

Collateral Consequences of Criminal Conviction in Ohio

A Research Report to the Ohio Office of Criminal Justice Services

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EXECUTIVE SUMMARY

The legal and academic community is giving much attention to collateral consequences of criminal conviction. A “collateral consequence” is any kind of penalty, disability, or disadvantage as a result of the conviction of an offense, other than imprisonment, probation, parole, supervised release, forfeiture, restitution, fines, assessments, or costs, regardless of whether it applies by operation of law or is imposed by a government agency, official, or court, other than those that might occur in the context of future criminal prosecutions. Studying collateral consequences is important because, among other things, they may impede criminal offenders’ ability to successfully reenter society.

This study of collateral consequences in Ohio involved two distinct tasks. First, we conducted a detailed, comprehensive survey of legal databases to identify and describe collateral consequences of criminal conviction imposed by Ohio law. We found that Ohio law—through constitutional provisions, statutes, administrative regulations, and court rules—imposes hundreds of collateral consequences on persons who have been convicted of criminal offenses, regardless of whether the conviction was obtained by plea or trial and regardless of the jurisdiction in which the conviction occurred. The consequences can be categorized into five general categories: (1) civil rights; (2) public employment and doing business with the State; (3) care, custody, and control of children and family; (4) regulated professions, occupations, trades, industries, and businesses; and (5) a general category of other privileges. Most of the consequences are discretionary, which is unsurprising since they typically are employment-related and are adjudged by professional boards. At the same time, many consequences are mandatory. Even where boards and agencies have discretionary authority, some statutes and rules require the board or agency to apply the restriction to the convicted person.

For the most part, restrictions are imposed when the offense of conviction bears a direct and substantial relationship to the employment opportunity or other privilege. However, a nexus between the offense and consequence is not always present. For instance, there are restrictions on persons with an undefined “felony” conviction and there are restrictions on privileges that are unrelated to the offense of conviction, such as the suspension of driving privileges for certain drug offenses. There are also legal mechanisms for relief from collateral consequences. It should be emphasized that relief is not available to all offenders; however, many persons convicted of a felony have the opportunity to have their rights restored. Restoration of rights may occur automatically or through a judicial determination, depending on the relevant statute. Restoration may also occur through pardons, the sealing of criminal records, and meeting rehabilitation standards set forth in administrative regulations.

Second, we surveyed criminal justice professionals in Ohio—judges, prosecutors, defense attorneys, and probation and parole officers who have contact with adults charged with felony offenses and thus are subject to collateral consequences. These criminal justice professionals are closest to defendants as they proceed through the system and provide a unique view of the practical operation of justice policies. We mailed questionnaires to 2,815 Ohio criminal justice professionals via regular U.S. mail in three waves, in December 2010, February 2011, and April 2011, to encourage a higher response rate. As of June 9, 2011, we received 903 responses. When we account for improper mailing addresses, surveys sent to attorneys who only handle civil cases, and deaths we had an overall response rate of 38.5 percent. Of those who chose to report their occupation, approximately 17% (153) were completed by judges; 22.5% (200) by prosecuting attorneys; 36.7% (332) by public defenders and court-appointed counsel; and 23% (205) by probation and parole officers.

One of the main goals of the questionnaire was to estimate the percentage of defendants affected by certain “common” collateral consequences and the magnitude of the impact of those consequences. We first asked respondents to estimate the percentage of those defendants who have been, are, or will be affected by particular collateral consequences. Next we asked them to estimate (using a 4-point scale, i.e., “No impact,” “Small impact,” “Medium impact,” and “Large impact”) the magnitude of the impact of those same consequences on defendants. Our major findings are highlighted below:

- In general, there is wide variation in the perceptions of respondents as to the percentage of their defendants affected by most of the listed consequences. This variation is evident within and across occupational groupings. At the same time, there seems to be more agreement as to the magnitude of the impact of most of the same consequences.
- Respondents believed that around 40 percent of their defendants were subject to Civil Rights consequences (disenfranchisement, jury service and public office), and there is general consensus that the magnitude of these impacts on individual defendants is small.
- There was considerable variation in the responses depending on the listed consequence within the Public Employment category. The ineligibility of convicted felons for public employment was seen to affect the highest percentage of defendants (approximately 37.4%) while the loss of OPERS benefits was believed to influence only around 6 percent of the defendants. At the same time, loss of these benefits was viewed as having a large impact on defendants, while the other two consequences were perceived to have a small impact on defendants.
- Three consequences pertained to children and families. Conviction as a ground for divorce was seen to affect only 15 percent of the defendants and was seen as having a small impact. In contrast, conviction being considered in custody cases was seen to affect a greater proportion of defendants (over 30%) and was seen to have a medium impact.
- Consequences that result in the revocation or ineligibility of persons for professional licenses were seen as affecting a small percentage of defendants (almost 20%) though the magnitude of the impact is perceived as “large”.
- Four of the five consequences (i.e., firearms, driving privileges, character evidence and impeachment evidence) within the “Other Privileges” category were seen as affecting over 40 percent of defendants, with the firearms disability perceived as affecting almost 70 percent of the offenders. In contrast, according to our respondents slightly over 20 percent of defendants are affected by sex offender registration laws. Further, three of the

restrictions (i.e., sex offender registration, driver license restrictions, and character evidence) were seen as having large impacts on convicted persons.

- The two direct consequences (i.e., costs of confinement and random drug testing) were seen as having only a small impact on defendants, though it was believed that a large proportion of offenders (over 50%) are subject to random drug testing.
- Two consequences pertained to the use of a prior conviction if the person engages in future criminality. Of all the consequences contained on the survey, the consideration of the prior conviction at sentencing was seen as affecting the greatest percentage of offenders (over 70%).

Related to the questions regarding the percentage of defendants affected by certain consequences and the magnitudes of their impacts, we further asked respondents about “who” they think are most affected by collateral consequences and the “types of offenses” that are especially affected by collateral consequences:

- According to the respondents, the less educated (55.9%), minorities (38%), males (37.1%), and youth (29.1%) are the four groups of defendants most likely to be affected by collateral consequences.
- Sex, drug, violence, and weapons offenses were viewed as the crimes most affected by collateral consequences.

The second main goal of the questionnaire was to assess the professionals’ perceptions and opinions regarding current issues related to collateral consequences. These issues include the purpose of collateral consequences, whether collateral consequences affect offender reentry, whether collateral consequences should be eliminated or strengthened, and the extent to which defendants ought to be advised about collateral consequences. Our major findings about the current issues are listed here:

- When asked to specify the purposes of collateral consequences, the two highest ranked purposes were “to protect the public” and “to punish the offender”. Deterring the individual and others from engaging in further criminality were the next highest ranked responses.
- The reentry literature has suggested that collateral consequences may be a barrier to reentry in that they motivate people to engage in future criminality. We asked

respondents to what extent they agree or disagree with this claim. Almost half of the respondents (44.4%) strongly agreed or agreed that the consequences may motivate future criminality. When the responses are compared across occupational groups, there are substantial differences between the groups, with less than one-fifth (18.7 %) of the prosecutors believing that the consequences motivate people to engage in future criminal behavior.

- Over three quarters (78.5%) strongly agreed or agreed that officials should have discretion in the application of collateral consequences in cases.
- A majority of respondents (56.7%) strongly disagreed or disagreed with the statement that there should be more collateral consequences. A similar majority (59.6%) believe some existing consequences should be repealed.
- Over 80 percent of the respondents strongly agreed or agreed that consequences should not last forever.
- A majority of respondents were in agreement that the Ohio Rules of Criminal Procedure should require that defendants be advised of consequences imposed by Federal law (57.5%) and by Ohio law (68.8%). Less than one-fifth (18.6%) of respondents strongly agreed or agreed that advising defendants of collateral consequences would cause more cases to go to trial rather than end in plea agreements.
- A relatively small proportion of the respondents strongly agreed or agreed that accurately advising defendants would be costly in terms of money (13.2%), while almost one-third (29.7%) thought it would be costly in terms of time. Only about one-quarter (27.9%) agree that the costs outweigh the benefits.
- Judges—and, to a lesser extent, defense attorneys—were believed to be the criminal justice actors who should be responsible for advising defendants of collateral consequences. It is further believed that the plea hearing is the most appropriate stage of the criminal process at which defendants should be advised of collateral consequences.
- Interestingly, the vast majority of respondents reported that at least some defendants are already fully advised of collateral consequences imposed by both state (91.6%) and federal (81.8%) law.

There are three main policy implications. First, existing collateral consequences do not have a substantial impact on most defendants, and, thus, the elimination of collateral consequences may not affect recidivism rates. Second, there appears to be a desire for mitigation of the troublesome nature of collateral consequences. This is evidenced by considerable agreement that some collateral consequences should be repealed, consequences should not last

forever or be made any more troublesome, and defendants should have a chance to restore their rights. Any policy change ought to consider these positions. Third, despite costs or effects, the majority believe that defendant should be accurately advised of the collateral consequences prior to adjudication. This may signal the need for further development in statutes and case law requiring advisement. That being said, there is not full consensus on these issues. In fact, there is disagreement within and across occupational groups of criminal justice professionals. Nevertheless, questionnaire responses indicate a readiness for further dialogue on the utility of collateral consequences.

INTRODUCTION

When a defendant is convicted of committing a crime, it is commonly understood that the judge will hand down a sentence of confinement, supervision, or both, and the judge may order the defendant to pay a fine, court costs, or restitution. (Johnson, 2002). These direct consequences are the officially sanctioned punishment imposed by the criminal code. Punishment is usually for a set period of time, and upon completion of the sentence either through release from prison or supervision, it is presumed that the offender has repaid his debt to society and is free to return to his normal life (Johnson, 2002).

On some level, offenders may be aware that society will label them a “convict” and that a certain stigma will attach. Offenders may not be aware, however, that a felony conviction can bring with it several other restrictions that can continue to impact their lives long after their original sentence has been served. Known as collateral consequences, these restrictions are imposed by state and federal law (Buckler and Travis, 2003; Burton, Cullen, and Travis, 1987). These restrictions are outside of the criminal code, and they are not considered to be part of the traditional criminal justice system (Pinard, 2010). These consequences disqualify criminal offenders from certain employment, voting in general elections, sitting on a jury, or holding public office (Grant, Lecornu, Pickens, Rivken, and Vinson, 1970; Mossoney and Roecker, 2005; Olivares, Burton, and Cullen, 1996). Also, a prior conviction can also affect parental rights in child custody cases, and imprisonment may be used as a ground for divorce (Buckler and Travis, 2003; Burton, Cullen, and Travis, 1987; Mossoney and Roecker, 2005). Many collateral consequences are applicable to all offenders, regardless of crime type, prison sentence, or likelihood of reoffending. Some collateral consequence may even be more harmful to the offender than the criminal sentence imposed (ABA, 2007).

Increasingly, collateral consequences of conviction have been recognized as impediments to offender re-entry (O’Hear, 2007; Tonry & Petersilia, 1999; Travis, 2005). The imposition of collateral consequences may be at odds with successful offender rehabilitation efforts (Cullen and Gilbert, 1982; Petersilia, 2003). The ABA Commission on Effective Criminal Sanctions has called for increased efforts both in notifying criminal defendants about collateral consequences of conviction and in assisting offenders in the restoration of their rights and privileges through expungement or sealing criminal records (Love, 2009).

Prior Research on Collateral Consequences

Over the past several decades, collateral consequences of conviction have received sporadic attention in the criminal justice and legal research literature. Bryan (1963) described the loss of civil rights experienced by those convicted of criminal offenses in Florida. Alvins (1967) noted the effect of conviction on the right to hold public office. Concern over the disenfranchisement of convicted offenders resurfaces in the legal literature at several points (Rubeck, 1973; Tims, 1975). The impact of conviction on employment also received some early attention (Miller, 1972; Taggart, 1972). Since then there have been a growing number of surveys and analyses of collateral consequences.

A series of national surveys of collateral consequences begun in the middle 1980s has attempted to track recent trends. Three national surveys of statutorily imposed collateral consequences have been reported (Burton, Cullen, and Travis, 1987; Olivares, Burton, and Cullen, 1996; Buckler and Travis, 2003). These surveys revealed that over the past twenty years, the number and types of collateral consequences of conviction have grown rapidly. Burton, Cullen, and Travis (1987) concluded that it appeared the various American criminal jurisdictions were becoming less restrictive in terms of the collateral consequences imposed on those

convicted of criminal offenses. The only exceptions were an increase in restrictions of parental rights, and firearms possession. Olivares, Burton, and Cullen (1996) reported a reversal of this trend, finding an expansion in collateral consequences of conviction in general, with the greatest increase in the area of criminal registration, especially for sex offenders. They reported increased numbers of states that restricted voting, parental rights, and possession of firearms. Buckler and Travis (2003) noted a continuation of this trend towards more restrictions, including increases in almost all categories, including a new type, restrictions on public welfare eligibility. The only type of collateral consequence showing a steady decline was that of general civil death. In 2001, only two states had civil death statutes, and these included a variety of restrictions on the application of civil death. A more contemporary version of civil death statutes includes using an offender's incarceration as grounds for divorce, especially when the offender is sentenced to life in prison. Such statutes were created for practical purposes (Burton, Cullen, and Travis, 1987), so that an offender's spouse or children could proceed with their lives while the offender served his sentence (Buckler and Travis, 2003).

Not surprisingly, as more attention has been given to re-entry issues, the issue of collateral consequences of conviction has gained prominence. Several comprehensive reviews of collateral consequences of conviction in specific states have been completed in recent years. These reviews improved greatly on the methodological limitations of the earlier national surveys. These reviews identify, describe, and categorize all collateral consequences imposed by law in the relevant jurisdictions. Most of these reviews are designed to inform defense attorneys and their clients of the existing collateral consequences of conviction, and often, of mechanisms for relief (see also Love, 2009). Furthermore, the Court Security Improvement Act of 2007, Pub. L. 110-177, § 510, 121 Stat. 2534, 2543 (2008), included a provision for the completion of a

comprehensive survey of collateral consequences of conviction in all American jurisdictions. The ABA has nearly completed this extraordinary undertaking. Several states, scholars, and interest groups have followed (Aukerman, 2008; Coppolo, Rhinehart and Nelson, 2005; Jones, 2007; Levy, 2008; Mills, 2005; Mossoney & Roecker, 2005; Periman, 2007; Smyth, 2007).

Arguments For and Against Collateral Consequences

Buckler and Travis (2003) suggest that the purposes of collateral consequences have changed over time. Restrictions on civil rights, such as voting, jury service, and holding public office, were created as a way to instill public confidence in government institutions. But more recently imposed disqualifications such as sex offender registration are intended to enhance public perceptions of community safety. Other restrictions, such as disqualification for welfare benefits, are simply punitive. It is ironic that contemporary concerns about collateral consequences of conviction are founded, in large part, on the argument that such consequences inhibit re-entry and result in increased crime and danger to the community.

Those opposed to the imposition of collateral consequences criticize them as a product of the “get-tough movement” (Cullen, Clark, and Wozniak 1985; Cullen, Skovron, Scott, and Burton, 1990; see also Gendreau and Ross, 1987) and suggest that increased restrictions are counterproductive in terms of community safety and re-entry efforts. Ex-offenders facing these additional penalties may feel they can never “pay their debt” and become embittered (Burton, Cullen, and Travis, 1987). The theory of procedural justice posits that when people perceive the law or its application as unfair, they will choose not to obey (Lind and Tyler, 1988; Tyler, 1990; Tyler, 2003; Tyler and Huo, 2002). Convicted offenders who continue to experience disabilities may ultimately become even less law-abiding as a result. More specifically, particular types of collateral consequences may have more direct implications for reintegration and re-entry.

Restrictions on employment rights close opportunities for legitimate work making illegal activity more attractive (Community Legal Services, Inc., 2003; Coppolo, Reinhart, and Nelson, 2005). Restraints on eligibility for public assistance increase pressure on offenders and their families, and disqualification from educational assistance helps to reinforce social and economic disadvantages. Finally, critics argue that as additional penalties, various collateral consequences of conviction violate conceptions of justice by making the penalties for many crimes disproportionate to the harm done by the offender. (American Bar Association, 2007).

Alternatively, some support the imposition of collateral consequences of conviction (Vile, 1981). First, they argue that rights are balanced by duties and failure to perform the duty of obeying the law should disqualify the offender from certain rights and privileges, including the franchise. Others argue that a principle of least eligibility applies and that those who violate the law should be last eligible for social benefits such as welfare and other social services. Still others feel that the fact of conviction is evidence of character flaws that should disqualify someone from holding office, serving on a jury, and the like. Collateral consequences of conviction, they maintain, protect the law-abiding public from possible election fraud or malfeasance in office by ex-offenders. Finally, there are pragmatic reasons given for some collateral consequences of conviction such as the loss of certain parental rights, or use of conviction as grounds for divorce. Even civil death, especially for those facing long prison terms, allows the offender's family to dispose of his debts and possessions (Buckler and Travis, 2003; Saunders, 1970).

Whatever the rationale for collateral consequences, it is clear that their potential impact is widespread, as nearly 750,000 offenders were released from prison alone in 2008 (Pinard, 2010). What is less clear is how many defendants are actually affected by the various collateral

consequences in their jurisdiction and the magnitude of their impact. How criminal justice practitioners perceive and treat collateral consequences is also unclear. Some legal scholars argue that practitioners ignore consequences, leaving criminal defendants in the dark and potentially impinging on constitutional rights (Pinard, 2010; *see Padilla v. Kentucky*, --- U.S. ---, 130 S. Ct. 1473 (2010)). Other legal scholars claim that judges and prosecutors regularly try to avoid such consequences through charge reductions (Love, 2009). This gap in the literature requires a systematic survey of criminal justice professionals regarding their opinions of collateral consequences.

Present Study

The present study attempts to fill that gap. By examining collateral consequences of criminal conviction in Ohio as of May 31, 2011, we update earlier work on a catalog of Ohio collateral consequences (Mossoney and Roecker, 2005). Moreover, we improve on this earlier work by categorizing and synthesizing collateral consequences into useful and comprehensible summaries. Importantly, the present study also surveys criminal justice professionals—judges, defense attorneys, prosecutors, and probation and parole officers—who interact daily with Ohio’s criminal defendants. The survey solicited respondents’ perceptions of the proportion of defendants subject to various consequences and the level of difficulty these consequences pose for successful reentry. Additionally, the survey solicited opinions regarding many current issues: the purposes of consequences, mechanisms for relief, differential impact on different groups of offenders and future offending, and any need to expand or restrict consequences. Together the findings are designed to provide an accurate and comprehensive description of the current state of collateral consequences of criminal conviction in Ohio.

This study proceeded in two phases. First, we conducted a survey of legal databases to identify and describe collateral consequences of conviction imposed by Ohio law. Second, we designed and distributed a questionnaire to Ohio criminal justice professionals to determine perceptions of the hardships inflicted on convicted persons by virtue of the collateral consequences.

SURVEY OF OHIO LAW

Legal Research Methodology

Identification

In order to capture every collateral consequence of criminal conviction imposed by Ohio law, we conducted a Westlaw search of three databases: Ohio Revised Code, which includes court rules, Ohio Administrative Code, and Ohio Attorney General Opinions. Beginning in September 2009, we ran the search on a monthly basis through May 31, 2011, to capture contemporaneous changes in the law. We intended our Boolean search (i.e., (convict! & (felon! misdemean! crim!)) "subsequent offense") to be overly broad so as to capture all possible consequences. As of May 31, 2011, the search produced 3328 "hits" or individual code sections or opinions containing the terms within search parameters. To determine whether the hits were in fact collateral consequences, each hit was reviewed by a doctoral student and an attorney licensed in the State of Ohio. The review involved reading the statutory or other language surrounding the highlighted search terms, as well as skimming the entire statute, its historical notes, and its annotations. Then the reviewers compared the plain language of the legal authority with the definition of a collateral consequence by asking: Does this statute or other legal authority impose on a person any kind of penalty, disability, or disadvantage as a result of his or

her conviction of an offense—other than direct consequences (i.e., imprisonment, probation, parole, supervised release, forfeiture, restitution, fines, assessments, or costs) and other than those that might occur in the context of future criminal prosecutions? If the reviewers answered in the affirmative, the legal authority was deemed a collateral consequence. The licensed attorney resolved any discrepancy between the reviewers. Approximately 800 of the 3328 hits were positively identified as being related to collateral consequences imposed by Ohio law. Upon positive identification, we reviewed the other statutes contained in that particular chapter and the corresponding administrative regulations for other consequences that may have been omitted in the legal search. After full identification, we briefly described the “consequences” for purposes of our next task, categorization.

Categorization

We generated a list of the 800 or so consequences and their descriptions. Patterns emerged from this list. We assigned each of the 800 consequences into the following categories and sub-categories:

- I. Restoration of Rights
- II. Civil Rights
 - A. Voting Rights
 - B. Jury Service
 - C. Public Office
- III. Public Employment and Doing Business with the State
 - A. Public Employment and Benefits
 - B. Doing Business with the State
 - C. Special Case of Law Enforcement Officers
 - D. Special Case of Educators and Students
- IV. Care, Custody, and Control of Children and Familial Rights
 - A. Caregivers and Guardians
 - B. Foster Care and Adoption
 - C. Natural Parents and Familial Rights
- V. Regulated Professions, Occupations, Trades, Businesses, and Industries
 - A. Financial and Fiduciary
 - B. Health Care
 - C. Safety

- VI. Other Privileges and Safety Concerns
 - A. Right to Bear Arms
 - B. Driving Privileges
 - C. Privacy and Residency Privileges of Sex Offenders
 - D. Privileges related to Animals and the Environment
 - E. Privileges related to the Receipt of Monetary and Other Benefits
 - F. Legal Actions, Protections, and Presumptions

Because the categories and subcategories are not mutually exclusive, many of the consequences were assigned to a primary and a secondary category.

Summaries

Each category and sub-category was synthesized as a whole and then summarized. The summaries describe the subcategories, not only by briefly stating the gist of each consequence but also by contextualizing the consequence through references to other legal authority that explains and interprets the consequence. The summaries also provide a list of relevant legal authority and cross references to other related categories and subcategories.

Summaries of Collateral Consequences

Collateral consequences include both collateral sanctions, which are mandatory, and disqualifications, which are discretionary. A **collateral sanction** is a penalty, disability, or disadvantage imposed on an individual as a result of conviction of an offense which applies by operation of law, whether or not it is included in the judgment or sentence. It does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution. A **disqualification** is a penalty, disability, or disadvantage that an administrative agency, governmental official, or court in a civil proceeding may impose on an individual due to his or her conviction of an offense.

Notwithstanding these definitions, which are derived from the American Bar Association's Standards on Collateral Sanctions and Discretionary Disqualification of Convicted

Persons (2003), the language used in Ohio's laws tends not to be as precise. For example, a statute may automatically impose what it calls a "permanent disqualification" upon a person's conviction; however, the definition above would characterize the same as a "collateral sanction." Because of this discrepancy, for the purposes of this study, we deem a "collateral consequence" as any kind of penalty, disability, or disadvantage as a result of the conviction of an offense, other than imprisonment, probation, parole, supervised release, forfeiture, restitution, fines, assessments, or costs" regardless of whether it applies by operation of law or is imposed by a government agency, official, or court, other than those that might occur in the context of future criminal prosecutions.

In these legal summaries, collateral consequences fall into five general categories: civil rights; public employment and doing business with the State; care, custody, and control of children and family; regulated professions, occupations, industries, and businesses; and a general category of other privileges. State law also provides several mechanisms for the restoration of rights and privileges. For each of these categories, we describe the consequences in laymen's terms, elaborate on the interpretation of the consequences, and provide a list of relevant authority and cross references to other categories.

Before we begin with a review of relief from those consequences, a few caveats must be given. We utilized a methodology that ought to have identified every collateral consequence imposed by law, although it is possible that some have been missed. Moreover, laws are subject to amendments by the regular legislative process. The language of these statutes and regulations may have been amended or the laws themselves repealed, since the date of our final identification search on May 31, 2011. That being said, we also note that these summaries of collateral consequences are for research purposes only. If the reader has a criminal case or

conviction and has questions or concerns about whether particular consequences are applicable, he or she should consult an attorney.

When we refer to a “conviction,” we mean a judgment of conviction, based on a finding of guilt, in a criminal case, regardless of whether the conviction was obtained by guilty plea, by a plea of not contest, or by a determination of guilt after trial by a jury or by a judge. Many of the Ohio statutes use language that may be interpreted to mean that there is a meaningful difference between a conviction by plea and a conviction by trial. In the context of collateral consequences, there is no such distinction.

I. Restoration of Rights

At the outset it should be noted that many collateral consequences are not permanent and many persons convicted of a crime have the opportunity to have their rights restored. R.C. § 2961.01.

The governor has the power to grant reprieves, commutations, and pardons after conviction for all crimes except treason. Const., Art. III, § 11. A pardon is defined as “the remission of penalty” or relief from the consequences of conviction. R.C. § 2967.01. A pardon may be full or partial, and may be granted unconditionally or upon conditions precedent or subsequent. R.C. § 2967.02; R.C. § 2967.04. Executive clemency is subject to several procedures. *See* R.C. Chapter 2967. Significantly, the Adult Parole Authority must conduct an investigation into every application and make a recommendation to the Governor based on standards set forth in the statute. R.C. § 2967.03, R.C. § 2967.07, R.C. § 2967.12; O.A.C. § 5120:1-1-15. Nevertheless, the governor has broad discretion in granting or denying petitions for clemency as he or she is not required to abide by the APA’s recommendation. *State ex rel. Mauer v. Sheward*, 71 Ohio St.3d 513 (1994); *State v. Schiller*, 70 Ohio St. 1 (1904).

Civil rights statutes specifically provide for the restoration of certain privileges, such as serving as a juror on a petit jury, upon the governor's full pardon of the person convicted of a felony. The same statutes restore certain privileges upon the completion of the sentence, probation, or community control sanction. *See* R.C. § 2961.01; R.C. § 2961.02; R.C. § 2961.03; R.C. § 2967.17; Ohio Atty. Gen. Op. 2006-031.

Moreover, an order to seal the record of a conviction restores to the person all rights and privileges not otherwise restored by termination of the sentence, probation, or parole. R.C. § 2953.33; *see generally* R.C. § 2953.31 to R.C. § 2953.36 and R.C. § 2953.51 to R.C. § 2953.61. However, only a first offender is eligible for an "expungement" of a record of conviction.¹ R.C. § 2953.32. A first offender is a person convicted of an offense in any jurisdiction and who previously or subsequently has not been convicted of any other offense. R.C. § 2953.31. A person convicted of a felony may apply three years after the person's final discharge from the sentence; convicted misdemeanants may apply at the expiration of one year after final discharge. R.C. § 2953.32. An order to seal is not automatic; the sentencing court is required to hold a hearing on the application, to notify the prosecutor who may file an objection, and to obtain a probation report concerning the applicant. *Id.* Assuming the applicant is truly a first offender, the court must determine whether the record of conviction ought to be sealed by considering whether the applicant has been rehabilitated and whether the prosecutor has filed an objection and by weighing the applicant's interest in sealing the records against the government's legitimate needs to maintain those records. *Id.*

¹ Expungement is distinguishable from the sealing of records in the juvenile courts. R.C. § 2151.355 ("(A) 'Expunge' means to destroy, delete, and erase a record, as appropriate for the record's physical or electronic form or characteristic, so that the record is permanently irretrievable. (B) 'Seal a record' means to remove a record from the main file of similar records and to secure it in a separate file that contains only sealed records accessible only to the juvenile court.").

The crime of a person who obtains an expungement order “shall be considered not to have occurred.” R.C. § 2953.32. All official records relating to the case are sealed, although a list of expungements are maintained and available to designated law enforcement personnel, *id.*; however, divulging sealed records is prohibited. R.C. § 2953.36. If law enforcement personnel are statutorily required to conduct criminal backgrounds checks, the check will include sealed records.² The order to seal restores all rights and privileges that final discharge did not restore, and the person is not required to be questioned about his or her conviction in any application for employment, license, or other right or privilege or in any other inquiry. R.C. § 2953.33. This means that the person may respond to any inquiry as if the arrest underlying case and all subsequent proceedings did not occur. R.C. § 2953.55.

There are a few exceptions to the prohibition on questions. First, a person may be questioned about all prior offenses if the question bears a direct and substantial relationship to the position for which the person is being considered. R.C. § 2953.33. For example, the state pharmacy board may inquire into an applicant’s prior convictions of sealed drug offenses because such conviction has a direct and substantial relationship to the licensure of drug distribution under R.C. § 4729.54. *Ohio State Bd. of Pharmacy v. Friendly Drugs*, 27 Ohio App.3d 32 (8th Dist. Ct. App., 1985). Second, the state board of education and the department of education may question an applicant for issuance or renewal of any license about any criminal offense they committed or are alleged to have committed, regardless of whether the inquiry has a direct and substantial relationship to the licensure. R.C. § 3319.292. Third, school districts may maintain records of convictions and delinquency adjudications of permanently excluded

² See, e.g., Ohio Attorney General Opinion 2004-038, in which the Attorney General opined that a sheriff may properly deny a concealed carry license to an applicant with a conviction that precluded his eligibility for the license, even though the conviction was sealed.

students. R.C. § 2953.32; R.C. § 2151.358. Finally, proof of a prior conviction is always admissible in any criminal proceeding. R.C. § 2953.32.

Furthermore, convictions of certain offenses preclude the sealing of records. R.C. § 2953.36. Thus, the statutory expungement provisions do not apply to offenses with mandatory prison sentences, certain sex offenses and offenses of violence, first and second degree felonies, certain offenses involving a minor victim, and bail forfeitures in traffic cases. *Id.*

Although juveniles are adjudicated delinquent rather than convicted of crimes, it must be noted that, because of their potential effect on adult opportunities, juvenile records may also be sealed (i.e., removed from the main file of similar records) or expunged (i.e., destroyed so that the record is permanently irretrievable) or both. *See* R.C. § 2151.355 to R.C. § 2151.358. The effect of having delinquency records that are sealed is that the juvenile may, and the court shall, reply that no record exists when any inquiry is made. R.C. § 2151.357.

The juvenile court must seal arrest records, records of cases resolved without the filing of a complaint or by dismissal on the merits, records of cases with successful pretrial diversion, and records of those persons adjudicated as unruly children when they turn eighteen years old, so long as they are not currently under jurisdiction of the court. R.C. § 2151.356. The court must consider sealing all other records when two years have passed after any adjudication order or the unconditional discharge of the person from the department of youth services. Like the sealing procedure for adults, the juvenile court must hold a hearing on the application, notify the prosecutor who may file an objection, and may cause an investigation into the juvenile's rehabilitation. The standard by which the sealing determination is made is whether the juvenile has been rehabilitated to a satisfactory degree, and thus the court considers the age, education, and employment history of the juvenile, the nature of the case, the cessation of delinquent or

criminal behavior, and any other circumstances related to rehabilitation. R.C. § 2151.356. If an order to seal is issued, the juvenile is given notice and informed about the expungement procedures. R.C. § 2151.356. In no event, however, can the records of certain violent crimes committed by a delinquent child be sealed.

Expungement and sealing statutes apply to court records and records that are possessed by any public office of an agency that relate to a criminal case. However, the order to seal does not apply to an administrative licensing agency's records unless the court specifically directs the agency to seal the relevant records. Ohio Atty. Gen. Op. 1993-038; Ohio Atty. Gen. Op. 1983-100. If the court order is directed to the administrative agency, the order neither affects any disciplinary action already taken by the administrative agency nor precludes future disciplinary action based on information in the sealed criminal case. Ohio Atty. Gen. Op. 1993-038.

It was previously noted that many collateral consequences are not permanent. Convicted persons may have the opportunity to restore their privileges in certain situations if they meet requirements that demonstrate that they have been rehabilitated. That is, convicted persons who are not eligible for particular employment or licensure due to their criminal convictions may later become eligible for those opportunities if they meet the rehabilitation standards set forth in statutes and regulations. For example, the department of developmental disabilities has adopted regulations that allow for employment of certain convicted persons who have been rehabilitated. O.A.C. 5123:1-7-01. Certain standards must be met in order for a determination of rehabilitation. Specifically, the conviction must not have been for certain sexual offenses, offenses involving patient abuse or neglect, and the victim cannot have been in the direct care of the convicted person. Also, the convicted person must not have been a repeat offender, and he or she must have had the record of conviction sealed and his or her name removed from the registry of abusive or

neglectful providers. Finally, at least five years must have elapsed since the convicted person was fully discharged from imprisonment, probation, or parole. O.A.C. 5123:1-7-01(K). If these standards are met, except for the sealing of records because the nonexistence of a statute that would allow it, then the convicted person may petition the director. The director shall consider the following factors: the duties and responsibilities of the position; the nature and seriousness of the offense; the time elapsed since discharge from the system; the person's efforts at rehabilitation and the results of those efforts; whether criminal proceedings are pending; any personal references; the person's employment history; and any other relevant factors. O.A.C. 5123:1-7-01(L). Many of the employment statutes and regulations have similar provisions.

Some statutes explicitly provide relief from disabilities. For example, a person under a firearm disability for a conviction of a felony may apply for relief from the disability. R.C. § 2923.14. The application must state the convictions upon which the disability is based, the sentence imposed and served, and information about the release, as well as facts that show the applicant is a fit subject of relief. The county prosecutor is required to investigate the application and raise objections to the court. Upon a hearing, the court may grant relief if the applicant is fully discharged, has led a law-abiding life since discharge, and is not otherwise under disability. The relief is subject to conditions, and is automatically void if the applicant commits another offense triggering a disability.

Relevant Legal Authority:

Ohio Constitution, Article III, Section 11
Ohio Revised Code, Section 2151.355
Ohio Revised Code, Section 2151.356
Ohio Revised Code, Section 2151.357
Ohio Revised Code, Section 2151.358
Ohio Revised Code, Section 2923.14
Ohio Revised Code, Section 2953.31

Ohio Revised Code, Section 2961.01
Ohio Revised Code, Section 2961.02
Ohio Revised Code, Section 2961.03
Ohio Revised Code, Section 2967.01
Ohio Revised Code, Section 2967.02
Ohio Revised Code, Section 2967.03
Ohio Revised Code, Section 2967.04

Ohio Revised Code, Section 2953.32
Ohio Revised Code, Section 2953.33
Ohio Revised Code, Section 2953.34
Ohio Revised Code, Section 2953.35
Ohio Revised Code, Section 2953.36
Ohio Revised Code, Section 2953.51
Ohio Revised Code, Section 2953.52
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Ohio Revised Code, Section 2953.59
Ohio Revised Code, Section 2953.60
Ohio Revised Code, Section 2953.61

Ohio Revised Code, Section 2967.06
Ohio Revised Code, Section 2967.07
Ohio Revised Code, Section 2967.12
Ohio Revised Code, Section 2967.121
Ohio Revised Code, Section 2967.131
Ohio Revised Code, Section 2967.16
Ohio Revised Code, Section 2967.17
Ohio Revised Code, Section 3319.292
Ohio Revised Code, Section 4729.54
Ohio Administrative Code, Section 5120:1-1-15
Ohio Administrative Code, Section 5123:1-7-01
Ohio Attorney General Opinion 2006-031
Ohio Attorney General Opinion 2004-038
Ohio Attorney General Opinion 1993-038
Ohio Attorney General Opinion 1983-100

Cross References: Civil Rights; Public Employment and Doing Business with the State; Regulation of Professions, Occupations, Trades, Businesses, and Industries; Right to Bear Arms

II. Civil Rights

The first category of collateral consequences, and one of the more familiar, is the loss of civil rights, which in this context specifically refers to the right to vote, the right to serve as a juror, and the right to hold public office.

A. Voting Rights

The privilege to vote is arguably the most important of our civil rights. Thus, it is an awesome power that the General Assembly has to enact laws disenfranchising persons convicted of a felony. Ohio Const., Art. V, § 4. A felony conviction renders a person incompetent to be an elector in Ohio. R.C. § 2961.01. However, the incompetency is not permanent; it lasts only until such person is granted parole, judicial release, or a conditional pardon; or is released under a non-jail community control sanction or a post-release control sanction; or is given final discharge. *Id.* A felony conviction also renders a person incompetent to circulate or serve as a witness for the signing of any declaration of candidacy and petition, voter registration

application, or nominating, initiative, referendum, or recall petition. R.C. § 2961.01. On a monthly basis the clerk of the court of common pleas files with the board of elections the names and addresses of all persons convicted of disenfranchising crimes. R.C. § 3503.18. Upon receipt, the board of elections cancels the registration of those electors. *Id.*; R.C. 3503.21.

Another consequence for persons convicted of either a felony or of any violation of the election laws is that the person is not qualified to serve as a precinct election officer. R.C. § 3501.27; R.C. § 3501.31. Moreover, the Secretary of State has the authority to remove a member or employee of boards of election for good cause, which could include a criminal conviction. R.C. § 3501.16. If the director of a board of elections, or deputy director or employee, prohibits a person's access to public records, they will be dismissed from their positions. R.C. § 3599.161. There are several other election laws that, if violated, result in a criminal conviction, usually of a misdemeanor, R.C. §3599.40; although the degree of seriousness of some election offenses, such as election falsification, increases upon subsequent offenses. R.C. § 3599.11. Violations of two election laws are felonies and result in losing the right to vote in addition to regular criminal penalties. First, a person who is convicted of selling his or her vote shall be disenfranchised. R.C. § 3599.02. Second, if a person is twice convicted of a violation of any election law, whether it is for the same offense or not, that person shall be disenfranchised upon the second conviction. R.C. § 3599.39.

Relevant Legal Authority:

Ohio Constitution, Article V, Section 4
Ohio Revised Code, Section 2961.01
Ohio Revised Code, Section 3501.16
Ohio Revised Code, Section 3501.27
Ohio Revised Code, Section 3501.31
Ohio Revised Code, Section 3503.18

Ohio Revised Code, Section 3503.21
Ohio Revised Code, Section 3599.02
Ohio Revised Code, Section 3599.11
Ohio Revised Code, Section 3599.161
Ohio Revised Code, Section 3599.39
Ohio Revised Code, Section 3599.40

Cross References: Restoration of Rights; Jury Service; Public Office

B. Jury Service

Another civil right affected by criminal conviction is jury service. Persons convicted of a felony, and who have not had their civil rights restored, are incompetent to be a juror. R.C. § 2961.01. Moreover, because persons convicted of felonies are incompetent as electors, they would also be disqualified to serve as a juror. R.C. § 2313.42. Persons convicted of felonies are removed from the electors list as described above; however, in the event such persons are called as jurors, the relevant parties to the legal action are permitted to examine and to challenge persons called as jurors as to whether they have been convicted of certain crimes. A felony conviction is good cause for challenging any person called as a juror. *Id.* This collateral consequence is repeated in other statutes and rules, and local court rules for particular counties, which include jury management plans and juror questionnaires. R.C. § 2945.25; Ohio R. Crim. P. 24; R. Supt. Ohio T.J.S 4; Allen L.R. 1.02; Allen Juv. R. 13.02; Franklin L.R. 27; Franklin L.R., Ex. B; Franklin Juv. L.R. 26; Greene L.R. 1.21; Hamilton L.R. 8; Hamilton Juv. Appx. 2; Licking L.R. 38; Licking D.R. 18; Lorain D.R. 30; Lorain Prob. Appx. A; Lucas L.R. 7; Lucas Prob. L.R. 78.2; Medina L.R. 15; Medina Juv. Appx.; Medina Prob. Appx.; Montgomery L.R. 1.23; Summit L.R. 24; Warren L.R. 6.00.

Relevant Legal Authority:

Ohio Revised Code, Section 2313.42
Ohio Revised Code, Section 2945.25
Ohio Revised Code, Section 2961.01
Ohio Rules of Criminal Procedure, Rule 24
Rules of Superintendence for the Courts of Ohio, Appendix B, Trial Court Jury Use and Management Standard 4
Allen County Court of Common Pleas, General Division, Local Rule 1.02
Allen County Court of Common Pleas, Juvenile Division, Rule 13.02

Franklin County Court of Common Pleas, General Division, Local Rule 27
Franklin County Court of Common Pleas, General Division, Local Rule, Exhibit B
Franklin County Court of Common Pleas, Juvenile Division, Local Rule 26
Greene County Court of Common Pleas, General Division, Local Rule 1.21
Hamilton County Court of Common Pleas, General Division, Local Rule 8
Hamilton County Court of Common Pleas, Juvenile Division, Appendix 2
Licking County Court of Common Pleas, General Division, Local Rule 38
Licking County Court of Common Pleas, Domestic Relations Division, Local Rule 18
Lorain County Court of Common Pleas, Domestic Relations Division, Local Rule 30
Lorain County Court of Common Pleas, Probate Division, Appendix A
Lucas County Court of Common Pleas, General Division, Local Rule 7
Lucas County Court of Common Pleas, Probate Division, Local Rule 78.2
Medina County Court of Common Pleas, General Division, Local Rule 15
Medina County Court of Common Pleas, Juvenile Division, Appendix
Medina County Court of Common Pleas, Probate Division, Appendix
Montgomery County Court of Common Pleas, General Division, Local Rule 1.23
Summit County Court of Common Pleas, General Division, Local Rule 24
Warren County Court of Common Pleas, General Division, Local Rule 6.00

Cross References: Restoration of Rights; Voting Rights

C. Public Office

Persons convicted of embezzling public funds are barred from holding public office in Ohio. Ohio Const., Art. 11, § 5. Moreover, the Constitution gives the General Assembly the power to enact legislation to exclude persons convicted of a felony from the privilege of being eligible to hold a public office. Ohio Const., Art. V, §4. A broader statutory provision permanently disqualifies any person convicted of theft in office from any public office, employment, or position of trust. R.C. § 2921.41. This statute is broader than the constitutional prohibition as it applies to public officials and public party officials. A public official is any elected or appointed officer, employee, or agent of the state, county, or city, including legislators, judges, and law enforcement officers. R.C. § 2921.01. Included in this definition are city employees, *State v. Lozano*, 90 Ohio St. 3d 560 (2001), and county hospital employees, Ohio Op. Atty. Gen. 80-094. A party official is a person who holds an elected or appointed post in a

political party and thus has some responsibility in directing or conducting party affairs. R.C. § 2921.01.

Additionally, theft in office encompasses more than embezzlement; it includes any “theft offense” defined by section 2913.01 of the Revised Code. In general these theft offenses include robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit, and fraud as these crimes are defined under state law, municipal law, the law of any other state, or federal law, and also include attempts and conspiracies to commit theft offenses. To be theft in office, one of these theft offenses must have occurred either when the public or party official used his or her office to help commit the theft offense or when the property involved in the theft offense is owned by the government.

Public servants are also prohibited from soliciting or receiving improper compensation, i.e., bribes or kickbacks. R.C. § 2921.43. A public servant is defined more broadly than a public official; it includes not only persons who are public officials, but it also includes persons who perform a governmental function, such as a juror, temporary commission member, arbitrator, or consultant, and persons who are candidates for public office. R.C. § 2921.01. Public servants cannot accept compensation greater than allowed by law and cannot solicit or accept anything in value in exchange for preferential treatment in appointment to or compensation for public employment. A public servant convicted of this crime is disqualified from holding any public, employment, or position of trust in the State for a period of seven years after conviction. R.C. § 2921.43. Similarly, both public servants and party officials convicted of bribery are forever disqualified from holding any public office, employment, or position of trust in this state. R.C. § 2921.02.

If any candidate for office or elected official is convicted of being involved in bribery related to voting, the nomination or the office shall be forfeited. R.C. § 3599.01. Additionally, if a person is convicted of selling his or her vote, then such person is excluded from holding any public office for five years after the conviction. R.C. § 3599.02.

In upholding the ouster of a public official immediately upon conviction of theft in office rather than after sentencing, the Ohio Supreme Court has stated that “the public interest is best served by precluding the possibility of further illegal activities.” *State ex rel. Watkins v. Fiorenzo*, 71 Ohio St.3d 259, 260 (1994). The intent of these provisions, then, is to maintain the legitimacy of the government through ensuring the integrity of public officials, especially with respect to the public fisc. Such conclusion is supported by the plethora of statutes governing financial ethics of public officials, R.C. §§ 102.01-102.04, including prohibitions on having unlawful interests in public contracts. R.C. § 2921.42. The constitutional provision cited above also prohibits persons holding public money from taking a seat in the legislature until he or she has properly accounted for the money.

Furthermore, the legislature may impeach the governor, judges, and other state officers “for any misdemeanor in office,” and if impeachment proceedings are successful, the result under the Constitution is removal from office and disqualification to hold any office in the State. Ohio Const., Art. II, § 24. In practice, impeachment is very rare, but the legislature has the authority to define “misdemeanor” and would probably begin impeachment proceedings only upon serious misconduct, whether it be a misdemeanor or felony under state law.

The General Assembly has the power to pass laws, other than impeachment proceedings, for the removal of public officials from office for misconduct. Ohio Const., Art. II, § 38. The Governor has the authority to remove or suspend a person he or she appointed to office for

wrongdoing, including certain criminal behavior. R.C. § 3.04. Additionally, other public office holders who are found to have engaged in misconduct, which includes certain criminal behavior, shall forfeit their office with all its emoluments. R.C. § 3.07. For example, judges may be suspended or removed for cause, one of which is having been convicted of a crime involving moral turpitude during the term of office.³ R.C. §§ 2701.11, 2701.12. Furthermore, should a judge be suspended from the practice of law or disbarred, which may occur as a result of criminal conviction, Gov. Bar R. 5., *State ex rel. Saxbe v. Franko*, 154 N.E.2d 751 (Ohio 1968), removal from the bench is proper. Gov. Jud. R. 3. A second example involves election officials. The Secretary of State may remove a member or employee of boards of election for a criminal conviction. R.C. § 3501.16. Also, if such officials prohibit a person's access to public election records, they will be dismissed from their positions. R.C. § 3599.161. A third example is officers and employees of the division of credit unions, department of commerce, and the governor's office who violate confidentiality requirements regarding records and proceedings of credit union guaranty corporations have committed a crime and such person may be dismissed or removed from their public office. R.C. § 1761.99; R.C. § 1761.21. Finally, public officials and employees who violate laws limiting their partisan political activity are subject to removal from their offices or positions. R.C. § 124.62; *see also* R.C. § 124.57; R.C. § 124.64; O.A.C. 123:1-46-02; Ohio Atty. Gen. Op. 2000-033. Citizens may also bring a cause of action to restrain the payment of compensation to such persons who are in violation of the provisions prohibiting abuse of political influence. R.C. § 124.63. There are other provisions of Ohio law related to

³ The phrase "crimes involving moral turpitude" has been ascribed many meanings, usually by judicial interpretation, *see, e.g.*, *In re McBride*, 164 Ohio St. 419, 425 (1956) (finding that "'turpitude' implies something extremely bad, turpitude being derived from the Latin word, 'turpis,' meaning vile"), but also by regulatory definition. *See, e.g.*, O.A.C. 3901-1-40 ("For purposes of this rule, moral turpitude means having been convicted of a misdemeanor and as a result of that conviction has been required to register as a sex offender.")

specific positions of public office, such as the office of County Sheriff, R.C. § 311.01; however, these provisions will be discussed in other pertinent sections.

Thus far in this section, there has been a focus on collateral consequences imposed on a public officer convicted of certain offenses. Ohio law also provides for more generally applicable prohibitions on public office for those convicted of a crime. That is, any person convicted of a felony in Ohio or elsewhere is incompetent to hold an office of honor, trust, or profit in the future. R.C. § 2961.01. This prohibition is extended even further: Any person who has been convicted of a disqualifying offense is incompetent to hold a public office, to be publicly employed, or even to be a volunteer in certain public positions, such as volunteer firefighter. R.C. § 2961.02. A disqualifying offense is an offense that is a felony involving fraud, deceit, or theft and for which the law does not already provide for a disqualification from holding public office or a position of public employment. Another manner in which convicted persons are excluded from public office is through the requirement that persons who are elected or appointed to State office must possess the qualifications of an elector. Ohio Const., Art. XV, § 4. Because persons convicted of felonies are incompetent as electors, they would also be ineligible for public office.

Relevant Legal Authority:

Ohio Constitution, Article II, Section 5	Ohio Revised Code, Section 2701.12
Ohio Constitution, Article II, Section 24	Ohio Revised Code, Section 2913.01
Ohio Constitution, Article II, Section 38	Ohio Revised Code, Section 2921.01
Ohio Constitution, Article V, Section 4	Ohio Revised Code, Section 2921.02
Ohio Constitution, Article XV, Section 4	Ohio Revised Code, Section 2921.41
Ohio Revised Code, Section 3.04	Ohio Revised Code, Section 2921.42
Ohio Revised Code, Section 3.07	Ohio Revised Code, Section 2921.43
Ohio Revised Code, Section 102.01	Ohio Revised Code, Section 2961.01
Ohio Revised Code, Section 102.02	Ohio Revised Code, Section 2961.02
Ohio Revised Code, Section 102.021	Ohio Revised Code, Section 3501.16
Ohio Revised Code, Section 102.022	Ohio Revised Code, Section 3599.01

Ohio Revised Code, Section 102.03
Ohio Revised Code, Section 102.031
Ohio Revised Code, Section 102.04
Ohio Revised Code, Section 124.57
Ohio Revised Code, Section 124.62
Ohio Revised Code, Section 124.63
Ohio Revised Code, Section 124.64
Ohio Revised Code, Section 311.01
Ohio Revised Code, Section 1761.21
Ohio Revised Code, Section 2701.11

Ohio Revised Code, Section 3599.02
Ohio Revised Code, Section 3599.161
Ohio Supreme Court Rules for the Government
of the Bar, Rule V
Ohio Supreme Court Rules for the Government
of the Judiciary, Rule III
Ohio Administrative Code, Section 123:1-46-02
Ohio Attorney General Opinion 2000-033
Ohio Attorney General Opinion 1980-094

Cross References: Restoration of Rights; Voting Rights; Public Employment and Benefits;
Special Case of Law Enforcement Officers

III. Public Employment and Doing Business with the State

It should be noted here that nearly all employment or licensure opportunities that impose disqualifications for previous convictions positions, whether for public or private employment, also impose a requirement on applicants to submit to a criminal records check. Thus, a criminal records check may be deemed a consequence in itself. Although we attempted to include every reference to such checks in the summaries below, we may have missed some; thus, the reader may want to assume that applicants for employment with the state or other state-regulated professions, occupations, businesses, or industries, will be subject to an employment-related criminal records check. Criminal records checks are conducted by the bureau of criminal identification and investigation, and the type of employment determines the extent of the check for convictions. R.C. § 109.572; *see also* O.A.C. 109:5-1-01; O.A.C. 109:5-1-03; O.A.C. 109:5-1-04. Criminal records checks include convictions in other jurisdictions and under former laws. Some checks require obtaining a set of fingerprint impressions. R.C. § 109.572.

Relevant Legal Authority:

Ohio Revised Code, Section 109.572
Ohio Administrative Code, Section 109:5-1-01

Ohio Administrative Code, Section 109:5-1-03
Ohio Administrative Code, Section 109:5-1-04

A. Public Employment and Benefits

Public employment is an employment relationship with a governmental entity that is governed by statute. This broad definition encompasses public office, but public office is usually distinguished from mere employment by the delegation of sovereign power, the nature of the right to hold the office, bonding requirements, and the oath of office. *See, e.g., Monarch Constr. Co. v. Ohio School Facilities Comm.* 771 N.E.2d 902 (Franklin County C.P. 2002). In this section we do not claim to correctly categorize positions into either public employment or public office. Rather, we simply describe collateral consequences that appear to be applicable to public employment.

The civil service includes all offices, positions of trust, and employment with the state, counties, cities, city health districts, general health districts, and city school districts of the state. R.C. § 124.01. The civil service is comprised of the classified service and unclassified service. The unclassified service is exempt from examination. The classified service involves competitive examinations and includes all other public employees that are not in the unclassified service. R.C. § 124.11. The director of administrative services may refuse to appoint, examine, or certify as eligible any applicant found to have committed a felony. R.C. § 124.25; *see also* O.A.C. 123:1-11-04; O.A.C. 3352-92-03. Officers and employees in the classified service can be reduced in pay or position, fined, suspended, or removed, or have longevity reduced or eliminated for a conviction of a felony. R.C. § 124.34. Such employees also lose their appeal rights to the state personnel board of review, and they immediately forfeit their status as a classified employee in any public employment upon the date of conviction. R.C. § 124.34.

Certain employees who held a position in the classified service before appointment to the unclassified civil service have the right to resume the position in the classified service if later

removed from the unclassified position; however, employees forfeit the right to resume the classified position if they were removed due to a felony conviction. R.C. §124.11. A similar forfeiture provision applies specifically to the administrator of a county department of job and family services, R.C. § 329.01; employment within the bureau of workers' compensation, R.C. § 4121.121; employment within the department of mental health, R.C. § 5119.071; employment with the department of developmental disabilities, R.C. § 5123.08; and managing officers in the department of youth services R.C. § 5139.02.

Employees in an agency receiving federal grant funds are required to notify the agency head of a conviction of any drug crime occurring at the workplace. O.A.C. 123:1-76-12. Such conviction is evidence of the employee's use of illegal drugs, which will result in disciplinary action. O.A.C. 123:1-76-11. Employees cannot be disciplined for acts that occurred more than two years before the attempted disciplinary action, so long as the acts were known to the appointing authority, unless the acts are the basis of a criminal conviction that was entered within the preceding two years. O.A.C. 124-3-04. In appeals from job actions to the state personnel board of review, a conviction of a crime is conclusive evidence of the existence of all of the elements of that crime. O.A.C. 124-9-08.

Some consequences relating to public employment are specific to certain departments, offices, or agencies. Two departments in particular have more laws governing employment of convicted persons. First, appointing officers cannot appoint a person to fill any position in the department of mental health if the person has been convicted of a felony or misdemeanor bearing a direct and substantial relationship to the position being filled. R.C. § 5119.072. Each agency also maintains policies that appropriate disciplinary action, including dismissal from employment, upon such criminal convictions. O.A.C. 5122-26-06. Applicants for appointment to

or employment in a position with the department of developmental disabilities, R.C. § 5123.081, O.A.C. 5123:1-7-01, or a county board of developmental disabilities, R.C. § 5126.28, O.A.C. 5123:2-1-05, is subject to a criminal records check and is disqualified for the position if they have been convicted of certain offenses, unless they meet certain rehabilitation standards. The department of developmental disabilities further maintains a registry of mental retardation/developmental disabilities employees who have been found to be abusive or neglectful to patients, regardless of whether there is a criminal conviction, although such information is noted in the registry. R.C. § 5123.52; O.A.C. 5123:2-17-03. Before hiring, contracting with, or otherwise employing a person, a governmental entity must inquire whether the person is included in the registry; such persons in the registry are disqualified from employment. R.C. § 5123.52. However, such persons may be removed from registry for good cause, R.C. § 5123.53, such as meeting rehabilitation standards. R.C. § 5123.54; O.A.C. 5123:2-17-03.

Second, the department of alcohol and drug addiction services shall promote and coordinate efforts in the provision of alcohol and drug addiction services and of gambling addiction services by other state agencies. RC § 3793.02. Thus, persons involved in the provision of alcohol and drug addiction services through the state face similar employment and licensure requirements that are imposed on chemical dependency counselors in the private sector. For example, to be certified as a chemical dependency counselor for the state, one is subject to a criminal records check. Although currently incarcerated convicted felons are disqualified, a person with a felony conviction may be eligible for certification, upon approval from the state credentialing board for chemical dependency professionals. O.A.C. 3793:3-1-01; *see also* R.C. § 3793.07. Factors that the board will consider are the nature of the conviction, time lapse and

documented changes since the conviction, related circumstances including active addiction, and status of post-release. O.A.C. 3793:3-1-01. A conviction of a felony or of a misdemeanor related to the profession of chemical dependency counseling may be grounds for disciplinary action. O.A.C. 3793:3-1-03. A similar provision applies to certified prevention professionals and applicants. O.A.C. 3793:3-1-04. Moreover, prospective employees, volunteers, and students interns of alcohol and drug prevention agencies, O.A.C. 3793:5-1-03, driver intervention programs, O.A.C. 3793:4-1-02, and alcohol and drug treatment programs, O.A.C. 3793:2-1-03, must submit to a criminal records check, and must not have been convicted of certain offenses, unless certain rehabilitation standards are met. *See also* O.A.C. 5101:2-5-09.

The following is a list of other statutes governing employment in other particular offices or agencies of the state:

- Applicants for employment with the treasurer of state's office may be subject to a criminal records check and may be disqualified if the applicant has been convicted of any offense involving or relating to fraud, deceit, or theft, unless certain rehabilitation standards are met. R.C. § 113.041.
- Officers or employees of a municipal corporation, county, or township convicted for crimes related to fiscal emergency periods shall forfeit their office or employment. R.C. § 118.99.
- An eligibility criterion to be appointed as the inspector general, R.C. § 121.49, the deputy inspector general for the department of transportation, R.C. § 121.51, or the deputy inspector general for the bureau of workers' compensation and industrial commission, R.C. § 121.52, is no prior convictions for a felony or any crime involving fraud, dishonesty, or moral turpitude.

- Applicants for employment with the office of the state long-term care ombudsperson program, R.C. § 173.27, O.A.C. 173-14-14, or with a community-based long-term care agency or its provider in a position providing direct care to an individual, R.C. § 173.394, O.A.C. 173-9-01, O.A.C. 173-39-01, are subject to a criminal records check and will be disqualified if the applicant has been convicted of certain offenses. An agency of state or local government seeking a license to operate a health care facility must disclose the administrators' or medical director's criminal convictions related to the provision of care or otherwise related to their job responsibilities. O.A.C. 3701-83-04.
- The fire chief of a township or fire district, R.C. § 505.381, a city fire department, R.C. § 737.081, or a village fire department, R.C. § 737.221, may subject a person under consideration for appointment or employment as a paid or volunteer firefighter to a criminal records check, and person with convictions of a felony or any arson offense are disqualified, unless rehabilitation standards are met. Another requirement for employment as a firefighter is certification of training. An applicant for a certificate of firefighter training, O.A.C. 4765-20-02, or fire safety inspector training, O.A.C. 4765-20-03, must not have been convicted of a felony, a misdemeanor committed in the course of practice, or a misdemeanor involving moral turpitude. Applicants for a certificate of firefighter training who have such convictions must submit certain certified court documents with their applications. O.A.C. 4765-20-04.
- The office of a member of the board of directors of the bureau of workers' compensation who is convicted of a felony or certain public administration crimes is deemed vacant. R.C. § 4121.12. Such convictions render a person ineligible to be a board member. *Id.*

- Applicants for registration as servicepersons or service agencies with respect to weights and measures must disclose any felony convictions. O.A.C. 901:6-8-01.
- The appointing authority of the department of rehabilitation and correction may take disciplinary action against employees in the classified and unclassified civil service for criminal behavior. O.A.C. 5120-7-01.

Another topic that is important to public employment is public retirement. There are several public retirement systems in Ohio. This section will refer primarily to the consequences under the public employees retirement system (PERS); however, other public retirement systems will be discussed where appropriate.

The office of an employee or retirant member of PERS who is convicted of a felony, or certain theft and public administration crimes is deemed vacant, and the person is ineligible to become a PERS board member. R.C. § 145.057. A PERS disability benefit recipient who is found capable of resuming service must be restored to his or her last position and salary, unless the person was dismissed for a conviction of a felony. R.C. § 145.362. If a beneficiary is convicted of the murder or manslaughter of a PERS member or recipient, no amount due under PERS will be will be paid to the beneficiary. R.C. § 145.43. The right of a member to receive any benefit under PERS, other than a payment of the accumulated contributions standing to the person's credit, is subject to a forfeiture order under the sentencing law. R.C. § 145.572. More specifically, if a defendant committed certain public administration offenses while serving in a position of honor, trust, or profit, and at the time was a member of any public retirement system, not just PERS, then the court must order the forfeiture of the defendant's right to benefits under the plan. R.C. § 2929.192; *see also* R.C. § 742.463 (police and fire pension fund); R.C. § 3305.11 (alternative retirement plans for employees of public institutions of higher education);

R.C. § 3307.372 (state teachers retirement system); R.C. § 3309.672 (school employees retirement system); R.C. § 5505.262 (state highway patrol retirement system). Moreover, an employee's disability benefits will be terminated if the employee is convicted of a felony and any benefits already paid may be recovered. R.C. § 2929.193; *see also* O.A.C. 123:1-33-11. The benefits of participants in a deferred compensation program, R.C. § 148.10, who are convicted of theft in offense are subject to withholding under restitution orders. R.C. § 2921.41.

A benefit that accrues to public emergency, police, and fire personnel is that any vehicle accidents arising out of their employment do not have an adverse effect on the driver's person automobile insurance, unless the person is convicted of driving while under the influence. R.C. § 3937.41.

Relevant Legal Authority:

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| Ohio Revised Code, Section 113.041 | Ohio Revised Code, Section 5123.08 |
| Ohio Revised Code, Section 118.99 | Ohio Revised Code, Section 5123.081 |
| Ohio Revised Code, Section 121.49 | Ohio Revised Code, Section 5123.52 |
| Ohio Revised Code, Section 121.51 | Ohio Revised Code, Section 5123.53 |
| Ohio Revised Code, Section 121.52 | Ohio Revised Code, Section 5123.54 |
| Ohio Revised Code, Section 124.01 | Ohio Revised Code, Section 5126.28 |
| Ohio Revised Code, Section 124.11 | Ohio Revised Code, Section 5139.02 |
| Ohio Revised Code, Section 124.25 | Ohio Revised Code, Section 5505.262 |
| Ohio Revised Code, Section 124.34 | Ohio Administrative Code, 123:1-11-04 |
| Ohio Revised Code, Section 145.057 | Ohio Administrative Code, 123:1-33-11 |
| Ohio Revised Code, Section 145.362 | Ohio Administrative Code, 123:1-76-11 |
| Ohio Revised Code, Section 145.43 | Ohio Administrative Code, 123:1-76-12 |
| Ohio Revised Code, Section 145.572 | Ohio Administrative Code, 124-3-04 |
| Ohio Revised Code, Section 148.10 | Ohio Administrative Code, 124-9-08 |
| Ohio Revised Code, Section 173.27 | Ohio Administrative Code, 173-9-01 |
| Ohio Revised Code, Section 173.394 | Ohio Administrative Code, 173-14-14 |
| Ohio Revised Code, Section 329.01 | Ohio Administrative Code, 173-39-01 |
| Ohio Revised Code, Section 505.381 | Ohio Administrative Code, 901:6-8-01 |
| Ohio Revised Code, Section 737.081 | Ohio Administrative Code, 3352-92-03 |
| Ohio Revised Code, Section 737.221 | Ohio Administrative Code, 3701-83-04 |
| Ohio Revised Code, Section 742.463 | Ohio Administrative Code, 3793:3-1-03 |
| Ohio Revised Code, Section 2921.41 | Ohio Administrative Code, 3793:3-1-04 |
| Ohio Revised Code, Section 2929.192 | Ohio Administrative Code, 3793:4-1-02 |

Ohio Revised Code, Section 2929.193
Ohio Revised Code, Section 3305.11
Ohio Revised Code, Section 3307.372
Ohio Revised Code, Section 3309.672
Ohio Revised Code, Section 3793.02
Ohio Revised Code, Section 3793.07
Ohio Revised Code, Section 3937.41
Ohio Revised Code, Section 4121.12
Ohio Revised Code, Section 4121.121
Ohio Revised Code, Section 5119.071
Ohio Revised Code, Section 5119.072

Ohio Administrative Code, 3793:5-1-03
Ohio Administrative Code, 4765-20-02
Ohio Administrative Code, 4765-20-03
Ohio Administrative Code, 4765-20-04
Ohio Administrative Code, 5101:2-5-09
Ohio Administrative Code, 5120-7-01
Ohio Administrative Code, 5122-26-06
Ohio Administrative Code, 5123:1-7-01
Ohio Administrative Code, 5123:2-1-05
Ohio Administrative Code, 5123:2-17-03

Cross References: Restoration of Rights; Public Office; Doing Business with the State; Health Care

B. Doing Business with the State

This section deals with persons or entities who sell or provide goods or services to, and who are in other contractual relationships with, the state through departments, offices, and agencies. The state may debar, disqualify, refuse to certify or register, deem ineligible, or deny contract awards with, and may take disciplinary action against or cancel contracts with, persons convicted of certain offenses and entities who employ such persons.

In general, the director of administrative services may debar a vendor, R.C. § 125.25, or a contractor, R.C. § 153.02, from consideration of contract awards for supplies or services and for certain public improvements, respectively, if the vendor or contractor has been convicted of an offense related to the performance of contracts or antitrust. Other statutes are more specific about debarment. For example, the director of commerce must bar contractors convicted for certain violations of wage and hours laws from public contractors. R.C. § 4115.133.

Many consequences arise in the context of providers of public welfare. To be authorized as a vendor for the special supplemental nutrition program for women, infants, and children (WIC), the applicant or its owners cannot have been convicted of crimes indicating a lack of

business integrity within the previous six years. O.A.C. 3701-42-03. The director of public health shall terminate a vendor contract and permanently disqualify from the special supplemental nutrition program for women, infants, and children a vendor that has been convicted for trafficking in food instruments or selling firearms, ammunitions, explosives, or controlled substances in exchange for food instruments. O.A.C. 3701-42-08.

The director is required to have criminal background checks done on applicants seeking to be providers of goods or services to the department of job and family services. R.C. § 5111.032; R.C. § 5111.033; R.C. § 5111.034. Certain criminal convictions will preclude an applicant from becoming a provider. Furthermore, the director is mandated to terminate provider agreements and stop reimbursement to the provider if the provider or its agents have been convicted of obtaining payments by deception, R.C. § 5111.03, and is released from certain due process requirements in terminating the contracts if the provider's criminal activity is related to the medicare or medicaid program. R.C. § 5111.06. Substantially similar provisions apply specifically to providers of medicaid covered services, *see* O.A.C. 5101:3-1-17.2; O.A.C. 5101:3-1-17.3; O.A.C. 5101:3-1-17.6; O.A.C. 5101:3-1-57; and nursing facilities or intermediate care facilities for the mentally retarded, O.A.C. 5101:3-3-02.2; O.A.C. 5101:3-3-20. Provider agreements with managed care plans may also be terminated for any criminal conviction under the federal Social Security Act. O.A.C. 5101:3-26-10. Applicants for employment with agency providers, O.A.C. 5101:3-45-07, and non-agency providers, O.A.C. 5101:3-45-08, under the waiver program administered by the department of job and family services are subject to criminal records checks, and they are disqualified from employment for certain criminal convictions unless they can meet rehabilitation standards. A similar requirement exists for

providers of air ambulance, ambulance, and ambulette services for the medical assistance division of the department for job and family services. O.A.C. 5101:3-15-02.

Any contracting entity with a county board of developmental disabilities for provision of specialized services to individuals with mental retardation or developmental disabilities must subject its applicants for employment to criminal background investigations and shall not employ anyone convicted of certain offenses, unless the person meets stated rehabilitation standards. R.C. § 5126.281. If this statute is violated, the board may terminate the contract. *Id.* This requirement applies to contracting entities that employ persons in direct service positions, O.A.C. 5123:2-1-05.1. The state department of developmental disabilities has similar requirements for its contracting entities, specifically the certification of agency providers of supported living services, O.A.C. 5123:2-2-01; licensure for the operation of residential care facilities, O.A.C. 5123:2-3-04, O.A.C. 5123:2-3-06; adult services registration and certification, O.A.C. 5123:2-5-04; certification for providers of informal respite, O.A.C. 5123:2-8-03, transportation services, O.A.C. 5123:2-8-07, and homemaker/personal care, O.A.C. 5123:2-8-10, to individuals enrolled in the HCBS level one waiver administered by the department; and certification for providers of homemaker/personal care to individuals enrolled in the individual options waiver. O.A.C. 5123:2-13-04.

Providers of services to the bureau of workers' compensation also face consequences for criminal convictions. The administrator of worker's compensation may terminate any agreement between the bureau and a provider if the provider or its agent has been convicted of any crime related to the delivery of or billing for health care benefits. R.C. § 4121.444. The worker's compensation bureau also establishes minimum credentialing criteria for certification of

providers in the health partnership program. Owners and operators of such providers must not have a felony conviction related to controlled substances, fraud, or moral turpitude, O.A.C. 4123-6-02.2, or else the administrator may fail to certify applicants or may suspend or revoke certification, or decertify existing providers. O.A.C. 4123-6-02.5; O.A.C. 4123-6-02.51. The administrator cannot contract with an investment manager for the management of the bureau's funds if any of the manager's employees have been convicted of a financial or investment crime.⁴ R.C. § 4123.445. In turn, the investment manager cannot contract with business entities involved in the investments if those entities employ persons convicted of similar crimes. *Id.*

The following is a list of other statutes governing persons with criminal convictions or entities employing such persons who wish to do other business with the state:

- A person convicted of certain felonies related to public corruption is “forever disqualified” from registering as a legislative agent, R.C. § 101.721, an executive agency lobbyist, R.C. § 121.621, or as a retirement system lobbyist. R.C. § 101.921.
- A minority business bidding for the award of a contract is ineligible for a department of development bond guarantee if its owners have been convicted of a felony involving the breach of the integrity of business transactions and relationships. O.A.C. 122:15-1-03.
- Foreign language and sign language interpreters cannot be certified by the Supreme Court if they have been convicted of any crime involving moral turpitude. Sup. R. 81; Sup. R. 82.

⁴ The investment manager handling the worker's compensation council fund is subject to a criminal records check; the treasurer of the state shall not contract with an investment manager who has any convictions of any financial or investment crimes. R.C. § 4121.79. Note, however, that this section has been repealed since this writing.

- The director of transportation may debar a vendor from consideration for contract awards if the vendor has been convicted of a crime related to the application for or performance of any contract or antitrust. R.C. § 5513.06. Revocation and debarment are also possible sanctions where the owners or key personnel of a bidder has been convicted of crimes involving fraud. O.A.C. 5501:2-3-10.
- A person or business that is convicted of failing to remit the sales tax it collected to the state shall lose its vendor's license and will be ineligible for the vendor's license for two years. R.C. § 5739.99. Persons convicted of certain cigarette sales tax laws may have their wholesale or retail cigarette license revoked by the court, R.C. § 5743.17, or by the tax commissioner, R.C. § 5743.18.
- Contracts for the transportation of prisoners requires that the entity under contract conduct pre-employment criminal records check for its employees and shall not hire any person with a conviction for any felony, any sex offense, an offense of domestic violence, two or more misdemeanor drug offense, or any other offense that imposes a firearm disability. O.A.C. 5120:1-1-35.
- Certification for juvenile sex offender and child-victim offender treatment programs by the department of youth services may be revoked or terminated if the program or its principal has been convicted of medicaid fraud. O.A.C. 5139-69-02.
- The bureau of services for the visually impaired may take disciplinary action upon proof a person with a license to operate a facility has been convicted of certain criminal activity. O.A.C. 3304:1-21-13; O.A.C. 3304:1-21-01.

- The registrar of motor vehicle may prohibit deputy registrars from employing persons convicted of felonies or misdemeanors involving dishonesty or false statement in the past ten years. O.A.C. 4501:1-6-01.

Relevant Legal Authority:

Ohio Revised Code, Section 101.721	Ohio Administrative Code, 4123-6-02.2
Ohio Revised Code, Section 101.921	Ohio Administrative Code, 4123-6-02.5
Ohio Revised Code, Section 121.621	Ohio Administrative Code, 4123-6-02.51
Ohio Revised Code, Section 125.25	Ohio Administrative Code, 4501:1-6-01
Ohio Revised Code, Section 153.02	Ohio Administrative Code, 5101:3-1-17.2
Ohio Revised Code, Section 4115.133	Ohio Administrative Code, 5101:3-1-17.3
Ohio Revised Code, Section 4121.444	Ohio Administrative Code, 5101:3-1-17.6
Ohio Revised Code, Section 4123.445	Ohio Administrative Code, 5101:3-1-57
Ohio Revised Code, Section 5111.03	Ohio Administrative Code, 5101:3-3-02.2
Ohio Revised Code, Section 5111.032	Ohio Administrative Code, 3701-42-08
Ohio Revised Code, Section 5111.033	Ohio Administrative Code, 5101:3-15-02
Ohio Revised Code, Section 5111.034	Ohio Administrative Code, 5101:3-26-10
Ohio Revised Code, Section 5111.06	Ohio Administrative Code, 5101:3-45-07
Ohio Revised Code, Section 5126.281	Ohio Administrative Code, 5101:3-45-08
Ohio Revised Code, Section 5513.06	Ohio Administrative Code, 5120:1-1-35
Ohio Revised Code, Section 5739.99	Ohio Administrative Code, 5123:2-1-05.1
Ohio Revised Code, Section 5743.17	Ohio Administrative Code, 5123:2-2-01
Ohio Revised Code, Section 5743.18	Ohio Administrative Code, 5123:2-3-04
Rules of Superintendence for the Courts of Ohio, Rule 81	Ohio Administrative Code, 5123:2-3-06
Rules of Superintendence for the Courts of Ohio, Rule 82	Ohio Administrative Code, 5123:2-5-04
Ohio Administrative Code, 5101:3-3-20	Ohio Administrative Code, 5123:2-8-03
Ohio Administrative Code, 122:15-1-03	Ohio Administrative Code, 5123:2-8-07
Ohio Administrative Code, 3304:1-21-01	Ohio Administrative Code, 5123:2-8-10
Ohio Administrative Code, 3304:1-21-13	Ohio Administrative Code, 5123:2-13-04
Ohio Administrative Code, 3701-42-03	Ohio Administrative Code, 5139-69-02
	Ohio Administrative Code, 5501:2-3-10

Cross References: Restoration of Rights; Public Employment and Benefits; Health Care

C. Special Case of Law Enforcement Officers

A person with any felony conviction is ineligible for employment as a law enforcement officer in Ohio. If already employed as a law enforcement officer, employment will be

terminated upon either a plea of guilty or a plea of guilty to a misdemeanor made pursuant to a negotiated plea agreement under section 2920.43(D) in which the officer agrees to surrender his or her certificate as a peace officer awarded pursuant to section 109.77. Employment will be suspended upon a conviction by jury pending the outcome of any appeal. R.C. § 2929.43.

This employment disqualification applies to all types of law enforcement⁵ and investigatory positions: agents and investigators of the Bureau of Criminal Identification and Investigation, R.C. § 109.511; regional transit authority police officers, R.C. § 306.352; sheriffs⁶ and deputy sheriffs, R.C. § 311.04; township police officers including chiefs of police, patrol officers, and other peace officers, R.C. § 505.49; police constables for township trustees, R.C. § 509.01; township park district employees with enforcement powers, R.C. § 511.232; municipal police including chiefs of police, police officers, and auxiliary officers, R.C. § 737.052; village police including marshals, deputy marshals, police officers, night watchmen, special officers, and auxiliary officers, R.C. § 737.162; natural resources law enforcement staff officers, R.C. § 1501.013; forest officers, R.C. § 1503.29; preserve officers, R.C. § 1517.10; game protectors, R.C. § 1531.132; park officers, R.C. § 1541.11; park district employees with police powers, R.C. § 1545.13; state watercraft officers, R.C. § 1547.523; qualified nonprofit corporation police, R.C. § 1702.80; campus police, R.C. § 1713.50; state university law enforcement officers, R.C. § 3345.04; metropolitan housing authority police, R.C. § 3735.311; enforcement investigators for

⁵ Troopers with the state highway patrol are conspicuously absent from this list. Although there is no statute governing employment qualifications for troopers, there is a statutory grant of authority to the superintendent of the state highway patrol to establish rules governing the admission qualifications for the highway patrol academy and fitness standards for employment that are “not inconsistent with the rules of the director of administrative services.” R.C. § 5503.05. Thus, applicants will be required to meet requirements for civil service and the Ohio Peace Officer Basic Training Program (OPOTC). Special police officers appointed by the state highway patrol to assist with certain duties must also have peace officer certification. R.C. § 5503.09.

⁶ County sheriff is an elected office, and the qualifications for office are more stringent than other law enforcement employment. To be eligible for the office of sheriff, a person must, among other things, have no felony convictions, have no first degree misdemeanor convictions, have no convictions of offenses of moral turpitude, and be qualified as an elector. R.C. § 311.01.

the state chiropractic board, O.A.C. 4734-1-04; special police officers including police officers for banks, savings and loan associations, credit unions, railroad companies, and hospitals, R.C. § 4973.171; department of mental health police, R.C. § 5119.14; department of mental retardation and developmental disabilities police, R.C. § 5123.13; enforcement agents for the department of public safety, R.C. § 5502.14; department of taxation employees with investigative powers, R.C. § 5743.45; Ohio veterans' home chiefs of police and police officers, R.C. § 5907.021; and conservancy district employees with police powers, R.C. § 6101.75.

Peace officer training and certification, which is required for most of the law enforcement and investigatory positions listed above, will be denied or revoked due to a felony conviction or conviction of a peace officer disqualifying offense. R.C. § 109.77; O.A.C. 109:2-1-02; O.A.C. 109:2-1-03. A person cannot have a conviction for a felony, crime of moral turpitude, or any other peace officer disqualifying offense to be certified as a commander, O.A.C. 109:2-1-05, or an instructor, O.A.C. 109:2-1-06, at an OPOTC school.

Similar employment disqualifications exist for commanders and instructors at private security training programs, O.A.C. 109:2-3-04 and O.A.C. 109:2-3-05; firearms training schools for bailiffs and deputy bailiffs, O.A.C. 109:2-5-05 and O.A.C. 109:2-5-06; full service jail personnel training, O.A.C. 109:2-9-04 and O.A.C. 109:2-9-05; training for personnel at five-day and twelve-hour jail facilities, O.A.C. 109:2-11-04 and O.A.C. 109:2-11-05; and firearms requalification programs, O.A.C. 109:2-13-04. Persons convicted of a felony also may not attend full service jail personnel training or training for other jail facilities personnel. O.A.C. 109:2-9-08; O.A.C. 109:2-11-02; O.A.C. 109:2-11-08. Also, certification as a special purpose canine evaluator may be revoked due to conviction of a crime involving theft, fraud, or deception. O.A.C. 109:2-7-04.

Persons with previous convictions also cannot hold other public offices or employment related to law enforcement. An appointed member of the organized crime investigations commission may be removed from office for either conviction of a felony or offense of moral turpitude. R.C. § 177.01. Persons who have been convicted of a felony, certain theft offenses, or certain offenses against public administration are ineligible for election to the office of the board of trustees of the police and fire pension fund. R.C. § 742.046. Current office holders convicted of such offenses will lose his or her office. *Id.* Persons convicted of a theft offense are ineligible to be a member of the state highway patrol retirement board, and current office holders convicted of such an offense shall lose the office. R.C. § 5505.048. Ohio peace officer training commission members, although not public office holders, cannot have been disqualified from holding public office or employment. R.C. § 109.72.

Law enforcement officers who are convicted of a felony or the aforementioned negotiated misdemeanor not only lose their employment and peace officer certification, but their employment benefits are also affected. Members who have attained a certain number of years of total service credit as a PERS law enforcement officer or PERS public safety officer may receive the scheduled age and service retirement benefit unless such officers resigned or were discharged for a felony conviction. R.C. § 145.33. A similar provision applies to members of the police and fire pension fund, R.C. § 742.37, and members of the highway patrol retirement system, R.C. § 5505.17; O.A.C. 5505-3-06. Restoration to the officer's rank and salary after having been on disability pension is mandated unless the officer was dismissed or resigned for conviction of a felony. R.C. § 145.362; R.C. § 742.40; R.C. § 5505.18. Certain amounts of an officer's pension are subject to forfeiture orders. R.C. § 145.572; R.C. § 742.37; R.C. § 742.463; R.C. § 5505.262. Such forfeiture orders are sanctions for the commission of a felony while serving in a position of

honor, trust, or profit. That is, if an officer is convicted of certain offenses, the court may order the forfeiture of the officer's right to the pension (other than his or her accumulated contributions). R.C. § 2929.192. Moreover, a conviction for any theft in office, R.C. § 742.461, or for certain sexual offenses, R.C. § 2907.15, subjects one's retirement benefits to withholding for restitution purposes. R.C. § 742.461.

Finally, although not peace officers, we included military officers in this category. Commissioned and warrant officers in the Ohio national guard shall be discharged if the officer has been convicted of a felony. R.C. § 5919.16. Similarly, if an officer in the Ohio military reserve, R.C. § 5920.11, or in the Ohio naval militia, R.C. § 5921.13, has been convicted of an infamous crime, such commissions or warrants shall be vacated.

Relevant Legal Authority:

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| Ohio Revised Code, Section 109.511 | Ohio Revised Code, Section 4973.171 |
| Ohio Revised Code, Section 109.72 | Ohio Revised Code, Section 5119.14 |
| Ohio Revised Code, Section 109.77 | Ohio Revised Code, Section 5123.13 |
| Ohio Revised Code, Section 145.33 | Ohio Revised Code, Section 5502.14 |
| Ohio Revised Code, Section 145.362 | Ohio Revised Code, Section 5503.05 |
| Ohio Revised Code, Section 145.572 | Ohio Revised Code, Section 5503.09 |
| Ohio Revised Code, Section 177.01 | Ohio Revised Code, Section 5505.048 |
| Ohio Revised Code, Section 306.352 | Ohio Revised Code, Section 5505.17 |
| Ohio Revised Code, Section 311.01 | Ohio Revised Code, Section 5505.18 |
| Ohio Revised Code, Section 311.04 | Ohio Revised Code, Section 5505.262 |
| Ohio Revised Code, Section 505.49 | Ohio Revised Code, Section 5743.45 |
| Ohio Revised Code, Section 509.01 | Ohio Revised Code, Section 5907.021 |
| Ohio Revised Code, Section 511.232 | Ohio Revised Code, Section 5919.16 |
| Ohio Revised Code, Section 737.052 | Ohio Revised Code, Section 5920.11 |
| Ohio Revised Code, Section 737.162 | Ohio Revised Code, Section 5921.13 |
| Ohio Revised Code, Section 742.046 | Ohio Revised Code, Section 6101.75 |
| Ohio Revised Code, Section 742.37 | Ohio Administrative Code, 109:2-1-02 |
| Ohio Revised Code, Section 742.40 | Ohio Administrative Code, 109:2-1-03 |
| Ohio Revised Code, Section 742.461 | Ohio Administrative Code, 109:2-1-05 |
| Ohio Revised Code, Section 742.463 | Ohio Administrative Code, 109:2-1-06 |
| Ohio Revised Code, Section 1501.013 | Ohio Administrative Code, 109:2-3-04 |
| Ohio Revised Code, Section 1503.29 | Ohio Administrative Code, 109:2-3-05 |
| Ohio Revised Code, Section 1517.10 | Ohio Administrative Code, 109:2-5-05 |

Ohio Revised Code, Section 1531.132
Ohio Revised Code, Section 1541.11
Ohio Revised Code, Section 1545.13
Ohio Revised Code, Section 1547.523
Ohio Revised Code, Section 1702.80
Ohio Revised Code, Section 1713.50
Ohio Revised Code, Section 2907.15
Ohio Revised Code, Section 2920.43
Ohio Revised Code, Section 2929.192
Ohio Revised Code, Section 2929.43
Ohio Revised Code, Section 3345.04
Ohio Revised Code, Section 3735.311

Ohio Administrative Code, 109:2-5-06
Ohio Administrative Code, 109:2-7-04
Ohio Administrative Code, 109:2-9-04
Ohio Administrative Code, 109:2-9-05
Ohio Administrative Code, 109:2-9-08
Ohio Administrative Code, 109:2-11-02
Ohio Administrative Code, 109:2-11-04
Ohio Administrative Code, 109:2-11-05
Ohio Administrative Code, 109:2-11-08
Ohio Administrative Code, 109:2-13-04
Ohio Administrative Code, 4734-1-04
Ohio Administrative Code, 5505-3-06

Cross References: Public Office; Public Employment and Benefits; Right to Bear Arms

D. Special Case of Educators and Students

Collateral consequences of criminal conviction are especially stringent with respect to educators, presumably because of the concern for the safety and welfare of students. Similarly, students with criminal convictions also face collateral consequences with respect to their education.

Criminal convictions adversely affect the licensure of teachers. The state board of education and the department of education may question an applicant for issuance or renewal of any license about any criminal offense they committed or are alleged to have committed, regardless of whether the record has been sealed or expunged. R.C. § 3319.292. The board requires a criminal records check for all persons applying for or renewing teaching certificates, licenses, or permits, or teaching under a professional or permanent teaching certificate. R.C. § 3319.291. The board may refuse to issue a license to an applicant, limit a license it issues to an applicant, or may limit, suspend, or revoke a license already issued for many reasons. One of these reasons is criminal conviction, including a conviction of certain felonies, certain offenses of violence, theft offenses, and drug abuse offenses. The board is required to revoke or deny

issuance of a license for conviction of certain crimes. Even if the conviction is overturned, the board will still determine whether the person committed the behavior and may ultimately revoke the license. R.C. § 3319.31; R.C. § 3319.311. If under investigation, a person may be given the opportunity to enter into a consent agreement with the board, which must stipulate the board's authority to revoke a license for criminal convictions. *Id.*; O.A.C. 3301-73-23. Prosecutors must notify the board of convictions of persons who are license holders. R.C. § 3319.52.

Superintendents must report to the board any license holder's conduct that is unbecoming to the teaching profession, which includes certain convictions, and may result in disciplinary action. R.C. § 3319.313; O.A.C. 3301-73-21. The department of education participates as a public office in the retained applicant fingerprint database and receives regular notifications regarding arrests or convictions of license holders. R.C. § 3319.316.

Assuming a teacher maintains his or her licensure, criminal convictions may still preclude the employment of teachers. School employees must submit to a criminal records check, and they will be disqualified for employment if they have previous convictions of the listed offenses. R.C. § 3319.39. However, convicted persons seeking employment for license-related positions with the board may be eligible for employment if they meet stated rehabilitation standards. O.A.C. 3301-20-01. Prosecutor must notify the board of education of convictions of persons who are board employees. R.C. § 3319.20. If any school board member, officer, or employee of a school district who improperly enters into contracts during a fiscal crisis, upon conviction of such misdemeanors, they shall forfeit their office or employment. R.C. § 3316.19.

Collateral consequences also include employment disqualifications of non-licensed school employees and employees who are licensed by a board other than the board of education. For example, a licensed school psychologist faces disciplinary action, including revocation of the

license, by the psychology board for certain criminal convictions. O.A.C. 4732-17-03. In general, there is an employment disqualification for non-licensed school employees, but there are exceptions and rehabilitation standards. R.C. § 3319.391; O.A.C. 3301-20-03. Persons with certain criminal convictions are disqualified from employment as persons responsible for the care, custody, or control of a child at a head start agency, R.C. § 3301.32, or preschool program, R.C. § 3301.541; or school child program. O.A.C. 3301-32-02; see also O.A.C. 3301-32-10. To receive and maintain licensure, school child care programs, O.A.C. 3301-32-11, and child day care programs, O.A.C. 3301-37-02, O.A.C. 3301-37-04, cannot employ persons with certain convictions. The disqualification also applies to any employee of a private contractor working with a school district, R.C. § 3319.392; a community school, R.C. § 3314.41; or a STEM school, R.C. § 3326.25, as well as to employees and volunteers of private providers registered with the board to receive autism scholarship payments. O.A.C. 3301-103-06. It further applies to any applicant wishing to participate in providing children services funded by a classroom reading improvement grant, R.C. § 3301.88; O.A.C. 3301-20-02; or work experience program participant wishing to serve volunteer hours at his or her children's school, R.C. § 3319.089.

To be employed as a driver of a school bus or school motor van, a person must be certified. Such certification may be revoked upon a conviction of a crime resulting in a loss or suspension of driving rights, and drivers must give notice of such convictions. R.C. § 3327.10; *see also* O.A.C. 4501-1-05. Drivers are also subject to criminal records checks and driver records checks, and a person who is convicted of driving while under the influence of alcohol or drugs cannot operate a school bus or van for six years after the conviction. R.C. § 3327.10; O.A.C. 3301-83-06. Persons will also be disqualified for certain driving violations. However, persons

convicted of certain offenses may still qualify for employment if they meet established rehabilitation standards. O.A.C. 3301-83-23.

The office of a contributing member or retired teacher member of the state teachers retirement system (STRS) board, R.C. § 3307.061, or of an employee or retirant member of the school employees retirement system (SERS) board, R.C. 3309.061, who is convicted of a felony, or certain theft and public administration crimes is deemed vacant, and the person is ineligible to become a member of the respective boards. A STRS, R.C. § 3307.64, or SERS, R.C. § 3309.41, disability benefit recipient who is found capable of resuming service must be restored to his or her last position and salary, unless the person was dismissed for a conviction of a felony. The right of a member to receive any benefit under STRS, R.C. § 3307.372, or SERS, R.C. § 3309.672, or alternative state retirement system for employees of a public institution of higher education, R.C. § 3305.01, other than a payment of the accumulated contributions standing to the person's credit, is subject to a forfeiture order under the sentencing law. As with PERS, if a defendant committed certain public administration offenses while serving in a position of honor, trust, or profit, and at the time was a member of any public retirement system, including STRS and SERS, then the court must order the forfeiture of the defendant's right to benefits under the plan. R.C. § 2929.192.

One's benefits under these retirement systems are subject to withholding orders upon conviction for sexual assault or theft in office. R.C. § 3305.09 (alternate retirement plan); R.C. § 3307.37 (STRS); R.C. § 3309.67 (SERS). Such restitution orders apply to members of public retirement systems who committed an offense against a child, student, patient, or other person in the context of the member's public employment, who are convicted of the offense, and who are ordered to pay restitution to the victim are subject to withholding, R.C. § 2907.15, and those who

used their office or position to commit a theft offense where the property involved is owned by the state. R.C. § 2921.41.

Adults who seek enrollment in public secondary education programs may not be eligible to do so, as the board of education set criteria for such enrollment, one of which is whether the adult's prior convictions have an effect on other students. O.A.C. 3301-42-01. Students convicted of certain crimes may be suspended, expelled, or removed from school premises. R.C. § 3313.66. Students may be also permanently excluded from school if he or she committed certain excludable offenses, R.C. § 3313.662, of which a court order of conviction is sufficient evidence that the offense occurred. R.C. § 3301.121. Collateral consequences follow students in the college or university setting. Persons who have been convicted of, or adjudicated delinquent for, certain offenses are not eligible to receive state-supported student financial aid. R.C. § 3333.38. College or university students, as well as employees, will be dismissed for certain convictions, and no degrees or honors or funding may be received after dismissal. R.C. § 3345.22; R.C. § 3345.23.

Relevant Legal Authority:

Ohio Revised Code, Section 2907.15	Ohio Revised Code, Section 3319.313
Ohio Revised Code, Section 2921.41	Ohio Revised Code, Section 3319.316
Ohio Revised Code, Section 2929.192	Ohio Revised Code, Section 3319.39
Ohio Revised Code, Section 3301.121	Ohio Revised Code, Section 3319.391
Ohio Revised Code, Section 3301.32	Ohio Revised Code, Section 3319.392
Ohio Revised Code, Section 3301.541	Ohio Revised Code, Section 3319.52
Ohio Revised Code, Section 3301.88	Ohio Revised Code, Section 3326.25
Ohio Revised Code, Section 3305.01	Ohio Revised Code, Section 3327.10
Ohio Revised Code, Section 3305.09	Ohio Revised Code, Section 3333.38
Ohio Revised Code, Section 3307.061	Ohio Revised Code, Section 3345.22
Ohio Revised Code, Section 3307.37	Ohio Revised Code, Section 3345.23
Ohio Revised Code, Section 3307.372	Ohio Administrative Code, 3301-20-01
Ohio Revised Code, Section 3307.64	Ohio Administrative Code, 3301-20-02
Ohio Revised Code, Section 3309.061	Ohio Administrative Code, 3301-20-03
Ohio Revised Code, Section 3309.41	Ohio Administrative Code, 3301-32-02
Ohio Revised Code, Section 3309.67	Ohio Administrative Code, 3301-32-10

Ohio Revised Code, Section 3309.672
Ohio Revised Code, Section 3313.66
Ohio Revised Code, Section 3313.662
Ohio Revised Code, Section 3314.41
Ohio Revised Code, Section 3316.19
Ohio Revised Code, Section 3319.089
Ohio Revised Code, Section 3319.20
Ohio Revised Code, Section 3319.291
Ohio Revised Code, Section 3319.292
Ohio Revised Code, Section 3319.31
Ohio Revised Code, Section 3319.311

Ohio Administrative Code, 3301-32-11
Ohio Administrative Code, 3301-37-02
Ohio Administrative Code, 3301-37-04
Ohio Administrative Code, 3301-42-01
Ohio Administrative Code, 3301-73-21
Ohio Administrative Code, 3301-73-23
Ohio Administrative Code, 3301-83-06
Ohio Administrative Code, 3301-83-23
Ohio Administrative Code, 3301-103-06
Ohio Administrative Code, 4501-1-05
Ohio Administrative Code, 4732-17-03

Cross References: Restoration of Rights; Public Office; Public Employment and Benefits; Doing Business with the State Benefits; Care, Custody, and Control of Children and Familial Rights; Driving Privileges; Legal Actions, Protections, and Presumptions

IV. Care, Custody, and Control of Children and Familial Rights

Not surprisingly, a person's rights and privileges with respect to children are adversely affected by virtue of their criminal convictions. This section describes the collateral consequences of conviction imposed on guardians and caregivers, foster caregivers and adoptive parents, and natural parents and families.

A. Guardians and Caregivers

Applicants for the appointment of guardianship of a minor shall file a statement regarding their previous convictions of crimes involving theft, physical violence, or sexual, alcohol, or substance abuse. R.C. § 2111.03; *see also* Sup. R. 51, Form 16. Some counties have additional rules for guardianship; for example, in Butler County, applicants expressly authorize the sheriff to release copies of conviction records. Butler Prob. R. 66.1. Guardians *ad litem* who are court-appointed to protect the interest of a child must submit to criminal background check and are not fit to serve in that capacity with certain criminal convictions. Sup. R. 48; *see also* Cuyahoga Dom. Rel. R. 35; Licking Dom. Rel. R. 29.0.

Persons with convictions of certain crimes will be disqualified from appointment or employment related to child care, whether the position is deemed either public or private employment. Disqualifying offenses may vary based on type of position. *See* R.C. § 109.572. This prohibition applies to persons responsible for a child's care in any non-school out-of-home care, R.C. § 2151.86, including community residential centers for youth, O.A.C. 5139-35-05, community corrections facilities for youth services, O.A.C. 5139-36-04, and detention facilities for youth services, O.A.C. 5139-37-05. It applies to the appointment to or employment with a home health agency in a position as a person responsible for the care, custody, or control of a child, R.C. 3701.881. It also applies to the licensing of and employment at child day-care centers, type A family day-care homes, or certified type B family day-care homes. R.C. § 5104.09; R.C. § 5104.012; R.C. § 5104.013; *see also* O.A.C. 5101:2-12-26; O.A.C. 5101:2-13-18.2; O.A.C. 5101:2-13-26; O.A.C. 5101:2-14-05; O.A.C. 5101:2-14-06; O.A.C. 5101:2-14-11; O.A.C. 5101:2-14-14; O.A.C. 5101:2-14-56; O.A.C. 5101:2-14-58; O.A.C. 5101:2-14-60. The prohibition applies to employment or operation of a child day camp, O.A.C. 5101:2-18-10.1; as well as to any applicant for employment as a person responsible for the care, custody, or control of a child at a public children services agency. R.C. § 5153.111; *see also* O.A.C. 5101:2-5-09; O.A.C. 5101:2-5-09.1; O.A.C. 5101:2-5-13. Even certain volunteers are affected by this prohibition; if an organization retains a person who seeks to be a volunteer in a position in which the person would have unsupervised access to a child, the organization must notify parents or guardians of each child about certain previous convictions of the volunteer. R.C. § 109.576. In some instances, a convicted person may still be eligible for employment who has met rehabilitation standards. *See, e.g.*, R.C. § 5153.111.

A public children services agency, private child placing agency or private noncustodial agency is required to participate with the department of job and family services regarding the retained applicant database information exchange, which involves information regarding criminal convictions of child care providers, foster caregivers, and adoptive parents. O.A.C. 5101:2-33-80. When a child cannot stay in his or her own home, placement agencies seek a suitable placement, which may include relative or nonrelative substitute caregivers. O.A.C. 5101:2-42-05. Substitute caregivers must not have certain convictions prior to approval, and caseworkers must verify no new convictions. O.A.C. 5101:2-42-18; O.A.C. 5101:2-42-65.

Relevant Legal Authority:

Ohio Revised Code, Section 109.572	Ohio Administrative Code, 5101:2-14-58
Ohio Revised Code, Section 109.576	Ohio Administrative Code, 5101:2-14-11
Ohio Revised Code, Section 2111.03	Ohio Administrative Code, 5101:2-14-14
Ohio Revised Code, Section 2151.86	Ohio Administrative Code, 5101:2-14-56
Ohio Revised Code, Section 3701.881	Ohio Administrative Code, 5101:2-14-58
Ohio Revised Code, Section 5104.012	Ohio Administrative Code, 5101:2-14-60
Ohio Revised Code, Section 5104.013	Ohio Administrative Code, 5101:2-18-10.1
Ohio Revised Code, Section 5104.09	Ohio Administrative Code, 5101:2-33-80
Ohio Revised Code, Section 5153.111	Ohio Administrative Code, 5101:2-42-05
Rules of Superintendence for the Courts of Ohio, Rule 48	Ohio Administrative Code, 5101:2-42-18
Rules of Superintendence for the Courts of Ohio, Rule 51, Form 16	Ohio Administrative Code, 5101:2-42-65
Ohio Administrative Code, 5101:2-5-09	Ohio Administrative Code, 5139-35-05
Ohio Administrative Code, 5101:2-5-09.1	Ohio Administrative Code, 5139-36-04
Ohio Administrative Code, 5101:2-5-13	Ohio Administrative Code, 5139-37-05
Ohio Administrative Code, 5101:2-12-26	Butler County Court of Common Pleas, Probate Division, Local Rule 66.1
Ohio Administrative Code, 5101:2-13-18.2	Cuyahoga County Court of Common Pleas, Domestic Relations Division, Local Rule 35
Ohio Administrative Code, 5101:2-13-26	Licking County Court of Common Pleas, Domestic Relations Division, Local Rule 29.0
Ohio Administrative Code, 5101:2-14-05	
Ohio Administrative Code, 5101:2-14-06	

Cross References: Restoration of Rights; Public Employment and Doing Business with the State; Special Case of Educators and Students; Health Care; Legal Actions, Protections, and Presumptions

B. Foster Care and Adoption

Foster caregivers and adoptive families face similar disqualifications for previous convictions. An applicant to be a certified foster caregiver, as well as any resident in the applicant's home, cannot have been convicted of certain disqualifying offenses, unless specific rehabilitation standards are met. *See* O.A.C. 5101:2-5-09.1; O.A.C. 5101:2-5-20; O.A.C. 5101:2-5-28; O.A.C. 5101:2-7-02. A foster caregiver is required to notify the recommending agency whether any adult or child over the age of 12 living in the home has been convicted of certain crimes. Failure to make notification shall result in revocation of the foster caregiver's certificate. R.C. § 5103.0319; O.A.C. 5101:2-7-14. The recommending agency will then assess the situation for safety concerns and may recommend the revocation of the foster care certificate. R.C. § 5103.0328.

Foster caregivers seeking to adopt their foster child must submit to another criminal records check. R.C. § 3107.012; *see also* R.C. § 2151.86. Agencies that place, or participate in the placement of, children for adoption have written adoption policies including one requiring criminal records checks and conviction notification standards for applicants and other residents in their homes. O.A.C. 5101:2-48-05. These policies are enforced during the adoption homestudy process. O.A.C. 5101:2-48-09. Applicants convicted of certain offenses and who do not meet rehabilitation standards cannot be adoptive parents. O.A.C. 5101:2-48-10. Prior to finalization of the adoption, assessors must gather new information regarding criminal convictions of the child, adoptive parents, and any household member. O.A.C. 5101:2-48-17. Adoptive parents are required to notify the recommending agency whether any adult in the home has been convicted of certain crimes. O.A.C. 5101:2-48-12.2.

When a court makes a determination in a contested adoption concerning the best interest of a child, one relevant factor is whether any person involved has been convicted of a criminal offense involving the abuse or neglect of a child, a victim who was a member of the person's family or household, and whether physical harm was caused to that person. R.C. § 3107.161.

Relevant Legal Authority:

Ohio Revised Code, Section 2151.86	Ohio Administrative Code, 5101:2-7-02
Ohio Revised Code, Section 3107.012	Ohio Administrative Code, 5101:2-7-14
Ohio Revised Code, Section 3107.161	Ohio Administrative Code, 5101:2-48-05
Ohio Revised Code, Section 5103.0319	Ohio Administrative Code, 5101:2-48-09
Ohio Revised Code, Section 5103.0328	Ohio Administrative Code, 5101:2-48-10
Ohio Administrative Code, 5101:2-5-09.1	Ohio Administrative Code, 5101:2-48-12.2
Ohio Administrative Code, 5101:2-5-20	Ohio Administrative Code, 5101:2-48-17
Ohio Administrative Code, 5101:2-5-28	

Cross References: Restoration of Rights; Guardians and Caregivers; Natural Parents and Familial Rights

C. Natural Parents and Familial Rights

Convictions of certain crimes may adversely affect parental and familial rights; however, in most instances a natural parent with a felony conviction does not automatically lose his or her parental rights. Instead, criminal convictions are just one factor that the court considers in its decision making. For example, even if one parent has been convicted of killing the other parent, the parent may still gain visitation rights or custody of the child if the court determines it is in the child's best interest. R.C. § 3109.44. Moreover, even where a child is the victim of the parent's crime, the court will consider all relevant evidence in deciding whether to grant permanent custody to a children services agency, R.C. § 2151.414, although the agency need not make efforts to prevent the removal of children from those homes. R.C. § 2151.419. A placement agency is required to request permanent custody of a child and the termination of parental rights

if the parent has been convicted of serious felonies against children in the home. O.A.C. 5101:2-42-95. One exception to the general rule against automatically terminating parental rights involves parental consent to adoption; a putative father's consent to adoption is not required if the child is conceived through the father's rape of the mother and the father is convicted of that offense. R.C. § 3107.07.

With respect to the allocation of parental rights and responsibilities for the care of the child, having certain prior convictions is a factor weighed against a parent in the court's decisions. R.C. § 3109.04. (The domestic relations court will already have been notified if one parent had been convicted of killing the other parent. R.C. § 3109.44.) If parents are not in agreement about the allocation, they are often sent to mediation; however, court resolution is the only avenue available if either parent has been convicted of certain crimes. R.C. § 3109.052. Similarly, in some counties, if the visiting parent has been convicted of certain crimes of familial violence, the residential parent is relieved of certain provisions in the standard parenting order. That is, the visiting parent is not entitled to certain notifications about, and access to, the child. Hamilton Dom. Rel. R. 2.0; Hamilton Dom. Rel. R. 2.1. The court also shall consider prior convictions of parents, grandparents, relatives, or other persons in deciding whether to grant companionship or visitation rights. R.C. § 3109.051. If visitation rights are granted to persons with convictions, they are not entitled to certain notices about the child from the residential parent. *Id.*

A parent of a child may create a power of attorney granting the child's grandparents any of the parent's rights and responsibilities regarding the care, custody, and control of the child. R.C. § 3109.52. When this occurs, the grandparents must notify the court whether they have any prior convictions. R.C. § 3109.53. Similarly, grandparents must notify the court about prior

convictions if they seek to execute a caretaker authorization affidavit in order to obtain authority to exercise care, custody, and control of the child when parents cannot be located. R.C.

§ 3109.65; R.C. § 3109.66. The court may report such convictions to the children services agency, who in turn shall initiate an investigation. R.C. § 3109.74.

Upon conviction in a "deadbeat parent" prosecution, the court is required to order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing. O.A.C. 5101:12-50-58. Moreover, in certain instances, the court will order that convicted offenders pay court costs and attorney's fees of the other parent. R.C. § 2919.21. There is also a degree enhancement for a previous conviction of failure to pay child support. R.C. § 3113.99.

Although it does not necessarily involve children, imprisonment is grounds for divorce. R.C. § 3105.01. In general, convictions may be a factor considered by the court in divorce proceedings. *See* Warren Dom. Rel. Appx. 4. In many counties, any party to a parenting or support action must inform the court of any convictions, active civil protections orders, or pending criminal actions in any court. *See, e.g.,* Cuyahoga Juv. R. 40.

Relevant Legal Authority:

Ohio Revised Code, Section 2151.414
Ohio Revised Code, Section 2151.419
Ohio Revised Code, Section 2919.21
Ohio Revised Code, Section 3105.01
Ohio Revised Code, Section 3107.07
Ohio Revised Code, Section 3109.051
Ohio Revised Code, Section 3109.052
Ohio Revised Code, Section 3109.04
Ohio Revised Code, Section 3109.44
Ohio Revised Code, Section 3109.52
Ohio Revised Code, Section 3109.53
Ohio Revised Code, Section 3109.65
Ohio Revised Code, Section 3109.66

Ohio Revised Code, Section 3109.74
Ohio Revised Code, Section 3113.99
Ohio Administrative Code, 5101:2-42-95
Ohio Administrative Code, 5101:12-50-58
Cuyahoga County Court of Common Pleas,
Juvenile Division, Local Rule 40
Hamilton County Court of Common Pleas,
Domestic Relations Division, Local Rule 2.0
Lorain County Court of Common Pleas,
Domestic Relations Division, Local Rule 2.1
Warren County Court of Common Pleas,
Domestic Relations Division, Appendix 4

Cross References: Caregivers and Guardians; Foster Care and Adoption.

V. Regulated Professions, Occupations, Trades, Businesses, and Industries

The state has the power to regulate a profession, occupation, trade, business, and industry. This is done through a grant of statutory authority and a delegation of that power to an administrative board, commission, or agency.⁷ Most regulated professions, occupations, trades, businesses, and industries impose collateral consequences on persons convicted of crimes. Below we discuss those consequences to particular job types in three general categories: fiduciary and financial; health care; and safety.

However, we first note that some requirements may affect a large number of license holders, cutting across the type of business, profession, or occupation. For instance, criminal records checks are required for all licensed professions. *See* R.C. § 4776.02. Also, convictions of drug offenses especially affect professionally licensed persons. In this context, a professionally licensed person is defined as persons who have obtained a permanent or temporary license, permit, certificate, registration, qualification, admission in certain professions, including controlled substance manufacturing or wholesaling; public accounting; architecture; landscape architecture; auctioneering, barbers, debt adjusting, cosmetology and hair styling; dentistry and related occupations; funeral directors and embalmers; nursing; optometry; pawnbroking; precious metals dealers; pharmacy and distributors of dangerous drugs; physicians and surgeons; physician assistants; psychologists and school psychologist; chiropractic; real estate brokering, sales, and appraisals; sanitarians; junkyard operation; motor vehicle salvage dealing; steam engineering; veterinary medicine; hearing aid dealing and fitting; investigation and security;

⁷ A law went into effect in 2009 giving boards, commissions, and agencies with authority to deny licensure or certification without a hearing for convictions of certain criminal offenses 180 days to promulgate rules that would add criminal offenses to their respective lists and to state how each offense is substantially related to a person's fitness and ability to perform the duties and responsibilities of the occupation, profession, or trade. R.C. § 4743.06.

nursing home administrating; speech-language pathology and audiology; occupational and physical therapy; counseling and social work; dietetics; respiratory therapy; and the practice of law. R.C. § 2925.01.

Upon conviction of certain drug offenses, the court is required to transmit a copy of the judgment entry of conviction to the regulatory or licensing board or agency that has authority to suspend or revoke the person's professional license. R.C. § 2925.38; see also R.C. § 2925.02 (corrupting with drug); R.C. § 2925.03 (drug trafficking); R.C. § 2925.04 (drug manufacturing); R.C. § 2925.041(chemicals used in manufacturing); R.C. § 2925.05 (funding drug trafficking); R.C. § 2925.06 (steroid distribution); R.C. § 2925.11 (drug possession); R.C. § 2925.12 (drug instruments); R.C. § 2925.13 (permitting drug abuse); R.C. § 2925.14 (drug paraphernalia); R.C. § 2925.22 (deception to obtain drugs); R.C. § 2925.23 (drug documents); R.C. § 2925.31 (abusing harmful intoxicants); R.C. § 2925.32 (trafficking in harmful intoxicants); R.C. § 2925.36 (dispensing drug samples); R.C. § 2925.37 (counterfeit drugs). Moreover, prosecutors must report to the appropriate boards all convictions of crimes involving controlled substances as regulated by Chapter 3719 or Chapter 2925 of persons who are licensed, certified, or registered in the health professions. R.C. § 3719.12; R.C. § 2929.42.

As mentioned above, a court order to seal or expunge convictions does not automatically seal an administrative agency's records. Ohio Atty. Gen. Op. 1993-038.

License holders who are in default on their child support orders are subject to disciplinary action, including revocation, by their licensing authority. R.C. § 3123.43 (professional and occupational licenses). Default is not in itself a criminal conviction; however, the underlying behavior is an element of criminal non-support. *See* R.C. § 2919.21. We mention this potential

consequence here, as we do not discuss child support default with respect to any particular license below.

Relevant Legal Authority:

Ohio Revised Code, Section 2919.21	Ohio Revised Code, Section 2925.23
Ohio Revised Code, Section 2925.01	Ohio Revised Code, Section 2925.31
Ohio Revised Code, Section 2925.02	Ohio Revised Code, Section 2925.32
Ohio Revised Code, Section 2925.03	Ohio Revised Code, Section 2925.36
Ohio Revised Code, Section 2925.04	Ohio Revised Code, Section 2925.37
Ohio Revised Code, Section 2925.041	Ohio Revised Code, Section 2925.38
Ohio Revised Code, Section 2925.05	Ohio Revised Code, Section 2929.42
Ohio Revised Code, Section 2925.06	Ohio Revised Code, Section 3123.43
Ohio Revised Code, Section 2925.11	Ohio Revised Code, Section 3719.12
Ohio Revised Code, Section 2925.12	Ohio Revised Code, Section 4743.06
Ohio Revised Code, Section 2925.13	Ohio Revised Code, Section 4776.02
Ohio Revised Code, Section 2925.14	Ohio Attorney General Opinion 1993-038
Ohio Revised Code, Section 2925.22	

Cross References: Restoration of Rights; Public Employment and Benefits; Doing Business with the State; Financial and Fiduciary; Health Care; Safety

A. Financial and Fiduciary

Many businesses and industries that require employees to engage in financial transactions or to act as a fiduciary impose employment disqualifications on persons with criminal convictions. More so than the other regulated professions, the disqualifications in this category tend to be more tailored. That is, a person with a criminal conviction is more likely to be disqualified only if his or her offense of conviction bears a direct and substantial relationship to the duties and responsibilities of the position. Thus, in this category, we see more disqualifications for prior convictions of crimes involving theft, fraud, or dishonesty. We also see the regulation of businesses or industries—for example, the gambling industry—that historically may be crime-prone. Particular financial and fiduciary professions, occupations, trades, businesses, and industries are discussed below in alphabetical order.

Accountants

Requirements for public accountants include good moral character. R.C. § 4701.06; *see also* R.C. § 4701.01. Applicants must submit to a criminal records check, and the state accountancy board has the discretion to determine whether the results of the check make the applicant ineligible for licensure. R.C. § 4701.08. The accountancy board may discipline a person holding an Ohio permit or registration, a firm registration, a certified public accountant certificate, or a public accountant registration for a conviction of a felony or any crime that has an element of dishonesty or fraud. R.C. § 4701.16; O.A.C. 4701-11-09.

Attorneys

The licensure of attorneys is governed by statute as well as the Supreme Court Rules for the Government of the Bar. A character investigation must be conducted before persons are admitted to the practice of law, which includes submission of fingerprints, criminal records check, and disclosure of all criminal actions, even those that have been sealed. Gov. Bar R.1. The disciplinary counsel of the board of commissioners on grievances and discipline must report criminal convictions to the Supreme Court of Ohio. Gov. Bar R. 5. A justice, judge, or an attorney is subject to disciplinary action upon a conviction of a felony or a crime involving moral turpitude. *Id.* The state courts may discipline attorneys who have been convicted of a crime involving moral turpitude. R.C. § 4705.02; *see also* N.D. Ohio L.R. 57.7; N.D. Ohio L.R. 83.7; S.D. Ohio DER 1; S.D. Ohio DER 13.

Auctioneers

The department of agriculture shall not issue or renew a license for an auction firm, auctioneer, apprentice auctioneer, or special auctioneer if the applicant or licensee has been convicted of a felony or any crime involving fraud or theft in the past ten years. R.C. § 4707.02.

The department may take disciplinary action if a license holder is convicted of a felony or any criminal offense involving fraud, forgery, embezzlement, false pretenses, extortion, conspiracy to defraud or similar offenses. R.C. § 4707.15. Holders have a duty to report convictions of a felony or a fraud, or else they face disciplinary action and civil penalties. *Id.*, O.A.C. 901:8-2-08. Neither the owner of nor any instructor at an auction school can have a conviction of crime involving theft, fraud, or moral turpitude, or a crime involving violations of auction laws and regulations or abuse of fiduciary responsibilities. O.A.C. 901:8-3-03; O.A.C. 901:8-3-04; O.A.C. 901:8-3-06.

Banks and Credit Unions

Persons interested in the acquisition of a state bank must give notice to the superintendent of financial institutions regarding any criminal convictions of all persons involved in the acquisition. R.C. § 1115.06; *see* O.A.C. 1301:2-4-02 (savings and loan associations); O.A.C. 1301:12-4-02 (savings banks). Persons who have a substantial interest in or participate in the management of a bank are subject to criminal records checks. R.C. § 1121.23. A person convicted of a felony involving dishonesty or breach of trust is ineligible to take office as a director on the board of directors of a bank, R.C. § 1105.02, as a member of the banking commission, R.C. § 1123.01, or as a member of the board of savings banks or savings and loan associations, R.C. § 1181.16. The superintendent of financial persons may remove a regulated person from office, or prohibit the person from further participation in the bank business, or both upon the person's conviction of a felony involving dishonesty, breach of trust, or a depository institution. R.C. § 1121.34.

Persons who will participate in the management of a credit union are subject to criminal records checks. R.C. § 1733.47. Except with the written consent of the superintendent of credit

unions, no person shall serve as an officer of a credit union if the person is convicted of a felony or any criminal offense involving dishonesty or a breach of trust. R.C. § 1733.20. A board of directors of a credit union must remove a director if he or she has been convicted of a felony of any criminal offense involving dishonesty or a breach of trust. R.C. § 1733.18. A credit union service organization seeking exemption from registration with the division of financial institutions as a person engaged in the business of second mortgage security loans, R.C. § 1321.522, or in the business of mortgage brokering, R.C. § 1322.023, shall attest that the organization and its owners and managers have not been convicted of a misdemeanor involving theft or any felony in the past seven years, or at any time a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering.

Career Schools

Applicants for an agent permit to solicit prospective students to enroll for a fee at a registered Ohio school must disclose all convictions of a felony or crime of moral turpitude with a detailed explanation of the surrounding circumstances. O.A.C. 3332-1-17. The state board of career colleges and schools shall not issue permits to persons who are not of good moral character. R.C. § 3332.11.

Check Cashing

An applicant for a license to engage in the business of cashing checks, as well as persons who have a substantial interest in or participate in the management of a potential licensee, is subject to a criminal records check. R.C. § 1315.141. One criterion for issuance of the license is that the applicant has not been convicted of a felony. R.C. § 1315.23. Licensees have a duty to report to the superintendent of financial institutions any felony convictions related to money transmission activities. R.C. § 1315.081.

Commercial Transactions

Applications for a license to make short-term loans must disclose criminal convictions of the applicant and its senior officers and partners. An applicant is disqualified if they have a conviction 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. R.C. § 1321.37. However, for convictions other than theft, the applicant has the opportunity to prove to the superintendent that his or her activities and employment record since the conviction show that he or she is honest, truthful, and of good reputation, and that there is no factual basis for believing that the applicant will commit such an offense again. *Id.* The disclosure statement in connection with the sale or lease of a business opportunity plan must include whether the seller has been convicted in a criminal action involving allegations of fraud, embezzlement, fraudulent conversion, misappropriation of property, or violation of a franchise law or law prohibiting unfair or deceptive practices in the past seven years. R.C. § 1334.02.

Credit Services Organizations

The superintendent of financial institutions may suspend, revoke, or refuse to issue or renew a certificate of registration to a credit services organization if the applicant or registrant has been convicted of a felony or any crime involving fraud, or has failed to notify the superintendent of such conviction. R.C. § 4712.03; R.C. § 4712.08.

Gambling Industry

In the context of this study, the “gambling industry” includes bingo, lottery, horse racing, and other gaming.

Charitable organizations seeking a license to conduct bingo or instant bingo must be licensed. R.C. § 2915.08. The attorney general may deny the application or otherwise take disciplinary action if the charitable organization has been convicted of certain gambling crimes, id., or if any of the organization's officers, agents, or employees have similar convictions. O.A.C. 109:1-3-01; O.A.C. 109:1-4-01 Appx. The attorney general may deny the application of persons seeking licenses to distribute, R.C. § 2915.081, or to manufacture, R.C. § 2915.082, bingo supplies if any person with an ownership interest in the applicant has been convicted of a felony or any gambling crime. A charitable organization that conducts bingo, R.C. § 2915.09, or instant bingo, R.C. § 2915.091, faces criminal charges if it permits a person convicted of a felony or any gambling crime to be its bingo operator. Similarly, a person who has been convicted of a felony or any gambling crime faces criminal charges if he or she acts as a bingo game operator. R.C. § 2915.11.

Criminal records checks must be obtained on all persons involved in casino gaming, including members of the state casino control commission; the executive director and gaming agents; key employees, casino gaming employees, investors, casino operators, management companies, holding companies, and gaming-related vendors; and professional, technical, and clerical employees of the commission. R.C. § 3772.07. Persons convicted of a disqualifying offense, i.e., any gambling offense, any theft offense, any offense having an element of moral turpitude, and any other felony, cannot be a member of the commission, R.C. § 3772.02, or a gaming agent, R.C. § 3772.03, or licensed as a casino operator, management company, holding company, key employee, casino gaming employee, or gaming-related vendor. R.C. § 3772.10. Disclosures of any criminal convictions must be made in certain licensure applications. R.C. § 3772.11; R.C. § 3772.13; R.C. § 3772.131. Persons may be excluded from casino facilities for

any prior conviction of a felony, a crime of moral turpitude, or a violation of any gaming laws. R.C. § 3772.031.

The state racing commission may refuse to grant, or may revoke or suspend any license related to horse racing or harness racing, or may otherwise penalize an applicant or holder if the person has been convicted of a felony in the past ten years. O.A.C. 3769-2-26; O.A.C. 3769-12-26. Applicants must disclose criminal convictions. O.A.C. 3769-2-18, Appx. B; O.A.C. 3769-12-18, Appx. B. The commission cannot approve a track's request to establish a satellite facility if the proposed operator or its employees have been convicted of a felony gambling crime or other felonies that are related to one's fitness as the owner or operator of such a facility. R.C. § 3769.26. Potential lessors of satellite wagering facilities must disclose felony convictions and submit to a criminal records check. O.A.C. 3769-2-36; O.A.C. 3769-12-36.

All employees and applicants for employment with the state lottery commission must submit to criminal records checks. R.C. § 3770.02. No person who has been convicted of a felony, a misdemeanor involving gambling, fraud or misrepresentation, or theft, or any crime of moral turpitude, and who has not had such conviction sealed, shall be employed or shall maintain employment with the commission. R.C. § 3770.021. The director of the commission shall refuse to grant, or shall suspend or revoke, a license to a lottery sales agent if the applicant or licensee is convicted of a felony, a crime of moral turpitude, or any crime involving illegal gambling, fraud or misrepresentation, or food stamp fraud. R.C. § 3770.05. This provision also applies to video lottery licenses. *See* O.A.C. 3770:2-3-01; O.A.C. 3770:2-3-04; O.A.C. 3770:2-3-05.

Furthermore, vendors are subject to a criminal records check, and the director may refuse to enter into contracts with vendors who have been convicted of a crime involving moral turpitude, illegal gambling, or fraud or misrepresentation. R.C. § 3770.051.

The state athletic commission may revoke, suspend, or refuse to renew any license issued under chapter 3773 (i.e., promoters, sponsors, conductors of public boxing or wrestling matches, or boxing referees, judges, matchmakers, timekeepers, contestants, managers, trainers, and seconds of contestants) if the applicant or holder has been convicted of certain crimes involving theft, cheating, and bribery, as well as crimes involving fraud or misrepresentation in connection with regulated sports. R.C. § 3773.53; O.A.C. 3773-1-09.

Insurance

Any acquiring party of an insurance holding company must disclose to the superintendent of insurance any criminal conviction, other than minor traffic violations, in the past ten years. R.C. § 3901.321. The registration of insurers who are members of insurance holding company systems requires a similar disclosure. O.A.C. 3901-3-02; *see also* R.C. § 3901.33. The superintendent will not accept an insurer's annual financial report prepared by a person who has been convicted of a crime involving fraud, bribery, racketeering, or dishonesty. O.A.C. 3901-1-50. Disclosure statements filed by a participant in a proxy solicitation in an election contest must include whether the participant has a criminal conviction and relevant details. O.A.C. 3901-2-14.

Applicants for a license as an insurance agent are subject to criminal records checks. R.C. § 3905.05; R.C. § 3905.051. The superintendent may suspend, revoke, or refuse to issue or renew any agent license or otherwise sanction an applicant or license holder upon conviction of felony; a misdemeanor involving the misuse or theft of money or property belonging to another, fraud, forgery, dishonest acts, or breach of fiduciary duty, or related to the business of insurance, securities, or financial services, or involves moral turpitude. R.C. § 3905.14; *see also* O.A.C. 3901-1-40. Moral turpitude is defined as a misdemeanor resulting in being required to register as a sex offender. O.A.C. 3901-1-40. In determining whether to sanction a person who was

convicted, the superintendent may consider the nature of the offense, whether it was related to the business of insurance, the amount of time that has passed, and the person's activities since the conviction. R.C. § 3905.14. A modification to the sanction may be had if the person has been rehabilitated and meets certain other conditions. R.C. § 3905.15. These licensing requirements also apply to persons authorized to solicit powers of attorney or applications for contracts of indemnity for any reciprocal or interinsurance contracts. R.C. § 3931.101. The superintendent may revoke the authority to solicit if any such person has been convicted of a felony. R.C. § 3931.11.

The superintendent may suspend, revoke, or refuse to renew the license of a viatical settlement provider or broker upon a conviction of a felony or misdemeanor involving fraud, moral turpitude, dishonesty, or breach of trust. R.C. § 3916.15. Persons in the business of viatical settlements are prohibited from allowing others convicted of a felony involving dishonesty or breach of trust to participate in the business. R.C. § 3916.18; *see also* R.C. § 3916.99. Insurers issuing variable life insurance are required to establish a separate account and cannot employ persons to handle or advise on the account if they have been convicted of financial or fiduciary crimes. O.A.C. 3901-6-08.

The superintendent shall not issue a certificate of authority as a public insurance adjuster to an applicant who has been convicted of a felony or any crime involving fraudulent or dishonest practice. R.C. § 3951.04. To be licensed as a third-party administrator, neither the applicant nor any of its officers, directors, or partners can have been convicted of a financially related felony. O.A.C. 3901-8-05. The superintendent may suspend, revoke, or refuse to renew a third-party administrator license if the holder has been convicted of a financially related felony or has failed to report such a felony. R.C. § 3959.12; R.C. § 3959.13. When applying for a

certificate of authority, a multiple employer welfare arrangement must disclose whether any persons involved in ownership or management have been convicted of any felony or misdemeanor in the past ten years. R.C. § 1739.03.

Any license holder who is found guilty of misrepresentation in the solicitation of insurance also faces revocation. R.C. § 3999.08.

Liquor and Tobacco

In determining whether to open a new state liquor store or agency, the division of liquor control shall evaluate applicants on whether, among other things, the interested parties have any criminal convictions. O.A.C. 4301-5-01. The division may refuse to issue or renew a liquor permit of a person convicted of a felony, R.C. § 4303.29, or any criminal conviction, R.C. § 4303.292, that is reasonably related to the person's fitness to operate a liquor permit business. The refusal to issue, renew, or transfer liquor permits is mandatory upon a conviction of food stamp fraud. *Id.* Similarly, the liquor control commission may suspend or revoke any liquor permit if the holder, agent, or employee is convicted of a felony, a violation of liquor control laws or liquor permit laws, or a violation of permitting a juvenile on the premises of an adult entertainment establishment. R. C. § 4301.25. Conviction of a gambling offense on the liquor permit premises is grounds for suspension or revocation of the permit. O.A.C. 4301:1-1-53. Revocation is mandatory upon a conviction of food stamp fraud, R.C. § 4301.25, or upon conviction of selling liquor that has not been purchased from the division or from a permit holder. R.C. § 4301.58.

Licensure is required for the manufacture, importation, or sale of cigarettes. The court or tax commissioner may revoke such licenses if the holder has been convicted of certain crimes involving violations of the cigarette tax law. R.C. § 5743.17; R.C. § 5743.18.

Mortgages

Applicants for a mortgage loan originator license, R.C. § 1321.531, or a license as a loan originator, R.C. § 1322.031, are subjected to an extensive criminal background check. The superintendent of finance institutions shall issue these licenses unless the applicant has been convicted of a felony or a misdemeanor involving theft in the past seven years, or at any time a felony involving an act of fraud, dishonesty, a breach of trust, theft, or money laundering. R.C. § 1321.532; R.C. § 1322.041. This same requirement exists for applicants for a certificate of mortgage broker registration, R.C. § 1322.04, and for mortgage bankers seeking exemption from registration, R.C. § 1322.022. All relevant persons involved in the business of making or brokering mortgage loans have a duty to notify the division of financial institutions about their criminal convictions involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, breach of trust, dishonesty, drug trafficking, or any crime involving money or securities. R.C. § 1321.59; R.C. § 1322.07; O.A.C. 1301:8-7-19. Upon these convictions, the division may suspend, revoke, or refuse to issue or renew a license or registration. R.C. § 1321.54; R.C. § 1322.10. Certain registrants convicted of a crime may also be required to divest their interest in an appraisal company. R.C. § 1322.074. Applicants to be providers of continuing education for mortgage brokers must disclose whether the applicant or any person with an ownership interest in the applicant has been conviction of any crime

involving real estate, mortgage lending, settlement services, or appraisal work in the past ten years. O.A.C. 1301:8-7-18.

Motor Vehicles and Motor Vehicle Salvage

Certain business activities related to motor vehicles require licensure. The registrar of motor vehicles must deny the application of any person for a license as a motor vehicle dealer, motor vehicle leasing dealer, manufactured home broker, or motor vehicle auction owner, R.C. § 4517.12, or motor vehicle distributor, R.C. § 4517.13, or motor vehicle salesperson, R.C. § 4517.14, or for a construction equipment auction license, R.C. § 4517.171, if the person has been convicted of a fraudulent act in connection with these businesses, or if the applicants have been convicted of a felony. O.A.C. 4501:1-3-09. Such applications also require disclosure of criminal convictions related to certain motor vehicle laws. *See, e.g.*, R.C. § 4517.04; R.C. § 4517.09; *see also* O.A.C. 4501:1-3-07. The motor vehicle dealers board may suspend or revoke any of these licenses if the holder has been convicted of a felony or any crime related to the selling, taxing, licensing, or regulation of sales of motor vehicles. R.C. § 4517.33. Although not explicitly stated, in determining whether “good cause” for the termination of a motor vehicle dealership franchise exists, one factor to be considered is felony convictions of the franchisee. *See* R.C. § 4517.54; R.C. § 4517.55; *Bob Krihwan Pontiac-GMC Truck, Inc. v. Gen. Motors Corp.*, 145 Ohio App.3d 671 (Ohio App. 10th Dist. 2001).

Conviction of certain odometer laws is prima facie evidence of intent to defraud and is cause for the denial or revocation of the license to sell motor vehicles in this state. R.C. § 4549.50. The attorney general and the county prosecutor shall report such convictions to the registrar of motor vehicles. R.C. § 4549.52.

The application for a license for a motor vehicle salvage dealer, a salvage motor vehicle auction, or salvage motor vehicle pool must disclose whether the applicant has previously been convicted of a felony, R.C. § 4738.04, which is a ground for denial of such licenses by the registrar of motor vehicles. R.C. § 4738.07. The motor vehicle salvage dealer's licensing board requires disclosure of all criminal convictions, O.A.C. 4501:1-4-02, and may take disciplinary action if the licensee has been convicted of a committing a felony or any law related to the theft of motor vehicles. R.C. § 4738.12; O.A.C. 4501:1-4-06. Salvage buyers must not have been convicted of a felony in order to receive a buyer's identification card. R.C. § 4738.18.

Pawnbrokers and Other Vendors

Conviction of certain crimes related to receiving stolen property automatically results in a cancellation and revocation of licenses to do business as a secondhand dealer, junk dealer, transient dealer, peddler, itinerant vendor, or pawnbroker. R.C. § 2961.03. Such persons cannot again be licensed to do business unless pardoned by the governor. *Id.*

Applicants for a pawnbroker's license and any owners or employees thereof, must submit to a criminal records check, and the superintendent of financial institutions has the discretion to determine if the applicant has adequate experience and fitness in the capacity as a pawnbroker. R.C. § 4727.03. The superintendent may take disciplinary action, without a hearing, if the license holder or its owners or employees have been convicted of crime related to pawn broking laws, of crime involving theft, receiving stolen property, or money laundering, or of any other crime. R.C. § 4727.15.

A person or business that is convicted of failing to remit the sales tax it collected to the state shall lose its vendor's license and will be ineligible for the vendor's license for two years. R.C. § 5739.99. Persons convicted of certain cigarette sales tax laws may have their wholesale or

retail cigarette license revoked by the court, R.C. § 5743.17, or by the tax commissioner, R.C. § 5743.18.

Precious Metals Dealers

Applicants for a precious metal dealer's license and any owners or employees thereof, must submit to a criminal records check, and the superintendent of financial institutions has the discretion to determine if the applicant has adequate experience and fitness in the capacity as a precious metals dealer. R.C. § 4728.03. The division of financial institutions may take disciplinary action if the license holder has been convicted of a felony or any crime involving moral turpitude. R.C. § 4728.13.

Real Estate Brokers, Salespersons, and Appraisers

Applicants for a real estate broker's license must establish that they have not been convicted of a felony or crime of moral turpitude, or else have met the superintendent of real estate's standards of rehabilitation since the conviction. R.C. § 4735.07; *see also* R.C. § 4735.27 (foreign real estate dealers); R.C. § 4735.28 (foreign real estate salesperson). An application for a license as a real estate salesperson must include his or her broker's statement that the applicant has not been convicted of a felony or crime involving moral turpitude. R.C. § 4735.09.

Applicants have a duty to report convictions throughout their eligibility period. O.A.C. 1301:5-1-05. Licenses shall be revoked, and inactive licensees shall be refused reactivation, O.A.C. 1301:5-1-19, if any holders fail to notify the superintendent of convictions of felonies, crimes of moral turpitude, or crimes involving housing discrimination. R.C. § 4735.13. The Ohio real estate commission shall take disciplinary action against a licensee who has been convicted of a felony or a crime of moral turpitude. R.C. § 4735.18.

Applicants for one of the real estate appraiser licenses must submit to a criminal records check, and the superintendent shall not issue such licenses if the applicant has been convicted of any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any offense involving money or securities, unless the applicant has met the superintendent's rehabilitation standards. R.C.

§ 4763.05. Holders seeking renewal of real estate appraisal licenses must disclose whether they have been convicted of any such offenses in the past year. R.C. § 4763.06. Applicants have a duty to report convictions throughout their eligibility period. O.A.C. 1301:11-3-05. The board of real estate appraisers shall take disciplinary action if the holder has been convicted of a felony or a crime involving moral turpitude, or if the holder fails to notify the board about such convictions. R.C. § 4763.11.

Securities

Dealers and salespersons of securities, as well as investment advisers and their representatives, must be licensed in this states and are also subject to federal law. Grounds for refusal, suspension, or revocation of such licenses includes being not of good business repute, violations of Ohio securities laws, conviction of any fraudulent act in connection with such work of the licensees. R.C. § 1707.19; see also O.A.C. 1301:6-3-19; O.A.C. 1301:6-3-44.

Solicitors

A person cannot act as a professional fund-raising counsel, R.C. § 1716.05, or as a professional solicitor, R.C. § 1716.07, for a charitable organization, if the person or its members, officers, employees, or agents have been convicted of a felony or any charitable solicitation law in the past five years. Conviction of certain charitable solicitation offenses results in forfeiture of bond and disqualification from registration as fund-raising counsel or solicitor. R.C. § 1716.99.

Telephone solicitors

A first or renewal application for a certificate of registration as a telephone solicitor must include a disclosure of whether the solicitor has been convicted of a felony, and whether any owners, managers, or salespersons of the applicant have been convicted of a felony, or a crime that involves engaging in a pattern of corrupt activity, racketeering, securities violations, or theft. R.C. § 4719.02. If an applicant or certificate holder and associated persons have been convicted of such crimes, the attorney general may take disciplinary action. R.C. § 4719.03. Certificate holders have a duty to notify the attorney general about such convictions, or else face penalties. R.C. § 4719.08. A telephone solicitor is exempt from these provisions if soliciting sales from previous purchasers and he or she has no previous theft convictions. R.C. § 4719.01.

Unclaimed Funds Assistance

In order to assist others in the recovery of unclaimed funds for a fee, a person must obtain a certificate of registration from the director of commerce. An applicant must disclose whether he or she has been convicted of a felony or an offense involving moral turpitude, which includes several theft-related offenses, in the past ten years. R.C. § 169.16. If so, the director must refuse to issue or renew, or must revoke, the certificate of registration. R.C. § 169.17.

Relevant Legal Authority:

Ohio Revised Code, Section 169.16
Ohio Revised Code, Section 169.17
Ohio Revised Code, Section 1105.02
Ohio Revised Code, Section 1115.06
Ohio Revised Code, Section 1121.23
Ohio Revised Code, Section 1121.34
Ohio Revised Code, Section 1123.01
Ohio Revised Code, Section 1181.16
Ohio Revised Code, Section 1315.081
Ohio Revised Code, Section 1315.141
Ohio Revised Code, Section 1315.23

Ohio Revised Code, Section 4701.08
Ohio Revised Code, Section 4701.16
Ohio Revised Code, Section 4705.02
Ohio Revised Code, Section 4707.02
Ohio Revised Code, Section 4707.15
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Ohio Revised Code, Section 1321.54
Ohio Revised Code, Section 1321.59
Ohio Revised Code, Section 1322.022
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Ohio Revised Code, Section 1322.041
Ohio Revised Code, Section 1322.07
Ohio Revised Code, Section 1322.074
Ohio Revised Code, Section 1322.10
Ohio Revised Code, Section 1334.02
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Ohio Revised Code, Section 3770.051
Ohio Revised Code, Section 3772.02
Ohio Revised Code, Section 3772.03
Ohio Revised Code, Section 3772.031
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Ohio Revised Code, Section 4738.12
Ohio Revised Code, Section 4738.18
Ohio Revised Code, Section 4763.05
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Ohio Revised Code, Section 5743.17
Ohio Revised Code, Section 5743.18
Ohio Supreme Court Rules for the Government
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Ohio Supreme Court Rules for the Government
of the Bar, Rule 5
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District of Ohio, Local Rule 57.7
United States District Court for the Northern
District of Ohio, Local Rule 83.7
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Ohio Revised Code, Section 3905.05	Ohio Administrative Code, 1301:8-7-19
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Ohio Revised Code, Section 3905.14	Ohio Administrative Code, 1301:12-4-02
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Ohio Revised Code, Section 3931.101	Ohio Administrative Code, 3769-2-36
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Ohio Revised Code, Section 3959.12	Ohio Administrative Code, 3769-12-26
Ohio Revised Code, Section 3959.13	Ohio Administrative Code, 3769-12-36
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Ohio Revised Code, Section 4301.25	Ohio Administrative Code, 3770:2-3-04
Ohio Revised Code, Section 4301.58	Ohio Administrative Code, 3770:2-3-05
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Ohio Revised Code, Section 4517.14	Ohio Administrative Code, 3901-8-05
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Ohio Revised Code, Section 4549.50	Ohio Administrative Code, 4501:1-4-02
Ohio Revised Code, Section 4549.52	Ohio Administrative Code, 4501:1-4-06
Ohio Revised Code, Section 4701.01	Ohio Administrative Code, 4701-11-19
Ohio Revised Code, Section 4701.06	

Cross References: Restoration of Rights; Public Office; Doing Business with the State; Regulation of Professions, Occupations, Trades, Businesses, and Industries

B. Health Care

This section discusses the health care professions affected by collateral consequences.

We include physicians and other “healing” professionals, as well as occupations and businesses related to health care. Some regulations of these different professions often use identical language. Thus, we can make some general statements about the effect of collateral consequences on a large number of these professions. For example, applicants must be of “good

moral character,” and criminal convictions constitute evidence of character, for licensure to practice: dentistry, R.C. § 4715.10; dental hygiene, R.C. § 4715.21; optometry, R.C. § 4725.12; optical dispensing, R.C. § 4725.47; as a physician assistant, R.C. § 4730.03; medicine and surgery, or osteopathic medicine and surgery, R.C. § 4731.08; podiatric medicine and surgery, R.C. § 4731.52; psychology and school psychology, R.C. § 4732.10; chiropractic, R.C. § 4734.20; occupational therapy, R.C. § 4755.06; physical therapy, R.C. § 4755.42; athletic training, R.C. § 4755.62; as a chemical dependency professional, R.C. § 4758.24; dietetics, R.C. § 4759.06; as an anesthesiologist assistant, R.C. § 4760.03; respiratory care, R.C. § 4761.04; acupuncture, R.C. § 4762.03; and orthotics, prosthetics, or pedorthics, R.C. § 4779.09.

Furthermore, criminal records checks will likely be conducted on all applicants, and court actors have a legal obligation to give notice to the appropriate licensing board upon conviction of certain crimes of certain professionals. R.C. § 2907.17 (requiring prosecutor to give notice to licensing boards upon indictment of mental health professionals); R.C. § 2907.18 (requiring courts to give notice of convictions of mental health professionals); R.C. § 2929.42 (requiring prosecutor to give notice of conviction of any health care professional to licensing boards); R.C. § 3719.12 (requiring the prosecutor to give notice of drug-related convictions of certain health care professionals to the licensing board). For certain state licensing boards, persons with felony convictions are not eligible for appointments, and current members of boards who are convicted of a felony must be removed. *See, e.g.*, R.C. § 4732.02 (state board of psychology). For most health care professions, the expungement of a conviction or sealing of court records has no effect on the disciplinary records of the licensing boards. Finally, the statutes and regulations usually are worded in such a way to prohibit the behavior underlying a criminal conviction. That is, a

person who commits an act may be disciplined by the licensing board even if he or she is acquitted on criminal charges.

The healing professions, as well as occupations and businesses related to the provision of health care services, are discussed below in alphabetical order.

Acupuncture

A criminal records check is an eligibility requirement for all applicants seeking registration and issuance of a certificate. R.C. § 4762.031. The state medical board has the discretion to decide whether the results of the check make the applicant ineligible. *Id.*; R.C. § 4762.04. Applicants seeking renewal must report any convictions. R.C. § 4762.06. If an applicant or registrant has been convicted of a felony, a misdemeanor committed in the course of practice, a misdemeanor involving moral turpitude, or any crime involving drugs, the board may take disciplinary action. R.C. § 4762.13. The certificate to practice acupuncture will automatically be suspended upon conviction of certain violent felonies. *Id.* The prosecutor must give notice to the licensing board upon conviction of any person holding a certificate to practice acupuncture. R.C. § 4762.15.

Anesthesiologist Assistant

A criminal records check is an eligibility requirement for all applicants seeking registration and issuance of a certificate. R.C. § 4760.032. The state medical board has the discretion to decide whether the results of the check make the applicant ineligible. *Id.*; R.C. § 4760.04. Applicants seeking renewal must report any convictions. R.C. § 4760.06. If an applicant or registrant has been convicted of a felony, a misdemeanor committed in the course of practice, a misdemeanor involving moral turpitude, or any crime involving drugs, the board may take disciplinary action. R.C. § 4760.13. The certificate to practice acupuncture will

automatically be suspended upon conviction of certain violent felonies. *Id.* The prosecutor must give notice to the licensing board upon conviction of any person holding a certificate to practice as an anesthesiologist assistant. R.C. § 4760.15.

Chemical Dependency Professionals

All applicants for initial licensure or certification as a chemical dependency counselor assistant, licensed chemical dependency counselor II, licensed chemical dependency counselor III, licensed independent chemical dependency counselor, registered applicant, Ohio prevention specialist I or Ohio prevention specialist II shall submit to the chemical dependency professionals board documentation of felony convictions, which will be reviewed for evidence of rehabilitation before the application process may proceed. O.A.C. 4758-4-01. Applicants or holders may face disciplinary action if convicted of a felony or a misdemeanor committed in the course of practice. R.C. § 4758.30; O.A.C. 4758-10-01; see also O.A.C. 4758-8-01 (chemical dependency counseling; O.A.C. 4758-8-03 (chemical dependency prevention specialists).

Chiropractic

A criminal records check is an eligibility requirement for all applicants seeking a license to practice chiropractic. R.C. § 4734.202. The state chiropractic board has the discretion to decide whether the results of the check make the applicant ineligible, in accordance with its character and fitness standards. *Id.*; R.C. § 4734.20; O.A.C. 4734-6-09. If an applicant or holder has been convicted of a felony, a misdemeanor involving moral turpitude, or a misdemeanor committed in the course of practice, the board may take disciplinary action. R.C. § 4734.31. A chiropractor convicted of certain serious felonies will face an automatic suspension of his or her license. R.C. § 4734.36. The prosecutor must give notice to the licensing board upon conviction of certain offenses, R.C. § 4734.35, and certain drug offenses. R.C. § 3719.12. The expungement

of a conviction or sealing of court records does not have any effect on the board. R.C. § 4734.31. Investigators appointed by the board and who have an enforcement function with respect to chiropractic laws must be of good moral character and must not have any felony convictions. O.A.C. 4734-1-04.

Counselor, Social Worker, and Marriage and Family Therapist

One must submit to a criminal records check and be of good moral character to be eligible for licensure as a professional clinical counselor, professional counselor, independent marriage and family therapist, marriage family therapist, social worker, or independent social worker. O.A.C. 4757-1-04. The counselor, social worker, and marriage and family therapist board has the discretion to consider factors related to the convictions in determining whether to issue a license. *Id.* The board may take disciplinary action if an applicant or holder has been convicted of a felony or a misdemeanor committed in the course of practice, R.C. § 4757.36, or any crime involving moral turpitude, or any drug crime. O.A.C. 4757-11-01. A license will be automatically suspended upon the holder's conviction of certain serious felonies. R.C. § 4757.361.

Dentistry

A criminal records check is an eligibility requirement for all applicants seeking licensure as a dentist or dental hygienist. R.C. § 4715.101. The state dental board has the discretion to decide whether the results of the check make the applicant ineligible. *Id.* If an applicant or holder of a license has been convicted of a felony, a misdemeanor committed in the course of practice, or any crime involving drugs, the board may take disciplinary action. R.C. § 4715.30. The license will automatically be suspended upon conviction of certain violent felonies. *Id.* The

prosecutor must give notice to the licensing board upon a dentist's conviction of certain drug offenses. R.C. § 3719.12.

Dietetics

A criminal records check is an eligibility requirement for all applicants seeking a license to practice dietetics. R.C. § 4759.061. The state board of dietetics has the discretion to decide whether the results of the check make the applicant ineligible. *Id.*; R.C. § 4759.06. If an applicant or holder of a license has been convicted of a felony or a misdemeanor committed in the course of practice. R.C. § 4759.07.

Emergency Medical Services, Medical Transportation and Fire Service Training

Providers of emergency medical services include first responders, emergency medical technicians-basic, emergency medical technicians-intermediate, and paramedics. Applicants for such certifications must not have been convicted of any felony, a misdemeanor committed in the course of practice, a misdemeanor involving moral turpitude, or any drug crime. O.A.C. 4765-8-01. Applicants with such convictions must submit the results of a criminal records check to the board. O.A.C. 4765-8-02. All holders have a duty to report criminal convictions. O.A.C. 4765-9-01. The state board of emergency medical services may take disciplinary action if the certificate holder presents a danger of immediate and serious harm to the public and has been convicted of a felony, a misdemeanor committed in the course of practice, or a misdemeanor involving gross immorality or moral turpitude. R.C. § 4765.112; O.A.C. 4765-10-03. A certificate to practice emergency medical services is automatically suspended upon the holder's conviction of certain serious felonies. R.C. § 4765.114.

Providers of emergency medical services who are under consideration for appointment or employment as such are required to submit to a criminal records check and are not eligible for

employment if they have been convicted of a felony or any arson offense, unless they have met certain rehabilitation standards. R.C. § 4765.301. Persons operating an emergency medical services training program may lose their accreditation if the holder has been convicted of a felony or any crime involving moral turpitude. R.C. § 4765.18.

An applicant for employment as an ambulance driver with a licensed employer must submit to a criminal records check, including a record of convictions of motor vehicle laws. R.C. § 4766.15. Applicants with six or more points on their driving record or certain felony convictions are not eligible for employment as an ambulance driver with certain providers. R.C. § 4766.14; O.A.C. 4766-3-13. The medical transportation board has authority to take disciplinary action against any license holder that presents a danger of immediate and serious harm to the public. R.C. § 4766.11.

The board of emergency medical services may take disciplinary action against holders of a fire service training certificate or certificate to teach fire service training or chartered programs if relevant persons are convicted of a felony, a misdemeanor involving moral turpitude, or a misdemeanor committed in the course of practice. R.C. § 4765.55; O.A.C. 4765-23-02. Certificate holders have a duty to report any such convictions to the division. O.A.C. 4765-22-01.

Health Care Facilities

An applicant for employment with a home health agency as a person responsible for the care, custody, or control of an older adult is subject to a criminal records check and is disqualified from employment if convicted of any of the listed disqualifying offenses. R.C. § 3701.881; *see also* O.A.C. 3701-60-04; O.A.C. 3701-60-05; O.A.C. 3701-60-06. An applicant for employment or as a person providing direct care to an older adult with a hospice care

program, R.C. § 3712.09, O.A.C. 3701-19-09, a home or adult day-care program, R.C. § 3721.121, O.A.C. 3701-17-55, O.A.C. 3701-61-07, or an adult care facility, R.C. § 3722.151, O.A.C. 3701-20-14, is subject to a criminal records check and is disqualified from employment if convicted of any of the listed disqualifying offenses. *See also* O.A.C. 3701-13-03; O.A.C. 3701-13-04; O.A.C. 3701-13-05. An applicant may overcome the disqualification if certain rehabilitation standards are met. *See* O.A.C. 3701-13-06; O.A.C. 3701-60-07.

A criterion for licensure to operate a rest home or nursing home is no previous felony or moral turpitude convictions. R.C. § 3721.07. Applicants for licensure to operate an adult care facility must disclose information about whether any owner or manager for applicant has been convicted of a criminal offense related to the provision of care at, or ability to operate, a home or care facility. R.C. § 3722.02; O.A.C. 3701-20-03. In determining whether to issue the license, the director of the public health council must consider all criminal convictions of the applicant. O.A.C. 3701-20-04.⁸

Any individual, who owns, operates, or administers, or who is an agent or employee of, a care facility, who is convicted of a felony violation the patient abuse or neglect statute, shall have his or her license revoked. R.C. § 2903.37; *see also* R.C. § 2903.34.

A license for the operation of residential facilities by the department of mental health will not be issued if the applicant has certain criminal convictions, unless rehabilitation standards are met. O.A.C. 5122-30-04. License holders also have a duty to disclose convictions to the affiliated agency or board, which may recommend denial or revocation of licensure. *Id.*

⁸ Similar provisions apply to community alternative homes for persons having AIDS or HIV, O.A.C. 3701-16-03; O.A.C. 3701-16-04; however, such regulations are in the process of being repealed at the time of this writing.

Hearing aid dealers and fitters

Applicants seeking a hearing aid dealer's or fitter's license must be of good moral character. R.C. § 4747.05. A license holder shall notify the board of any felony or misdemeanor convictions other than minor traffic violations within thirty days of entry. O.A.C. 4747-1-17. The hearing aid dealers and fitters licensing board may revoke or suspend a license if the holder is convicted of a felony or a misdemeanor involving moral turpitude. R.C. § 4747.12.

Nursing and Aides

A criminal records check is an eligibility requirement for all applicants seeking to practice as a registered nurse or licensed practical nurse, and the check must show that the applicant has not been convicted of certain serious felonies. R.C. § 4723.09; *see also* O.A.C. 4723-7-02; O.A.C. 4723-7-04; O.A.C. 4723-7-05; O.A.C. 4723-7-06. If an applicant or license holder has been convicted of a misdemeanor committed in the course of practice, a felony, any crime involving gross immorality or moral turpitude, or any drug crime, the state board of nursing may take disciplinary action. R.C. § 4723.28. An application for renewal of the license requires disclosure of any convictions of such crimes. R.C. § 4723.24. An expungement of conviction or sealing of court records has no effect on the board. R.C. § 4723.08. A conviction of certain serious felonies will result in automatic suspension of the license. R.C. § 4723.281. The prosecutor must give notice to the board upon conviction of certain drug offenses. R.C. § 3719.12. Nurses with felony convictions may not be eligible for participation in the alternative program for chemical dependency. O.A.C. 4723-6-02.

A criminal records check is an eligibility requirement to receive a medication aide certificate, R.C. § 4723.651, O.A.C. 4723-27-04, a certificate to practice as a dialysis technician, R.C. § 4723.75, O.A.C. 4723-23-03, O.A.C. 4723-23-04, or a community health worker

certificate, R.C. § 4723.84, O.A.C. 4723-26-02, and the check must show that the applicant has not been convicted of certain serious felonies. A conviction of certain serious felonies will result in automatic suspension of these certificates. R.C. § 4723.281. If an applicant or certificate holder has been convicted of a misdemeanor committed in the course of practice, a felony, any crime involving gross immorality or moral turpitude, or any drug crime, the state board of nursing may take disciplinary action. R.C. § 4723.28 (dialysis technicians); O.A.C. 4723-26-11 (community health workers); O.A.C. 4723-27-09 (medication aides).

Nursing Home Administrators

Qualifications of applicants for licensure as a nursing home administrator include good moral character. R.C. § 4751.05. The board of examiners of nursing home administrators shall take disciplinary action if a holder is convicted of a felony. R.C. § 4751.10; O.A.C. 4751-1-12. The board, in its discretion, may restore the license after the holder is discharged from his or her sentence or pardoned. R.C. § 4751.11. A felony conviction of patient abuse or neglect will result in a license revocation under state administrative procedures. R.C. § 2903.37.

Occupational Therapy, Physical Therapy, and Athletic Trainers

Applicants for licensure in occupational therapy, physical therapy, and athletic training must be of good moral character, see *supra*, and must submit to criminal records checks. O.A.C. 4755-3-14 (occupational therapists); O.A.C. 4755-23-08 (physical therapists); O.A.C. 4755-43-07 (athletic trainers). If an applicant or holder of an occupational therapist license, R.C. § 4755.11, a physical therapist license, R.C. § 4755.47, or an athletic trainers license, R.C. § 4755.64, has been convicted of a felony, an offense involving moral turpitude, or a misdemeanor reasonably related to the practice, the appropriate section of the board of occupational therapy, physical therapy, and athletic training may take disciplinary action.

Licenses have an obligation to report convictions to the board. O.A.C. 4755-7-08 (occupational therapists); O.A.C. 4755-27-06 (physical therapists); O.A.C. 4755-41-03 (athletic trainers).

Optometry and Optical Dispensing

A criminal records check is an eligibility requirement for all applicants seeking licensure as an optometrist, R.C. § 4725.121, or optical dispenser, R.C. § 4725.501, and the state board of optometry and the optical dispensers board have the discretion to decide whether the results of the check make the applicant ineligible. If an applicant or holder has been convicted of a felony, a misdemeanor committed in the course of practice, or any crime involving immorality or dishonesty or unprofessional conduct, the board of optometry may take disciplinary action. R.C. § 4725.19. The optical dispensers board may take disciplinary action of an applicant or holder has been convicted of a felony or a crime involving moral turpitude. R.C. § 4725.53. The prosecutor must give notice to the licensing board upon an optometrist's conviction of certain drug offenses. R.C. § 3719.12.

Orthotists, Prosthetists, and Pedorthists

A criminal records check is an eligibility requirement for all applicants seeking licensure by the state board of orthotics, prosthetics, and pedorthics, which has the discretion to decide whether the results of the check make the applicant ineligible. R.C. § 4779.091. If an applicant or holder has been convicted of a misdemeanor or felony involving moral turpitude, the board may take disciplinary action. R.C. § 4779.28.

Pharmacists, Pharmacy Technicians, and Distributors of Dangerous Drugs

A criminal records check is an eligibility requirement for all applicants seeking to be licensed as a pharmacist, and the state board of pharmacy has the discretion to decide whether the results of the check make the applicant ineligible. R.C. § 4729.071; O.A.C 4729-5-04. A

criminal records check is also required for pharmacy technicians, R.C. § 4729.42, O.A.C. 4729-4-04, and wholesale distributors of dangerous drugs, O.A.C. 4729-9-16. If an applicant or holder has been convicted of a felony or a misdemeanor related to, or committed in, the practice of pharmacy, the board may take disciplinary action. R.C. § 4729.16. Similar convictions will result in disciplinary action of wholesale distributors of dangerous drugs, R.C. § 4729.53, R.C. § 4729.56, O.A.C. 4729-9-16, and felony convictions will result in disciplinary action of pharmacy technicians. R.C. § 4729.42. The prosecutor must give notice to the board upon conviction of pharmacists and dangerous drug distributors of certain drug offenses. R.C. § 3719.12.

Physicians

A criminal records check is an eligibility requirement for all applicants seeking to practice medicine and surgery or osteopathic medicine and surgery, R.C. § 4731.081, to practice podiatric medicine and surgery, R.C. § 4731.531, or to practice massage therapy or cosmetic therapy, R.C. § 4731.171, and the state medical board has the discretion to decide whether the results of the check make the applicant ineligible. In reviewing the results of criminal records checks, the board considers many rehabilitation factors. *See* O.A.C. 4731-4-02. An application for renewal of the license requires disclosure of any criminal convictions. R.C. § 4731.281; *see also* O.A.C. 4731-15-01. If an applicant or holder has been convicted of any drug crime, a felony, a misdemeanor committed in the course of practice, or a misdemeanor involving moral turpitude, the board may take disciplinary action. R.C. § 4731.22; *see also* O.A.C. 4731-16-02. An expungement of conviction or sealing of court records has no effect on the board. R.C. § 4731.22. A conviction of certain serious felonies will result in automatic suspension of the

license. *Id.* The prosecutor must give notice to the board upon conviction of certain offenses, R.C. § 4731.223, and certain drug offenses. R.C. § 3719.12.

Physician Assistants

A criminal records check is an eligibility requirement for all applicants seeking to practice as a physician assistant, and the state medical board has the discretion to decide whether the results of the check make the applicant ineligible. R.C. § 4730.101. In reviewing the results of criminal records checks, the board considers many rehabilitation factors. *See* O.A.C. 4730-3-02. An application for renewal of the license requires disclosure of any criminal convictions. R.C. § 4730.14; *see also* R.C. § 4730.48. If an applicant or holder has been convicted of a felony, a misdemeanor committed in the course of practice, or a misdemeanor involving moral turpitude, or any drug crime, the board may take disciplinary action. R.C. § 4730.25. An expungement of conviction or sealing of court records has no effect on the board. *Id.* A conviction of certain serious felonies will result in automatic suspension of the license. *Id.* The prosecutor must give notice to the board upon conviction of certain offenses, R.C. § 4730.31, and certain drug offenses. R.C. § 3719.12.

Psychologists

Applicants for licensure to practice psychology or school psychology must submit to a criminal records check, and the state board of psychology has the discretion to decide whether the results of the check make the applicant ineligible. R.C. § 4732.091. If an applicant or holder has been convicted of a felony or any offense involving moral turpitude, the board may take disciplinary action. R.C. § 4732.17; O.A.C. 4732-17-03. The license may be automatically suspended upon conviction of certain serious felonies. O.A.C. 4732.171.

Radiologist Assistants and Radiologic Occupations

Licensure is required for radiologist assistants as well as x-ray machine operators, radiographers, radiation therapy technologists, and nuclear medicine technologists. Applicants for licensure in radiologic occupations must be of good moral character, which requires that certified copies of the judgment of felony conviction and indictment be submitted with the application. O.A.C. 3701-72-02. Applicants to practice as a radiologist assistant must submit to a criminal records check, and the state medical board has the discretion to decide whether the results of the check make the applicant ineligible. R.C. § 4774.031; R.C. § 4774.04. Applicants seeking renewal must report any convictions. R.C. § 4774.06. If an applicant or holder has been convicted of a felony, a misdemeanor committed in the course of practice, a misdemeanor involving moral turpitude, or any drug crime, the state medical board may take disciplinary action. R.C. § 4774.13. The certificate to practice as a radiologist assistant will automatically be suspended upon conviction of certain violent felonies. *Id.* The expungement of convictions or sealing of court records will have no effect on the board. *Id.* The prosecutor must give notice to the board upon conviction of any person holding a radiologist assistant certificate. R.C. § 4774.99.

Respiratory Care Professionals and Providers of Home Medical Equipment Services

A criminal records check is an eligibility requirement for all applicants seeking licensure as a respiratory care professional. R.C. § 4761.051. The state respiratory care board has the discretion to decide whether the results of the check make the applicant ineligible. *Id.*; R.C. § 4761.04; R.C. § 4761.05. If an applicant or holder has been convicted of a felony or an offense involving moral turpitude, or negligence or misconduct in the practice of respiratory care, the board may take disciplinary action. R.C. § 4761.09. The optical dispensers board may take

disciplinary action of an applicant or holder has been convicted of a felony or a crime involving moral turpitude. R.C. § 4725.53.

Applicants for licensure to provide home medical equipments services must list employees who have criminal convictions, excluding traffic and moving violations. O.A.C. 4761:1-5-02. The respiratory care board may deny a license if the applicant or its employees have been convicted of a felony or any crime involving theft, fraud, or drugs. O.A.C. 4761:1-5-01. Renewal applications require disclosure of whether the applicant has been convicted of a felony, a misdemeanor involving moral turpitude, or a drug crime. O.A.C. 4761:1-7-01. The board may take disciplinary action if a holder of a license is convicted of a felony or a misdemeanor involving dishonesty or is directly related to the provision of home medical equipment services. R.C. § 4752.09.

Speech-Language Pathologists and Audiologists

The board of speech-language pathology and audiology may take disciplinary action if an applicant or license holder has been convicted of a felony or a crime involving moral turpitude. R.C. § 4753.10; O.A.C. 4753-3-08.

Veterinarians and Veterinarian Technicians

Applicants for licensure as a veterinarian, O.A.C. 4741-1-04, or for registration as a veterinary technician, O.A.C. 4741-1-01, must submit to a criminal records check, and the state veterinary medical board has the discretion to decide whether the results of the check make the applicant ineligible. R.C. § 4741.10. If an applicant or holder has been convicted of a felony, a crime involving illegal or prescription drugs, or any animal cruelty crime, or fails to timely report to the board a conviction of a felony, of a drug crime, or a misdemeanor in the first degree,

the board may take disciplinary action. R.C. § 4741.22. The prosecutor must give notice to the licensing board upon a veterinarian's conviction of certain drug offenses. R.C. § 3719.12.

Relevant Legal Authority:

Ohio Revised Code, Section 2903.34	Ohio Revised Code, Section 4761.051
Ohio Revised Code, Section 2903.37	Ohio Revised Code, Section 4762.02
Ohio Revised Code, Section 2907.17	Ohio Revised Code, Section 4762.031
Ohio Revised Code, Section 2907.18	Ohio Revised Code, Section 4762.04
Ohio Revised Code, Section 2929.42	Ohio Revised Code, Section 4762.06
Ohio Revised Code, Section 3701.881	Ohio Revised Code, Section 4762.13
Ohio Revised Code, Section 3712.09	Ohio Revised Code, Section 4762.15
Ohio Revised Code, Section 3719.12	Ohio Revised Code, Section 4765.112
Ohio Revised Code, Section 3721.07	Ohio Revised Code, Section 4765.114
Ohio Revised Code, Section 3721.121	Ohio Revised Code, Section 4765.18
Ohio Revised Code, Section 3722.02	Ohio Revised Code, Section 4765.301
Ohio Revised Code, Section 3722.151	Ohio Revised Code, Section 4765.55
Ohio Revised Code, Section 4715.10	Ohio Revised Code, Section 4766.11
Ohio Revised Code, Section 4715.101	Ohio Revised Code, Section 4766.14
Ohio Revised Code, Section 4715.21	Ohio Revised Code, Section 4766.15
Ohio Revised Code, Section 4715.30	Ohio Revised Code, Section 4774.031
Ohio Revised Code, Section 4723.08	Ohio Revised Code, Section 4774.04
Ohio Revised Code, Section 4723.09	Ohio Revised Code, Section 4774.06
Ohio Revised Code, Section 4723.24	Ohio Revised Code, Section 4774.13
Ohio Revised Code, Section 4723.28	Ohio Revised Code, Section 4774.99
Ohio Revised Code, Section 4723.281	Ohio Revised Code, Section 4779.09
Ohio Revised Code, Section 4723.651	Ohio Revised Code, Section 4779.091
Ohio Revised Code, Section 4723.75	Ohio Revised Code, Section 4779.28
Ohio Revised Code, Section 4723.84	Ohio Administrative Code, 3701-13-03
Ohio Revised Code, Section 4725.12	Ohio Administrative Code, 3701-13-04
Ohio Revised Code, Section 4725.121	Ohio Administrative Code, 3701-13-05
Ohio Revised Code, Section 4725.19	Ohio Administrative Code, 3701-13-06
Ohio Revised Code, Section 4725.47	Ohio Administrative Code, 3701-16-03
Ohio Revised Code, Section 4725.501	Ohio Administrative Code, 3701-16-04
Ohio Revised Code, Section 4725.53	Ohio Administrative Code, 3701-17-55
Ohio Revised Code, Section 4729.071	Ohio Administrative Code, 3701-19-09
Ohio Revised Code, Section 4729.16	Ohio Administrative Code, 3701-20-03
Ohio Revised Code, Section 4729.42	Ohio Administrative Code, 3701-20-04
Ohio Revised Code, Section 4729.53	Ohio Administrative Code, 3701-20-14
Ohio Revised Code, Section 4729.56	Ohio Administrative Code, 3701-60-04
Ohio Revised Code, Section 4730.03	Ohio Administrative Code, 3701-60-05
Ohio Revised Code, Section 4730.101	Ohio Administrative Code, 3701-60-06
Ohio Revised Code, Section 4730.14	Ohio Administrative Code, 3701-60-07
Ohio Revised Code, Section 4730.25	Ohio Administrative Code, 3701-61-07

Ohio Revised Code, Section 4730.31	Ohio Administrative Code, 3701-72-02
Ohio Revised Code, Section 4730.48	Ohio Administrative Code, 4723-6-02
Ohio Revised Code, Section 4731.08	Ohio Administrative Code, 4723-7-02
Ohio Revised Code, Section 4731.081	Ohio Administrative Code, 4723-7-04
Ohio Revised Code, Section 4731.171	Ohio Administrative Code, 4723-7-05
Ohio Revised Code, Section 4731.22	Ohio Administrative Code, 4723-7-06
Ohio Revised Code, Section 4731.223	Ohio Administrative Code, 4723-23-03
Ohio Revised Code, Section 4731.281	Ohio Administrative Code, 4723-23-04
Ohio Revised Code, Section 4731.52	Ohio Administrative Code, 4723-26-02
Ohio Revised Code, Section 4731.531	Ohio Administrative Code, 4723-26-11
Ohio Revised Code, Section 4732.02	Ohio Administrative Code, 4723-27-04
Ohio Revised Code, Section 4732.091	Ohio Administrative Code, 4723-27-09
Ohio Revised Code, Section 4732.10	Ohio Administrative Code, 4729-4-04
Ohio Revised Code, Section 4732.17	Ohio Administrative Code, 4729-5-04
Ohio Revised Code, Section 4732.171	Ohio Administrative Code, 4729-9-16
Ohio Revised Code, Section 4734.20	Ohio Administrative Code, 4730-3-02
Ohio Revised Code, Section 4734.202	Ohio Administrative Code, 4731-4-02
Ohio Revised Code, Section 4734.31	Ohio Administrative Code, 4731-16-02
Ohio Revised Code, Section 4734.35	Ohio Administrative Code, 4732-17-03
Ohio Revised Code, Section 4734.36	Ohio Administrative Code, 4734-1-04
Ohio Revised Code, Section 4741.10	Ohio Administrative Code, 4734-6-09
Ohio Revised Code, Section 4741.22	Ohio Administrative Code, 4741-1-01
Ohio Revised Code, Section 4747.05	Ohio Administrative Code, 4741-1-04
Ohio Revised Code, Section 4747.12	Ohio Administrative Code, 4747-1-17
Ohio Revised Code, Section 4751.05	Ohio Administrative Code, 4751-1-12
Ohio Revised Code, Section 4751.10	Ohio Administrative Code, 4753-3-08
Ohio Revised Code, Section 4751.11	Ohio Administrative Code, 4755-3-14
Ohio Revised Code, Section 4752.09	Ohio Administrative Code, 4755-7-08
Ohio Revised Code, Section 4753.10	Ohio Administrative Code, 4755-23-08
Ohio Revised Code, Section 4755.06	Ohio Administrative Code, 4755-27-06
Ohio Revised Code, Section 4755.11	Ohio Administrative Code, 4755-41-03
Ohio Revised Code, Section 4755.42	Ohio Administrative Code, 4755-43-07
Ohio Revised Code, Section 4755.47	Ohio Administrative Code, 4757-1-04
Ohio Revised Code, Section 4755.62	Ohio Administrative Code, 4757-11-01
Ohio Revised Code, Section 4755.64	Ohio Administrative Code, 4758-4-01
Ohio Revised Code, Section 4757.36	Ohio Administrative Code, 4758-8-01
Ohio Revised Code, Section 4757.361	Ohio Administrative Code, 4758-8-03
Ohio Revised Code, Section 4758.24	Ohio Administrative Code, 4758-10-01
Ohio Revised Code, Section 4758.30	Ohio Administrative Code, 4761:1-5-01
Ohio Revised Code, Section 4759.06	Ohio Administrative Code, 4761:1-5-02
Ohio Revised Code, Section 4759.061	Ohio Administrative Code, 4761:1-7-01
Ohio Revised Code, Section 4759.07	Ohio Administrative Code, 4765-8-01
Ohio Revised Code, Section 4760.03	Ohio Administrative Code, 4765-8-02
Ohio Revised Code, Section 4760.032	Ohio Administrative Code, 4765-9-01
Ohio Revised Code, Section 4760.04	Ohio Administrative Code, 4765-10-03
Ohio Revised Code, Section 4760.06	Ohio Administrative Code, 4765-22-01

Ohio Revised Code, Section 4760.13
Ohio Revised Code, Section 4760.15
Ohio Revised Code, Section 4761.04
Ohio Revised Code, Section 4761.05

Ohio Administrative Code, 4765-23-02
Ohio Administrative Code, 4766-3-13
Ohio Administrative Code, 5122-30-04

Cross References: Restoration of Rights; Public Employment and Benefits; Doing Business with the State; Special Case of Educators and Students; Care, Custody, and Control of Children and Familial Rights; Regulation of Professions, Occupations, Trades, Businesses, and Industries

C. Safety

This category of professions, businesses, and occupations includes employment in industries that pose public safety issues. They are diverse, ranging from architecture to surface water collection, but they are characterized, although to a lesser degree than the financial and fiduciary category, by imposing disqualifications on persons only if prior convictions bear a direct and substantial relationship to the duties and responsibilities of the position.

Agriculture and Animals

Title IX of the Code governs the department of agriculture and all industries related to agriculture and animals. There are many different types of licenses, permits, and registrations for these industries; only a few of which impose disqualifications upon persons with convictions:

- Applicants for a permit to install or operate a concentrated animal feeding facility must state all criminal convictions of the applicant in the past five years, so long as they are related to violations of the Federal Water Pollution Control Act, the Safe Drinking Water Act, or other applicable state laws pertaining to environmental protection that was alleged to have occurred at any animal feeding facility own or operated by the applicant. R.C. § 903.05; *see also* R.C. § 903.02; R.C. § 903.03; O.A.C. 901:10-1-02; O.A.C. 901:10-1-08.

- The director of agriculture may deny, suspend, revoke, refuse to renew, or modify any provision of any license, permit, or registration issued pursuant chapter 921 (pesticides) if the director finds that the applicant or holder has been convicted of a felony or misdemeanor involving moral turpitude. R.C. § 921.23.
- The director may revoke or refuse to issue or renew a license to handle agricultural commodities if, in the past five years, the applicant or holder was convicted of any felony or any crime of embezzlement. R.C. § 926.05.
- An application to enroll land in an agricultural security area must include all criminal convictions of the applicant in the past ten years that involve a violation of environmental laws. R.C. § 931.02; see also R.C. § 3745.70.
- The director may refuse to grant or may suspend a livestock licenses for small dealers, dealers, or brokers upon the applicant's or holder's conviction of any crime related to the interstate or intrastate movement, shipment, or transportation of animals, or conviction of a felony or a crime involving moral turpitude. R.C. § 943.05; *see also* R.C. § 943.03.
- Meat inspection service may be withdrawn if any person or employee has, in the past ten years, been convicted of any felony or more than one misdemeanor under any law based upon the acquiring, handling, or distributing of adulterated, mislabeled, or deceptively packaged food, or fraud in connection with transactions in food, or any felony indicating a lack of the integrity needed for the conduct of operations affecting the public health.
O.A.C. 901:2-1-04.

Architecture and Landscape Architecture

To receive certification to practice architecture and landscape architecture, applicants must be of good moral character. R.C. § 4703.07; R.C. § 4703.10; R.C. § 4703.34. The architects

board may deny renewal of, revoke, or suspend any certificate of qualification to practice architecture if the holder has been convicted of a felony. R.C. § 4703.15. The code of conduct for the professions of architecture and landscape architecture requires compliance with all criminal laws in the conduct of his or her architectural practice. O.A.C. 4703-3-07; O.A.C. 4703:1-3-04.

Asbestos

The department of health will deny any application for an asbestos hazard abatement contractor's license if the applicant, or an officer or employee of the applicant, has been convicted of a felony under any law designed to protect the environment. R.C. § 3710.06; O.A.C. 3701-34-03. Applicants for licenses must disclose information of such convictions. O.A.C. 3701-34-04 (asbestos hazard abatement contractor); O.A.C. 3701-34-05 (asbestos hazard abatement specialist); O.A.C. 3701-34-06 (asbestos hazard evaluation specialist); O.A.C. 3701-34-08 (asbestos hazard abatement worker); O.A.C. 3701-34-09 (asbestos hazard abatement project designer); O.A.C. 3701-34-10 (asbestos hazard abatement air monitoring technician).

Commercial Driving and Equipment

Licensure for commercial driver training schools requires that any person connected in any manner with the driver training enterprise have no convictions of a felony or a first or second degree misdemeanor that is reasonably related to a person's ability to serve safely and honestly in the driver training enterprise. O.A.C. 4501-7-03 (class D schools); O.A.C. 4501-7-23 (CDL schools); O.A.C. 4501-21-04 (remedial driving instruction courses); O.A.C. 4501-53-11 (motorcycle rider training schools). Instructors and training managers must not have any felony convictions in past ten years or certain misdemeanors in the past five years or certain traffic violations. R.C. § 4508.04; see O.A.C. 4501-7-05 (class D schools); O.A.C. 4501-7-25 (CDL school); O.A.C.4501-21-13 (remedial driving instruction course). Similar requirements apply to

third-party examiners of CDL applicants, O.A.C. 4501-47-03, owners and operators of a third-party test facility, O.A.C. 4501-47-09, and instructors of motorcycle rider training schools, O.A.C. 4501-53-03; O.A.C. 4501-53-04. Instructor licenses may be suspended or revoked for any violation of the driver training school laws. R.C. § 4508.06.

Deputy registrars of motor vehicles may not employ persons convicted of felonies or misdemeanors involving dishonesty or false statement. O.A.C. 4501:1-6-01. Driver intervention programs serving adolescents must have policies prohibiting employees, volunteers, and interns who have previous convictions of certain crimes. O.A.C. 3793:4-1-02; O.A.C. 5101:2-5-09. If the manufacturer or its personnel of an immobilizing or disabling device, or an ignition interlock device, has a conviction of a felony, an OVI offense, or any crime involving dishonesty, deceit, or fraud, the manufacturer may not be eligible for certification or for licensure. O.A.C. 4501-45-02; O.A.C. 4501-45-03; O.A.C. 4501-45-04.

If the registrar of motor vehicles receives information that a commercial driver has been convicted of certain offenses,⁹ certain disqualifications must be imposed, up to and including a lifetime disqualification. R.C. § 4506.16; O.A.C. 4501:1-1-24; *see also* R.C. § 4506.17, O.A.C. 4501:1-1-25. A court cannot grant limited driving privileges for the operation of a commercial vehicle to a person who has been disqualified. R.C. § 4506.161. However, there is a mechanism for relief from a lifetime disqualification for some commercial drivers upon meeting certain rehabilitation standards. O.A.C. 4501:1-1-26.

Commercial Fishing

To qualify for a commercial fishing license, R.C. § 1533.342, or a permit to handle commercial fish at wholes, R.C. § 1533.631, the applicant cannot have any prior conviction of a felony concerning commercial fishing activities. If a licensee is convicted of assaulting,

⁹ Section 4506.15 lists prohibited criminal offenses for the purposes of commercial drivers' licensing.

threatening, abusing, or interfering with any inspector, their licenses will be suspended for certain time periods. Upon conviction of a felony related to commercial fishing activities, all commercial fishing licenses and permits will be permanently revoked by operation of law. R.C. § 1531.641. Other suspensions will be imposed for certain commercial fishing violations. *Id.*

Construction trades

An application for a permit to install a new construction and demolition debris facility must include all criminal actions in the past ten years in which the owner, operator, or key employee was convicted of any environmental-related crime. R.C. § 3714.052; *see also* R.C. § 3714.051. Applicants for a license issued by the construction industry licensing board cannot have been convicted of any felony or a misdemeanor involving moral turpitude. R.C. § 4740.06; O.A.C. 4101:16-3-02. The board may direct the administrative section to refuse to issue or renew a license if applicant or licensee has such convictions. R.C. § 4740.10.

Cosmetology and Barbers

The statutory requirements for licensure by the board of cosmetology do not disqualify persons with convictions; instead, applicants must be of good moral character. R.C. § 4713.28. The regulations, however, state that the board may refuse to issue, suspend, or revoke any license upon a conviction of a felony or a misdemeanor performed in the licensed facility or otherwise related to the license. O.A.C. 4713-1-07. Also, no owner or shareholder of a cosmetology school shall have a felony conviction. O.A.C. 4713-3-01. The barber board may refuse to issue or renew or may suspend or revoke or impose conditions upon any license for various causes, including conviction of felony. R.C. § 4709.13.

Engineers and surveyors

The state board of registration for professional engineers and surveyors may fine, revoke, suspend, refuse to renew, or limit the registration, or reprimand, place on probation, deny an applicant the opportunity to sit for an examination or to have an examination scored, or impose any combination of these disciplinary measures on any applicant or registrant, or revoke the certificate of authorization of any holder if, among other things, convicted of any felony or crime involving moral turpitude. R.C. § 4733.20; O.A.C. 4733-35-08.

Fireworks

The application for license for licensure for the manufacturer, R.C. § 3743.03, and wholesaler, R.C. § 3743.16, of fireworks includes a criminal records check of the applicant and associates. Felony convictions preclude the fire marshal from issuing a license or permit. R.C. § 3743.70. A licensed fireworks manufacturer may expand its premises, R.C. § 3743.04, and a licensed fireworks wholesaler may transfer to another geographic location, R.C. § 3743.17, if the licensee and associates have not been convicted of a felony. These licenses are subject to suspension upon convictions of certain fireworks regulations. R.C. § 3743.99.

Funeral directors and embalmers

All applicants for registration or licensure of embalmers, funeral directors, and crematory facility operators must submit to a criminal records check. R.C. § 4717.061. To be registered or licensed as an embalmer or funeral director, at least five years must have elapsed since the applicant was released from his sentence if convicted of certain felonies. R.C. § 4717.05; O.A.C. 4717-4-01; O.A.C. 4717-4-02; O.A.C. 4717-4-03; O.A.C. 4717-4-04; O.A.C. 4717-4-05. The board of embalmers and funeral directors may deny or revoke any license if applicant or licensee

has been convicted of a felony or any crime involving moral turpitude, and convictions of certain serious felonies will result in automatic suspension of a license. R.C. § 4717.14

Inspectors

Applicants for certification and recertification as an underground storage tank inspector, O.A.C. 1301:7-9-15, or as an elevator inspector, O.A.C. 1301:3-6-05, will be denied or revoked if the person has been convicted of a felony. The certification of a motor vehicle anti-tampering inspector may be revoked if the person was convicted of a felony while certified as an inspector. O.A.C. 3745-26-14.

Manufactured Homes

The manufactured homes commission may deny, suspend, revoke, or refuse to renew the license of any manufactured home installer for the conviction of a felony or crime involving moral turpitude, R.C. § 4781.09, or for violating any law that in any way relates to the selling, taxing, licensing, or regulation of sales of manufactured or mobile homes. R.C. § 4781.21; *see also* O.A.C. 4781-8-01; O.A.C. 4781-8-03; O.A.C. 4781-8-04; O.A.C. 4781-8-10. Similar regulations apply to manufactured home inspectors and plan reviewers. O.A.C. 4781-7-02; O.A.C. 4781-7-05; O.A.C. 4781-7-06. Continuing education sponsors for manufactured homes installers must notify the commission of any felony convictions of the sponsor owners. O.A.C. 4781-9-02.

Private Investigators and Security Guards

Licensure for private investigators and security guard providers requires individuals to have not been convicted of a felony in the past 20 years or of any crime involving moral turpitude. R.C. § 4749.03. Misdemeanor convictions will be considered when determining whether applicant has a good reputation for integrity. O.A.C. 4501:5-1-02. Licensees must

register their employees, who will be issued an identification card if they have not been convicted of a felony in the past twenty years. R.C. § 4749.06. Licensees and registrants are subject to criminal records checks and continuous record monitoring, and for renewals they must certify they had no felony convictions in the previous registration year. R.C. § 4749.031; O.A.C. 4501:5-1-20.

Sanitation and Solid and Hazardous Waste

The board of health of a health district or the director of environmental protection may suspend, revoke, or deny a license for a solid waste or infectious waste treatment facility for violation of certain hazardous waste laws. R.C. § 3734.09. Applicants seeking a permit or license for an off-site facility must disclose criminal convictions related to solid or hazardous waste, R.C. § 3734.41, and all permit or license holders related to waste must report annually on criminal convictions. R.C. § 3734.42. No permit or license shall be issued or renewed if the individual or any associates have been convicted of any of the listed crimes. R.C. § 3734.44. Applicants must submit to the attorney general information about new criminal convictions of any individual or business concern subject to disclosure requirements. O.A.C. 109:6-1-02. Applicants do have the opportunity to meet certain rehabilitation standards. *Id.* Additionally, disqualifications may be removed if the board or director determines that the issuance or renewal of a permit or license is necessitated by the public interest. R.C. § 3734.46.

Criteria for certification to do voluntary cleanup of contaminated property includes good moral character. Felony convictions are evidence of character, and may result in a denial or revocation of certification. O.A.C. 3745-300-5. The application for development and operation of a low level radioactive waste disposal facility requires disclosures of all criminal convictions and evidence of rehabilitation. O.A.C. 3747-3-02.

The state board of sanitarian registration may deny, refuse to renew, revoke or suspend a certificate of registration for unprofessional conduct, which includes conviction of a felony, misdemeanor in the course or scope of the practice of environmental health, or any other crime involving misstatements, deceit, or other dishonest conduct. R.C. § 4736.13; O.A.C. 4736-13-01.

Strip Mining

On subsequent offenses of certain violations, the court may revoke the strip mining permit of the person for a period of five years. R.C. § 1514.99.

Water

The criteria to become a qualified data collector of surface water at all levels require the applicant to certify that he or she has not been convicted of criminal trespass in the past five years. *See* O.A.C. 3745-4-03; O.A.C. 3745-4-04; O.A.C. 3745-4-05; O.A.C. 3745-4-05, Appx. A; O.A.C. 3745-4-06; O.A.C. 3745-4-06, Appx. A. For certification as an operator of a public water system or wastewater works, an applicant cannot have been convicted of a criminal charge involving falsification, fraud, or terrorism. O.A.C. 3745-7-06. Conviction of a crime related to the field of certification shall result in a suspension and revocation of all certificates. O.A.C. 3745-7-12. The director of the public health council may suspend, revoke, or deny a private water systems contractor's registration if convicted of any crime. O.A.C. 3701-28-20.

Relevant Legal Authority:

Ohio Revised Code, Section 903.02
Ohio Revised Code, Section 903.03
Ohio Revised Code, Section 903.05
Ohio Revised Code, Section 921.23
Ohio Revised Code, Section 926.05
Ohio Revised Code, Section 931.02
Ohio Revised Code, Section 943.03
Ohio Revised Code, Section 943.05
Ohio Revised Code, Section 1514.99

Ohio Administrative Code, 3701-34-09
Ohio Administrative Code, 3701-34-10
Ohio Administrative Code, 3745-4-03
Ohio Administrative Code, 3745-4-04
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Ohio Revised Code, Section 1531.641
Ohio Revised Code, Section 1533.342
Ohio Revised Code, Section 1533.631
Ohio Revised Code, Section 3710.06
Ohio Revised Code, Section 3714.051
Ohio Revised Code, Section 3714.052
Ohio Revised Code, Section 3734.09
Ohio Revised Code, Section 3734.41
Ohio Revised Code, Section 3734.42
Ohio Revised Code, Section 3734.44
Ohio Revised Code, Section 3734.46
Ohio Revised Code, Section 3743.03
Ohio Revised Code, Section 3743.04
Ohio Revised Code, Section 3743.16
Ohio Revised Code, Section 3743.17
Ohio Revised Code, Section 3743.70
Ohio Revised Code, Section 3743.99
Ohio Revised Code, Section 3745.70
Ohio Revised Code, Section 4506.16
Ohio Revised Code, Section 4506.161
Ohio Revised Code, Section 4506.17
Ohio Revised Code, Section 4508.04
Ohio Revised Code, Section 4508.06
Ohio Revised Code, Section 4703.07
Ohio Revised Code, Section 4703.10
Ohio Revised Code, Section 4703.15
Ohio Revised Code, Section 4703.34
Ohio Revised Code, Section 4709.13
Ohio Revised Code, Section 4713.28
Ohio Revised Code, Section 4717.05
Ohio Revised Code, Section 4717.061
Ohio Revised Code, Section 4717.14
Ohio Revised Code, Section 4733.20
Ohio Revised Code, Section 4736.13
Ohio Revised Code, Section 4740.06
Ohio Revised Code, Section 4740.10
Ohio Revised Code, Section 4749.03
Ohio Revised Code, Section 4749.031
Ohio Revised Code, Section 4749.06
Ohio Revised Code, Section 4781.09
Ohio Revised Code, Section 4781.21
Ohio Administrative Code, 109:6-1-02
Ohio Administrative Code, 901:2-1-04
Ohio Administrative Code, 901:10-1-02
Ohio Administrative Code, 901:10-1-08
Ohio Administrative Code, 1301:3-6-05

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Ohio Administrative Code, 3745-7-12
Ohio Administrative Code, 3745-26-14
Ohio Administrative Code, 3745-300-5
Ohio Administrative Code, 3747-3-02
Ohio Administrative Code, 3793:4-1-02
Ohio Administrative Code, 4101:16-3-02
Ohio Administrative Code, 4501-7-03
Ohio Administrative Code, 4501-7-05
Ohio Administrative Code, 4501-7-23
Ohio Administrative Code, 4501-7-25
Ohio Administrative Code, 4501-21-04
Ohio Administrative Code, 4501-21-13
Ohio Administrative Code, 4501-45-02
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Ohio Administrative Code, 4501-53-03
Ohio Administrative Code, 4501-53-04
Ohio Administrative Code, 4501-53-11
Ohio Administrative Code, 4501:1-1-24
Ohio Administrative Code, 4501:1-1-25
Ohio Administrative Code, 4501:1-1-26
Ohio Administrative Code, 4501:1-6-01
Ohio Administrative Code, 4501:5-1-02
Ohio Administrative Code, 4501:5-1-20
Ohio Administrative Code, 4701-8-01
Ohio Administrative Code, 4701-8-03
Ohio Administrative Code, 4701-8-04
Ohio Administrative Code, 4701-8-10
Ohio Administrative Code, 4701-9-02
Ohio Administrative Code, 4703-3-07
Ohio Administrative Code, 4703:1-3-04
Ohio Administrative Code, 4713-1-07
Ohio Administrative Code, 4713-3-01
Ohio Administrative Code, 4717-4-01
Ohio Administrative Code, 4717-4-02
Ohio Administrative Code, 4717-4-03
Ohio Administrative Code, 4717-4-04
Ohio Administrative Code, 4717-4-05
Ohio Administrative Code, 4733-35-08
Ohio Administrative Code, 4736-13-01
Ohio Administrative Code, 4781-7-02
Ohio Administrative Code, 4781-7-05

Ohio Administrative Code, 1301:7-9-15
Ohio Administrative Code, 3701-28-20
Ohio Administrative Code, 3701-34-03
Ohio Administrative Code, 3701-34-04
Ohio Administrative Code, 3701-34-05
Ohio Administrative Code, 3701-34-06
Ohio Administrative Code, 3701-34-08

Ohio Administrative Code, 4781-7-06
Ohio Administrative Code, 4781-8-01
Ohio Administrative Code, 4781-8-03
Ohio Administrative Code, 4781-8-04
Ohio Administrative Code, 4781-8-10
Ohio Administrative Code, 4781-9-02
Ohio Administrative Code, 5101:2-5-09

Cross References: Restoration of Rights; Doing Business with the State; Regulated Professions, Occupations, Trades, Businesses, and Industries

VI. Other Privileges or Opportunities Affected

This section includes collateral consequences that adversely affect a variety of privileges or opportunities that are personal to the defendant. Convicted persons are disqualified from, or otherwise restricted in, their right to bear arms, driving privileges, hunting privileges, and receipt of benefits. This section also discusses collateral consequences from convictions of sexual offenses, as well as defendants' legal actions, protections, and presumptions that are affected by state law.

A. Right to Bear Arms

The Ohio Constitution grants the people the personal right to bear arms for their defense and security. Ohio Const., Art. I, § 4. However, the right is not absolute; it may be reasonably regulated by prohibiting arms to persons under disability, *Ohio v. Adkins*, 40 Ohio App. 2d 473 (7th Dist. Ct. App. 1973), by regulating the carrying of concealed weapons, *Klein v. Leis*, 99 Ohio St. 3d 537 (2003), or by requiring firearms registration. *City of University Heights v. O'Leary*, 68 Ohio St. 2d 130 (1981). Ohio statutory law imposes a firearms disability on persons who have been convicted of any felony offense of violence or any offense involving the illegal possession, use, sale, administration, distribution, or trafficking in any drug of abuse.¹⁰ R.C.

¹⁰ Federal law imposes a firearm disability on, among others, those persons convicted of misdemeanor domestic violence offenses in state or federal courts. 18 U.S.C. § 922(g)(9). Ohio law recognizes this disability and requires

§ 2923.13. This means that such a person will be committing a crime if he or she thereafter knowingly acquires, has, carries, or uses any firearm or dangerous ordnance. *Id.* However, it is possible to obtain relief from this disability. *See* R.C. § 2923.14. A person under disability due to felony or drug convictions may file an application for relief from the disability in a civil action. The county prosecutor has the opportunity to raise objections to the application, and after a hearing, the court has discretion to grant relief if the applicant has been fully discharged from a previous sentence, has led a law-abiding life since discharge, and appears likely to continue to do so, and is not under any other firearm disability. *Id.* Such relief may be revoked or automatically voided if certain conditions occur. *Id.*

A person may apply for a license, R.C. § 2923.125, or a temporary emergency license, R.C. § 2923.1213, to carry a concealed handgun, which will be issued if all application criteria are satisfied. Several criteria relate to prior convictions in certain time periods. To receive a concealed carry license, the applicant must not have been convicted of a felony, a drug offense, or assault on a peace officer; of most misdemeanor offenses of violence within the past three years; of two or more convictions of assault or negligent assault within the past five years; and of resisting arrest within the past ten years. R.C. § 2923.125; R.C. § 2923.1213. If an applicant has such a felony conviction, but it has been ordered sealed or expunged, then the sheriff shall not consider the conviction. R.C. § 2923.125; R.C. § 2923.1213. The application form includes questions about prior convictions, R.C. § 2923.1210, and the application for a temporary emergency license requires the submission of a sworn affidavit regarding convictions. R.C. § 2923.1213. Both kinds of applicants are subject to a criminal records check to verify application statements.

the court to notify Ohio defendants of this collateral consequence prior to accepting guilty pleas to such offenses. R.C. § 2943.033; Sup. R. 10.04.

The license will be automatically suspended or revoked for specified time periods upon the holder's conviction for certain firearms offenses, among other things. R.C. § 2923.128. Other firearms violations will result in the suspension of the concealed carry license, *e.g.*, R.C. § 2923.12, or of a person's driver's license, *e.g.*, R.C. § 2923.122, in addition to other penalties upon conviction.

Relevant Legal Authority:

Ohio Constitution, Article I, Section 4	Ohio Revised Code, Section 2923.13
Ohio Revised Code, Section 2923.12	Ohio Revised Code, Section 2923.14
Ohio Revised Code, Section 2923.1210	Ohio Revised Code, Section 2943.033
Ohio Revised Code, Section 2923.1213	Rules of Superintendence for the Courts of Ohio, Rule 10.04
Ohio Revised Code, Section 2923.122	Title 18, United States Code, Section 922
Ohio Revised Code, Section 2923.125	
Ohio Revised Code, Section 2923.128	

Cross References: Restoration of Rights; Special Case of Law Enforcement Officers; Safety; Privileges Related to Animals and the Environment.

B. Driving Privileges

Driving-related privileges are affected by convictions of traffic and other driving or motor vehicle violations. The courts and the bureau of motor vehicles work closely to implement collateral consequences related to driving and registration privileges. *See* R.C. § 4507.15; R.C. § 4507.16; R.C. § 4510.03; R.C. § 4510.031. Certain convictions may result in forfeiture, seizure, or immobilization of vehicles, and the impoundment of license plates, as well as forfeiture, suspension, seizure, or cancellation of a driver's license. *See, e.g.*, R.C. § 4510.11; R.C. § 4507.02; R.C. § 4507.164; R.C. § 4507.19; R.C. § 4510.12; R.C. § 4510.13; R.C. § 4510.14; R.C. § 4510.15; R.C. § 4510.16; R.C. § 4510.161; R.C. § 4510.21; R.C. § 4510.22; R.C. § 4510.41; R.C. § 4511.191; R.C. § 4511.193; R.C. § 4511.195; R.C. § 4511.196; R.C. § 4511.251. Some examples of offenses of which conviction thereof leads to similar collateral

consequences include convictions of certain commercial driving laws resulting in disqualifications on commercial drivers' licenses, R.C. § 4506.16; R.C. § 4506.17; of driving school laws resulting in suspension or revocation of license, or fines, R.C. § 4508.06; of handicapped parking placard violations resulting in revocation of the placard, R.C. § 4503.44; of proof of financial responsibility laws resulting in suspension of license, registration, and operation privileges, and civil penalties, R.C. § 4509.101, R.C. § 4509.37; of laws related to use of a license to violate liquor laws resulting in suspension of license, registration, and operation privileges, R.C. § 4510.33; and of laws governing issuance of special permits for vehicle loads resulting in debarment, R.C. § 4513.34. Driving-related suspensions for convictions of traffic offenses and moving violations may be implemented using the "point" system. R.C. § 4510.036; R.C. § 4510.037.

A driver's license may be suspended for convictions of offenses committed in or with a motor vehicle, such as involuntary manslaughter while operating a vehicle under the influence, R.C. § 2903.04; certain solicitation offenses involving the vehicle, R.C. § 2907.24; attempted murder, R.C. § 2923.02, or murder using the vehicle, R.C. § 2929.02; aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter, R.C. § 2903.06; aggravated vehicular assault, R.C. § 2903.08; and even trafficking in cigarettes to avoid taxes, R.C. § 5743.99. A driver's license also may be suspended for convictions of offenses that do not appear to be related to driving or motor vehicles, such as certain firearms laws, R.C. § 2923.122, and certain drug laws, R.C. § 4510.17. In addition to other sanctions, there is a mandatory suspension of a person's driver's license or commercial driver's license or permit for a period of time for persons convicted of certain drug offenses, including drug-related conspiracy, R.C. § 2923.01; corrupting another with drugs, R.C. § 2925.02; drug trafficking, R.C. § 2925.03; drug manufacturing, R.C.

§ 2925.04; assembly or possession of chemicals used in drug manufacturing, R.C. § 2925.041; funding of drug trafficking, R.C. § 2925.05; illegal administration or distribution of anabolic steroids, R.C. § 2925.06; drug possession, R.C. § 2925.11; drug instrument possession, R.C. § 2925.12; permitting other to use vehicles or premises for drug abuse, R.C. § 2925.13; drug paraphernalia possession, R.C. § 2925.14; deception to obtain a dangerous drug, R.C. § 2925.22; illegal processing of drug documents, R.C. § 2925.23; abusing harmful intoxicants, R.C. § 2925.31; trafficking in harmful intoxicants, R.C. § 2925.32; illegal dispensing of drug samples, R.C. § 2925.36; and possession of or trafficking in counterfeit controlled substances, R.C. § 2925.37.

The law provides procedures for the restoration of driving privileges. These procedures include the reinstatement of suspended licenses, even for suspensions imposed for a lifetime. *See, e.g.*, R.C. § 4510.72; R.C. § 4510.53; R.C. § 4510.54; R.C. § 4510.61; R.C. § 4511.197; R.C. § 4511.198.

Relevant Legal Authority:

Ohio Revised Code, Section 2903.04	Ohio Revised Code, Section 4508.06
Ohio Revised Code, Section 2903.06	Ohio Revised Code, Section 4509.101
Ohio Revised Code, Section 2903.08	Ohio Revised Code, Section 4509.37
Ohio Revised Code, Section 2907.24	Ohio Revised Code, Section 4510.03
Ohio Revised Code, Section 2923.01	Ohio Revised Code, Section 4510.031
Ohio Revised Code, Section 2923.02	Ohio Revised Code, Section 4510.036
Ohio Revised Code, Section 2923.122	Ohio Revised Code, Section 4510.037
Ohio Revised Code, Section 2925.02	Ohio Revised Code, Section 4510.11
Ohio Revised Code, Section 2925.03	Ohio Revised Code, Section 4510.12
Ohio Revised Code, Section 2925.04	Ohio Revised Code, Section 4510.13
Ohio Revised Code, Section 2925.041	Ohio Revised Code, Section 4510.14
Ohio Revised Code, Section 2925.05	Ohio Revised Code, Section 4510.15
Ohio Revised Code, Section 2925.06	Ohio Revised Code, Section 4510.16
Ohio Revised Code, Section 2925.11	Ohio Revised Code, Section 4510.161
Ohio Revised Code, Section 2925.12	Ohio Revised Code, Section 4510.17
Ohio Revised Code, Section 2925.13	Ohio Revised Code, Section 4510.21
Ohio Revised Code, Section 2925.14	Ohio Revised Code, Section 4510.22

Ohio Revised Code, Section 2925.22
Ohio Revised Code, Section 2925.23
Ohio Revised Code, Section 2925.31
Ohio Revised Code, Section 2925.32
Ohio Revised Code, Section 2925.36
Ohio Revised Code, Section 2925.37
Ohio Revised Code, Section 2929.02
Ohio Revised Code, Section 4503.44
Ohio Revised Code, Section 4506.16
Ohio Revised Code, Section 4506.17
Ohio Revised Code, Section 4507.02
Ohio Revised Code, Section 4507.15
Ohio Revised Code, Section 4507.16
Ohio Revised Code, Section 4507.164
Ohio Revised Code, Section 4507.19

Ohio Revised Code, Section 4510.33
Ohio Revised Code, Section 4510.41
Ohio Revised Code, Section 4510.53
Ohio Revised Code, Section 4510.54
Ohio Revised Code, Section 4510.61
Ohio Revised Code, Section 4510.72
Ohio Revised Code, Section 4511.191
Ohio Revised Code, Section 4511.193
Ohio Revised Code, Section 4511.195
Ohio Revised Code, Section 4511.196
Ohio Revised Code, Section 4511.197
Ohio Revised Code, Section 4511.198
Ohio Revised Code, Section 4511.251
Ohio Revised Code, Section 4513.34
Ohio Revised Code, Section 5743.99

Cross References: Restoration of Rights; Special Case of Educators and Students

C. Privacy and Residency Privileges of Sex Offenders

Ohio's version of Megan's Law imposes registration and notification requirements on persons convicted of sexually oriented offenses or child victim oriented offenses. *See* R.C. § 2950.01 to R.C. § 2950.99. Depending on the type of offender and the date of conviction, the offender is notified of his or her duty to register with the sheriff. R.C. § 2950.03. Registration contains the name, aliases, social security number, date of birth, and residence address of the offender; name and address of the offender's employer and any school or institution of higher education the offender attends; the offender's driver's license number, the license plate numbers of each vehicle owned, registered, or regularly operated by the offender, and photographs thereof; a description of each professional and occupational license, permit, and registration held by the offender; any email addresses, internet identifiers, and telephone numbers used by the offender; and the offender's photograph and copies of travel and immigration documents. R.C. § 2950.04; R.C. § 2950.041. Offenders must make written notices of changes in addresses during the required registration periods, R.C. § 2950.05, and they must periodically verify current

addresses. R.C. § 2950.06. The sheriff may confirm reported residence address. R.C. § 2950.111. The attorney general must maintain an internet sex offender and child-victim offender database containing some registration information, including the release of the offender. R.C. § 2950.13; R.C. § 2950.14.

Notification must be given to the victim and community. The sheriff is required to notify the victim of the sexually oriented offense that the offender has registered, if the victim has requested such notification. R.C. § 2950.10. Furthermore, the sheriff must also give notice of the registered offender's name, address, offense, and photograph to the offender's neighbors and to school superintendents within a specified geographical area. R.C. § 2950.11. Upon an offender's motion for termination of his or her registration requirement, the prosecutor must notify any victim, who may submit a written statement about the offender's conduct under the registration period. R.C. § 2950.15.

The law provides immunity to state criminal justice employees from damages in any civil action for injury allegedly caused by an act or omission under Ohio's sex offender laws. R.C. § 2950.12. Offenders are also prohibited from residing within one thousand feet of any school, preschool, or child day-care premises. R.C. §2950.034. A landlord may bring an action for possession of the premises if his or her tenant is an offender in violation of this prohibition. R.C. § 5321.03.

Relevant Legal Authority:

Ohio Revised Code, Section 2950.03
Ohio Revised Code, Section 2950.034
Ohio Revised Code, Section 2950.04
Ohio Revised Code, Section 2950.041
Ohio Revised Code, Section 2950.05
Ohio Revised Code, Section 2950.06
Ohio Revised Code, Section 2950.10

Ohio Revised Code, Section 2950.11
Ohio Revised Code, Section 2950.111
Ohio Revised Code, Section 2950.12
Ohio Revised Code, Section 2950.13
Ohio Revised Code, Section 2950.14
Ohio Revised Code, Section 2950.15
Ohio Revised Code, Section 5321.03

D. Privileges related to Animals and the Environment

Penalties for offenses related to domestic animals include degree and penalty enhancements for subsequent offenses. R.C. § 959.99. In addition to these sanctions, the statute provides for forfeiture of animals and costs of their subsequent care. *Id.* Also, persons convicted of companion animal cruelty may be subject to limitations on their future ownership or care of animals and as a condition of probation or community control sanction, may be ordered to undergo psychological evaluation or counseling. *Id.*

In addition to other sanctions, any vehicle or device used in the unlawful taking of wild animals is a public nuisance, shall be seized by the wildlife officer, and shall be forfeited to the state upon the criminal conviction of the owner. R.C. § 1531.20. Upon conviction of holding, taking, buying, selling, or possession a wild animal in violation of Chapters 1531 and 1533, the person's hunting license, fur taker permit, deer permit, wild turkey permit, wetlands habitat stamp, or fishing license will be revoked, and the person may be required to pay restitution value. R.C. § 1531.201; *see also* R.C. § 1531.99; R.C. § 1533.13; R.C. § 1533.68; R.C. § 1533.99. The court must report any negligent or reckless hunting convictions to the chief of the division of wildlife, who will then revoke each license or permit for a specified time period. R.C. § 1533.171. Subsequent convictions of the hunting without permission statute may result in forfeiture of firearms and hunting implements. R.C. § 1533.99. A person convicted of any theft, fraud, or gambling offense is ineligible to apply for a permit to operate a tag fishing tournament. R.C. § 1533.96.

In addition to other sanctions as a result of the criminal conviction for the operation of an illegal methamphetamine laboratory, the state may recover costs for emergency action required

to protect the public health, safety, or environment from the person whose laboratory caused the contamination. R.C. § 3745.13. Conviction of subsequent violations of certain environmental laws comes with various degree and penalty enhancements. *See, e.g.*, R.C. § 3746.99 (voluntary cleanup of contaminated property); R.C. § 3748.99 (radiation control); R.C. § 3750.99 (emergency planning); R.C. § 3752.99 (cessation of chemical handling operations).

Relevant Legal Authority:

Ohio Revised Code, Section 959.99	Ohio Revised Code, Section 1533.96
Ohio Revised Code, Section 1531.20	Ohio Revised Code, Section 1533.99
Ohio Revised Code, Section 1531.201	Ohio Revised Code, Section 3745.13
Ohio Revised Code, Section 1531.99	Ohio Revised Code, Section 3746.99
Ohio Revised Code, Section 1533.13	Ohio Revised Code, Section 3748.99
Ohio Revised Code, Section 1533.171	Ohio Revised Code, Section 3750.99
Ohio Revised Code, Section 1533.68	Ohio Revised Code, Section 3752.99

Cross References: Safety; Right to Bear Arms

E. Privileges related to the Receipt of Monetary and Other Benefits

Some of these consequences are based on the general precept that offenders should not benefit from their crimes. Thus, those persons that are convicted of murder or manslaughter shall not benefit in any way from the death of the victim; that is, the offender cannot inherit any property of the decedent. R.C. § 2105.19. For those other convicted persons who benefit from contracts to publish material related to their offenses, Ohio has a “Son of Sam” law that allows the state to recover any offender’s profits from the person who contracts with the offender or the offender’s family. *See* R.C. § 2969.01 to R.C. § 2969.06. In another instance where state funds will not be used to benefit of convicted person, there is statutory language that grants implicit permission to public employee benefit plans to allow a policy exclusion based on injuries

sustained by an insured during the commission of an offense in which the insured is convicted of a felony. R.C. § 3923.82.

The Ohio Victims of Crime Act allows certain crime victims and their dependents to apply for an award of reparations for economic losses due to the criminal conduct. *See* R.C. § 2743.51 to R.C. § 2743.72. However, there are three relevant disqualifying conditions. R.C. § 2743.60. First, an award will not be made to a claimant who was the offender or an accomplice or to a claimant if the award would unjustly benefit the offender or accomplice (e.g., the victim and offender are related). Second, an award will not be made if, in the past ten years, the claimant or victim was convicted of a felony, or the claimant was convicted of any domestic violence or endangering children offenses. Convictions that have been expunged will be considered. *See In re Cheatwood*, 86 Ohio Misc. 2d 65 (Ohio Ct. Cl. 1997). Third, an award will not be made if the victim was incarcerated in any detention facility at the time of the criminal conduct. Also, any award may be reduced if the victim was engaged in criminal conduct, whether convicted or not, at the time of the criminal conduct, and if the victim's criminal history shows an ongoing course of criminal conduct. R.C. § 2743.59; R.C. § 2743.60. In these instances, proof of criminal conviction is conclusive evidence that the crime or conduct was committed. *See* R.C. § 2743.64. Additional costs in all criminal convictions in Ohio courts are imposed in order to fund these reparations payments. R.C. § 2743.70. The payment of an award creates a right of reimbursement, repayment, and subrogation in favor of the reparations fund from the person convicted of the offense. R.C. § 2743.72.

This category also includes those consequences that prevent a convicted person who is still under his or her sentence from receiving certain benefits or compensation. While incarcerated, a convicted person may not receive or give gifts, barter, or otherwise have dealings

with officers, employees, or contractors of a correctional institution, R.C. § 5145.27, nor may a convicted person retain any remuneration received for his or her voluntary participation in a research study. R.C. § 5145.28. Political subdivisions of the State of Ohio and their employees are immune from liability in the event they cause injury to a convicted offender who is performing community service as part of his or her sentence for or in the political subdivision. R.C. § 2744.03. Workers' compensation benefits are not payable to any claimant while he or she is incarcerated. R.C. § 4123.54. Applicants for visitation privileges at department of rehabilitation and correction facilities may be denied the privilege for having prior felony convictions. O.A.C. 5120-9-15. Moreover, if the applicant is under parole supervision, the applicant must have written permission from his or her parole officer and approval from the warden. *Id.*

Finally, some future benefits or privileges are affected by criminal convictions. In determining whether to include a person on the casino facilities exclusion list, the casino control commission may consider any prior conviction of felony, crime of moral turpitude, any gaming law offense. R.C. § 3772.031. A conviction for making fraudulent statements regarding place of residence in order to receive public assistance in two or more states makes a person ineligible for certain welfare benefits for a ten-year period. O.A.C. 5101:1-3-14; O.A.C. 5101:1-23-10.

Finally, a veteran who otherwise meets the criteria for admission to a veterans' home shall not be admitted if he or she has been previously convicted of a violent crime or a sex crime and poses a risk of harm to the health, safety, or well-being of others. O.A.C. 5907-3-01.

Relevant Authority:

Ohio Revised Code, Section 2105.19
Ohio Revised Code, Section 2743.59
Ohio Revised Code, Section 2743.60

Ohio Revised Code, Section 2969.05
Ohio Revised Code, Section 2969.06
Ohio Revised Code, Section 3772.031

Ohio Revised Code, Section 2743.64
Ohio Revised Code, Section 2743.70
Ohio Revised Code, Section 2743.72
Ohio Revised Code, Section 2744.03
Ohio Revised Code, Section 2969.01
Ohio Revised Code, Section 2969.02
Ohio Revised Code, Section 2969.03
Ohio Revised Code, Section 2969.04

Ohio Revised Code, Section 3923.82
Ohio Revised Code, Section 4123.54
Ohio Revised Code, Section 5145.27
Ohio Revised Code, Section 5145.28
Ohio Administrative Code, 5101:1-3-14
Ohio Administrative Code, 5101:1-23-10
Ohio Administrative Code, 5120-9-15
Ohio Administrative Code, 5907-3-01

Cross References: Restoration of Rights; Public Employment and Benefits; Doing Business with the State; Legal Actions, Protections, and Presumptions.

F. Legal Actions, Protections, and Presumptions

The previous section alluded to the fact that persons convicted of crimes might face disadvantages in other legal proceedings. This section includes those disadvantages that accrue to convicted persons when they are a party to a lawsuit, when they are not given the same legal protections as others, and when they are subject to certain legal presumptions.

Inquiries can be made of all applicants, even those with disabilities, for the sale or rental of housing regarding several things, including whether the applicant has been convicted of any drug offense. R.C. § 4112.02. This is likely because a person convicted of certain drug laws can be made a defendant in a forcible entry and detainer action by his or her landlord. R.C. § 1923.02. Another statute requires a landlord to commence an action to remove a tenant from residential premises if he or she has actual knowledge of any person on the premises violating drug laws, even if they have not yet been convicted of a crime. R.C. § 5321.04. Moreover, if property is used by a criminal gang to engage in a pattern of criminal gang activity, it is subject to an injunction. R.C. § 3767.02. A criminal conviction is conclusive evidence of the existence of a nuisance in civil action. R.C. § 3767.11. Another property-related disadvantage is the lack of a property exemption; every person may hold property exempt from execution, garnishment, attachment, or sale to satisfy a judgment or order; however, this exemption does not apply if the

person has been convicted of certain crimes and has been ordered to pay restitution. R.C. § 2329.66.

When the plaintiff in a tort action has been convicted of a felony or violent misdemeanor arising out of the conduct at issue, his or her recovery may be barred depending on the nature of the action. R.C. § 2307.60. When the tort defendant has been convicted of a felony that has a culpable mental state of either “purposely” or “knowingly” and that is the basis of the tort action, the cap on punitive damages does not apply. R.C. § 2315.21. If an inmate is awarded money damages in a civil action, the state may deduct from the award an amount equal to any fine, court costs, court-ordered restitution, or award of reparations made to a victim. R.C. § 2969.27.

A criminal felony conviction upheld on appeal precludes the offender from denying in subsequent civil proceedings any fact essential to sustaining that judgment, with some exceptions. R.C. § 2307.60. There are some other specific statutes and regulations that speak to the conclusive evidentiary nature of criminal convictions. *See, e.g.*, R.C. § 3301.121 (stating that a court order of conviction is sufficient evidence that prohibited offense occurred in proceeding to permanently exclude student from school); O.A.C. 123:1-76-11 (stating that a conviction of certain drug crimes is evidence of illegal drug use by a public employee). Also, as a purely evidentiary issue in administrative proceedings, there are dozens of regulations (although not listed in the relevant legal authority listed below) that allow for a copy of a judgment of conviction as proof of that conviction. *E.g.*, O.A.C. 4734-4-09. This is in line with rules of evidence in court proceedings. *See* Ohio R. Evid. 609. The document of the judgment of conviction is an exception to the hearsay rule, Ohio R. Evid. 803, and the public record need not be shown to a witness at trial as a condition to admissibility. Ohio R. Evid. 806.

The prosecution shall provide to the defense copies of criminal records of the defendant and any co-defendant, as well as the record of prior convictions of witnesses in the state's case-in-chief or of potential rebuttal witnesses. Ohio R. Crim. P. 16; *see also* Allen County L.R. 16.1. This discovery rule applies even to relevant records that have been sealed. Ohio Atty. Gen. Op. 2003-025. Evidence of prior convictions may be admissible in criminal proceedings for several purposes. First, a prosecutor may offer proof of prior convictions of offenses involving moral turpitude to rebut defendant's character evidence. R.C. § 2945.56. Second, the prosecution may offer evidence of other crimes as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake. Ohio R. Evid. 404. Third, and the most common occurrence, evidence of prior convictions of the defendants or witnesses may be offered to impeach their truthfulness, i.e., to attack their credibility. Ohio R. Evid. 607. There are three rules regarding the admissibility of prior convictions. *Id.* First, unless its probative value is *substantially* outweighed by the danger of unfair prejudice, Ohio R. Evid. 403, evidence of prior felony convictions of witnesses other than the accused is admissible. Second, evidence of prior felony convictions of the accused is admissible if its probative value outweighs the danger of unfair prejudice. Third, evidence of prior conviction of any crime involving dishonesty or false statements of the witnesses or the accused is admissible. However, evidence of prior convictions is generally not admissible if more than ten years has elapsed from the date of the conviction or date of the release or discharge from the sentence. Furthermore, evidence of prior convictions is generally not admissible if the convictions have been the subject of a pardon or expungement.

When evidence of prior convictions is admitted to attack the credibility of witnesses or the accused, the jury is permitted to make certain inferences about those persons. The jury will

be instructed that the evidence may be considered only for testing the person’s credibility or believability and for determining the weight to be given to that person’s testimony. O.J.I. 401.25.

Relevant Legal Authority:

Ohio Revised Code, Section 1923.02	Ohio Rules of Criminal Procedure, Rule 16
Ohio Revised Code, Section 2307.60	Ohio Rules of Evidence, Rule 403
Ohio Revised Code, Section 2315.21	Ohio Rules of Evidence, Rule 404
Ohio Revised Code, Section 2329.66	Ohio Rules of Evidence, Rule 607
Ohio Revised Code, Section 2945.56	Ohio Rules of Evidence, Rule 609
Ohio Revised Code, Section 2969.27	Ohio Rules of Evidence, Rule 803
Ohio Revised Code, Section 3301.121	Ohio Rules of Evidence, Rule 806
Ohio Revised Code, Section 3767.02	Allen County Court of Common Pleas, General Division, Local Rule 16.1
Ohio Revised Code, Section 3767.11	Ohio Pattern Jury Instructions, Criminal, 401.25
Ohio Revised Code, Section 4112.02	Ohio Attorney General Opinion 2003-025
Ohio Revised Code, Section 5321.04	
Ohio Administrative Code, 123:1-76-11	
Ohio Administrative Code, 4734-4-09	

Cross References: Restoration of Rights; Special Case of Educators and Students; Guardians and Caregivers; Privacy and Residential Privileges of Sex Offenders; Privileges related to the Receipt of Monetary and Other Benefits

Conclusions of Legal Research

We conducted a survey of legal databases to identify and describe collateral consequences of criminal conviction imposed by Ohio law. For the purposes of this study, we define a “collateral consequence” as any kind of penalty, disability, or disadvantage as a result of the conviction of an offense, other than imprisonment, probation, parole, supervised release, forfeiture, restitution, fines, assessments, or costs” regardless of whether it applies by operation of law or is imposed by a government agency, official, or court, other than those that might occur in the context of future criminal prosecutions. We organized the collateral consequences into five general categories: civil rights; public employment and doing business with the State; care, custody, and control of children and family; regulated professions, occupations, trades, industries, and businesses; and a general category of other privileges. We included another

category that describes the legal mechanisms for relief from collateral consequences. For each of these categories, we described the consequences in laymen's terms, elaborated on the interpretation of the consequences, and provided a list of relevant authority and cross references to other categories.

Ohio law—through constitutional provisions, statutes, administrative regulations, and court rules—imposes hundreds of collateral consequences on persons who have been convicted of criminal offenses, regardless of whether the conviction was obtained by plea or trial and regardless of the jurisdiction in which the conviction occurred. A preliminary review indicates that, if the definition of collateral consequences were extended to include those that are triggered by a defendant's future criminality (i.e., sentencing and degree enhancements), there would be dozens more consequences to include in this summary. Most of the consequences are discretionary, which is unsurprising considering most of the consequences are employment-related and are adjudged by professional boards. Such consequences are for a set period of time, and they can be overcome if the convicted person has been "rehabilitated." In these situations, the statutes or rules state explicit rehabilitation standards to guide the discretion of the board or agency. Many consequences are mandatory. Even where boards and agencies have discretionary authority, some statutes and rules require the board or agency to apply the restriction to the convicted person. This is especially true for defendants who have been convicted of the most serious crimes.

For the most part, restrictions are imposed when the offense of conviction bears a direct and substantial relationship to the employment opportunity or other privilege. However, fidelity to this principle is not perfect. There are an inordinate amount of restrictions on persons with an undefined "felony" conviction or a conviction for a "crime involving moral turpitude," which is

either undefined or subject to different interpretations. Additionally, there are restrictions on privileges that are unrelated to the offense of conviction, such as the suspension of driving privileges for certain drug offenses.

The conclusions one may draw from legal research of this kind are limited. The survey of criminal justice professionals provides a context that is necessary for us to fully understand and interpret the collateral consequences imposed by law.

SURVEY OF CRIMINAL JUSTICE PROFESSIONALS

Ohio criminal justice professionals were asked to complete a survey questionnaire that was mailed to them. These professionals, who included common pleas judges, prosecuting attorneys, criminal defense attorneys, and probation and parole officers, were asked about their perceptions of the impact of Ohio collateral consequences on felony defendants in Ohio state courts. These criminal justice professionals are closest to defendants as they proceed through the system and reenter society, albeit at different stages of the process. They also have a legal expertise, whether through education, training, or experience, and thus an understanding of why and how the General Assembly and administrative agencies create statutes and regulations that impose disabilities on persons convicted of crimes, as well as of the process by which these disabilities are imposed and by which rights and privileges are restored. For these reasons, their opinions provide important insights on collateral consequences (Ramsey and Frank, 2007; Huff, Rattner, and Sagarin, 1996). Moreover, there may be no better way to approach the measurement of the impact that collateral consequences have on the lives of defendants other than through the perceptions of criminal justice professionals. Other methods rely merely on the assumptions and biases of the researchers (Mossoney and Roecker, 2005; Zalman, Smith, and Kiger, 2008).

Opinions and perceptions of criminal justice professionals, elicited through a survey

questionnaire, offer the best estimate of the frequency and impact of collateral consequences, as well as the potential for reform of the process, in Ohio.

Following a description of the survey methodology, we present the findings from the survey in three parts: a description of the respondents, estimates of defendants affected by consequences and their impact; and a summary of criminal justice professionals' perceptions of the operation of collateral consequences in Ohio. These findings are presented for all of the respondents as well as for each occupational group of respondents—judges, prosecutors, defense attorneys, and probation and parole officers—and these responses are compared across occupational groups.

Survey Methodology

Our survey questionnaire was designed to achieve three main goals: (1) to describe the typical criminal justice professional in terms of their demographic characteristics, experience in the criminal justice system, and current caseload; (2) to estimate the percentage of defendants affected by certain “common” collateral consequences and the magnitude of the impact of those consequences; and (3) to assess the professionals' perceptions and opinions regarding current issues related to collateral consequences. The questionnaire was created after our initial Westlaw search and review of collateral consequences in the legal databases. It was impractical to ask respondents about all of the collateral consequences in Ohio; thus, we asked about those consequences believed to be common or applicable to most defendants, based on the literature and on the researchers' legal experience. Moreover, because it was impracticable to use exact statutory language or legal citations to the statutes, the questionnaire contained very brief summary statements of the consequences. The questionnaire is attached to this report as Appendix A.

The mailing list for our survey was comprised of 2,815 Ohio criminal justice professionals. Every effort was made to compile a complete list of the names, addresses, and positions of every criminal justice professional having regular contact with adult felony defendants from Ohio's 88 counties, including common pleas judges; prosecuting attorneys and their assistants in criminal sections; public defenders, contract defenders, and court-appointed defense attorneys; and supervisory probation officers and Adult Parole Authority officers. We used various web sources and agency employee lists to achieve this end. The questionnaires were mailed via regular U.S. mail in three waves, in December 2010, February 2011, and April 2011, to encourage a higher response rate. As of June 9, 2011, we received 903 responses. After excluding those to whom the survey questionnaire was sent in error (e.g., no longer employed in that capacity, civil prosecutors, wrong addresses), the overall response rate was calculated at approximately 34 percent. Thirteen respondents did not report a job category. As a group, judges responded a much higher rate of 64.0 percent. Probation and parole officers had a response rate of 38.5 percent, and the response rate for the defense attorneys was 37.0 percent. The overall response rate was reduced by the low response rate of prosecutors, at 19.5 percent.

In addition to the relatively low overall response rate, two other factors should be mentioned concerning the survey responses. First, a substantial number of surveys were returned with missing responses, such that the total number of valid responses to any given question varies considerably across the questionnaire. On average, the valid number of responses to questions is approximately sixty less than the total number of surveys returned. In general, there appear to be two types of missing responses: demographic information and estimates. Regarding the former type, many respondents explained that they refused to answer questions about gender, age, race, and ethnicity because their perceptions and behaviors are not influenced by those

characteristics. Several respondents also accused the research team of being “biased” for including such questions in the survey. Based on comments on the returned surveys, we know that the latter type of missing responses is due to confusion about estimating, or refusal to estimate, the number of defendants affected by consequences and the magnitude of the impact of those consequences.

Second, the research team received approximately 30 contacts, via phone, email, and letter. These individuals either made inquiries about the wording of questions on the survey instrument or simply wanted to inform us of their refusal to participate. The primary concerns of the latter group included: not having sufficient time to complete the survey; discomfort in reporting perceptions rather than actual factual information; frustration at non-legal or imprecise language on the questionnaire; suspicions about the researchers’ motivations; and disagreement with state funding of social science research. Some of these complaints were repeated by many respondents on the completed questionnaires as well. Based on the experience of the research team, there appears to be an unusually large number of both contacts from potential respondents and written comments from actual respondents. Moreover, many of the contacts and comments had an unusually hostile tone. While we cannot be sure, we believe there are three reasons why this may have occurred. First, this sample of legally trained professionals required more precise language in questions being asked of them, and they were unable or unmotivated to respond to the necessarily abridged language in the questionnaire. Second, this sample of legally trained professionals required of themselves a higher degree of certainty about data within their control, making them uncomfortable in reporting mere perceptions and estimates. One contact stated as much, and she explained that the assistant prosecuting attorneys in her office would “need several days to complete” the survey but that they “do not have the time that would be needed to

accurately respond to these matters.” This type of thinking may also explain the lower response rate for prosecutors and defense attorneys. Third, we believe that collateral consequences is a very important issue that evoked a powerful reaction in this sample of legally trained professionals. Although we know it is a “hot topic” for criminal justice research and policy, we may have underestimated the extent of the provocative nature of the issues surrounding collateral consequences.

Survey Results

Respondents

Information describing survey respondents is found in Table 1. We received 903 completed surveys. Of those who chose to report the type of job they hold, approximately 17% (153) were completed by judges; 22.5% (200) by prosecuting attorneys; 36.7% (332) by public defenders and court-appointed counsel; and 23% (205) by probation and parole officers. More than two-thirds (69.9% or 578) of the respondents are male. For all of the job categories, the majority of the respondents are male, although the percentage of female respondents is higher in the job categories of probation and parole officers and prosecuting attorneys. These data do not produce an average age, but we can report that approximately three-quarters of the respondents (72.2%, or 644 out of 892) are between the ages of 31 and 60. This age distribution is similar for all of the job categories, except the age distribution of judges is skewed toward higher ages. Over 90% (144 out of 151) of the responding judges are older than age 45. Only 1% of the respondents are Hispanic or Latino(a). Approximately 90% of the respondents are White. Respondents in the job category of probation and parole officers report the highest percentage of Blacks or African Americans at 13%. The respondents are experienced. Only a small percentage of respondents report having less than two years of experience in their current jobs or in the criminal justice system. Approximately 28% have over 20 years of experience in their current

Table 1. Description of Respondents.

	<u>All Respondents</u>		<u>Judges</u>		<u>Prosecuting Attorneys</u>		<u>Defense Attorneys</u>		<u>Probation & Parole Officers</u>	
	903		153		200		332		205	
Total										
<u>Sex</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>	<u>Count</u>	<u>%</u>
Female	249	30.1	24	16.2	71	36.4	81	24.8	84	41.0
Male	578	69.9	124	83.8	124	63.6	245	75.2	121	59.0
<u>Age Category</u>										
Under 26	2	.2	0	.0	1	.5	0	.0	1	.5
26 to 30	59	7.0	0	.0	26	13.1	29	8.8	6	2.9
31 to 35	109	13.0	0	.0	33	16.6	47	14.2	33	16.1
36 to 40	116	13.8	3	2.0	31	15.6	29	8.8	58	28.3
41 to 45	105	12.5	4	2.6	18	9.0	43	13.0	45	22.0
46 to 50	107	12.8	16	10.6	27	13.6	41	12.4	30	14.6
51 to 55	118	14.1	31	20.5	30	15.1	43	13.0	21	10.2
56 to 60	89	10.6	41	27.2	18	9.0	32	9.7	7	3.4
61 to 65	79	9.4	32	21.2	12	6.0	38	11.5	3	1.5
Over 65	55	6.6	24	15.9	3	1.5	29	8.8	1	.5
<u>Ethnicity</u>										
Hispanic	8	1.0	1	.7	2	1.1	3	.9	2	1.0
Not Hispanic	790	99.0	143	99.3	184	98.9	316	99.1	192	99.0
<u>Race</u>										
American Indian or Alaska Native	5	.6	0	.0	1	.5	1	.3	3	1.5
Asian	5	.6	0	.0	1	.5	2	.6	2	1.0
Black or African	52	6.7	9	6.0	7	3.7	16	4.9	26	13.0
American White	757	92.2	141	94.0	179	95.2	310	94.2	169	84.5
<u>Years in Job</u>										
Under 2 years	42	4.7	10	6.6	5	2.5	22	6.7	5	2.5
2 to 5 years	144	16.3	26	17.1	49	24.6	56	17.1	13	6.4
6 to 10 years	197	22.2	32	21.1	46	23.1	73	22.3	44	21.7
11 to 15 years	156	17.6	22	14.5	39	19.6	30	9.1	63	31.0
16 to 20 years	102	11.5	10	6.6	14	7.0	36	11.0	42	20.7
Over 20 years	245	27.7	52	34.2	46	23.1	111	33.8	36	17.7
<u>Years in CJS</u>										
Under 2 years	17	1.9	1	.7	4	2.0	11	3.3	1	.5
2 to 5 years	86	9.7	2	1.3	33	16.7	48	14.5	3	1.5
6 to 10 years	130	14.6	10	6.6	37	18.7	64	19.3	18	8.8
11 to 15 years	158	17.8	14	9.2	36	18.2	41	12.4	64	31.4
16 to 20 years	126	14.2	10	6.6	24	12.1	36	10.9	56	27.5
Over 20 years	373	41.9	115	75.7	64	32.3	131	39.6	62	30.4
<u>Supervisor</u>										
Yes	327	37.6	134	92.4	67	33.7	89	27.5	34	16.9
No	543	62.4	11	7.6	131	65.8	235	72.5	164	81.6

jobs; this percentage is higher for judges and defense attorneys and lower for prosecutors and probation and parole officers. About 40% report having over 20 years of experience in the

criminal justice system; over 75% of the responding judges have such experience. Nearly all of the judges report being supervisors in their current job positions; for all of the respondents, the percentage of supervisors is less than 40%.

Percentage Affected by Certain Consequences and Magnitude of their Impact

We then asked respondents to report their perceptions about the defendants they had worked with in the past year. We asked them to estimate (using an 11-point scale, i.e., “0%,” “10%,” “20%,” etc.) the percentage of those defendants who have been, are, or will be affected by particular collateral consequences. Again, we were limited in the number of consequences about which we could ask respondents. Therefore, we selected a sample of nineteen consequences from each of the five categories described in the legal analysis. Although excluded by definition from the legal analysis of collateral consequences, we also asked respondents about two additional categories: direct consequences of conviction and consequences triggered only if the defendant engages in future criminality.

Next, we asked respondents to estimate (using a 4-point scale, i.e., “No impact,” “Small impact,” “Medium impact,” and “Large impact”) the magnitude of the impact of those same consequences on the defendants they perceived to be affected. A summary of the findings are presented in the following two tables, Table 2A and Table 2B. More detailed tables are included in Appendix B. These tables include, for each of the particular consequences, frequency distributions (Table 2C-1 through Table 2C-19) and tests of statistical significance (Table 2D-1 through Table 2D-19) for percent affected, as well as frequency distributions (Table 2E-1 through Table 2E-19) and tests of statistical significance (Table 2F-1 through Table 2F-19) for magnitude of the impact. We reference these tables in our discussion below. The discussion is organized by each category of consequences.

In Table 2A, we list each consequence as it was stated on the survey, grouped by category, and present the “average” response of the percentage of defendants perceived to be affected and of the perceived magnitude of the impact for each consequence. The “mean” column under “% Affected” indicates the average response of all respondents on the 11-point scale. For example, a value of 3.51 for “felony conviction results in disenfranchisement” can be interpreted as follows: On average, for the respondents in our sample, it is perceived that approximately 35% of the defendants with whom they have worked in the past year have been, are, or will be affected by the consequence of disenfranchisement. The “s.d.” column is the standard deviation; it is a measure of dispersion or how different the responses are. A higher value indicates that there was much variation in the responses by the criminal justice professionals who chose to answer this question, whereas a lower value indicates less variation. The lower the standard deviation in relation to the mean, the greater confidence we have that the reported mean is truly the average response. The “mean” column under “Magnitude of Impact” is a rough indicator of the average response of all respondents on the 4-point scale. A value closer to one means the average response was “Small impact.” A value closer to two means the average response was “Medium impact.” A value closer to three means the average response was “Large impact.” The next column lists the standard deviations. We included the “mode,” or the most common response, in the last column to aid in the interpretation of the average response. In Table 2B, we list each consequence in an abbreviated form and summarize the “average” responses by each occupational group. We discuss these findings by category of consequences:

Civil Rights

Table 2A shows the pooled sample perceives that approximately 40 percent of the defendants with whom they work have been, are, or will be affected by the civil rights

consequences but that the magnitude of the impact is very small. However, there is some inconsistency. A closer look at the frequency distributions for percentage affected (see Tables 2C-1, 2C-2, and 2C-3 in Appendix B) shows that, while 25 to 40 percent of all respondents report that no defendants are affected by the civil rights consequences, about 40 percent of all respondents report that at least half, if not more, of the defendants with whom they work are affected by these consequences. From the legal analysis we know that the restrictions on at least voting and jury service are temporary, which may explain the inconsistency in responses.

Also, responses for percentage affected may be conflated with responses for magnitude. That is, by virtue of a felony conviction, a defendant may be affected by the disqualification from public office; as a practical matter, however, most defendants, just like most of the general public, do not otherwise qualify for, or have interest in pursuing or holding, a public office. This notion is confirmed by comparing the frequency distributions for magnitude of impact (see Tables 2E-1, 2E-2, and 2E-3 in Appendix B). Less than 10 percent of respondents reported that public office and jury service restrictions work a large hardship on defendants, whereas a full 20 percent state that disenfranchisement has a large impact. Thus, it may be perceived that voting is a more valuable privilege than the other civil rights.

There are statistically significant differences among occupational groups in their responses regarding percentage of defendants affected. (See the series of 2D tables and 2F tables in Appendix B for results of statistical tests, including chi-square, one-way analysis of variance, and Tukey's HSD). Probation and parole officers differed from all other criminal justice professionals in reporting that a very small proportion of defendants are affected by disenfranchisement. Defense attorneys differed from the others in reporting a very small proportion affected by public office disqualification. Judges differed from the others in reporting

that a higher proportion are affected by restrictions on jury service. Although the ANOVA and chi-square tests are statistically significant, there appears to be much more consensus among the groups. One notable difference is that judges perceive restrictions on jury service and public office to have a greater impact on defendants than do prosecutors.

Table 2A. Average Response of the Percentage of Defendants Perceived to be Affected By and the Perceived Magnitude of the Impact of Each Consequence for All Respondents.

Consequence	All Respondents				
	% Affected		Magnitude of Impact		
	mean	s.d.	mean	s.d.	mode
<u>Civil Rights</u>					
Felony conviction results in disenfranchisement	3.51	3.74	1.36	1.06	small
Convicted felons cannot serve on a jury	4.54	4.15	.84	.85	small
Convicted felons cannot hold public office	3.64	4.22	.88	.89	small
<u>Public Employment</u>					
Felon may be removed from civil service	1.32	2.46	1.41	1.14	small
Convicted felons are ineligible for most public employment	3.74	3.72	1.52	1.10	small
Convicted law enforcement members forfeit OPERS benefits	.61	1.85	1.49	1.26	large
<u>Care, Custody, and Control of Children and Family</u>					
Imprisonment is grounds for divorce	1.44	2.23	1.11	.97	small
Conviction can be considered in child custody decisions	3.36	2.90	1.84	.92	medium
Convicts are ineligible to be foster or adoptive parents	2.39	3.51	.91	.87	small
<u>Regulated Professions, Businesses, Occupations</u>					
Ineligible for or revocation of professional licenses	1.94	2.52	1.76	1.14	large
<u>Other Privileges</u>					
Felony conviction creates firearm disability	5.97	3.40	1.55	.89	small
Driver's license may be suspended or cancelled	5.17	2.39	2.43	.85	large
Convict may have to follow sex offender registration laws	2.16	2.09	2.47	.83	large
Prior conviction as evidence of character	5.15	3.29	1.87	.99	large
Prior conviction as impeachment evidence	4.16	3.34	1.52	.99	small
<u>Direct Consequences</u>					
Convict may have to reimburse the costs of confinement	2.56	3.19	1.10	1.04	small
May be subject to random drug testing during confinement	5.12	3.71	1.43	1.00	small
<u>Future Criminality</u>					
Prior convictions may be considered at felony sentencing	7.30	2.98	2.54	.72	large
Prior convictions may enhance degree of instant offense	3.52	2.50	2.07	.84	large

Public Employment

We asked respondents about some of the consequences related to public employment. On average, the respondents perceive that relatively few defendants are affected by the consequences in this category. As explained in the legal synthesis, public employment encompasses employment in the civil service. Thus, it is unsurprising that about 37 percent of defendants have been, are, or will be affected by the disqualification for public employment, whereas only 13 percent have been, are, or will be affected by the removal from civil service. It is also possible that persons already employed in the civil service are less likely to be convicted of the offenses that would necessitate their removal. Similarly, the respondents perceived very few law enforcement defendants (61.0 %) affected by the forfeiture of their public retirement system benefits. Again, this is likely due to the fact that few law enforcement officers are convicted of offenses that would trigger the forfeiture. Probation and parole officers report statistically significantly higher average responses than defense attorneys regarding civil service, and higher statistically significantly higher average responses than all other groups regarding public employment. The groups are in consensus regarding the forfeiture of retirement benefits.

Although the average responses for all respondents regarding the magnitude of the impact of these consequences are about the same (e.g., 1.41 for civil service, 1.52 for public employment, and 1.49 for benefits), a closer look at the frequency distributions (Tables 2E-4, 2E-5, and 2E-6 in Appendix B) shows a more nuanced result. With regard to the impact of forfeiture of benefits, the most common response is “large impact” (and, interestingly, the second most common response is “no impact”). The most common response to the other consequences is “small impact.” From these findings we conclude that forfeiture of benefits (i.e., losing money) is perceived to be a more burdensome consequence than losing employment

opportunities. That some respondents perceived forfeiture to have no impact indicates a possible conflating between percent affected by the consequence and the impact of that consequence. The groups were nearly in full consensus regarding the magnitude of the impact of the consequences in this category.

Care, Custody, and Control of Children and Family

Respondents were asked about three consequences related to children and family. In particular, we asked them to estimate the overall percentage of defendants who are affected by a prior period of incarceration being used as grounds for divorce. As indicated in Table 2A, the pooled sample of respondents did not perceive this collateral consequence to affect a large percentage of defendants. Additionally, the occupational groups were in agreement with one another. Moreover, the respondents perceived this collateral consequence to have only a small impact on the lives of defendants. In closer examination of Table 2F-7, in Appendix B, however, it is shown that probation and parole officers believed the magnitude of this consequence to have a larger impact than any of the other groups, but especially prosecuting attorneys.

Next, respondents were asked to estimate the percentage of defendants who are affected by a conviction being considered in child custody decisions. In reviewing the statutes discussed above, the legislature has gone to great lengths to protect children from individuals who are imprisoned as the result of a felony conviction. Respondents estimated that this consequence affected roughly one-third of all defendants. This is not to say, however, that all of the occupational groups were in strict agreement with one another. A closer look at the frequency distributions for percentage affected, Table 2C-8 in Appendix B, shows that over 30% of the respondents believed this collateral consequence affected 10% or less of all criminal defendants. Nearly 60% of the judges who were surveyed perceived felony convictions being considered in

Table 2B. Average Responses by Group of the Percentage of Defendants Perceived to be Affected By and the Perceived Magnitude of the Impact of Each Consequence.

Consequences	Judges					Defense Attorneys					Prosecuting Attorneys					Probation & Parole Officers					
	% Affected		Magnitude of Impact			% Affected		Magnitude of Impact			% Affected		Magnitude of Impact			% Affected		Magnitude of Impact			
	mn	sd	mn	sd	mode	mn	sd	mn	sd	mode	mn	Sd	mn	sd	mode	mn	sd	mn	sd	mode	
<u>Civil Rights</u>																					
Disenfranchisement	4.69	3.89	1.44	.98	small	3.58	3.62	1.42	1.07	small	3.62	3.89	1.17	.98	small	2.33	3.32	1.37	1.16	none	
Jury Service	5.50	4.04	1.01	.87	small	4.04	3.95	.85	.83	small	4.95	4.24	.68	.77	small	4.27	4.36	.82	.91	small	
Public Office	4.36	4.28	1.07	.88	small	2.87	3.88	.88	.90	small	4.11	4.32	.73	.84	none	3.95	4.48	.89	.93	small	
<u>Public Employment</u>																					
Civil Service	1.22	2.18	1.66	1.11	small	1.03	2.06	1.29	1.13	small	1.43	2.64	1.38	1.15	small	1.79	3.00	1.44	1.16	none	
Public Employment	3.69	3.63	1.79	1.06	large	3.18	3.38	1.53	1.14	small	3.39	3.86	1.33	1.04	small	4.99	3.90	1.48	1.11	small	
Benefits	.49	1.30	1.73	1.21	large	.44	1.44	1.23	1.25	none	.74	2.16	1.59	1.25	large	.86	2.39	1.56	1.29	large	
<u>Children and Family</u>																					
Divorce	1.57	2.41	1.12	.95	small	1.42	2.09	1.14	1.04	small	1.28	2.44	.87	.84	small	1.55	2.16	1.28	.95	small	
Custody	3.10	3.03	1.75	.92	med	3.62	2.65	2.05	.86	med	3.10	3.15	1.59	.95	med	3.39	2.98	1.80	.92	med	
Foster	2.39	3.43	1.10	.90	small	1.83	3.03	.87	.85	small	2.78	3.77	.83	.88	none	3.02	3.95	.92	.88	small	
<u>Professions, Businesses, Industries</u>																					
Professional licensure	2.16	2.73	2.04	1.09	large	1.57	2.07	1.68	1.16	large	2.06	2.72	1.69	1.15	large	2.28	2.79	1.73	1.11	large	
<u>Other Privileges</u>																					
Firearms	6.92	3.08	1.45	.76	small	5.13	3.29	1.70	.84	small	5.48	3.28	1.40	.92	small	7.01	3.51	1.54	1.00	small	
Driver's license	4.69	1.88	2.43	.78	large	5.45	2.27	2.64	.69	large	4.79	2.56	2.04	1.02	large	5.48	2.63	2.45	.84	large	
Sex offender	1.96	1.40	2.63	.65	large	1.78	1.67	2.49	.86	large	2.09	2.22	2.37	.88	large	3.01	2.72	2.40	.85	large	
Character evidence	5.55	3.32	1.84	.93	med	5.12	3.17	2.02	.93	large	4.28	3.56	1.36	.99	small	5.76	3.04	2.15	.94	large	
Impeachment evidence	5.08	3.30	1.68	.90	small	4.48	3.10	1.74	.98	small	4.50	3.36	1.36	.90	small	2.31	3.16	1.06	1.04	none	
<u>Direct</u>																					
Costs of confinement	2.18	3.02	.98	.99	none	2.87	3.17	1.21	1.04	small	2.04	2.96	.76	.87	none	2.73	3.43	1.29	1.10	small	
Random drug testing	5.32	3.74	1.40	1.04	small	4.50	3.56	1.44	1.01	small	5.46	3.67	1.36	.92	small	5.64	3.83	1.53	1.04	small	
<u>Future Criminality</u>																					
Sentencing	8.23	2.27	2.58	.62	large	7.02	3.02	2.66	.65	large	7.15	3.20	2.43	.81	large	7.14	3.07	2.42	.79	large	
Degree enhancements	2.93	2.12	1.88	.80	small	3.38	2.19	2.20	.82	large	3.17	2.37	2.02	.87	med	4.55	3.03	2.04	.87	large	

child custody decisions to affect one fifth or less of criminal defendants. Conversely, the defense attorneys who were surveyed perceived this consequence to affect more defendants, 14% of them perceiving this consequence to affect half of all criminal defendants.

While this collateral consequence was thought to only affect a relatively small number of criminal defendants, the respondents agreed that the same consequence had a “medium” impact on the lives of defendants. That is, respondents believed prior convictions being considered in child custody cases to have a larger overall impact on affected defendants than when the convictions are used as grounds for divorce. Defense attorneys estimated the magnitude of impact to be the greatest amongst the occupational groups.

The sentiment of the defense attorneys may be the result of the individuals who responded to our survey. Upon further inspection of our mailing list, it was calculated that nearly two-thirds of the list consisted of court appointed attorneys. That is, these lawyers are private defense attorneys who accept court appointments when needed. As a result of their dual position, it may be the case that these attorneys are appointed to represent their clients for a criminal case, and then are retained by the same client for representation in a child custody case. This may explain why defense attorneys perceive imprisonment considered in child custody cases to have a larger impact on the lives of defendants than the other occupational groups.

Finally, respondents were asked to estimate the percentage of defendants who are ineligible to become a foster or adoptive parent because of a prior conviction. As a whole, respondents perceived this consequence to affect a quarter of all criminal defendants or less. In examining Table 2D-9 in Appendix C, however, it can be seen that defense attorneys perceived this consequence to affect a smaller percentage of defendants while probation and parole officers

perceived this consequence to affect the largest percentage of defendants. The occupational groups perceived this consequence to have a very small impact on the lives of defendants.

It appears that the criminal justice professionals who were surveyed do not hold much faith in the pool of criminal defendants with whom they come into contact. From the open comments left by many of our respondents, it is likely that these criminal justice practitioners do not believe that many criminal offenders are married, custodial parents, or wish to become foster or adoptive parents. This sentiment is confirmed in a prosecutor's comment, "most aren't married anyway, so divorce does not matter. Most aren't custodial parents for a variety of reasons, so custody does not matter. Are you serious (in reference to the foster care question), who wants convicts as foster parents?" Another prosecutor was quoted as saying "most [defendants] don't want their children."

The perception behind these comments is that criminal defendants lack self-control in their behavior. Specifically, criminal defendants lack the self-control to thrive in their interpersonal relationships. They lack the focus to succeed as a spouse or as an effective custodial parent (Gottfredson & Hirschi, 1990). As the quote above suggests, criminal justice professionals see criminal defendants as impulsive and risk-taking. They are interested in the short-term benefits of their behavior. As a result, respondents to our survey perceive criminal defendants as individuals who jump from relationship to relationship or who abandon their children for a life of crime. Moreover, it may be the case that respondents do not consider divorce to be an issue among criminal defendants because criminals only socialize with others who are like them. Therefore, criminal defendants are less likely to get married in the first place. While these are only suggestions, it is clear from the pages and pages of comments we received that many of our respondents do not view criminal defendants in a positive light.

Regulated Professions, Occupations, Trades, Businesses, and Industries

Only one consequence in this category was included in the questionnaire. However, “ineligible for or revocation of professional licensure” covers dozens of collateral consequences in Ohio. As indicated in the legal discussion above, the restrictions regarding professional licenses are too numerous to list out separately within a survey. Therefore, we asked one overarching question regarding the percentage of defendants and overall impact on defendants who had their professional license revoked. Again, the groups did not perceive this to be a collateral consequence that affected a large number of criminal defendants. Roughly 70% of the responding judges thought that 10% or less of all defendants were ineligible for or had a professional license revoked because of a felony conviction. Additionally, nearly 70% of the defense attorneys, 60% of the prosecuting attorneys, and 60% of the probation and parole officers also perceived the ineligibility or revocation of professional licenses to affect 10% of all criminal defendants or less. Once again, it is likely that these perceptions are tied to the previous discussion of low self-control. That is, individuals who engage in criminal behavior are perceived to be less likely to hold the education and training related to the many professions recognized by the legislature. It is clear in reviewing the legal statutes discussed above, there are strict standards set as to the “types” of individuals who should be employed in such positions. More specifically, individuals in the occupations which impact the finances, safety, and healthcare of others should have “integrity” and be “trustworthy” among other things. It is likely that our respondents would not describe criminal defendants as such.

Despite the fact that these respondents did not perceive this consequence to affect a large percentage of criminal defendants, they agreed that the ineligibility and revocation of professional licenses can have a very large impact on the lives of defendants. That is, while

felons are less likely to have the education and/or training to hold a career requiring a professional license, it is likely that a collateral consequence revoking said license would be that much more detrimental to the individual. These consequences force educated and trained individuals out of their chosen careers, impacting their livelihood, family, and future career path as well.

Other Privileges Affected

The next is a catch-all category of other consequences. The legal synthesis described the collateral consequences affecting an offender's right to bear arms, driving privileges, privacy and residency privileges of sex offenders, privileges related to animals and the environment, privileges related to the receipt of monetary benefits, and rights or privileges related to legal actions, protections, and presumptions. Many collateral consequences fall into this category; however, we selected to survey respondents about the following five consequences: firearm disability, suspension or cancellation of a driver's license, sex offender registration laws, and the use of a prior conviction as character evidence or impeachment evidence. In general, these consequences, compared to the others already discussed, are perceived to affect a much larger proportion of defendants. Similarly, the respondents reported that these consequences have a greater impact on defendants than the consequences previously discussed. Table 2A shows higher average responses, about 50 percent affected, with average magnitude of impact scores of medium (i.e., from 1.52 to 2.47). A discussion of each consequence on the questionnaire is in order.

Almost one quarter of all respondents reported that 100 percent of the defendants with which they worked have been, are, or will be affected by the firearm disability. This is not surprising as the disability has an automatic and mandatory application to all persons convicted

of a felony. It is interesting, however, there are statistically significant group differences, as shown in Table 2D-11 in Appendix B. Defense attorneys and prosecutors are different than judges and probation and parole officers in that they perceive a lower percentage of defendants affected by this consequence. Of course, not every person desires to own or possess a firearm. It appears that this sentiment is expressed by the respondents in the magnitude of the impact question. Table 2E-11 in Appendix B shows that the most common response is “small impact.” Nevertheless, nearly half of respondents opined that the firearm disability has a medium or large impact on defendants. This result is driven by defense attorneys, whose average response is statistically significantly different than judges and prosecutors.

Based on the comments we received, we suggest these differences exist in part due to differing conceptualizations of “impact.” Several comments suggest that respondents believe that defendants are not impacted by the firearm disability because the disability has not deterred or otherwise caused the defendants to change their behavior. For example, a prosecutor stated that “[m]ost felons have guns illegally anyway,” and a judge stated that “most felons . . . ignore gun laws.” Group differences may also be due in part to opinions about whether the firearm disability *ought* to be imposed. A probation or parole officer asked, “Do you want someone [with] poor decision making to have a gun?” A prosecuting attorney echoed that question: “Why would you want them to have guns?” Regardless of one’s philosophical orientation, it should be noted that the firearm disability works a different kind of hardship on defendants. A firearm disability is unlike a disqualification that precludes a person’s employment opportunities; convicted persons who apply for jobs for which they are disqualified do not commit a crime by doing so. A person who chooses to ignore his or her firearm disability by possessing a firearm, however, commits a new felony.

The next consequence, the suspension or cancellation of one's driver's license, is also perceived to affect a large percentage of defendants—just over fifty percent. An examination of the frequency distribution of responses in Table 2C-12 in Appendix B shows a “bell curve”; that is, few respondents reported that this consequence affected very few or very many defendants. In contrast to judges and prosecutors, defense attorneys and probation and parole officers perceive more defendants being affected by driver's license suspensions. There is near consensus that driver's license suspension has a large impact on defendants. Only prosecuting attorneys are statistically significantly different than the other groups; over 25 percent of prosecutors perceive that this consequence causes either no impact or small impact on defendants' lives.

The suspension of driving privileges also elicited emotional commentary, some of which may hint at a respondent's philosophical orientation. One prosecutor asked: “Large majority drive without license or insurance so what's the relevance [of asking about this consequence]?” While another prosecutor stated that “[d]efendants drive anyway so there is less than zero impact [from] having their license suspended or cancelled,” a defense attorney opined that “[s]uspending the driver's license for a person convicted of a drug offense causes hardship and creates a barrier and employment and welfare problems and also promotes other crime” Other respondents agreed with the defense attorney. They question the purpose and fairness of a consequence that is unrelated to the crime of conviction (i.e., drug offenses) and that is difficult to abide by due to limited public transportation.

Although sex offender registration is perceived to have a large impact on defendants, nearly 90 percent of respondents state that fewer than half of the defendants with whom they work are affected by this consequence. There are statistically significant group differences. As a group, probation and parole officers report a larger average response than the other occupational

groups as to the proportion affected; however, more judges than other groups perceive sex offender registration as having a large impact.

We asked respondents about two consequences that affect offenders in future legal proceedings—the prosecution’s use of the fact of a prior conviction as evidence either of bad character or of lack of veracity against an offender in a legal proceeding. These consequences are governed by the Ohio Rules of Evidence and are applicable in both criminal and civil proceedings, regardless of whether the person with prior convictions is a party to the action or a witness. The language of these evidentiary rules, and case law interpreting them, suggest that there are more limitations on the use of prior convictions as character evidence compared to the use of prior convictions. However, on average, respondents report that more defendants are affected by the character evidence (i.e., 51.2%) than the impeachment evidence (i.e., 41.6%). Character evidence is also perceived to have a larger impact on defendants than impeachment evidence (1.87 with a mode of large versus 1.52 and a mode of small).

These averages appear to be influenced by the responses of probation and parole officers as a group. Specifically, as reported in Table 2B, they reported the highest proportion of defendants affected by character evidence and the lowest proportion of defendants affected by impeachment evidence. They also produced the highest average response with respect to the magnitude of the impact of the character evidence and the lowest average response with respect to the magnitude of the impact of the impeachment evidence. Most of these group differences are statistically significant, as seen in tables associated with consequences 14 and 15 in Appendix B. These findings lead the research team to speculate that some of the probation and parole officer respondents may not have fully understood these consequences as purely evidentiary rules

applied in courts of law and instead may have interpreted “character evidence” to have a more generic definition.

Direct Consequences

This study is about collateral consequences of criminal conviction, which by definition excludes the *direct* consequences of conviction. The purpose of this study is to fully describe the collateral consequences and to assess the extent and magnitude of their impact. As such, we discuss only the collateral consequences imposed by law in our legal summaries. However, because we suspected that criminal justice professionals may believe that direct consequences of conviction are more important to defendants than collateral consequences, we asked respondents about two direct consequences of conviction: defendants may have to reimburse the costs of their confinement¹¹ and defendants may be subjected to random drug testing during confinement.¹² These are less known direct consequences than, for example, imprisonment or fines, but they may have an impact on defendants.

Indeed, respondents perceive that, on average, about 25 percent of defendants have been, are, or will be affected by reimbursement of costs of confinement, and over 50 percent by random drug testing during confinement. For both of these direct consequences, however, the impact is believed to be small, more so for the reimbursement of costs than for the random drug testing. This may be due to the fact that in ordering the reimbursement of costs, the court is likely to consider a defendant’s ability to pay. Thus, a person unable to pay the costs would not be

¹¹ If an offender is sentenced to a sanction of confinement to be served in a local detention facility, and that facility is covered by a policy requiring repayment for costs of confinement, then the judgment will require the offender to pay the costs of confinement. R.C. § 2929.19(B)(7); see also R.C. § 2929.37 (governing a county’s adoption of policy requiring repayment for costs of confinement). Similarly, the department of rehabilitation and correction may recover certain costs of incarceration, provided the collection of the costs would not “unjustly limit the offender’s ability to provide for the offender after incarceration.” R.C. § 5120.56(G).

¹² The court may impose a sentence that requires a defendant to not ingest or be injected with a drug of abuse and to submit to random drug testing while serving a term of incarceration in city, county, or state institutions. R.C. § 2929.19(B)(3)(f).

impacted by this direct consequence. The implementation of random drug testing, however, would not have such a limitation. Moreover, a positive drug test could result in new charges or at least disciplinary action, causing a larger amount of trouble for incarcerated defendants.

Future Criminality

Although not explicated in the legal summaries above, we also asked respondents about two consequences that are triggered only if defendants engage in future criminality. If convicted persons later commit a new offense, they face at least two consequences during the processing of the new crime. First, a prior conviction may affect how that crime is charged, i.e., it may enhance the degree of seriousness of the new offense. For example, the first violation of subsection (A) or (B) of the domestic violence statute is a misdemeanor of the first degree. R.C. § 2919.25(D)(2). A prior conviction of domestic violence enhances the seriousness of the next violation to a felony of the fourth degree, R.C. § 2919.25(D)(3), and a third violation would be a felony in the third degree. R.C. § 2919.25(D)(4). According to respondents, approximately 35 percent of defendants are affected by degree enhancements. This average response would have been slightly lower but for the probation and parole officer responses, whose higher average response is statistically significantly different than the other groups (see Table 2D-19 in Appendix B). Nearly three quarters of all respondents stated that degree enhancements have a medium or large impact on the defendants with whom they worked. However, more judges reported a small impact than judges who reported a large impact. In this regard, judges' responses are statistically significantly different from those of defense attorneys.

Second, under Ohio's sentencing scheme, a prior conviction may be considered during sentencing for the new crime. On average, this consequence is perceived to affect more defendants (73.0%), and to have the greatest impact on defendants. Further, the impact on

defendants is greater than any other consequence asked about on the questionnaire. As a group, judges report a statistically significantly higher proportion affected at 82.3 percent. One may infer from this finding that judges consider prior convictions at sentencing more often than the other court actors are aware. Alternatively, some respondents may have reasoned that first-time offenders, by virtue of not having a criminal record, are simply not affected by this consequence. About 10 percent of all respondents reported that prior convictions at sentencing do not have either a medium or large impact on defendants. As seen in Table 2F-18, the average responses of prosecutors and probation and parole officers are statistically significantly lower than defense attorneys.

Write-In Responses

Space and time constraints prevented us from asking the respondents about all of the collateral consequences imposed by Ohio law. We asked only about those that are frequently mentioned in the reentry literature. Therefore, we asked respondents to identify any collateral consequences that they believe are likely to affect most defendants and those that are the most serious. Although only a limited number of respondents completed this section on the survey, many of them identified not collateral consequences imposed by Ohio law, but rather consequences imposed by federal law, social consequences of being a defendant or a convict that cannot be regulated by law, and direct consequences of conviction or those otherwise related to punishment. Some responses are brief, and some are quite lengthy, but we attempted to capture the essence of each write-in response and categorized the responses. The following frequency tables report the write-in responses by category: legal consequences (Tables 3A-1 and 3A-2), social consequences (Tables 3B-1 and 3B-2), and direct consequences (Tables 3C-1 and 3C-2).

As presented in Table 3A-1, the respondents identified several other legal collateral consequences they perceived to have an effect on defendants. Of the various groups who were surveyed, the defense attorneys were the most vocal in identifying these consequences imposed by law. Loss of benefits, most likely imposed by federal law, is perceived to be the type of consequence affecting most defendants. In the section above we asked respondents about sex offender registration. Here, twenty-nine respondents opined that housing restrictions affect most sex offenders. Deportation, another consequence imposed by federal law, affects many defendants. Another consequence affecting most defendants is the fact that their convictions are not subject to expungement. As explained in the legal summaries, only first-time offenders who have not committed serious felonies and who meet other criteria may have their criminal records sealed. Other respondents suggested that degree or sentencing enhancements, a consequence related to future criminality, as well as the erroneous belief that voting ineligibility is a permanent consequence, affects a large proportion of defendants.

Table 3A-1. Write-In Responses: Other Legal Consequences that Affect Most Defendants

Other Legal Consequences	All Respondents	Judges	Prosecuting Attorneys	Defense Attorneys	Probation & Parole Officers
Loss of educational assistance	34	4	3	23	4
Sex offender housing restrictions	29	6	2	13	8
Loss of other assistance	25	3	8	10	4
Deportation	16	5	2	9	0
Not subject to expungement	16	3	5	7	1
Enhancements	10	1	3	2	2
Voting ineligibility perceived as permanent	2	1	0	1	0
Total	132	23	23	65	19

The most serious legal collateral consequences written in on the survey by the respondents are presented in Table 3A-2. Many of these consequences were duplicates of the consequences included in the survey; of the duplicates, loss of licensure is perceived to be most serious. Other legal collateral consequences perceived to be the most serious are the loss of

government benefits, deportation, and not being able to seal their criminal records to be serious collateral consequences that affect defendants' lives.

Table 3A-2. Write-In Responses: Other Legal Consequences that are Most Serious

Other Legal Consequences	All Respondents	Judges	Prosecuting Attorneys	Defense Attorneys	Probation & Parole Officers
Loss of driving/operators/professional license	237	49	35	107	46
Sex offender registration/notification	172	34	49	66	23
Sentencing/Enhancements	99	7	29	50	13
Firearms disability/Loss of civil rights	76	8	19	38	11
Loss of government assistance	38	6	6	17	9
Child custody	38	2	6	22	8
Character and impeachment evidence	24	1	1	11	11
Housing restrictions	13	5	1	5	2
Not subject to expungement	9	1	0	8	0
Deportation	9	1	1	7	0
Total	715	114	147	331	123

In addition to the legal collateral consequences, many of the respondents listed social consequences resulting from an individual's felony conviction. Reported in Table 3B-1, social consequences are not imposed by the criminal justice system or otherwise by law; however, they have been identified as affecting the lives of most defendants. Given the opportunity to state the consequence that affects the most defendants, 218 criminal justice professionals reported that defendants cannot obtain or maintain employment. Respondents further perceive obtaining housing as a difficulty for most defendants. Other social consequences include damage to the

Table 3B-1. Write-In Responses: Social Consequences that Affect Most Defendants

Social Consequences	All Respondents	Judges	Prosecuting Attorneys	Defense Attorneys	Probation & Parole Officers
Can't get/keep employment or join military	218	51	28	92	47
Landlords will not rent	30	6	3	13	8
Destruction of Family Support System/Familial Economic Hardship	28	3	6	9	10
Product of System/Antisocial Lifestyle and Reoffending/Difficulty Reintegrating	26	3	2	13	8
Stigma	19	3	3	11	2
Victimization	4	0	1	1	2
Increased law enforcement scrutiny	4	0	1	2	1
Total	329	66	44	141	78

family relationships, institutionalization, reoffending and increased law enforcement scrutiny, as well as stigma, difficulty in reintegrating to free society, and victimization. Once again, defense attorneys were the most vocal in identifying these social collateral consequences.

Similar answers were given in response to the question asking which consequences are the most serious. As seen in Table 3B-2, problems with employment, housing, and stigma, as well as mental health problems and divorce and death were all reported as the most serious consequences faced by persons convicted of crime.

Table 3B-2. Write-In Responses: Social Consequences that are Most Serious

Social Consequences	All Respondents	Judges	Prosecuting Attorneys	Defense Attorneys	Probation & Parole Officers
Can't get/keep employment or join military	253	60	38	104	51
Landlords will not rent/Homelessness	27	6	3	15	3
Difficult to reintegrate due to stigma	19	1	5	7	6
Internal resignation/Mental Health	8	2	0	5	1
Divorce	4	0	1	1	2
Death	1	0	1	0	0
Total	312	69	48	132	63

Finally, many of the respondents listed various direct consequences—consequences directly related to the sentence imposed or other punishment—that they believe affect most defendants. Table 3C-1 presents these direct collateral consequences. The most common of these consequences listed is financial problems due to defense costs or other costs, fines, and fees incurred during or because of conviction, as well as the accrual of child support while a defendant is incarcerated. A few respondents, many of whom are judges, believe that treatment requirements adversely affect most criminal defendants, whereas others believe lack of treatment is a negative consequence. Sentences including a term of imprisonment or community control, as well as conditions of release such as community service, no contact orders, and travel and place restrictions, are perceived to affect most defendants. Additionally, several of the respondents listed loss of autonomy or damaged mental health as consequences affecting many defendants.

Interestingly, having either an apathetic probation officer or an apathetic defense attorney is a negative consequence of conviction that two respondents perceived to affect most defendants.

Table 3C-1. Write-In Responses: Direct Consequences that Affect Most Defendants

Direct Consequences	All Respondents	Judges	Prosecuting Attorneys	Defense Attorneys	Probation & Parole Officers
Financial problems/costs/fines/fees	49	8	3	26	12
Loss of autonomy/mental health	20	4	3	9	4
Treatment	16	9	1	3	3
Travel restrictions	10	0	5	0	5
Community control/service	9	2	1	3	3
Prison	9	0	2	5	2
Child support accrues	6	0	2	2	2
No contact orders	4	1	1	0	2
Lack of Treatment	3	1	1	1	0
Colored license plate/interlock device	3	0	2	0	1
Have apathetic probation officer/attorney	2	0	1	1	0
Restrictions on entering liquor establishments	2	1	0	0	1
Total	140	26	20	50	34

Direct consequences perceived to be the most serious are presented in Table 3C-2.

Financial problems top the list of write-in responses.

Table 3C-2. Write-In Responses: Direct Consequences that are Most Serious

Direct Consequences	All Respondents	Judges	Prosecuting Attorneys	Defense Attorneys	Probation & Parole Officers
Financial problems/Costs/Compounded Fees	24	2	0	12	10
Prison	8	0	3	3	2
Drug testing	7	3	3	1	0
Counseling/Supervision	3	0	0	2	1
Loss of freedom of movement	2	0	0	0	2
No contact orders	1	0	0	1	0
Total	45	5	6	19	15

Some write-in responses indicated the philosophical orientation of respondents. A total of twelve respondents (i.e., two judges, seven prosecutors, and three probation and parole officers) stated that collateral consequences are not “serious” either because they are the fault of the defendant or because the defendant does not abide by the consequences and thus are unaffected. Conversely, two prosecuting attorneys and two probation and parole officers listed the most serious collateral consequences are those that punish the defendant indefinitely.

Particular Defendants Affected

In an effort to fully describe “who” is affected by collateral consequences, we asked respondents to report whether particular defendants or defendants who committed particular crimes are especially affected by collateral consequences. Table 4 contains the findings regarding particular defendants. Of the particular defendants listed, respondents report their belief that less educated defendants, more than any other types of defendant, are especially affected by collateral consequences. Other types of defendants perceived to be especially affected are male defendants, defendants who are minorities, and young defendants. The types of defendants perceived to be less affected are seniors and defendants without children. These responses are about the same for each occupational group; however, prosecutors reported fewer types of defendants as being especially affected by collateral consequences.

Table 4. Percentage of Respondents that Perceive that Particular Defendants are Especially Affected by Collateral Consequences

Particular Defendant	All Respondents	Judges	Defense Attorneys	Prosecuting Attorneys	Probation & Parole Officers
	%	%	%	%	%
Less educated	55.9	58.8	67.7	38.3	51.7
Highly educated	20.5	22.2	16.9	20.2	25.2
Minorities	38.0	41.8	51.7	14.5	35.5
Whites	11.0	13.7	12.3	3.1	14.3
Males	37.1	41.8	43.4	23.3	42.4
Females	18.3	18.4	21.5	8.3	22.7
Youth	29.1	38.6	37.8	15.5	20.8
Seniors	8.4	13.1	8.0	1.6	11.9
Parents	24.9	22.9	30.5	18.1	24.1
Non-parents	9.2	11.1	12.0	2.1	9.9
Singles	14.9	15.7	16.6	8.3	17.7
Married	11.4	14.4	10.5	6.2	15.8

Table 5 contains findings regarding defendants who have committed particular types of crimes. The respondents reported their belief that sex offenders (81.1%) are especially affected by collateral consequences. Other crime types that are especially affected are drug offenders (64.2%) and defendants who committed violent crimes (48.2%) and weapons crimes (40.2%).

Defendants who committed property or fraud offenses are perceived to be less affected. Again, these responses are about the same for each occupational group, but prosecuting attorneys report significantly lower percentages of defendants especially affected by collateral consequences. In the written comments in response to this question, one prosecutor stated that “[these] defendants should be especially affected by collateral consequences.”

Table 5. Percentage of Respondents that Perceive that Particular Offense Types are Especially Affected by Collateral Consequences

Particular Offense Type	All Respondents	Judges	Defense Attorneys	Prosecuting Attorneys	Probation & Parole Officers
	%	%	%	%	%
Drug	64.2	69.3	76.5	52.8	51.2
Fraud	18.8	21.6	20.7	8.8	23.2
Property	10.8	9.8	11.0	3.6	18.2
Sex	81.1	88.9	82.9	78.9	74.4
Violent	48.2	51.0	52.1	47.4	40.4
Weapons	40.2	39.2	44.5	36.1	37.9

Policy and Research Issues

There are several issues that are important to any nationwide criminal justice policy discussion involving collateral consequences. While some of these issues are under debate, others are widely assumed by policy makers and social science researchers. We solicited from Ohio criminal justice professionals their opinions on such issues as the purpose of collateral consequences, whether they impede defendants’ successful reentry, the repeal of collateral consequences, and issues surrounding the notification of collateral consequences.

Purposes of Collateral Consequences

Respondents were asked to state the purpose or purposes of collateral consequences. These findings are reported in Table 6. Because respondents could check more than one response, as well as write in responses in their own words, response totals exceed the number of surveys received. Write-in purposes are included in the table only if more than one respondent

expressed a substantially similar purpose. Other write-in responses that were not duplicated (and do not necessarily make sense) include: “to enhance subsequent offenses”; “incapacitation”; “victim rights”; “avoid responsibility”; “consequence to behavior”; “justify employment”; “ignorance”; “to enhance the feelings of superiority of non felons/criminals”; “to keep defendant an outcast and a burden to society”; and “to make society feel good that something is done”.

The most popular “purpose” of collateral consequences is “to protect the public.” This is true of all occupational groups except for defense attorneys. The most popular purpose given by defense attorneys is “to punish the defendant,” which is the second most popular response of all respondents. Respondents also agreed that specific deterrence (388 responses) and general deterrence (274 responses) are purposes of collateral consequences. Interestingly, many respondents, most of whom were defense attorneys (59) and judges (21) were uncertain about the purpose behind collateral consequences. Six respondents actually stated that there was no valid purpose for collateral consequences. Two respondents wrote in that “it depends.”

Table 6. The Perceived Purposes of Collateral Consequences

Purposes	All Respondents	Judges	Defense Attorneys	Prosecuting Attorneys	Probation & Parole Officers
To protect the public	547	104	152	151	140
To punish the defendant	430	72	156	113	89
To deter defendant from future crime	388	53	114	107	114
To deter others from committing crime	274	49	75	79	71
I do not know	93	21	59	2	11
To increase the legitimacy of the law	87	11	29	19	28
Politics	10	1	6	2	1
No valid purpose	6	2	3	1	0
Create revenue	5	0	2	0	3
Rehabilitation	3	1	0	0	2
It depends	2	1	0	0	1
Total	1845	315	596	474	460

Motivation to Recidivate

In the reentry literature, collateral consequences are viewed as barriers to reentry that may influence future criminality. We asked respondents if collateral consequences motivate

defendants, in whole or in part, to commit another crime. Their responses are reported in Table 7A, and tests of statistical significance on group differences are reported in 7B. Of the respondents who chose to answer this question, approximately 45 percent stated “yes”. An affirmative response was highest among defense attorneys (58.0%) and judges (51.4%). Only about 19 percent of prosecuting attorneys answered in the affirmative. Prosecutors’ responses are statistically significantly different than the responses of the other groups.

Table 7A. Perceptions of Whether Collateral Consequences Motivate Future Criminality

	All Respondents		Judges		Prosecuting Attorneys		Defense Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
	Yes	357	44.4	71	51.4	32	18.7	177	58.0	75
No	447	55.6	67	48.6	139	81.3	128	42.0	111	59.7
Total	804	100.0	138	100.0	171	100.0	305	100.0	186	100.0

Table 7B. Tests of Statistical Significance on Group Differences as to Whether Collateral Consequence Motivate Future Criminality

Group	Mean¹	F	Tukey HSD								X²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			Mean diff	S.E.	Mean diff	S.E.	Mean diff	S.E.	Mean diff	S.E.	
Judges	.51		--		-.066	.049	.327***	.054	.111	.053	72.704***
Defense Attorneys	.58	26.5***	.066	.049	--		.393***	.045	.177***	.044	
Prosecuting Attorneys	.19		-.327***	.054	-.393***	.045	--		-.216***	.050	
Probation & Parole	.40		-.111	.053	-.177***	.044	.216***	.050	--		

¹Mean is the proportion of that group who answered “yes” to the question

***p≤.001; **p≤.01; *p≤.05

This question provoked much commentary from respondents. One prosecutor asked: “Why would consequences motive someone to commit a crime? Are you going to dictate how society’s supposed to feel? Very biased questionnaire. You guys are really off the charts.” A judge wrote, “This is a ridiculous [question]. The important issue here is that consequences result from behavior. We learn that as a child.” Probation and parole officers also weighed in on the issue. One officer wrote that “[i]t is absurd to think collateral consequences would motivate [a

defendant] to commit another crime. It is not a collateral consequence for an employer not to want to hire a thief, a drug user, a violent person, a lazy person, or generally an unreliable person.” Another officer stated, “I find in many cases the defendant uses collateral consequences (conviction as an indicator of [bad] character, and being unable to get job) as an excuse for committing an additional offense (trafficking in drugs). Taking away the collateral consequences might stop some[,] but many will just find another “reason.”

Policy Statements

Respondents were asked for their level of agreement with a series of statements that reflect differing positions in the current public policy debate related to collateral consequences. Level of agreement is measured with a 5-point Likert-type scale. Possible responses include strongly disagree (coded as 0), disagree (coded as 1), neutral (coded as 2), agree (coded as 3), and strongly agree (coded as 4). A summary of the findings, frequencies of responses and the “average responses,” are presented in Table 8. We list each policy statement as it was stated on the survey and present the frequencies of each response and the “average” level of agreement with each statement. The “mean” column under “Average Response” is a rough indicator of the average response of all respondents on the 5-point scale (i.e., 0 through 4). A value closer to zero means the average response was “strongly disagree.” A value closer to four means the average response was “strongly agree.” The “s.d.” column is the standard deviation. The lower this value in relation to the mean, the greater confidence we have that the reported mean is truly the average response. More detailed tables are included in Appendix C. These tables include, for each of the particular policy statements, frequency distributions for each job category (Tables 8A-1 through Table 8A-18) and tests of statistical significance (Tables 8B-1 through Table 8B-

18) for group differences. We refer to all of these tables in our discussion of the findings, which is divided into two general sections: changing policy and notification of collateral consequences.

Changing Policy on Collateral Consequences

The first half of Table 8 gives an overall sense that the majority of respondents are in favor of changing justice policy with respect to collateral consequences. More respondents are in agreement than there are respondents in disagreement about eliminating or otherwise lessening the burden of collateral consequences on defendants. However, this sentiment is not unanimous, and there are statistically significant differences among judges, prosecutors, defense attorneys, and probation and parole officers. If prosecuting attorneys as a group had a higher response rate to the survey, these results might be different. In interpreting these results, the reader should also consider the substantial proportions of respondents (i.e., a range of 76 to 223) who are “neutral.” Such a response could indicate neutrality, but it could also indicate confusion or general disinterest in the questionnaire.

Table 8 shows that over 60 percent of all respondents agree or strongly agree that some collateral consequences should be repealed or eliminated, whereas only about 20 percent are in disagreement. Unfortunately, the responses to this statement do not inform us about which collateral consequences should be repealed. Like in Table 7A, where we learned that 55 percent of respondents do not believe that collateral consequences motivate defendants to commit future crime, we see here that over half of the respondents disagree that crime will decrease if collateral consequences are repealed. There are statistically significant differences between all groups (see Table 8B-1 in Appendix C). The mean response for all respondents is 2.61 (i.e., close to “agree”), which is influenced by defense attorneys (mean = 3.31) and judges (mean = 2.82). According to Table 8A-1, prosecuting attorneys make up half of those respondents who

Table 8. Level of Agreement with Particular Policy Statements by All Respondents

<u>Statement</u>	<u>Strongly Disagree</u>		<u>Disagree</u>		<u>Neutral</u>		<u>Agree</u>		<u>Strongly Agree</u>		<u>Average Response</u>		<u>Total N</u>
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>mean</u>	<u>s.d.</u>	
Some collateral consequences should be repealed or eliminated.	91	10.9	103	11.4	101	11.2	279	30.9	259	28.7	2.61	1.33	833
Crime will decrease if collateral consequences are repealed or eliminated.	216	25.8	240	28.7	192	22.9	143	17.1	46	5.5	1.48	1.20	837
Officials should have discretion to apply collateral consequences in certain situations.	28	3.3	56	6.7	96	11.5	448	53.6	208	24.9	2.90	.96	836
Collateral consequences should last forever.	324	38.8	346	41.4	108	12.9	38	4.6	19	2.3	.90	.95	835
All defendants should have the chance to restore his or her rights after a certain period of time.	73	8.7	156	18.7	76	9.1	310	37.1	220	26.3	2.54	1.30	835
There should be more collateral consequences of criminal conviction.	217	26.0	277	30.7	223	24.7	92	10.2	27	3.0	1.32	1.07	836
Collateral consequences should be more troublesome for defendants.	193	23.1	303	36.2	199	23.8	111	13.3	31	3.7	1.38	1.09	837
It should be easier for defendants to restore their rights.	44	5.2	203	24.2	219	24.3	263	29.1	111	13.2	2.23	1.11	840
Collateral consequences can sometimes benefit defendants.	81	9.7	182	21.8	181	21.7	351	42.0	40	4.8	2.10	1.10	835
The Ohio Rules of Criminal Procedure should require that defendants be advised of the collateral consequences imposed by Federal law at some point during case processing.	104	12.4	126	15.1	134	16.0	336	40.1	137	16.4	2.33	1.26	837
The Ohio Rules of Criminal Procedure should require that defendants be advised of the collateral consequences imposed by Ohio law at some point during case processing.	76	9.1	83	10.0	101	12.1	399	47.9	174	20.9	2.62	1.18	833
If defendants were so advised, then more defendants would go to trial rather than plead guilty.	80	9.5	354	42.0	235	27.9	152	18.0	22	2.6	1.62	.97	843
Advisement of collateral consequences should be on the record.	59	7.0	111	13.2	138	16.4	398	47.4	133	15.9	2.52	1.12	839
Defendants not advised accurately should have some sort of legal recourse.	88	10.5	143	17.1	210	25.1	310	37.1	84	10.1	2.19	1.15	835
It would be easy for defendants to be accurately advised	79	9.4	173	20.6	140	16.7	352	41.9	96	11.4	2.25	1.18	840
It would be very costly (in terms of money) to accurately advise defendants.	165	19.6	371	41.1	193	23.0	84	10.0	27	3.2	1.33	1.00	840
It would be very costly (in terms of time) to accurately advise defendants.	150	17.9	278	33.1	162	19.3	182	21.7	67	8.0	1.69	1.22	839
The costs of accurately advising defendants outweigh the benefits.	140	16.7	258	30.7	207	24.6	159	18.9	76	9.0	1.73	1.21	840

are in disagreement with the repeal of collateral consequences, with a mean score of 1.57. Table 8A-2 shows that defense attorneys make up over half of those respondents who agree that crime will decrease when collateral consequences are repealed.

Compared to approximately 25 percent of all respondents who are in disagreement, over 60 percent agree or strongly agree that all defendants should have the chance to restore their rights after some period of time. Over 40 percent agree, and less than 30 percent disagree, that it should be easier for defendants to restore their rights. Similarly, less than seven percent of all respondents agree or strongly agree that collateral consequences should last forever. Again, there are statistically significant differences among the groups, with the largest differences in group mean responses between prosecuting attorneys and defense attorneys (see Tables 8B-8, 8B-5, and 8B-4 in Appendix C).

Interestingly, 78.5 percent of all respondents agree or strongly agree that officials should have discretion to apply collateral consequences depending on the situation. Only 10 percent disagree or strongly disagree (and only about 10 percent are “neutral” to this policy statement). There are still statistically significant group differences between prosecutors and defense attorneys and between prosecutors and judges, but the differences in the groups’ mean response are less marked. In Table 8B-3 in Appendix C, we see that defense attorneys have a mean response of 3.06, judges’ response is 2.97, probation and parole is 2.85, and prosecutors’ response is 2.65. Officials already have quite a bit of discretion in the context of collateral consequences. As seen in the legal summaries, most of the employment-related consequences are discretionary; those statutes and regulations give discretion to the hiring authority to determine whether applicants have “good moral character” and whether rehabilitation standards have been met. Additionally, judges have discretion to order a defendant’s criminal records to be sealed,

and prosecuting attorneys have discretion in opposing motions to seal. Also, prosecutors have inherent discretion in charging and evidence. Of course, discretionary decision-making in any criminal justice context can be problematic where there is evidence of unwarranted disparity (see, generally, Gottfredson & Gottfredson, 1988). Perhaps this is the concern of those respondents who are in disagreement with this policy statement.

Relatively few respondents agree or strongly agree that there should be more collateral consequences (i.e., 119 or 13.2%) or that collateral consequences should be more troublesome for defendants (i.e., 142 or 17.0%). Nearly a quarter of all respondents remain neutral to these policy statements. Similar patterns in group differences appear here. Prosecutors as a group have the highest mean responses (see 1.95 in Table 8B-6 and 2.09 in Table 8B-7 in Appendix C), whereas defense attorneys have the lowest mean responses (.75 and .84, respectively). This difference may be accounted for by the large proportion of prosecuting attorneys (102 out of 183, or 55.7, in Table 8A-9) who agree that collateral consequences can sometimes benefit defendants. Respondents did not write in comments to this policy statement, so we cannot be certain of what mechanism they had in mind. However, based on responses in Table 6 above, we speculate that such respondents might believe that there is some benefit in all forms of punishment, that consequences with rehabilitation standards create an incentive to reform oneself, or that consequences operate to remove some defendants from opportunities to commit further crime.

Notification of Collateral Consequences

The second half of Table 8 contains policy statements related to the process of notifying or advising defendants of the collateral consequences of criminal conviction. This is an especially important topic in light of the Supreme Court's holding in *Padilla v. Kentucky* (2010).

In *Padilla*, the Court held that a defense attorney’s failure to advise his client of the possibility of deportation as a collateral consequence of his criminal conviction for drug trafficking before the defendant entered a guilty plea is a violation of the defendant’s Sixth Amendment right to the effective assistance of counsel. Before *Padilla*, counsel had not been constitutionally required to advise defendants of collateral consequences of a guilty plea, but the Court found deportation to be “an integral part—indeed, sometimes the most important part—of the penalty that may be imposed on non-citizen defendants who plead guilty to specified crimes.” *Id.* at 1481. Some states, like Ohio, already statutorily require that notice be given to defendants about certain collateral consequences. Ohio requires the court to advise defendants about the possible adverse consequences related to deportation, exclusion, or denial of naturalization before accepting a guilty plea or plea of no contest. R.C. § 2943.031. Courts must further advise defendants, before accepting a guilty plea, of the possibility that their prison term could be administratively extended if they commit crimes during post-release sanction, R.C. § 2943.032, and that, if charged with an offense of domestic violence, they will be under federal firearm disability. R.C. § 2943.033; Sup. R. 10.04.¹³

Respondents were asked their level of agreement with several policy statements related to notification or advisement. Almost 70 percent of respondents agree or strongly agree that the rules of criminal procedure should require that defendants be advised at some point during case processing of collateral consequences imposed by state law. Slightly fewer (56.5%) are in agreement with the statement that the rules should require defendants be advised of collateral consequences imposed by federal law. It is not clear what would be accomplished by advising defendants of collateral consequences during the process. Only about 20 percent of all

¹³ The courts also have a duty to notify convicted sex offenders of their duty to register and related requirements. R.C. § 2950.03.

respondents agree or strongly agree with the statement that if defendants were advised, then more defendants would go to trial rather than plead guilty. Although we did not ask respondents about it, the *Padilla* Court discussed the ability of prosecutors and defense attorneys to negotiate plea bargains that not only would avoid negative collateral consequences but also would obtain more guilty pleas more readily.

Relatively large numbers of respondents agree or strongly agree that defendants should be advised of collateral consequences on the record (63.3%), that defendants should have some legal recourse if they are not accurately advised (47.3%), and that it would be easy to accurately advise defendants (53.6%). We see similar frequencies with regard to the policy statements about the costs of advising defendants. Over 60 percent of all respondents disagree or strongly disagree, and about 13 percent are in agreement, that it would be very costly (in terms of money) to accurately advise defendants. The frequency drops to just over 50 percent of all respondents who disagree or strongly disagree that advising defendants would be very costly in terms of time, and those who are in agreement rises to almost 30 percent. About 30 percent of all respondents also agree or strongly agree that the costs of accurately advising defendants outweigh the benefits. We cannot know whether these frequencies would change if criminal justice professionals were aware of the number of consequences imposed by law and the time involved in ensuring accuracy in the compilation and summaries of such consequences. Moreover, assuming some person or entity outside of the court compiled and maintained a list of consequences, the act of advising defendants in itself would be a lengthy process and may not be very effective. One judge commented that “[d]efendant usually want to know what direct [consequences] they face and cannot absorb too much information about potential consequences no matter how extended in duration.”

There are statistically significant group differences in the level of agreement with all of the policy statements related to notification or advisement. Unlike the policy statements relating to eliminating consequences or otherwise changing the operation of consequences where the group differences between prosecutors and defense attorneys, here the largest group differences are between judges and defense attorneys (see Tables 8A-10 through 8A-18 and Tables 8B-10 through 8B-18 in Appendix C), with judges being more likely to disagree with, and defense attorneys more likely to agree with, rules or requirements giving defendants more “rights” to notification. This may be explained by the fact that judges are “the court,” and the duty to advise would fall primarily on the court through judges. As reported in Table 9, the overwhelming majority of respondents believe it should be left up to the judge (or, to a lesser extent, the defense attorney) to advise the defendant of the collateral consequences he or she may be facing upon a felony conviction. Similarly, in Table 10, we see that most respondents believe that defendants should be advised of collateral consequences during the plea hearing. This is the stage of the process where judges advise defendants of all of their trial rights under the constitution or other legal authority and explain that, by pleading guilty, the defendants are waiving those rights.

Table 9. Perceptions on Who Should Advise Defendant of Collateral Consequences

Criminal Justice Actor	All Respondents	Judges	Prosecuting Attorneys	Defense Attorneys	Probation & Parole Officers
Judge	621	97	118	268	138
Defense Attorney	306	56	86	97	67
Public Defender's Office	86	12	17	26	31
Prosecuting Attorney	34	6	1	9	18
Probation/Pretrial Officer	26	3	5	9	9
Probation Office	23	3	6	10	4
Prosecutor's Office	17	0	2	5	10
Law enforcement officer	10	0	0	8	2
Law enforcement agency	6	1	0	4	1
Other: No one	2	1	0	0	1
Total	1131	179	235	436	281

Table 10. Perceptions on When Defendants Should Be Advised of Collateral Consequences

<u>Case Processing Stage</u>	<u>All Respondents</u>		<u>Judges</u>	<u>Prosecuting Attorneys</u>	<u>Defense Attorneys</u>	<u>Probation & Parole Officers</u>
Plea Hearing	577		121	141	214	101
Initial Appearance	141		14	18	77	32
Sentencing Hearing	92		12	21	29	30
Preliminary Hearing	69		0	5	25	39
Other: Meeting with Defense Attorney	29		4	13	10	2
Other: Sometime during Pretrial	15		2	3	9	1
Arrest/Booking	13		1	0	8	4
Detention Hearing	3		0	1	1	1
Total	939		154	202	373	210

Any policy requiring the court or others to advise defendants of collateral consequences may not have any practical effect, as most respondents report their perception that defendants are already being fully advised of the collateral consequences imposed by both state and federal law.

Table 11. Perceptions of Defendants Already Advised of State Collateral Consequences

<u>Defendants</u>	<u>All Respondents</u>		<u>Judges</u>		<u>Prosecuting Attorneys</u>		<u>Defense Attorneys</u>		<u>Probation & Parole Officers</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
	All	121	14.3	18	12.4	48	25.7	23	7.2	32
Most	314	37.2	50	34.5	84	44.9	111	34.6	69	36.1
About Half	78	9.2	7	4.8	9	4.8	40	12.5	22	11.5
Some	260	30.8	50	34.5	32	17.1	122	38.0	56	29.3
None	71	8.4	20	13.8	14	7.5	25	7.8	12	6.3
Total	844	100.0	145	100.0	187	100.0	321	100.0	191	100.0

Table 12. Perceptions of Defendants Already Advised of Federal Collateral Consequences

<u>Defendants</u>	<u>All Respondents</u>		<u>Judges</u>		<u>Prosecuting Attorneys</u>		<u>Defense Attorneys</u>		<u>Probation & Parole Officers</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
	All	52	6.4	5	3.7	16	8.8	9	2.9	22
Most	178	21.8	24	17.6	57	31.3	46	14.6	51	27.9
About Half	78	9.6	2	1.5	11	6.0	41	13.0	24	13.1
Some	359	44.0	75	55.1	63	34.6	155	49.2	66	36.1
None	149	18.1	30	22.1	35	19.2	64	20.3	20	10.4
Total	816	100.0	136	100.0	182	100.0	315	100.0	183	100.0

POLICY IMPLICATIONS

Scholars and others have advocated for the elimination of collateral consequences primarily because they are a barrier to successful reentry. They argue implicitly that collateral

consequences cause offenders to recidivate. This research suggests, however, that eliminating collateral consequences may not have a substantial impact on defendants and, in turn, would not impact recidivism rates. We reach this conclusion for four reasons: disabilities imposed by law do not affect most convicted felons; even if they do affect a convicted offender, their impact on most defendants is generally small or limited; for many defendants and many crimes, there are existing mechanisms in place to overcome the disability imposed; and there are many causes of crime, all of which existed prior to the defendant's first offense and likely will still exist after conviction.

First, Ohio law imposes hundreds of disabilities on persons convicted of crime, some more pernicious and pervasive than others. The consequences asked about in our survey are not believed to affect the majority of offenders, at least as perceived by criminal justice professionals, who are perhaps better suited than any others to opine on the effects of collateral consequences. Even where a disability automatically attaches to all who have been convicted, it may have no practical effect on particular offenders. For example, a firearm disability applies to all convicted felons; however, not all convicted felons have owned or will want to own firearms in the future.

Second, in general, criminal justice professionals perceive that most of the surveyed consequences are not that troublesome, having only a small impact on most defendants. This is true for consequences related to civil rights, for example. There are a few exceptions, however. The consequences that may have a large impact on most defendants are those that involve future criminality, affect driving rights, or apply to sex offenders.

Third, many defendants have an opportunity to overcome the collateral consequences. Civil rights statutes automatically restore such privileges upon a full discharge from one's

sentence. A full pardon restores all rights. First time felony offenders may petition the court for their criminal records to be sealed after a period of time. Similarly, after a period of time, all but serious and violent offenders have the opportunity to establish they have been rehabilitated and thus are qualified for state-regulated employment.

Finally, there are many causes of crime (Lilly, Cullen, and Ball, 2007), all of which existed prior to the defendant's first offense and likely will still exist after conviction (Mankoff, 1971). Respondents have echoed this sentiment and noted that many offenders have committed crime and will likely commit crime in the future, regardless of state intervention through formal adjudication and collateral consequences. Of course, empirical evidence on these issues is lacking.

Related to this is the purpose of collateral consequences. Although not explored fully in the legal survey, it appears from the review of the relevant statutes that the majority of consequences serve a legitimate purpose—protecting the public. And, most respondents agreed with this purpose. Of course, many respondents also believe the purpose is to punish the defendant. If a collateral consequence exists for a legitimate reason that benefits society as a whole, eliminating the consequences may not be justified, even if it acts to punish a defendant and motivates, in whole or part, that person to commit other crime in the future. If, however, the primary purpose of a collateral consequence is punishment or is otherwise no longer valid, a legitimate government, through its legislature, must reconsider its legal policy. Admittedly, this policy question involves competing values, ideologies, and objectives, and its resolution will be no easy task.

This is not to say that there is consensus that current justice policy maintain current consequences or increase the amount or type of consequences. There are significant differences

in perceptions among the groups of criminal justice professionals regarding collateral consequences and related policy issues. That being said, the majority of respondents agree that some collateral consequences should be repealed, consequences should not last forever, and defendants should have a chance to restore their rights, and the majority disagree that consequences should be made more troublesome for defendants. The commentary also suggests, although we cannot estimate the extent of consensus, that criminal justice professionals are more accepting of collateral consequences that have a substantial nexus to the crime of conviction.

In the aftermath of *Padilla*, it is likely that legislatures and the highest state courts will require that criminal defendants be advised of important collateral consequences of conviction, other than deportation, prior to entering a plea of guilty. Like in *Padilla*, advising of such consequences may be interpreted as a constitutional requirement. Advising of such consequences may also be a statutory requirement, which establish rights above and beyond a constitutional minimum. Ohio law already statutorily imposes notification requirements on the courts in certain situations. As noted above, courts must advise defendants of consequences related to deportation, additional prison for crimes committed during post-release sanctions, sex offender duties, and firearm disability imposed for domestic violence convictions. The existence of these notification statutes may be interpreted as an indication of the legislature's view on the relative importance of such consequences, an attempt to deter future criminality, or an overall concern for fairness.

These notification statutes beg the question of whether defendants should be advised of all collateral consequences of conviction. On the one hand, expanding notification requirements to include all collateral consequences of all crimes may be a desirable policy. The majority of respondents are in favor of the advisement of collateral consequences, even though they believe such a policy would not affect defendants' choice to plead guilty to the charged offense, and

even though a portion of respondents acknowledge that such advisement would be costly in time and money. The majority believe that it would be easy to advise defendants on the collateral consequences of conviction, that the advising should be on the record, and that the judge or the defense attorney should have the responsibility. Many believe that defendants should have some legal recourse if misadvised, although these data do not explore appropriate types of recourse. On the other hand, although criminal justice professionals could advise defendants and could adopt efficient procedures to do so, the policy may be pointless. Criminal justice professionals perceive that advisement would have no possible deterrent effect, would not affect the plea agreement process, and would likely not be absorbed by defendants who are more immediately concerned with the direct consequences of conviction. More research is necessary to enlighten the policy debate, but the apparent consensus of criminal justice professionals in this sample shows that the time has come for an evaluation of the utility of collateral consequences.

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APPENDIX A. Questionnaire.

Introduction

The University of Cincinnati is conducting a study of the collateral consequences of criminal conviction in Ohio. The study is funded by the Ohio Office of Criminal Justice Services. There are two parts to the study. The first part involved a survey of Ohio statutory, administrative, and constitutional law in order to identify the collateral consequences that are imposed by and through Ohio law. This second part surveys criminal justice officials about their perceptions of consequences. Your opinion is important to a more complete understanding of collateral consequences. **All responses are kept confidential.**

Please give us some information about yourself by checking () the appropriate response:

- 1. What is your sex? Female _____ Male _____

- 2. What is your age? Under 26 _____ 41 to 45 _____ 56 to 60 _____
26 to 30 _____ 46 to 50 _____ 61 to 65 _____
31 to 35 _____ 51 to 55 _____ Over 65 _____
36 to 40 _____

- 3. What is your ethnicity? Hispanic/Latino _____ Not Hispanic/Not Latino _____

- 4. What is your race? American Indian or Alaska Native _____
Asian _____
Black or African-American _____
Native Hawaiian or Other Pacific Islander _____
White _____

- 5. How would you classify your job? Judge _____ Probation Officer _____
Public Defender _____ Court-appointed Counsel _____
Prosecutor _____ Parole Officer _____

- 6. For how many years have you done this job? Under 2 years _____ 11 to 15 years _____
2 to 5 years _____ 16 to 20 years _____
6 to 10 years _____ Over 20 years _____

- 7. For how many years have you worked in any position in the criminal justice system? Under 2 years _____ 11 to 15 years _____
2 to 5 years _____ 16 to 20 years _____
6 to 10 years _____ Over 20 years _____

- 8. Are you currently in a supervisory position? Yes _____ No _____

Collateral Consequences

Collateral consequences include both collateral sanctions, which are mandatory, and disqualifications, which are discretionary. A **collateral sanction** is a penalty, disability, or disadvantage imposed on an individual as a result of conviction of an offense which applies by operation of law, whether or not it is included in the judgment or sentence. It does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution. A **disqualification** is a penalty, disability, or disadvantage that an administrative agency, governmental official, or court in a civil proceeding may impose on an individual due to his or her conviction of an offense.

- 9. Since January 1, 2010, with approximately how many defendants have you directly worked (i.e., prosecuted, defended, sentenced, or supervised)?

None _____ 31 to 45 _____
1 to 15 _____ 45 to 60 _____
16 to 30 _____ Over 60 _____

11. Using the scale below, give your opinion about the magnitude of the impact that each collateral consequence has on the lives of defendants after conviction (i.e., how much trouble the consequence causes defendants). Please check (√) the appropriate category.

Collateral Consequence	Magnitude of Impact				
	No Impact	Small Impact	Medium Impact	Large Impact	I do not know
Felony conviction creates firearm disability					
Prior conviction as evidence of character					
Prior conviction as impeachment evidence					
Prior convictions may be considered at felony sentencing					
Prior convictions may enhance degree of instant offense					
Convict may have to reimburse the costs of confinement					
May be subject to random drug testing during confinement					
Convict may have to follow sex offender registration laws					
Ineligible for or revocation of professional licenses					
Felon may be removed from civil service					
Convicted felons are ineligible for most public employment					
Convicted law enforcement members forfeit OPERS benefits					
Felony conviction results in disenfranchisement					
Convicted felons cannot serve on a jury					
Convicted felons cannot hold public office					
Imprisonment is grounds for divorce					
Conviction can be considered in child custody decisions					
Convicts are ineligible to be foster or adoptive parents					
Driver's license may be suspended or cancelled					

12. Please identify any other collateral consequences you believe are likely to affect most defendants:

13. Which collateral consequences do you feel are the most serious?

14. Are any of the following defendants especially affected by collateral consequences? Check (√) all that apply.

- | | | | |
|---------------|-------|-----------------|-------|
| Females | _____ | Males | _____ |
| Youth | _____ | Seniors | _____ |
| Whites | _____ | Minorities | _____ |
| Less educated | _____ | Highly educated | _____ |
| Parents | _____ | Non-parents | _____ |
| Singles | _____ | Married | _____ |

15. Are any of the following defendants especially affected by collateral consequences? Check (√) all that apply.

- | | |
|-----------------------------------------------|-------|
| Defendants who committed drug offenses | _____ |
| Defendants who committed fraud offenses | _____ |
| Defendants who committed property offenses | _____ |
| Defendants who committed sex offenses | _____ |
| Defendants who committed offenses of violence | _____ |
| Defendants who committed weapons offenses | _____ |

16. What is (are) the most important purpose(s) of collateral consequences? Check (√) all that apply.

- | | |
|-------------------------------------------|-------|
| To punish the defendant | _____ |
| To deter that defendant from future crime | _____ |
| To deter others from committing crime | _____ |
| To protect the public | _____ |
| To increase the legitimacy of the law | _____ |
| I do not know the purpose | _____ |
| Other: _____ | _____ |

17. Do the collateral consequences that a defendant experiences motivate, in whole or in part, that defendant to commit another crime?

Yes _____ No _____

18. Indicate how strongly you agree or disagree with the statements below using the following scale. Please check (✓) the appropriate category.

Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree
Some collateral consequences should be repealed or eliminated.					
Crime will decrease if collateral consequences are repealed or eliminated.					
Officials should have discretion to apply collateral consequences in certain situations.					
Collateral consequences should last forever.					
All defendants should have the chance to restore his or her rights after a certain period of time.					
There should be more collateral consequences of criminal conviction.					
Collateral consequences should be more troublesome for defendants.					
It should be easier for defendants to restore their rights.					
Collateral consequences can sometimes benefit defendants.					
The Ohio Rules of Criminal Procedure should require that defendants be advised of the collateral consequences imposed by <u>Federal</u> law at some point during case processing.					
The Ohio Rules of Criminal Procedure should require that defendants be advised of the collateral consequences imposed by <u>Ohio</u> law at some point during case processing.					
If defendants were so advised, then more defendants would go to trial rather than plead guilty.					
Advisement of collateral consequences should be on the record.					
Defendants who are not advised accurately should have some sort of legal recourse.					
It would be easy for defendants to be accurately advised.					
It would be very costly (in terms of money) to accurately advise defendants.					
It would be very costly (in terms of time) to accurately advise defendants.					
The costs of accurately advising defendants outweigh the benefits.					

19. In your opinion, what proportion of Ohio's criminal defendants are fully advised of the collateral consequences imposed by Federal law prior to adjudication (i.e., entering a guilty plea or being found guilty or not guilty at trial)?

- All defendants _____
- Most defendants _____
- About half of all defendants _____
- Some defendants _____
- No defendants _____

20. In your opinion, what proportion of Ohio's criminal defendants are fully advised of the collateral consequences imposed by Ohio law prior to adjudication (i.e., entering a guilty plea or being found guilty or not guilty at trial)?

- All defendants _____
- Most defendants _____
- About half of all defendants _____
- Some defendants _____
- No defendants _____

For the remaining questions, assume that we wish that criminal defendants be fully advised of the collateral consequences imposed by Ohio law.

21. Which criminal justice actor should be responsible for advising defendants? Check (√) only one answer.

- | | | | |
|----------------------------|-------|--------------------------|-------|
| Law Enforcement Officer | _____ | Judge | _____ |
| Law Enforcement Agency | _____ | Prosecuting Attorney | _____ |
| Probation/Pretrial Officer | _____ | Prosecutor's Office | _____ |
| Probation Office | _____ | Defense Attorney | _____ |
| Other: _____ | _____ | Public Defender's Office | _____ |

22. At which stage of case processing should defendants be advised? Check (√) only one answer.

- | | | | |
|---------------------|-------|--------------------|-------|
| Arrest/Booking | _____ | Detention Hearing | _____ |
| Initial Appearance | _____ | Plea Hearing | _____ |
| Preliminary Hearing | _____ | Sentencing Hearing | _____ |
| Other: _____ | _____ | | |

Thank you.

The questionnaire is now completed. If you have any other comments about collateral consequences of conviction in Ohio, please write them down in the remaining space on this page. Thank you very much for your time and attention.

APPENDIX B. Tables related to Percent Affected and Magnitude of Impact.

Consequence 1: Felony Conviction Results in Disenfranchisement.

Table 2C-1. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Disenfranchisement.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	24	17.1	90	31.6	53	33.3	93	52.0	260	34.1
10%	21	15.0	39	13.7	25	15.7	18	10.1	103	13.5
20%	11	7.9	16	5.6	7	4.4	12	6.7	46	6.0
30%	11	7.9	17	6.0	11	6.9	9	5.0	48	6.3
40%	8	5.7	12	4.2	6	3.8	6	3.4	32	4.2
50%	12	8.6	25	8.8	9	5.7	7	3.9	53	6.9
60%	2	1.4	11	3.9	3	1.9	2	1.1	18	2.4
70%	6	4.3	14	4.9	4	2.5	9	5.0	33	4.3
80%	4	2.9	17	6.0	7	4.4	5	2.8	33	4.3
90%	7	5.0	14	4.9	8	5.0	6	3.4	35	4.6
100%	34	24.3	30	10.5	26	16.4	12	6.7	102	13.4
Total	140	100.0	285	100.0	159	100.0	179	100.0	763	100.0

Table 2D-1. Tests of statistical significance on group differences as to percent affected: Disenfranchisement.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	4.69	11.150***	--		1.110*	.378	1.077	.424	2.363***	.413	71.772***
Defense Attorneys	3.58		-1.110*	.378	--		-.034	.362	1.253**	.349	
Prosecuting Attorneys	3.62		-1.077	.424	.034	.362	--		1.287**	.399	
Probation & Parole	2.33		-2.363***	.413	-1.253**	.349	-1.287**	.399	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-1. Frequency distribution of magnitude of consequence's impact on defendants: Disenfranchisement.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
No Impact	22	15.7	61	22.8	41	26.6	49	31.0	173	24.0
Small Impact	62	44.3	93	34.7	68	44.2	39	24.7	262	36.4
Medium Impact	28	20.0	55	20.5	26	16.9	32	20.3	141	19.6
Large Impact	28	20.0	59	22.0	19	12.3	38	24.1	144	20.0
Total	140	100.0	268	100.0	154	100.0	158	100.0	720	100.0

Table 2F-1. Tests of statistical significance on group differences as to magnitude of impact: Disenfranchisement.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.44	2.630*	--		.025	.110	.294	.123	.069	.122	26.061**
Defense Attorneys	1.42		-.025	.110	--		.269	.106	.044	.105	
Prosecuting Attorneys	1.17		-.294	.123	-.269	.106	--		-.224	.119	
Probation & Parole	1.37		-.069	.122	-.044	.105	.224	.119	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 2: Convicted felons cannot serve on a jury.

Table 2C-2. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Jury service.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	17	11.9	78	26.6	41	24.0	65	35.7	201	25.5
10%	25	17.5	49	16.7	25	14.6	22	12.1	121	15.3
20%	11	7.7	22	7.5	7	4.1	7	3.8	47	6.0
30%	5	3.5	16	5.5	8	4.7	5	2.7	34	4.3
40%	9	6.3	7	2.4	2	1.2	3	1.6	21	2.7
50%	3	2.1	18	6.1	9	5.3	9	4.9	39	4.9
60%	4	2.8	6	2.0	3	1.8	4	2.2	17	2.2
70%	3	2.1	12	4.1	7	4.1	2	1.1	24	3.0
80%	11	7.7	14	4.8	5	2.9	5	2.7	35	4.4
90%	10	7.0	16	5.5	16	9.4	9	4.9	51	6.5
100%	45	31.5	55	18.8	48	28.1	51	28.0	199	25.2
Total	143	100.0	293	100.0	171	100.0	182	100.0	789	100.0

Table 2D-2. Tests of statistical significance on group differences as to percent affected: Jury service.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	5.50	4.801**	--		1.452**	.421	.543	.467	1.227*	.461	61.142***
Defense Attorneys	4.04		-1.452**	.421	--		-.909	.397	-.225	.389	
Prosecuting Attorneys	4.95		-.543	.467	.909	.397	--		.684	.439	
Probation & Parole	4.27		-1.227*	.461	.225	.389	-.684	.439	--		

***p<.001; **p<.01; *p<.05
¹Mean on 11-point scale

Table 2E-2. Frequency distribution of magnitude of consequence's impact on defendants: Jury service.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	41	28.5	104	36.4	79	45.4	78	42.6	302	38.4
Small Impact	72	50.0	138	48.3	80	46.0	77	42.1	367	46.6
Medium Impact	19	13.2	26	9.1	6	3.4	11	6.0	62	7.9
Large Impact	12	8.3	18	6.3	9	5.2	17	9.3	56	7.1
Total	144	100.0	286	100.0	174	100.0	183	100.0	787	100.0

Table 2F-2. Tests of statistical significance on group differences as to magnitude of impact: Jury service.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.01	4.072**	--		.161	.086	.330**	.095	.194	.094	21.978**
Defense Attorneys	.85		-.161	.086	--		.169	.081	.033	.080	
Prosecuting Attorneys	.68		-.330**	.095	-.169	.081	--		-.136	.089	
Probation & Parole	.82		-.194	.094	-.033	.080	.136	.089	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 3: Convicted felons cannot hold public office.

Table 2C-3. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Public office.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	36	26.1	140	48.6	59	35.1	76	41.5	311	40.0
10%	32	23.2	39	13.5	26	15.5	26	14.2	123	15.8
20%	4	2.9	15	5.2	6	3.6	5	2.7	30	3.9
30%	2	1.4	8	2.8	5	3.0	2	1.1	17	2.2
40%	4	2.9	1	.3	3	1.8	3	1.6	11	1.4
50%	5	3.6	8	2.8	2	1.2	2	1.1	17	2.2
60%	1	.7	5	1.7	4	2.4	2	1.1	12	1.5
70%	3	2.2	8	2.8	5	3.0	1	.5	17	2.2
80%	5	3.6	12	4.2	5	3.0	5	2.7	27	3.5
90%	12	8.7	12	4.2	13	7.7	11	6.0	48	6.2
100%	34	24.6	40	13.9	40	23.8	50	27.3	164	21.1
Total	138	100.0	288	100.0	168	100.0	183	100.0	777	100.0

Table 2D-3. Tests of statistical significance on group differences as to percent affected: Public office.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	4.36	5.623***	--		1.491**	.434	.249	.482	.417	.473	53.435**
Defense Attorneys	2.87		-1.491**	.434	--		-1.242*	.407	-1.074*	.396	
Prosecuting Attorneys	4.11		-.249	.482	1.242*	.407	--		.168	.448	
Probation & Parole	3.95		-.417	.473	1.074*	.396	-.168	.448	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-3. Frequency distribution of magnitude of consequence's impact on defendants: Public office.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	34	24.6	107	37.7	77	44.8	69	38.5	287	37.1
Small Impact	74	53.6	132	46.5	76	44.2	78	43.6	360	46.6
Medium Impact	16	11.6	18	6.3	7	4.1	14	7.8	55	7.1
Large Impact	14	10.1	27	9.5	12	7.0	18	10.1	71	9.2
Total	138	100.0	284	100.0	172	100.0	179	100.0	773	100.0

Table 2F-3. Tests of statistical significance on group differences as to magnitude of impact: Public office.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.07	3.752*	--		.196	.092	.340**	.102	.179	.101	18.383*
Defense Attorneys	.88		-.196	.092	--		.144	.086	-.017	.085	
Prosecuting Attorneys	.73		-.340**	.102	-.144	.086	--		-.161	.095	
Probation & Parole	.89		-.179	.101	.017	.085	.161	.095	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 4: Felon may be removed from civil service.

Table 2C-4. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Civil Service.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	62	43.7	158	52.8	89	52.7	96	51.1	405	50.8
10%	59	41.5	102	34.1	48	28.4	43	22.9	252	31.6
20%	5	3.5	13	4.3	7	4.1	12	6.4	37	4.6
30%	4	2.8	5	1.7	3	1.8	5	2.7	17	2.1
40%	1	.7	1	.3	1	.6	1	.5	4	.5
50%	3	2.1	4	1.3	6	3.6	5	2.7	18	2.3
60%	0	0	1	.3	0	0	2	1.1	3	.4
70%	1	.7	2	.7	1	.6	3	1.6	7	.9
80%	2	1.4	2	.7	4	2.4	5	2.7	13	1.6
90%	0	0	5	1.7	3	1.8	7	3.7	15	1.9
100%	5	3.5	6	2.0	7	4.1	9	4.8	27	3.4
Total	142	100.0	299	100.0	169	100.0	188	100.0	798	100.0

Table 2D-4. Tests of statistical significance on group differences as to percent affected: Civil service.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.22	3.893**	--		.188	.250	-.208	.280	-.574	.273	35.219
Defense Attorneys	1.03		-.188	.250	--		-.396	.236	-.762**	.229	
Prosecuting Attorneys	1.43		.208	.280	.396	.236	--		-.367	.260	
Probation & Parole	1.79		.574	.273	.762**	.229	.367	.260	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-4. Frequency distribution of magnitude of consequence's impact on defendants: Civil service.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	21	16.0	80	30.1	43	27.2	47	27.8	191	26.4
Small Impact	46	35.1	90	33.8	54	34.2	46	27.2	236	32.6
Medium Impact	20	15.3	35	13.2	19	12.0	31	18.3	105	14.5
Large Impact	44	33.6	61	22.9	42	26.6	45	26.6	192	26.5
Total	131	100.0	266	100.0	158	100.0	169	100.0	724	100.0

Table 2F-4. Tests of statistical significance on group differences as to magnitude of impact: Civil service.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.66	3.255*	--		.375*	.121	.284	.134	.226	.132	15.400
Defense Attorneys	1.29		-.375*	.121	--		-.090	.114	-.148	.112	
Prosecuting Attorneys	1.38		-.284	.134	.090	.114	--		-.058	.126	
Probation & Parole	1.44		-.226	.132	.148	.112	.058	.126	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 5: Convicted felons are ineligible for most public employment.

Table 2C-5. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Public employment.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
0%	21	15.1	83	28.1	54	32.5	32	16.8	190	24.1
10%	46	33.1	59	20.0	34	20.5	24	12.6	163	20.6
20%	9	6.5	30	10.2	13	7.8	22	11.6	74	9.4
30%	9	6.5	18	6.1	9	5.4	8	4.2	44	5.6
40%	5	3.6	9	3.1	2	1.2	8	4.2	24	3.0
50%	9	6.5	21	7.1	5	3.0	5	2.6	40	5.1
60%	2	1.4	12	4.1	0	0	9	4.7	23	2.9
70%	5	3.6	12	4.1	3	1.8	6	3.2	26	3.3
80%	5	3.6	13	4.4	15	9.0	18	9.5	51	6.5
90%	10	7.2	17	5.8	9	5.4	21	11.1	57	7.2
100%	18	12.9	21	7.1	22	13.3	37	19.5	98	12.4
Total	139	100.0	295	100.0	166	100.0	190	100.0	790	100.0

Table 2D-5. Tests of statistical significance on group differences as to percent affected: Public employment.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	3.69	10.249***	--		.514	.376	.305	.421	-1.299**	.408	84.521***
Defense Attorneys	3.18		-.514	.376	--		-.209	.355	-1.813***	.340	
Prosecuting Attorneys	3.39		-.305	.421	.209	.355	--		-1.604***	.389	
Probation & Parole	4.99		1.299**	.408	1.813***	.340	1.604***	.389	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-5. Frequency distribution of magnitude of consequence's impact on defendants: Public employment.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	15	11.2	65	23.5	37	23.1	42	23.2	159	21.1
Small Impact	46	34.3	80	28.9	65	40.6	58	32.0	249	33.1
Medium Impact	25	18.7	53	19.1	27	16.9	34	18.8	139	18.5
Large Impact	48	35.8	79	28.5	31	19.4	47	26.0	205	27.3
Total	134	100.0	277	100.0	160	100.0	181	100.0	752	100.0

Table 2F-5. Tests of statistical significance on group differences as to magnitude of impact: Public employment.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.79	4.520**	--		.264	.115	.466**	.128	.316	.125	19.811*
Defense Attorneys	1.53		-.264	.115	--		.202	.109	.052	.105	
Prosecuting Attorneys	1.33		-.466**	.128	-.202	.109	--		-.150	.119	
Probation & Parole	1.48		-.316	.125	-.052	.105	.150	.119	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 4-point scale

Consequence 6: Convicted law enforcement members forfeit OPERS benefits.

Table 2C-6. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Benefits.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	96	68.6	232	79.7	125	73.1	141	76.6	594	75.6
10%	39	27.9	42	14.4	34	19.9	24	13.0	139	17.7
20%	1	.7	7	2.4	3	1.8	4	2.2	15	1.9
30%	1	.7	1	.3	0	0	0	0	2	.3
40%	1	.7	0	0	0	0	1	.5	2	.3
50%	0	0	2	.7	0	0	2	1.1	4	.5
60%	0	0	0	0	0	0	0	0	0	0
70%	0	0	2	.7	0	0	1	.5	3	.4
80%	0	0	2	.7	0	0	1	.5	3	.4
90%	0	0	0	0	3	1.8	2	1.1	5	.6
100%	2	1.4	3	1.0	6	3.5	8	4.3	19	2.4
Total	140	100.0	291	100.0	171	100.0	184	100.0	184	100.0

Table 2D-6. Tests of statistical significance on group differences as to percent affected: Benefits.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	.49	2.452	--		.042	.190	-.257	.211	-.378	.207	41.265*
Defense Attorneys	.44		-.042	.190	--		-.299	.178	-.421	.174	
Prosecuting Attorneys	.74		.257	.211	.299	.178	--		-.121	.196	
Probation & Parole	.86		.378	.207	.421	.174	.121	.196	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-6. Frequency distribution of magnitude of consequence's impact on defendants: Benefits.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	27	20.6	103	41.5	44	27.5	51	31.3	225	32.1
Small Impact	37	28.2	53	21.4	37	23.1	32	19.6	159	22.6
Medium Impact	12	9.2	23	9.3	19	11.9	17	10.4	71	10.1
Large Impact	55	42.0	69	27.8	60	37.5	63	38.7	247	35.2
Total	131	100.0	248	100.0	160	100.0	163	163	702	100.0

Table 2F-6. Tests of statistical significance on group differences as to magnitude of impact: Benefits.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.73	5.559***	--		.491**	.135	.131	.147	.161	.147	23.169**
Defense Attorneys	1.23		-.491**	.135	--		-.360*	.127	-.331*	.126	
Prosecuting Attorneys	1.59		-.131	.147	.360*	.127	--		.029	.139	
Probation & Parole	1.56		-.161	.147	.331*	.126	-.029	.139	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 7: Imprisonment is grounds for divorce.

Table 2C-7. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Divorce.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	49	35.8	118	40.1	95	59.4	83	44.9	345	44.5
10%	52	38.0	88	29.9	28	17.5	39	21.1	207	26.7
20%	12	8.8	41	13.9	14	8.8	23	12.4	90	11.6
30%	8	5.8	17	5.8	4	2.5	11	5.9	40	5.2
40%	5	3.6	8	2.7	3	1.9	7	3.8	23	3.0
50%	3	2.2	8	2.7	3	1.9	12	6.5	26	3.4
60%	0	0	1	.3	3	1.9	2	1.1	6	.8
70%	0	0	4	1.4	1	.6	1	.5	6	.8
80%	0	0	0	0	1	.6	4	2.2	5	.6
90%	0	0	0	0	3	1.9	1	.5	4	.5
100%	8	5.8	9	3.1	5	3.1	2	1.1	24	3.1
Total	137	100.0	294	100.0	160	100.0	185	100.0	776	100.0

Table 2D-7. Tests of statistical significance on group differences as to percent affected: Divorce.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.57	.566	--		.151	.231	.288	.260	.023	.252	71.722***
Defense Attorneys	1.42		-.151	.231	--		.137	.220	-.128	.210	
Prosecuting Attorneys	1.28		-.288	.260	-.137	.220	--		-.265	.242	
Probation & Parole	1.55		-.023	.252	.128	.210	.265	.242	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-7. Frequency distribution of magnitude of consequence's impact on defendants: Divorce.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	37	28.9	70	24.6	60	38.5	36	20.3	203	27.2
Small Impact	53	41.4	136	47.9	64	41.0	81	45.8	334	44.8
Medium Impact	24	18.8	57	20.1	25	16.0	34	19.2	140	18.8
Large Impact	14	10.9	21	7.4	7	4.5	26	14.7	68	9.1
Total	128	100.0	284	100.0	156	100.0	177	100.0	745	100.0

Table 2F-7. Tests of statistical significance on group differences as to magnitude of impact: Divorce.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.12	6.043***	--		.015	.095	.252	.107	-.165	.104	24.570**
Defense Attorneys	1.14		-.015	.095	--		.237*	.089	-.180	.086	
Prosecuting Attorneys	.87		-.252	.107	-.237*	.089	--		-.417***	.098	
Probation & Parole	1.28		.165	.104	.180	.086	.417***	.098	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 8: Conviction can be considered in child custody decisions.

Table 2C-8. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Custody.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	18	13.8	21	6.9	37	22.0	26	13.8	102	12.9
10%	35	26.9	53	17.4	36	21.4	36	19.1	160	20.2
20%	24	18.5	47	15.4	23	13.7	37	19.7	131	16.6
30%	11	8.5	54	17.7	13	7.7	16	8.5	94	11.9
40%	9	6.9	30	9.8	11	6.5	15	8.0	65	8.2
50%	10	7.7	43	14.1	15	8.9	16	8.5	84	10.6
60%	3	2.3	13	4.3	6	3.6	9	4.8	31	3.9
70%	4	3.1	11	3.6	5	3.0	9	4.8	29	3.7
80%	2	1.5	8	2.6	2	1.2	7	3.7	19	2.4
90%	1	.8	9	3.0	6	3.6	3	1.6	19	2.4
100%	13	10.0	16	5.2	14	8.3	14	7.4	57	7.2
Total	130	100.0	305	100.0	168	100.0	188	100.0	791	100.0

Table 2D-8. Tests of statistical significance on group differences as to percent affected: Custody.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	3.10	1.610	--		-.520	.304	-.001	.339	-.294	.331	60.064***
Defense Attorneys	3.62		.520	.304	--		.518	.279	.226	.269	
Prosecuting Attorneys	3.10		.001	.339	-.518	.279	--		-.292	.308	
Probation & Parole	3.39		.294	.331	-.226	.269	.292	.308	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-8. Frequency distribution of magnitude of consequence's impact on defendants: Custody.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	11	8.1	12	3.9	24	14.5	14	7.6	61	7.7
Small Impact	45	33.3	71	23.1	51	30.7	57	31.0	224	28.3
Medium Impact	46	34.1	114	37.1	60	36.1	65	35.3	285	36.0
Large Impact	33	24.4	110	35.8	31	18.7	48	26.1	222	28.0
Total	135	100.0	307	100.0	166	100.0	184	100.0	792	100.0

Table 2F-8. Tests of statistical significance on group differences as to magnitude of impact: Custody.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	
Judges	1.75	10.247***	--		-.301**	.093	.158	.105	-.051	.103	33.522***
Defense Attorneys	2.05		.301**	.093	--		.458***	.087	.250*	.084	
Prosecuting Attorneys	1.59		-.158	.105	-.458***	.087	--		-.209	.097	
Probation & Parole	1.80		.051	.103	-.250*	.084	.209	.097	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 9: Convicts are ineligible to be foster or adoptive parents.

Table 2C-9. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Foster/Adoption.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	47	39.2	148	50.9	71	44.4	82	46.1	348	46.5
10%	32	26.7	64	22.0	29	18.1	24	13.5	149	19.9
20%	11	9.2	15	5.2	9	5.6	11	6.2	46	6.1
30%	4	3.3	15	5.2	6	3.8	7	3.9	32	4.3
40%	1	.8	3	1.0	4	2.5	0	0	8	1.1
50%	2	1.7	8	2.7	1	.6	5	2.8	16	2.1
60%	1	.8	3	1.0	4	2.5	3	1.7	11	1.5
70%	4	3.3	3	1.0	3	1.9	3	1.7	13	1.7
80%	3	2.5	5	1.7	3	1.9	7	3.9	18	2.4
90%	1	.8	8	2.7	10	6.3	9	5.1	28	3.7
100%	14	11.7	19	6.5	20	12.5	27	15.2	80	10.7
Total	120	100.0	291	100.0	160	100.0	178	100.0	749	100.0

Table 2D-9. Tests of statistical significance on group differences as to percent affected: Foster/Adoption.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.39	5.125**	--		.563	.379	-.390	.422	-.631	.412	43.780*
Defense Attorneys	1.83		-.563	.379	--		-.953*	.344	-1.194**	.332	
Prosecuting Attorneys	2.78		.390	.422	.953*	.344	--		-.241	.380	
Probation & Parole	3.02		.631	.412	1.194**	.332	.241	.380	--		

***p<.001; **p<.01; *p<.05
¹Mean on 11-point scale

Table 2E-9. Frequency distribution of magnitude of consequence's impact on defendants: Foster/Adoption.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	32	25.8	102	36.4	66	41.8	59	34.7	259	35.4
Small Impact	60	48.4	130	46.4	63	39.9	80	47.1	333	45.5
Medium Impact	20	16.1	30	10.7	19	12.0	17	10.0	86	11.7
Large Impact	12	9.7	18	6.4	10	6.3	14	8.2	54	7.4
Total	124	100.0	280	100.0	158	100.0	170	100.0	732	100.0

Table 2F-9. Tests of statistical significance on group differences as to magnitude of impact: Foster/Adoption.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.10	2.555	--		.225	.094	.268	.104	.179	.103	10.985
Defense Attorneys	.87		-.225	.094	--		.042	.086	-.046	.084	
Prosecuting Attorneys	.83		-.268	.104	-.042	.086	--		-.089	.096	
Probation & Parole	.92		-.179	.103	.046	.084	.089	.096	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 10: Ineligible for or revocation of professional licenses.

Table 2C-10. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Professional Licensure.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	20	14.0	92	29.6	43	24.4	42	22.5	197	24.1
10%	82	57.3	128	41.2	74	42.0	74	39.6	358	43.8
20%	10	7.0	40	12.9	22	12.5	21	11.2	93	11.4
30%	8	5.6	13	4.2	10	5.7	11	5.9	42	5.1
40%	2	1.4	8	2.6	1	.6	9	4.8	20	2.4
50%	0	0	9	2.9	4	2.3	4	2.1	17	2.1
60%	2	1.4	5	1.6	1	.6	2	1.1	10	1.2
70%	6	4.2	4	1.3	4	2.3	4	2.1	18	2.2
80%	4	2.8	4	1.3	3	1.7	6	3.2	17	2.1
90%	1	.7	5	1.6	8	4.5	7	3.7	21	2.6
100%	8	5.6	3	1.0	6	3.4	7	3.7	24	2.9
Total	143	100.0	311	100.0	176	100.0	187	100.0	817	100.0

Table 2D-10. Tests of statistical significance on group differences as to percent affected: Professional Licensure.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.16	3.843**	--		.588	.254	.104	.283	-.117	.279	55.371**
Defense Attorneys	1.57		-.588	.254	--		-.484	.237	-.706*	.233	
Prosecuting Attorneys	2.06		-.104	.283	.484	.237	--		-.221	.264	
Probation & Parole	2.28		.117	.279	.706*	.233	.221	.264	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-10. Frequency distribution of magnitude of consequence’s impact on defendants: Professional Licensure.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
No impact	15	10.9	52	18.5	30	17.5	29	16.3	126	16.4
Small Impact	34	24.8	91	32.4	58	33.9	52	29.2	235	30.6
Medium Impact	19	13.9	34	12.1	18	10.5	35	19.7	106	13.8
Large Impact	69	50.4	104	37.0	65	38.0	62	34.8	300	39.1
Total	137	100.0	281	100.0	171	100.0	178	100.0	767	100.0

Table 2F-10. Tests of statistical significance on group differences as to magnitude of impact: Professional Licensure.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.04	3.486*	--		.360*	.118	.346*	.130	.306	.129	17.867*
Defense Attorneys	1.68		-.360*	.118	--		-.014	.110	-.054	.109	
Prosecuting Attorneys	1.69		-.346*	.130	.014	.110	--		-.040	.121	
Probation & Parole	1.73		-.306	.129	.054	.109	.040	.121	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 11: Felony conviction creates firearm disability.

Table 2C-11. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Firearms.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	1	.7	19	6.1	13	7.3	8	4.2	41	4.9
10%	11	7.5	35	11.2	16	8.9	18	9.4	80	9.6
20%	7	4.8	29	9.3	11	6.1	10	5.2	57	6.9
30%	10	6.8	43	13.8	16	8.9	9	4.7	78	9.4
40%	7	4.8	18	5.8	20	11.2	6	3.1	51	6.1
50%	11	7.5	34	10.9	14	7.8	10	5.2	69	8.3
60%	9	6.1	17	5.4	11	6.1	7	3.6	44	5.3
70%	13	8.8	19	6.1	19	10.6	10	5.2	61	7.3
80%	10	6.8	28	9.0	13	7.3	11	5.7	62	7.5
90%	26	17.7	24	7.7	18	10.1	24	12.5	92	11.1
100%	42	28.6	46	14.7	28	15.6	79	41.1	195	23.5
Total	147	100.0	312	100.0	179	100.0	192	100.0	830	100.0

Table 2D-11. Tests of statistical significance on group differences as to percent affected: Firearms.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	6.92	18.430***	--		1.793**	.330	1.438***	.368	-.087	.362	101.883***
Defense Attorneys	5.13		-1.793**	.330	--		-.355	.310	-1.880***	.303	
Prosecuting Attorneys	5.48		-1.438***	.368	.355	.310	--		-1.525***	.343	
Probation & Parole	7.01		.087	.362	1.880***	.303	1.525***	.343	--		

***p<.001; **p<.01; *p<.05
¹Mean on 11-point scale

Table 2E-11. Frequency distribution of magnitude of consequence’s impact on defendants: Firearms.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	7	4.8	16	5.1	30	16.3	27	14.5	80	9.6
Small Impact	83	56.8	124	39.4	76	41.3	73	39.2	356	42.8
Medium Impact	39	26.7	113	35.9	53	28.8	44	23.7	249	30.0
Large Impact	17	11.6	62	19.7	25	13.6	42	22.6	146	17.6
Total	146	100.0	315	100.0	184	100.0	186	100.0	831	100.0

Table 2F-11. Tests of statistical significance on group differences as to magnitude of impact: Firearms.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.45	5.541***	--		-.250*	.088	.055	.098	-.091	.098	46.464***
Defense Attorneys	1.70		.250*	.088	--		.305***	.082	.159	.082	
Prosecuting Attorneys	1.40		-.055	.098	-.035***	.082	--		-.146	.092	
Probation & Parole	1.54		.091	.098	-.159	.082	.146	.092	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 4-point scale

Consequence 12: Driver's license may be suspended or cancelled.

Table 2C-12. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Driver's License.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	0	0	3	.9	12	6.5	8	4.2	23	2.7
10%	7	4.7	6	1.9	11	6.0	6	3.2	30	3.6
20%	9	6.0	21	6.5	13	7.1	13	6.8	56	6.6
30%	27	18.1	38	11.8	22	12.0	20	10.5	107	12.7
40%	29	19.5	42	13.1	21	11.4	20	10.5	112	13.3
50%	26	17.4	66	20.6	35	19.0	30	15.8	157	18.6
60%	22	14.8	40	12.5	16	8.7	18	9.5	96	11.4
70%	20	13.4	41	12.8	29	15.8	22	11.6	112	13.3
80%	7	4.7	27	8.4	10	5.4	27	14.2	71	8.4
90%	1	.7	24	7.5	10	5.4	18	9.5	53	6.3
100%	1	.7	13	4.0	5	2.7	8	4.2	27	3.2
Total	149	100.0	321	100.0	184	100.0	190	100.0	844	100.0

Table 2D-12. Tests of statistical significance on group differences as to percent affected: Driver's License.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	4.69	6.267***	--		-.757**	.234	-.097	.260	-.793*	.258	70.235***
Defense Attorneys	5.45		.757**	.234	--		.661*	.218	-.036	.216	
Prosecuting Attorneys	4.79		.097	.260	-.661*	.218	--		-.696*	.244	
Probation & Parole	5.48		.793*	.258	.036	.216	.696*	.244	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-12. Frequency distribution of magnitude of consequence’s impact on defendants: Driver’s License.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	3	2.0	7	2.2	20	10.9	9	4.7	39	4.6
Small Impact	18	12.0	18	5.7	30	16.4	16	8.3	82	9.8
Medium Impact	40	26.7	57	18.1	55	30.1	46	24.0	198	23.6
Large Impact	89	59.3	233	74.0	78	42.6	121	63.0	521	62.0
Total	150	100.0	315	100.0	183	100.0	192	100.0	840	100.0

Table 2F-12. Tests of statistical significance on group differences as to magnitude of impact: Driver’s License.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.43	20.326***	--		-.205	.081	.390***	.090	-.020	.089	62.959***
Defense Attorneys	2.64		.205	.081	--		.594***	.076	.185	.075	
Prosecuting Attorneys	2.04		-.390***	.090	-.594***	.076	--		-.409***	.085	
Probation & Parole	2.45		.020	.089	-.185	.075	.409***	.085	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 4-point scale

Consequence 13: Convict may have to follow sex offender registration laws.

Table 2C-13. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Sex Offender.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
0%	0	0	40	12.5	37	20.3	13	6.9	90	10.7
10%	73	49.3	138	43.3	60	33.0	57	30.2	328	39.1
20%	39	26.4	76	23.8	32	17.6	39	20.6	186	22.2
30%	24	16.2	37	11.6	25	13.7	28	14.8	114	13.6
40%	4	2.7	10	3.1	2	1.1	12	6.3	28	3.3
50%	4	2.7	7	2.2	10	5.5	12	6.3	33	3.9
60%	1	.7	3	.9	5	2.7	2	1.1	11	1.3
70%	1	.7	2	.6	2	1.1	7	3.7	12	1.4
80%	1	.7	0	0	4	2.2	2	1.1	7	.8
90%	0	0	1	.3	2	1.1	5	2.6	8	1.0
100%	1	.7	5	1.6	3	1.6	12	6.3	21	2.5
Total	148	100.0	319	100.0	182	100.0	189	100.0	838	100.0

Table 2D-13. Tests of statistical significance on group differences as to percent affected: Sex Offender.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.96	15.261***	--		.182	.203	-.134	.226	-1.051***	.224	109.294***
Defense Attorneys	1.78		-.182	.203	--		-.316	.189	-1.233***	.187	
Prosecuting Attorneys	2.09		.134	.226	.316	.189	--		-.917***	.212	
Probation & Parole	3.01		1.051***	.224	1.233***	.187	.917***	.212	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-13. Frequency distribution of magnitude of consequence’s impact on defendants: Sex Offender.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	0	0	13	4.2	9	5.0	7	3.7	29	3.5
Small Impact	14	9.4	36	11.6	21	11.7	23	12.3	94	11.4
Medium Impact	27	18.1	47	15.2	44	24.6	46	24.6	164	19.9
Large Impact	108	72.5	214	69.0	105	58.7	111	59.4	538	65.2
Total	149	100.0	310	100.0	179	100.0	187	100.0	825	100.0

Table 2F-13. Tests of statistical significance on group differences as to magnitude of impact: Sex Offender.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.63	3.343*	--		.141	.082	.262*	.092	.235*	.091	19.376*
Defense Attorneys	2.49		-.141	.082	--		.122	.078	.095	.077	
Prosecuting Attorneys	2.37		-.262*	.092	-.122	.078	--		-.027	.086	
Probation & Parole	2.40		-.235*	.091	-.095	.077	.027	.086	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 14: Prior conviction as evidence of character.

Table 2C-14. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Character Evidence.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
0%	7	4.9	23	7.3	31	17.4	14	8.1	75	9.3
10%	17	11.8	30	9.6	29	16.3	6	3.5	82	10.1
20%	13	9.0	34	10.9	13	7.3	8	4.6	68	8.4
30%	10	6.9	24	7.7	18	10.1	19	11.0	71	8.8
40%	7	4.9	20	6.4	7	3.9	6	3.5	40	5.0
50%	20	13.9	42	13.4	14	7.9	22	12.7	98	12.1
60%	7	4.9	20	6.4	8	4.5	20	11.6	55	6.8
70%	11	7.6	30	9.6	11	6.2	22	12.7	74	9.2
80%	14	9.7	33	10.5	15	8.4	18	10.4	80	9.9
90%	13	9.0	22	7.0	10	5.6	14	8.1	59	7.3
100%	25	17.4	35	11.2	22	12.4	24	13.9	106	13.1
Total	144	100.0	313	100.0	178	100.0	173	100.0	808	100.0

Table 2D-14. Tests of statistical significance on group differences as to percent affected: Character Evidence.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	5.55	6.981***	--		.430	.328	1.268**	.365	-.214	.368	63.357***
Defense Attorneys	5.12		-.430	.328	--		.837*	.306	-.645	.309	
Prosecuting Attorneys	4.28		-1.268**	.365	-.837*	.306	--		-1.482***	.348	
Probation & Parole	5.76		.214	.368	.645	.309	1.482***	.348	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-14. Frequency distribution of magnitude of consequence’s impact on defendants: Character Evidence.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	10	6.8	15	4.7	36	19.7	12	6.4	73	8.8
Small Impact	46	31.3	87	27.5	79	43.2	35	18.7	247	29.7
Medium Impact	48	32.7	91	28.8	35	19.1	53	28.3	227	27.3
Large Impact	43	29.3	123	38.9	33	18.0	87	46.5	286	34.3
Total	147	100.0	316	100.0	183	100.0	187	100.0	833	100.0

Table 2F-14. Tests of statistical significance on group differences as to magnitude of impact: Character Evidence.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	
Judges	1.84	26.197***	--		-.175	.094	.488***	.105	-.306*	.104	83.586***
Defense Attorneys	2.02		.175	.094	--		.664***	.088	-.131	.087	
Prosecuting Attorneys	1.36		-.488***	.105	-.664***	.088	--		-.795***	.098	
Probation & Parole	2.15		.306*	.104	.131	.087	.795***	.098	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 4-point scale

Consequence 15: Prior conviction as impeachment evidence.

Table 2C-15. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Impeachment Evidence.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
0%	1	.7	33	10.6	19	10.6	80	49.7	133	16.6
10%	27	18.4	39	12.5	27	15.1	20	12.4	113	14.1
20%	18	12.2	33	10.6	18	10.1	9	5.6	78	9.8
30%	12	8.2	27	8.7	21	11.7	6	3.7	66	8.3
40%	13	8.8	22	7.1	10	5.6	5	3.1	50	6.3
50%	18	12.2	43	13.8	22	12.3	10	6.2	93	11.6
60%	6	4.1	22	7.1	6	3.4	6	3.7	40	5.0
70%	5	3.4	25	8.0	8	4.5	9	5.6	47	5.9
80%	11	7.5	30	9.6	16	8.9	5	3.1	62	7.8
90%	13	8.8	17	5.4	10	5.6	3	1.9	43	5.4
100%	23	15.6	21	6.7	22	12.3	8	5.0	74	9.3
Total	147	100.0	312	100.0	179	100.0	161	100.0	799	100.0

Table 2D-15. Tests of statistical significance on group differences as to percent affected: Impeachment Evidence.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	5.08	23.627***	--		.598	.321	.579	.357	2.771***	.366	198.275***
Defense Attorneys	4.48		-.598	.321	--		-.019	.301	2.173***	.311	
Prosecuting Attorneys	4.50		-.579	.357	.019	.301	--		2.192***	.348	
Probation & Parole	2.31		-2.771***	.366	-2.173***	.311	-2.192***	.348	--		

***p<.001; **p<.01; *p<.05
¹Mean on 11-point scale

Table 2E-15. Frequency distribution of magnitude of consequence’s impact on defendants: Impeachment Evidence.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	8	5.4	30	9.6	28	15.6	53	37.3	119	15.2
Small Impact	67	45.0	109	34.8	83	46.1	47	33.1	306	39.0
Medium Impact	39	26.2	85	27.2	45	25.0	23	16.2	192	24.5
Large Impact	35	23.5	89	28.4	24	13.3	19	13.4	167	21.3
Total	149	100.0	313	100.0	180	100.0	142	100.0	784	100.0

Table 2F-15. Tests of statistical significance on group differences as to magnitude of impact: Impeachment Evidence.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.68	19.886***	--		-.067	.095	.317*	.106	.622***	.112	90.599***
Defense Attorneys	1.74		.067	.095	--		.383***	.089	.688***	.097	
Prosecuting Attorneys	1.36		-.317*	.106	-.383***	.089	--		.305*	.107	
Probation & Parole	1.06		-.622***	.112	-.688***	.097	-.305*	.107	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 16: Convict may have to reimburse the costs of confinement.

Table 2C-16. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Costs of confinement.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	62	41.9	105	33.8	81	48.2	74	39.8	322	39.6
10%	30	20.3	48	15.4	27	16.1	29	15.6	134	16.5
20%	15	10.1	32	10.3	14	8.3	15	8.1	76	9.3
30%	7	4.7	16	5.1	9	5.4	15	8.1	47	5.8
40%	6	4.1	15	4.8	3	1.8	6	3.2	30	3.7
50%	5	3.4	35	11.3	11	6.5	9	4.8	60	7.4
60%	5	3.4	4	1.3	2	1.2	3	1.6	14	1.7
70%	4	2.7	13	4.2	5	3.0	6	3.2	28	3.4
80%	1	.7	19	6.1	4	2.4	6	3.2	30	3.7
90%	4	2.7	8	2.6	5	3.0	4	2.2	21	2.6
100%	9	6.1	16	5.1	7	4.2	19	10.2	51	6.3
Total	148	100.0	311	100.0	168	100.0	186	100.0	813	100.0

Table 2D-16. Tests of statistical significance on group differences as to percent affected: Costs of confinement.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.18	3.422*	--		-.699	.316	.134	.356	-.550	.348	44.969*
Defense Attorneys	2.87		.699	.316	--		.833*	.303	.149	.293	
Prosecuting Attorneys	2.04		-.134	.356	-.833*	.303	--		-.684	.336	
Probation & Parole	2.73		.550	.348	-.149	.293	.684	.336	--		

***p<.001; **p<.01; *p<.05
¹Mean on 11-point scale

Table 2E-16. Frequency distribution of magnitude of consequence’s impact on defendants: Costs of confinement.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
No impact	51	38.3	85	28.5	73	46.5	54	29.7	263	34.2
Small Impact	50	37.6	117	39.3	59	37.6	59	32.4	285	37.0
Medium Impact	16	12.0	44	14.8	15	9.6	32	17.6	107	13.9
Large Impact	16	12.0	52	17.4	10	6.4	37	20.3	115	14.9
Total	133	100.0	298	100.0	157	100.0	182	100.0	770	100.0

Table 2F-16. Tests of statistical significance on group differences as to magnitude of impact: Costs of confinement.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	
Judges	.98	9.771***	--		-.234	.106	.219	.120	-.308*	.116	30.673***
Defense Attorneys	1.21		.234	.106	--		.453***	.100	-.074	.096	
Prosecuting Attorneys	.76		-.219	.120	-.453***	.100	--		-.528***	.111	
Probation & Parole	1.29		.308*	.116	.074	.096	.528***	.111	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 17: May be subject to random drug testing during confinement.

Table 2C-17. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Random drug testing.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
0%	20	14.4	57	18.4	27	16.5	28	14.9	132	16.5
10%	16	11.5	29	9.4	11	6.7	19	10.1	75	9.4
20%	6	4.3	37	12.0	6	3.7	10	5.3	59	7.4
30%	10	7.2	16	5.2	11	6.7	8	4.3	45	5.6
40%	8	5.8	15	4.9	4	2.4	4	2.1	31	3.9
50%	12	8.6	41	13.3	25	15.2	18	9.6	96	12.0
60%	3	2.2	16	5.2	10	6.1	11	5.9	40	5.0
70%	12	8.6	17	5.5	7	4.3	13	6.9	49	6.1
80%	11	7.9	15	4.9	13	7.9	12	6.4	51	6.4
90%	10	7.2	21	6.8	14	8.5	12	6.4	57	7.1
100%	31	22.3	45	14.6	36	22.0	53	28.2	165	20.6
Total	139	100.0	309	100.0	164	100.0	188	100.0	800	100.0

Table 2D-17. Tests of statistical significance on group differences as to percent affected: Random drug testing.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	5.32	4.801**	--		.825	.376	-.140	.424	-.315	.411	47.975*
Defense Attorneys	4.50		-.825	.376	--		-.965*	.355	-1.140**	.340	
Prosecuting Attorneys	5.46		.140	.424	.965*	.355	--		-.175	.393	
Probation & Parole	5.64		.315	.411	1.140**	.340	.175	.393	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-17. Frequency distribution of magnitude of consequence’s impact on defendants: Random drug testing.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
No impact	31	22.3	57	19.1	29	16.9	32	17.6	149	18.8
Small Impact	48	34.5	112	37.6	75	43.6	66	36.3	301	38.1
Medium Impact	33	23.7	71	23.8	45	26.2	40	22.0	189	23.9
Large Impact	27	19.4	58	19.5	23	13.4	44	24.2	152	19.2
Total	139	100.0	298	100.0	172	100.0	182	100.0	791	100.0

Table 2F-17. Tests of statistical significance on group differences as to magnitude of impact: Random drug testing.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.40	.878	--		-.033	.103	.042	.115	-.125	.113	9.476
Defense Attorneys	1.44		.033	.103	--		.076	.096	-.091	.094	
Prosecuting Attorneys	1.36		-.042	.115	-.076	.096	--		-.167	.107	
Probation & Parole	1.53		.125	.113	.091	.094	.167	.107	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 4-point scale

Consequence 18: Prior convictions may be considered at felony sentencing.

Table 2C-18. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Sentencing.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
0%	0	0	8	2.5	6	3.4	6	3.2	20	2.4
10%	2	1.3	14	4.5	12	6.7	8	4.2	36	4.3
20%	0	0	13	4.1	6	3.4	8	4.2	27	3.3
30%	7	4.7	20	6.4	10	5.6	9	4.8	46	5.5
40%	3	2.0	15	4.8	6	3.4	10	5.3	34	4.1
50%	9	6.0	26	8.3	9	5.1	11	5.8	55	6.6
60%	13	8.7	14	4.5	9	5.1	13	6.9	49	5.9
70%	13	8.7	36	11.5	14	7.9	20	10.6	83	10.0
80%	12	8.1	30	9.6	21	11.8	17	9.0	80	9.6
90%	19	12.8	42	13.4	20	11.2	20	10.6	101	12.2
100%	71	47.7	96	30.6	65	36.5	67	35.4	299	36.0
Total	149	100.0	314	100.0	178	100.0	189	100.0	830	100.0

Table 2D-18. Tests of statistical significance on group differences as to percent affected: Sentencing.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	8.23	6.179***	--		1.209***	.294	1.077**	.328	1.085**	.324	38.139
Defense Attorneys	7.02		-1.209***	.294	--		-.133	.277	-.124	.272	
Prosecuting Attorneys	7.15		-1.077**	.328	.133	.277	--		.009	.308	
Probation & Parole	7.14		-1.085**	.324	.124	.272	-.009	.308	--		

***p≤.001; **p≤.01; *p≤.05

¹Mean on 11-point scale

Table 2E-18. Frequency distribution of magnitude of consequence’s impact on defendants: Sentencing.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
No impact	0	0	5	1.6	5	2.7	4	2.1	14	1.7
Small Impact	10	6.7	15	4.8	22	12.0	23	12.2	70	8.4
Medium Impact	43	28.7	62	19.9	46	25.0	52	27.5	203	24.3
Large Impact	97	64.7	230	73.7	111	60.3	110	58.2	548	65.6
Total	150	100.0	312	100.0	184	100.0	189	100.0	835	100.0

Table 2F-18. Tests of statistical significance on group differences as to magnitude of impact: Sentencing.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.78	6.262***	--		-.080	.071	.148	.079	.159	.078	25.334**
Defense Attorneys	2.66		.080	.071	--	.228**	.066	.239**	.066		
Prosecuting Attorneys	2.43		-.148	.079	-.228**	.066	--	.011	.074		
Probation & Parole	2.42		-.159	.078	-.239**	.066	-.011	.074	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

Consequence 19: Prior convictions may enhance degree of instant offense.

Table 2C-19. Frequency distribution of percentage of defendants perceived to be affected by consequence, by occupational group: Degree enhancements.

Response	<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation/ Parole Officers</u>		<u>All Respondents</u>	
	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>	<u>n</u>	<u>%</u>
0%	2	1.4	8	2.5	7	3.8	10	5.3	27	3.2
10%	39	26.5	49	15.5	43	23.6	29	15.5	160	19.2
20%	35	23.8	74	23.3	39	21.4	25	13.4	173	20.8
30%	28	19.0	70	22.1	33	18.1	16	8.6	147	17.6
40%	18	12.2	32	10.1	11	6.0	14	7.5	75	9.0
50%	12	8.2	39	12.3	28	15.4	20	10.7	99	11.9
60%	4	2.7	13	4.1	4	2.2	22	11.8	43	5.2
70%	1	.7	11	3.5	4	2.2	12	6.4	28	3.4
80%	2	1.4	9	2.8	4	2.2	14	7.5	29	3.5
90%	1	.7	6	1.9	1	.5	10	5.3	18	2.2
100%	5	3.4	6	1.9	8	4.4	15	8.0	34	4.1
Total	147	100.0	317	100.0	182	100.0	187	100.0	833	100.0

Table 2D-19. Tests of statistical significance on group differences as to percent affected: Degree enhancements.

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	<u>mean diff</u>	<u>S.E.</u>	
Judges	2.93	15.685***	--		-.447	.243	-.238	.270	-1.619***	.268	107.565***
Defense Attorneys	3.38		.447	.243	--		.208	.226	-1.172***	.224	
Prosecuting Attorneys	3.17		.238	.270	-.208	.226	--		-1.380***	.253	
Probation & Parole	4.55		1.619***	.268	1.172***	.224	1.380***	.253	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on 11-point scale

Table 2E-19. Frequency distribution of magnitude of consequence’s impact on defendants: Degree enhancements.

Response	Judges		Defense Attorneys		Prosecuting Attorneys		Probation/ Parole Officers		All Respondents	
	n	%	n	%	n	%	n	%	n	%
No impact	0	0	6	1.9	8	4.3	6	3.1	20	2.4
Small Impact	57	38.5	62	19.6	44	23.8	50	26.0	213	25.3
Medium Impact	52	35.1	112	35.4	70	37.8	66	34.4	300	35.7
Large Impact	39	26.4	136	43.0	63	34.1	70	36.5	308	36.6
Total	148	100.0	316	100.0	185	100.0	192	100.0	841	100.0

Table 2F-19. Tests of statistical significance on group differences as to magnitude of impact: Degree enhancements.

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.88	5.301***	--		-.318***	.083	-.138	.092	-.163	.092	30.159***
Defense Attorneys	2.20		.318***	.083	--		.180	.077	.155	.077	
Prosecuting Attorneys	2.02		.138	.092	-.180	.077	--		-.025	.086	
Probation & Parole	2.04		.163	.092	-.155	.077	.025	.086	--		

***p<.001; **p<.01; *p<.05
¹Mean on 4-point scale

APPENDIX C. Tables related to Policy Statements.

Policy Statement 1: Some collateral consequences should be repealed or eliminated.

Table 8A-1. Frequency Distribution of Level of Agreement by Occupational Group

	All Respondents		Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	90	10.9	10	6.8	12	3.8	47	25.7	21
Disagree	102	12.3	16	10.9	9	2.9	51	27.9	26	13.9
Neutral	101	12.2	12	8.2	16	5.1	31	16.9	42	22.5
Agree	278	33.5	62	42.2	107	34.3	42	23.0	67	35.8
Strongly Agree	258	31.1	47	32.0	168	53.8	12	6.6	31	16.6
Total	829	100.0	147	100.0	312	100.0	183	100.0	187	100.0

Table 8B-1. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.82	95.255***	--		-.498***	.115	1.248***	.127	.490***	.126	256.622***
Defense Attorneys	3.31		.498***	.115	--		1.746***	.107	.988***	.106	
Prosecuting Attorneys	1.57		-1.248***	.127	-1.746***	.107	--		-.758***	.119	
Probation & Parole	2.33		-.490***	.126	-1.988***	.106	.758***	.119	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 2: Crime will decrease if collateral consequences are repealed or eliminated.

Table 8A-2. Frequency Distribution of Level of Agreement by Occupational Group

	All Respondents		Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	214	25.7	38	26.0	36	11.6	95	51.1	45
Disagree	239	28.7	40	27.4	70	22.5	58	31.2	71	37.4
Neutral	192	23.0	36	24.7	95	30.5	19	10.2	42	22.1
Agree	142	17.0	28	19.2	80	25.7	11	5.9	23	12.1
Strongly Agree	46	5.5	4	2.7	30	9.6	3	1.6	9	4.7
Total	833	100.0	146	100.0	311	100.0	186	100.0	190	100.0

Table 8B-2. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.45	49.425***	--		-.542***	.111	.694***	.122	.084	.122	149.163***
Defense Attorneys	1.99		.542***	.111	--		1.236***	.103	.625***	.102	
Prosecuting Attorneys	.76		-.694***	.122	-1.236***	.103	--		-.610***	.114	
Probation & Parole	1.37		-.084	.122	-.625***	.102	.610***	.114	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 3: Officials should have discretion to apply collateral consequences in certain situations.

Table 8A-3. Frequency Distribution of Level of Agreement by Occupational Group

	<u>All Respondents</u>		<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	27	3.2	6	4.1	7	2.3	9	4.9	5
Disagree	56	6.7	6	4.1	21	6.8	19	10.3	10	5.2
Neutral	96	11.5	14	9.5	27	8.7	28	15.2	27	14.1
Agree	445	53.5	83	56.1	147	47.6	99	53.8	116	60.7
Strongly Agree	208	25.0	39	26.4	107	34.6	29	15.8	33	17.3
Total	832	100.0	148	100.0	309	100.0	184	100.0	191	100.0

Table 8B-3. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.97	7.383***	--		-.089	.095	.314**	.105	.118	.104	41.146***
Defense Attorneys	3.06		.089	.095	--		.403***	.088	.207	.087	
Prosecuting Attorneys	2.65		-.314**	.105	-.403***	.088	--		-.196	.098	
Probation & Parole	2.85		-.118	.104	-.207	.087	.196	.098	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 4: Collateral consequences should last forever.

Table 8A-4. Frequency Distribution of Level of Agreement by Occupational Group

	All Respondents		Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
Strongly Disagree	323	38.9	61	40.9	202	65.6	20	11.0	40	20.8
Disagree	344	41.4	67	45.0	88	28.6	87	47.8	102	53.1
Neutral	108	13.0	14	9.4	8	2.6	52	28.6	34	17.7
Agree	38	4.6	4	2.7	2	0.6	20	11.0	12	6.3
Strongly Agree	18	2.2	3	2.0	8	2.6	3	1.6	4	2.1
Total	831	100.0	149	100.0	308	100.0	182	100.0	192	100.0

Table 8B-4. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	.80	57.759***	--		.338***	.086	-.646***	.095	-.358***	.094	224.038***
Defense Attorneys	.46		-.338***	.086	--		-.984***	.080	-.695***	.079	
Prosecuting Attorneys	1.45		.646***	.095	.984***	.080	--		.289**	.089	
Probation & Parole	1.16		.358***	.094	.695***	.079	-.289**	.089	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 5: All defendants should have the chance to restore his or her rights after a certain period of time.

Table 8A-5. Frequency Distribution of Level of Agreement by Occupational Group

	<u>All Respondents</u>		<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	71	8.6	9	6.1	11	3.5	34	18.7	17
Disagree	155	18.7	25	17.0	25	8.1	58	31.9	47	24.6
Neutral	76	9.2	13	8.8	15	4.8	19	10.4	29	15.2
Agree	309	37.2	64	43.5	111	35.8	63	34.6	71	37.2
Strongly Agree	219	26.4	36	24.5	148	47.7	8	4.4	27	14.1
Total	830	100.0	147	100.0	310	100.0	182	100.0	191	100.0

Table 8B-5. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.63	62.467***	--		-.529***	.117	.891***	.129	.402**	.128	185.722***
Defense Attorneys	3.16		.529***	.117	--		1.420***	.109	.931***	.107	
Prosecuting Attorneys	1.74		-.891***	.129	-1.420***	.109	--		-.489***	.121	
Probation & Parole	2.23		-.402**	.128	-.931***	.107	.489***	.121	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 6: There should be more collateral consequences of criminal conviction.

Table 8A-6. Frequency Distribution of Level of Agreement by Occupational Group

	All Respondents		Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
Strongly Disagree	216	26.0	43	29.1	147	47.3	10	5.5	16	8.4
Disagree	276	33.2	69	46.6	107	34.4	43	23.6	57	29.8
Neutral	222	26.7	27	18.2	48	15.4	86	47.3	61	31.9
Agree	92	11.1	9	6.1	6	1.9	32	17.6	45	23.6
Strongly Agree	26	3.1	0	0.0	3	1.0	11	6.0	12	6.3
Total	832	100.0	148	100.0	311	100.0	182	100.0	191	100.0

Table 8B-6. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.01	98.484***	--		.264*	.092	-.937***	.102	-.882***	.101	251.507***
Defense Attorneys	.75		-.264*	.092	--		-1.201***	.086	-1.146***	.085	
Prosecuting Attorneys	1.95		.937***	.102	1.201***	.086	--		.055	.095	
Probation & Parole	1.90		.882***	.101	1.146***	.085	-.055	.095	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 7: Collateral consequences should be more troublesome for defendants.

Table 8A-7. Frequency Distribution of Level of Agreement by Occupational Group

	<u>All Respondents</u>		<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>	
	N	%	N	%	N	%	N	%	N	%
Strongly Disagree	192	23.0	36	24.2	137	44.2	8	4.4	11	5.8
Disagree	301	36.1	67	45.0	110	35.5	44	24.0	80	41.9
Neutral	199	23.9	34	22.8	42	13.5	71	38.8	52	27.2
Agree	111	13.3	12	8.1	17	5.5	44	24.0	38	19.9
Strongly Agree	30	3.6	0	0.0	4	1.3	16	8.7	10	5.2
Total	833	100.0	149	100.0	310	100.0	183	100.0	191	100.0

Table 8B-7. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.15	78.933***	--		.306**	.096	-.940***	.106	-.622***	.105	221.138***
Defense Attorneys	.84		-.306**	.096	--		-1.245***	.090	-.928***	.088	
Prosecuting Attorneys	2.09		.940***	.106	1.245***	.090	--		.318**	.099	
Probation & Parole	1.77		.622***	.105	.928***	.088	-.318**	.099	--		
***p≤.001; **p≤.01; *p≤.05 ¹ Mean on a 5-point scale											

Policy Statement 8: It should be easier for defendants to restore their rights.

Table 8A-8. Frequency Distribution of Level of Agreement by Occupational Group

	<u>All Respondents</u>		<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
	Strongly Disagree	42	5.0	3	2.0	4	1.3	23	12.4	12
Disagree	203	24.3	28	19.0	31	9.9	94	50.8	50	26.2
Neutral	218	26.1	48	32.7	58	18.6	41	22.2	71	37.2
Agree	262	31.4	54	36.7	138	44.2	24	13.0	46	24.1
Strongly Agree	110	13.2	14	9.5	81	26.0	3	1.6	12	6.3
Total	835	100.0	147	100.0	312	100.0	185	100.0	191	100.0

Table 8B-8. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.33	90.946***	--		-.510***	.097	.921***	.107	.347**	.106	240.040***
Defense Attorneys	2.84		.510***	.097	--		1.431***	.090	.857***	.089	
Prosecuting Attorneys	1.41		-.921***	.107	-1.431***	.090	--		-.574***	.100	
Probation & Parole	1.98		-.347**	.106	-.857***	.089	.574***	.100	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 9: Collateral consequences can sometimes benefit defendants.

Table 8A-9. Frequency Distribution of Level of Agreement by Occupational Group

	<u>All Respondents</u>		<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
	Strongly Disagree	81	9.7	14	9.5	54	17.5	5	2.7	8
Disagree	182	21.9	33	22.3	81	26.2	32	17.5	36	18.8
Neutral	179	21.5	29	19.6	68	22.0	44	24.0	38	19.9
Agree	350	42.1	67	45.3	90	29.1	91	49.7	102	53.4
Strongly Agree	39	4.7	5	3.4	16	5.2	11	6.0	7	3.7
Total	831	100.0	148	100.0	309	100.0	183	100.0	191	100.0

Table 8B-9. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.11	16.526***	--		.325*	.107	-.280	.118	-.227	.117	63.211***
Defense Attorneys	1.78		-.325*	.107	--		-.605***	.100	-.552***	.098	
Prosecuting Attorneys	2.39		.280	.118	.605***	.100	--		.053	.111	
Probation & Parole	2.34		.227	.117	.552***	.098	-.053	.111	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 10: The Ohio Rules of Criminal Procedure should require that defendants be advised of the collateral consequences imposed by Federal law at some point during case processing.

Table 8A-10. Frequency Distribution of Level of Agreement by Occupational Group

	<u>All Respondents</u>		<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	102	12.2	46	31.1	11	3.5	38	20.7	7
Disagree	125	15.0	36	24.3	19	6.1	57	31.0	13	6.8
Neutral	134	16.1	26	17.6	33	10.6	32	17.4	43	22.6
Agree	336	40.3	35	23.6	151	48.6	52	28.3	98	51.6
Strongly Agree	136	16.3	5	3.4	97	31.2	5	2.7	29	15.3
Total	833	100.0	148	100.0	311	100.0	184	100.0	190	100.0

Table 8B-10. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.44	105.759***	--		-1.538***	.107	-.175	.118	-1.240***	.118	266.389***
Defense Attorneys	2.98		1.538***	.107	--		1.363***	.100	.299*	.099	
Prosecuting Attorneys	1.61		.175	.118	-1.363***	.100	--		-1.065***	.111	
Probation & Parole	2.68		1.240***	.118	-.299*	.099	1.065***	.111	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 11: The Ohio Rules of Criminal Procedure should require that defendants be advised of the collateral consequences imposed by Ohio law at some point during case processing.

Table 8A-11. Frequency Distribution of Level of Agreement by Occupational Group

	All Respondents		Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	74	8.9	35	23.8	4	1.3	30	16.3	5
Disagree	81	9.8	29	19.7	6	1.9	35	19.0	11	5.8
Neutral	101	12.2	21	14.3	14	4.5	30	16.3	36	19.0
Agree	399	48.2	49	33.3	167	54.2	75	40.8	108	57.1
Strongly Agree	173	20.9	13	8.8	117	38.0	14	7.6	29	15.3
Total	828	100.0	147	100.0	308	100.0	184	100.0	189	100.0

Table 8B-11. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean¹	F	Tukey HSD								X²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.84	88.849***	--		-1.420***	.103	-.207	.113	-.930***	.113	240.361***
Defense Attorneys	3.26		1.420***	.103	--		1.213***	.096	.489***	.095	
Prosecuting Attorneys	2.04		.207	.113	-1.213***	.096	--		-.724***	.106	
Probation & Parole	2.77		.930***	.113	-.489***	.095	.724***	.106	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 12: If defendants were so advised, then more defendants would go to trial rather than plead guilty.

Table 8A-12. Frequency Distribution of Level of Agreement by Occupational Group

	<u>All Respondents</u>		<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	79	9.4	22	14.8	23	7.4	23	12.4	11
Disagree	354	42.2	68	45.6	126	40.4	80	43.2	80	41.5
Neutral	233	27.8	43	28.9	88	28.2	45	24.3	57	29.5
Agree	151	18.0	13	8.7	68	21.8	29	15.7	41	21.2
Strongly Agree	22	2.6	3	2.0	7	2.2	8	4.3	4	2.1
Total	839	100.0	149	100.0	312	100.0	185	100.0	193	100.0

Table 8B-12. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.38	5.120**	--		-.336**	.096	-.186	.106	-.350**	.105	26.307**
Defense Attorneys	1.71		.336**	.096	--		.149	.089	-.014	.088	
Prosecuting Attorneys	1.56		.186	.106	-.149	.089	--		-.163	.099	
Probation & Parole	1.73		.350**	.105	.014	.088	.163	.099	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 13: Advisement of collateral consequences should be on the record.

Table 8A-13. Frequency Distribution of Level of Agreement by Occupational Group

	All Respondents		Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	58	6.9	23	15.8	6	1.9	22	11.9	7
Disagree	110	13.2	29	19.9	21	6.8	33	17.8	27	14.0
Neutral	138	16.5	22	15.1	31	10.0	44	23.8	41	21.2
Agree	397	47.5	60	41.1	160	51.4	75	40.5	102	52.8
Strongly Agree	132	15.8	12	8.2	93	29.9	11	5.9	16	8.3
Total	835	100.0	146	100.0	311	100.0	185	100.0	193	100.0

Table 8B-13. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.06	41.629***	--		-.945***	.105	-.046	.115	-.420***	.114	139.784***
Defense Attorneys	3.01		.945***	.105	--		.898***	.097	.525***	.096	
Prosecuting Attorneys	2.11		.046	.115	-.898***	.097	--		-.374**	.107	
Probation & Parole	2.48		.420***	.114	-.525***	.096	.374**	.107	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 14: Defendants not advised accurately should have some sort of legal recourse.

Table 8A-14. Frequency Distribution of Level of Agreement by Occupational Group

	All Respondents		Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	87	10.5	24	16.3	10	3.2	35	19.2	18
Disagree	141	17.0	33	22.4	25	8.1	41	22.5	42	21.9
Neutral	210	25.3	44	29.9	54	17.4	49	26.9	63	32.8
Agree	310	37.3	42	28.6	157	50.6	52	28.6	59	30.7
Strongly Agree	83	10.0	4	2.7	64	20.6	5	2.7	10	5.2
Total	831	100.0	147	100.0	310	100.0	182	100.0	192	100.0

Table 8B-14. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.79	51.933***	--		-.985***	.106	.058	.117	-.216	.116	151.096***
Defense Attorneys	2.77		.985***	.106	--		1.043***	.099	.769***	.097	
Prosecuting Attorneys	1.73		-.058	.117	-.1043***	.099	--		-.274	.109	
Probation & Parole	2.01		.216	.116	-.769***	.097	.274	.109	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 15: It would be easy for defendants to be accurately advised.

Table 8A-15. Frequency Distribution of Level of Agreement by Occupational Group

	<u>All Respondents</u>		<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	79	9.4	33	22.3	10	3.2	26	14.1	10
Disagree	171	20.5	52	35.1	56	18.0	52	28.1	11	5.7
Neutral	138	16.5	21	14.2	43	13.8	26	14.1	48	25.0
Agree	352	42.1	37	25.0	142	45.7	63	34.1	110	57.3
Strongly Agree	96	11.5	5	3.4	60	19.3	18	9.7	13	6.8
Total	836	100.0	148	100.0	311	100.0	185	100.0	192	100.0

Table 8B-15. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.52	40.117***	--		-1.078***	.111	-.453***	.122	-1.027***	.121	153.278***
Defense Attorneys	2.60		1.078***	.111	--		.625***	.103	.051	.102	
Prosecuting Attorneys	1.97		.453***	.122	-.625***	.103	--		-.574***	.114	
Probation & Parole	2.55		1.027***	.121	-.051	.102	.574***	.114	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 16: It would be very costly (in terms of money) to accurately advise defendants.

Table 8A-16. Frequency Distribution of Level of Agreement by Occupational Group

	All Respondents		Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	165	19.7	13	8.8	107	34.4	19	10.3	26
Disagree	369	44.1	78	52.7	130	41.8	79	42.7	82	42.7
Neutral	192	23.0	33	22.3	48	15.4	54	29.2	57	29.7
Agree	83	9.9	19	12.8	21	6.8	21	11.4	22	11.5
Strongly Agree	27	3.2	5	3.4	5	1.6	12	6.5	5	2.6
Total	836	100.0	148	100.0	311	100.0	185	100.0	192	100.0

Table 8B-16. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.49	20.294***	--		.500***	.097	-.118	.107	.024	.106	86.764***
Defense Attorneys	.99		-.500***	.097	--		-.617***	.090	-.475***	.089	
Prosecuting Attorneys	1.61		.118	.107	.617***	.090	--		.142	.100	
Probation & Parole	1.47		-.024	.106	.475***	.089	-.142	.100	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 17: It would be very costly (in terms of time) to accurately advise defendants.

Table 8A-17. Frequency Distribution of Level of Agreement by Occupational Group

	All Respondents		Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers	
	N	%	N	%	N	%	N	%	N	%
	Strongly Disagree	150	18.0	13	8.7	95	30.5	18	9.8	24
Disagree	276	33.1	40	26.8	107	34.4	55	30.1	74	38.5
Neutral	161	19.3	17	11.4	48	15.4	39	21.3	57	29.7
Agree	181	21.7	59	39.6	51	16.4	42	23.0	29	15.1
Strongly Agree	67	8.0	20	13.4	10	3.2	29	15.8	8	4.2
Total	835	100.0	149	100.0	311	100.0	183	100.0	192	100.0

Table 8B-17. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			Judges		Defense Attorneys		Prosecuting Attorneys		Probation & Parole Officers		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	2.22	29.938***	--		.948***	.116	.172	.128	.623***	.127	128.844***
Defense Attorneys	1.27		-.948***	.116	--		-.776***	.108	-.326*	.107	
Prosecuting Attorneys	2.05		-.172	.128	.776***	.108	--		.450***	.120	
Probation & Parole	1.60		-.623***	.127	.326*	.107	-.450***	.120	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale

Policy Statement 18: The costs of accurately advising defendants outweigh the benefits.

Table 8A-18. Frequency Distribution of Level of Agreement by Occupational Group

	<u>All Respondents</u>		<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>	
	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>	<u>N</u>	<u>%</u>
	Strongly Disagree	139	16.6	12	8.1	89	28.6	19	10.3	19
Disagree	257	30.7	44	29.7	83	26.7	63	34.1	67	34.9
Neutral	205	24.5	47	31.8	40	12.9	51	27.6	67	34.9
Agree	159	19.0	32	21.6	60	19.3	35	18.9	32	16.7
Strongly Agree	76	9.1	13	8.8	39	12.5	17	9.2	7	3.6
Total	836	100.0	148	100.0	311	100.0	185	100.0	192	100.0

Table 8B-18. Tests of Statistical Significance on Group Differences as to Level of Agreement

Group	Mean ¹	F	Tukey HSD								X ²
			<u>Judges</u>		<u>Defense Attorneys</u>		<u>Prosecuting Attorneys</u>		<u>Probation & Parole Officers</u>		
			mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	mean diff	S.E.	
Judges	1.93	2.990*	--		.328*	.120	.105	.133	.240	.132	87.506***
Defense Attorneys	1.60		-.328*	.120	--		-.223	.112	-.088	.110	
Prosecuting Attorneys	1.83		-.105	.133	.223	.112	--		.134	.124	
Probation & Parole	1.69		-.240	.132	.088	.110	-.134	.124	--		

***p≤.001; **p≤.01; *p≤.05
¹Mean on a 5-point scale