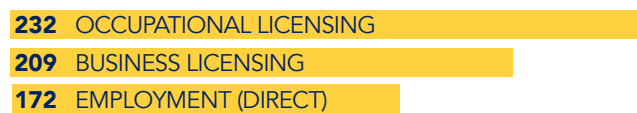
■ EMPLOYMENT-RELATED 72%  
■ OTHER 28%

### 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 West Virginia 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 West Virginia. 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 West Virginia’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 West Virginia’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).

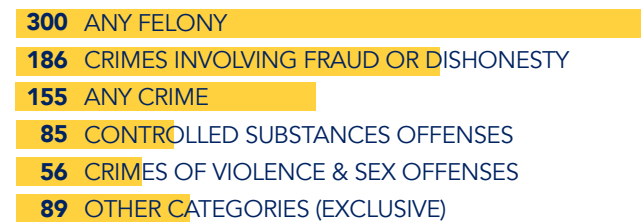
**FIGURE E**  
**CONSEQUENCE DURATION**



### 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 West Virginia’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

West Virginia law provides the following broadly effective mechanisms that may reduce the legal effects of employment-related collateral consequences:

**RECORD CLEARANCE:** Many misdemeanors and felonies may be expunged after a waiting period of one to five years, depending on the offense. Expungement limits the imposition of many collateral consequences. Prior convictions may impact eligibility.

**LIMITS ON CONSIDERATION OF CONVICTIONS:** Licensing bodies may not generally base a denial upon a conviction that does bear a “rational nexus” to the licensed activity, as determined by consideration of various factors, including the age and seriousness of the offense and evidence of rehabilitation.

*For information on record clearance in West Virginia, see the Clean Slate Clearinghouse website at [CleanSlateClearinghouse.org](http://CleanSlateClearinghouse.org).*