

MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



Collateral Consequences

The Uniform Collateral Consequences of Conviction Act

What's the problem?

Criminal convictions frequently carry not only a prison sentence or fine, but also result in numerous disqualifications or legal disabilities (“collateral consequences”), such as bars to professional licenses and government housing, making it difficult for a person to successfully reenter society.

For example, in Maryland, there exist over [1000 restrictions](#) in law limiting the ability of returning citizens to obtain jobs and/or licenses.

Neither prosecutors, defendant lawyers, nor judges are obligated to warn of these collateral consequences upon a finding of guilt by trial, or prior to an admission of guilt by plea agreement. That means a person accused of a crime has no idea of the full extent of the possible punishment.

Concern about the impact of collateral consequences has grown in recent years as the numbers and complexity of these consequences have mushroomed and the Maryland prison population has grown. There is a real concern on a societal level that collateral consequences may impose such harsh burdens on convicted persons that they will be unable to reintegrate into society.

What's one solution?

The [Uniform Collateral Consequences of Conviction Act](#) provides states with a process whereby defendants are both notified of indirect penalties that may attach to their convictions, and have an opportunity for partial relief from those penalties, when appropriate.

While the UCCCA is not directed at eliminating collateral consequences, it is important for Maryland for several reasons.

- **Fairness** - By requiring that defendants be notified about collateral consequences at important points in their case, the UCCCA produces a more fair and just criminal justice system. Specifically, under the Act the defendant must be notified: (1) at or before formal notification of charges, so that a defendant can make an informed decision about how to proceed; (2) at sentencing; and (3) when leaving custody, so that a defendant can conform his or her conduct to the law.
- **Clarity** – The UCCCA removes ambiguity surrounding and streamlines access to collateral consequences. The Act requires all collateral consequences contained in a state’s laws and regulations, and provisions for avoiding or mitigating them, to be collected in a single document. Further, collateral sanctions (automatic legal disabilities) must be authorized by statute, limiting the confusion that may result from sanctions imposed by ordinance, policy, or administrative rule without notice to the public.
- **Successful Reentry** – The UCCCA removes barriers, when appropriate, to successful and productive reintegration for ex-offenders. The UCCCA carefully balances the interests of public safety with the need to provide opportunities for successful reentry. The Act creates two forms of relief—one available as early as the sentencing phase to facilitate reentry (an Order of Limited Relief) and the other after

someone has demonstrated law-abiding conduct for a certain period of time (a Certificate of Restoration of Rights). Such a certificate has already been authorized by the Justice Reinvestment Act of 2016.

Will this work?

As states grapple with various related issues – including reforming prison systems and releasing prisoners to balance budgets – the number of offenders impacted by collateral consequences continues to grow. The Uniform Collateral Consequences of Conviction Act is an effort to clarify a state’s collateral consequences in such a way as to make the criminal justice system both smarter and fairer to all involved.

As part of its effort to reform its judicial framework Vermont set forth a plan: [The Restoration of Rights, Pardon, Expungement & Sealing](#).

The Vermont Collateral Consequences of Conviction Act which became effective January 1, 2016, authorizes courts to issue orders relieving collateral sanctions imposed under the laws of Vermont, to benefit those convicted and sentenced under Vermont law and under the laws of other jurisdictions.

Status of the Legislation

The [Collateral Consequences of Conviction Act](#) was completed by the Uniform Law Commission in 2009 and updated since then. The Uniform Collateral Consequences of Conviction Act addresses the penalties and disqualifications that individuals face incidental to criminal sentencing. The Act's provisions are largely procedural, and are designed to rationalize and clarify widely accepted policies and practices.

The UCCCA has been approved by the American Bar Association, enacted in Vermont, and introduced in New York, Pennsylvania, U.S. Virgin Islands, and Wisconsin in 2016. According to [Margaret Love](#), several other states have adopted provisions that are functionally similar to the UCCCA's provisions on mitigating and avoiding collateral consequences.

Learn More!

The American Bar Association has an impressive [list of resources](#) including:

- [After Prison: Roadblocks to Reentry](#), A Report on State Legal Barriers Facing People with Criminal Convictions, Legal Action Center (2004);
- [Internal Exile: Collateral Consequences of Conviction in Federal Laws and Regulations](#), Am. Bar Ass’n Commission On Effective Criminal Sanctions (Jan. 2009);
- Margaret Colgate Love, Jenny Roberts & Cecelia M. Klingele, *Collateral Consequences of a Criminal Conviction: Law, Policy and Practice* (NACDL/West 2012);
- [Think Before you Plead](#): Juvenile Collateral Consequences in the United States, Am. Bar Ass’n Criminal Justice Section

Many other resources can be found at: <http://www.ma4jr.org/returning-citizens/>

[MAJR](#) is a nonpartisan association of over thirty community organizations and churches with members in every part of the state, formed to support justice reinvestment. Individual supporters include judges, attorneys, corrections professionals, as well as returning citizens, victims, and service providers.