

# MARYLAND

The following report shows the progress your state has made toward meeting the five key goals related to collateral consequences that prevent people with criminal records from getting jobs or occupational licenses.



## Goal 1

### **Allow decision-makers greater flexibility in deciding whether to hire workers with convictions and allow workers to be free from collateral consequences after a reasonable period of time.**

#### **1A. Reduce mandatory consequences.**

- ➖ Maryland law places no general limitations on the mandatory imposition of structural barriers to employment or licensure.
- ➖ Of the more than 600 employment-related consequences imposed by Maryland law, 35 percent are mandatory and must be imposed regardless of the specifics of the offense or evidence of a worker's rehabilitation.\*

#### **1B. Limit the duration of consequences.**

- ➕ Maryland law generally prohibits occupational licensing bodies from basing denial upon convictions after seven years (measured from the date of sentence completion) so long as the person has no subsequent convictions. This limitation does not apply to specified "crimes of violence," or offenses for which sex offender registration is required.
- ➖ Maryland law places no general limits on the age of convictions that may be considered by employers or business licensing bodies.
- ➖ Only 14 percent of the more than 600 employment-related consequences imposed by Maryland law are limited in their duration. The remainder persist indefinitely.\*

## Goal 2

### **Align offenses that trigger collateral consequences with valid public safety concerns.**

#### **2A. Eliminate the use of vague terms to describe triggering offenses and offense categories.**

- ➖ Maryland law places no general limits on the use of vague terms to describe triggering offenses and offense categories in the employment or licensing context.

#### **2B. Broadly prohibit consideration of lower-level offenses.**

- ➖ Maryland law places no general limits on the categories of offenses that may be used to disqualify workers from employment or licensure.

#### **2C. Remove triggering offenses that do not suggest an increased risk to public safety.**

- ➖ Over 300 of the employment-related collateral consequences imposed by Maryland law may be triggered by any felony, and over 200 may be triggered by any crime at all, indicating that more can be done to eliminate triggering offenses that do not suggest an increased risk.\*

## Goal 3

### **Promote fair, consistent application of discretionary consequences.**

#### **3A. Require decision-makers to apply a “direct relationship” test.**

- ➕ Maryland law generally prohibits occupational licensing bodies from issuing denials on the basis of a conviction unless the conviction “directly relates” to the licensed activity or licensure “would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.” This limitation does not apply to specified “crimes of violence.”

- ➖ Maryland law places no general limits on the denial of employment or licensure for convictions that are not directly related to the job or licensed activity.

### **3B. Require individualized consideration of applicants with convictions.**

- ➕ Maryland law generally prohibits conviction-based denial of occupational licensure without first giving individualized consideration to an applicant and their conviction. Evaluation of applicants must involve consideration of various factors, including the specific duties and responsibilities associated with the licensed activity, age at the time of conviction, time since conviction, the seriousness of the offense, and evidence of rehabilitation. This limitation does not apply to specified “crimes of violence.”
- ➖ Maryland law does not generally require individualized consideration of applicants and their convictions in employment or business licensing determinations.

### **3C. Provide rejected applicants with a written explanation of the reasons for denial.**

- ➖ Maryland law does not generally require employers or licensing bodies to provide applicants with a written explanation of conviction-based reasons for denial.

### **3D. Create or expand accessible pathways to appeal.**

- ➖ Maryland law does not generally provide accessible pathways to appeal or review of final decisions that are specific to conviction-based licensing or public employment denials. Administrative and/or judicial review may be available under the state’s general administrative procedure laws, but such review can be complex, costly, and prolonged.

## Goal 4

### **Promote transparency about how workers' convictions are likely to impact employment and licensing opportunities.**

#### **4A. Ensure that application materials and other resources clearly explain how convictions are factored into decision-making.**

- Maryland law does not generally require employers or licensing bodies to provide any specific information about criminal history consideration or other similar materials.
- Few licensing applications provide specific information about whether or how criminal history is considered, even those that inform applicants that background checks may be required.
- Accessible online information about how criminal history is considered in the licensing context is scant.

#### **4B. Provide prospective applicants with a list of the specific offenses that may be disqualifying.**

- Maryland law does not generally require employers or licensing bodies to list the specific offenses that may result in a discretionary denial.
- Publicly accessible information listing the types of convictions that will trigger a mandatory denial is scant and not routinely included on application materials.

#### **4C. Allow for a pre-application determination of eligibility.**

- Maryland law does not generally require or authorize a process for pre-application eligibility determinations in employment or licensure.

## Goal 5

### **Expand the availability and effect of relief mechanisms.**

#### **5A. Create or expand long-term relief mechanisms.**

- + In Maryland, long-term relief is most commonly available in the form of shielding or expungement. Shielding (similar to “sealing” in other jurisdictions) is available for a small number of misdemeanors after 3 years. Expungement is available for a lengthy list of misdemeanors after 10 to 15 years, depending on the offense, and for a small number of felonies after 15 years. Prior and subsequent convictions may limit eligibility.
- Both shielding and expungement are discretionary in all instances.
- The waiting periods for expungement are much longer than in many other states.
- Most felonies and many misdemeanors are ineligible for shielding or expungement.

#### **5B. Create or expand targeted near-term relief mechanisms.**

- + Maryland law authorizes the Department of Corrections to issue a Certificate of Rehabilitation upon the completion of parole or probation. The certificate has the effect of converting mandatory occupational licensing barriers into discretionary barriers. Anyone convicted of violent or sexual offenses is ineligible.
- Certificates of Rehabilitation are only available for a subset of people with convictions.

#### **5C. Limit barriers to accessing relief.**

- + The Maryland courts have published a variety of resources online to help petitioners, including a series of videos explaining eligibility and procedures.

- ➕ Filing fees for expungement and shielding are relatively low at \$30.
- ➖ Neither shielding nor expungement are automatic. Both are only available upon petition to the court.
- ➖ The process for obtaining shielding or expungement can be burdensome for petitioners who are filing without an attorney due to filing and documentation requirements and the fact that a hearing may be required.

#### **5D. Ensure that the effects of relief mechanisms on collateral consequences are clear.**

- ➕ Records of shielded and expunged convictions are generally unavailable to the public, employers, or licensing bodies.
- ➕ State law generally prohibits employers, schools, and licensing boards from asking about or considering shielded or expunged records.
- ➖ However, significant exceptions apply to shielding. Several employers and licensing bodies are permitted to access shielded records, as are employers or licensing bodies that are required by law to consider criminal history.
- ➕ A person whose record is shielded or expunged may generally withhold information about the conviction in most criminal history inquiries.

*\*Despite the terms of the laws that impose individual barriers, the operation of a specific barrier upon a specific individual—i.e., whether it is mandatory, time-limited, or triggered by certain types of convictions—may change depending on superseding law (like fair chance licensing provisions) or whether an individual has been granted some form of relief (like expungement or sealing). Significant superseding laws and relief mechanisms are discussed herein to the extent they are applicable.*