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The Hidden Impact of a Criminal Conviction: A Brief Overview of Collateral Consequences in Alaska

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Summary: *Collateral consequences, a term used in this paper to refer generally to the effect of any measure that might increase the negative consequences of a criminal conviction, fall roughly into three categories: impaired access to, or enjoyment of, the ordinary rights and benefits associated with citizenship or residency, such as voting or driving; impaired economic opportunity, primarily through reduction of the range of available employment; and increased severity of sanctions in any subsequent criminal proceeding brought against the offender. These indirect but significant consequences of a felony or misdemeanor conviction are receiving increasing attention from policy makers, ethicists, and the bar. Setting aside issues of constitutional or statutory rights, the growing web of civil disabilities triggered by a criminal conviction raises fundamental questions about what makes sense as a matter of public policy. This paper examines policy considerations of collateral consequences and provides a preliminary effort to list all of the provisions of Alaska state law that may diminish in some respect the opportunities available to an individual with a criminal conviction in his or her background.*

“It is not, as a rule, the good people who commit crime.”

Justice David J. Brewer, *Hawker v. New York*, 170 U.S. 189 (1898)

“Still, the prisoner is a person; still, he or she is part of the family of humankind.”

Justice Anthony M. Kennedy, Speech to the ABA (August 2003)

The quotations above encapsulate the historic tension in our justice system between condemnation and reintegration. With the expansion of the war on drugs and the war on terror, reintegration has increasingly taken a backseat to other concerns. The recent case of a former UAA student denied admission to the University’s School of Social Work highlights the difficulties faced by former offenders seeking reentry into mainstream society. M.P. enrolled at the University after serving 20 years for a murder he committed as a teenager. Although Mr. P. was successful in his foundational courses and, for a time, served as president of the school’s Social Work Club, the School of Social Work twice denied him admission into the social work degree program. In April 2007, Mr. P. gave up his appeal of a superior court decision holding that the University was within

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its rights in denying his application. See generally, 3AN-05-09374 CI; Lisa Demer, *Murderer Ends Pursuit of Social Work Degree from UAA*, Anchorage Daily News, Apr. 4, 2007, at B2.

Although the case received extensive media coverage, most reports of the story omitted any discussion of Alaska's regulatory framework controlling licensure of social workers. Those statutes and regulations provide that a felony or misdemeanor conviction is grounds for the state to deny an otherwise qualified applicant a license to practice social work. See, e.g., 12 AAC 18.140. This licensing scheme, and its indirect impact on M.P., is a classic example of the phenomenon labeled "collateral consequences." The term refers to the myriad, often unforeseen, ways in which state and federal laws disadvantage those with criminal convictions as they seek to engage in the ordinary activities of American life.¹ In Alaska, these laws run the gamut from impairing the right to vote to limiting access to food stamps to barring an individual from working as a fisheries observer. At the federal level, these laws may impair access to public housing, render students ineligible for financial aid, bar individuals from various forms of federal employment, and, for noncitizens, trigger deportation proceedings.

At both the state and federal level, the collateral consequences of a criminal conviction fall roughly into three categories. The first is impaired access to, or enjoyment of, the ordinary rights and benefits associated with citizenship or residency, such as voting or driving. The second is impaired economic opportunity, primarily through reduction of the range of available employment. The third is increased severity of sanctions in any subsequent criminal proceeding brought against the offender.²

These indirect but significant consequences of a felony or misdemeanor conviction are receiving increasing attention from policy makers, ethicists, and the bar. Setting aside issues of constitutional or statutory rights, the growing web of civil disabilities triggered by a criminal conviction raises fundamental questions about what makes sense as a matter of public policy. The questions encompass both economic considerations and our values as a democratic people.

Policy Considerations: Criminal Administration, Economics, and Public Safety

Alaska's Constitution spells out the policies underlying administration of our criminal justice system. They are: "the need for protecting the public, community condemnation of the offender,

1. The term *collateral consequences* is used here to refer generally to the effect of any measure that might increase the negative consequences of a criminal conviction. Note, however, that in proceedings for post conviction relief the term carries a specific meaning. In the Alaska courts, "a collateral consequence is one originating outside of the trial court." *Peterson v. State*, 988 .2d 109, 115 (Alaska App.1999). Thus, a consequence that will flow inevitably from a conviction may be deemed collateral, provided it does not originate in the original trial court proceeding, to the same extent as those consequences that are mere possibilities. Sex offender registration, for example, is deemed a civil regulatory matter collateral to the imposition of an offender's sentence. *Id.*

2. Alaska's court has summarized the cumulative effect of these measures thus: "[A] person with a criminal record is often burdened by a social stigma, subjected to additional investigation, prejudiced in future criminal proceedings, and discriminated against by prospective employers." *Journey v. State*, 895 P.2d 955, 959 (Alaska 1995).

the rights of victims of crimes, restitution from the offender, and the principle of reformation.” Alaska Const. art. I, § 12. Of these, the need for protecting the public, community condemnation, and reformation or rehabilitation figure most significantly in the collateral consequences debate. There is, of course, an inherent tension between the community’s interest in public safety and the criminal defendant’s interest in full restoration of civic rights. Legislators and regulatory agencies seeking to adjust this tension must strike a difficult balance between those measures that truly advance public safety, those that are merely punitive or reflect “community condemnation,” and those that, despite the legitimacy of the foregoing policies, unduly impede the defendant’s reformation.

In M. P.’s case, the trial court recognized that an Alaskan offender’s constitutional *right* to rehabilitation does not extend beyond release from custody. See *Memorandum Decision and Order*, Oct. 17, 2006, 3AN-05-09374 CI (citing *Goodlataw v. Dep’t of Health and Social Services*, 698 P.2d 1190, 1194 (Alaska 1985)). Nevertheless, Alaska law does recognize that both the offender and the public have an *interest* in establishing the offender as a productive, noncriminal member of society. *Abraham v. State*, 585 P.2d 526, 531 (Alaska 1978). From a public policy standpoint then, the appropriate question is not, “Does the offender have a right to post-release rehabilitation?,” but rather, “What opportunities should be available to the released offender that will advance the interests of the community as a whole?” Certainly, the community’s interests are advanced when former offenders are reintegrated as working, tax-paying members of society, with adequate resources to provide for themselves and their families. It should be noted, in this regard, that the majority of those incarcerated are parents of children under the age of 18. Christopher J. Mumola, U.S. Dep’t of Justice, *Bureau of Justice Statistics Special Report: Incarcerated Parents and Their Children* (2000), <http://www.ojp.usdoj.gov/bjs/pub/pdf/iptc.pdf>. Thus, a released offender’s inability to find work often further impoverishes his or her family, and places a concomitant burden on the social welfare system.

In addition to boosting the tax rolls and decreasing the welfare burden, providing released offenders with adequate opportunity for employment also serves the interest of public safety. Studies show a statistical relationship between lack of employment and increased risk of recidivism. (There is obviously an economic aspect to this as well. Increased recidivism translates into increased public expense associated with court administration, prosecutors, public defenders, incarceration, probation, and parole.)

For all of these reasons, unduly restricting an offender’s access to employment is antithetical to the public interest. This is not to suggest that restrictions on post-offender employment are never warranted. Few would argue, for example, that there is no legitimate public safety interest in keeping serial DUI offenders from behind the wheel of school busses. See AS 28.15.046. But, this does suggest that any regulatory measure that excludes an offender from a given form of employment should be carefully calibrated to ensure there is a reasonable relationship between the

requirements of the job, public safety, and the scope of the exclusion.³ While many Alaska statutes already meet this standard,⁴ others do not.

Policy Considerations: Ethics and Fundamental Fairness

Fundamental fairness is a recurring theme in our constitutional doctrines. It encompasses both notice and proportionality. The tangled web of collateral consequences presently existing under state and federal law raises troubling questions on both fronts.

Notice

Plea bargaining is indispensable to the “machinery of justice” in the United States, *Tafoya v. State*, 500 P.2d 247, 255 (Alaska 1972) (Rabinowitz, J., dissenting) (quoting Professor Moore), where approximately 90% of the criminal cases are resolved without trial. Its legitimacy in our system is premised on the defendant’s informed choice regarding his fate. Thus, under Alaska’s criminal rules, a court may not accept a plea of guilty or nolo contendere (no contest) without first determining that the defendant understands the nature of the charge. Alaska R. Crim. P. 11(c). The court must also inform the defendant of the “maximum possible punishment provided by the statute defining the offense to which the plea is offered.”⁵

However, because collateral consequences laws are so widespread and so varied, and because they are largely buried in regulatory schemes unrelated to the criminal code under which an individual is prosecuted, they pose a special danger in this area. The absence of a central repository for all of these statutes and regulations makes it is entirely possible that with respect to a given proposal, neither the prosecutor, defense counsel, nor judge (not to mention the defendant) will fully understand all the consequences triggered by a guilty or nolo plea.⁶ Notwithstanding this fact, in Alaska, as in the vast majority of jurisdictions, there is no obligation under the rules to

3. For purposes of equal protection analysis, neither the federal nor Alaska courts recognize the ability to pursue a particular occupation without hindrance as a fundamental right. The federal courts apply the rational basis test to equal protection challenges to regulations affecting access to occupations or professions. Under Alaska’s Constitution, the Court will examine whether the statute’s purpose is legitimate and whether the methods employed “substantially further that purpose,” balancing the state’s interest in the statutory restrictions against the right infringed. *Weidner v. State*, 764 P.2d 717, 720 (Alaska App. 1988).

4. See, for example, AS 08.68.270, which requires that the Board of Nursing find that a felony or other crime “is substantially related to the qualifications, functions or duties of the licensee” before imposing disciplinary sanctions.

5. “A guilty plea is ‘knowing’ and ‘voluntary’ for due process purposes if ‘the record, taken as a whole, . . . show[s] [the defendant’s] understanding of the nature of the offense charged and [the] voluntar[iness] [of the] plea.’ A plea meets the standards of due process even though the defendant is not ‘informed about every conceivable collateral effect the conviction might have.’ A plea remains constitutionally valid even though the court may fail to comply with one or more provisions of Criminal Rule 11(c).” *Peterson v. State*, 988 P.2d 109, 115 (Alaska App.1999) (cit. omitted).

6. In most instances, any consequence that would flow from a guilty plea will follow a nolo plea as well. In Alaska, “the nolo plea is for nearly all purposes the equivalent of a guilty plea.” *Wilson v. MacDonald*, 168 P.3d 887, n. 7 (Alaska 2007). A number of Alaska statutes and regulations similarly define a conviction to include a nolo plea. See, e.g., 12 AAC 18.990 (for purposes of social work licensing, conviction “means an adjudication that a person is guilty of a crime based upon a verdict or upon a plea of guilty or nolo contendere”).

inform a defendant of all of the possible collateral consequences of a guilty or nolo plea. *See, e.g., Tafoya*, 500 P.2d at 250.

The courts' refusal to hold that defendants have a right to be notified of all the potential consequences of a plea makes sense, given the enormous range of possibilities and the fact that many of these potential disabilities are essentially hidden in statutory schemes far removed a jurisdiction's penal code. A contrary holding would set a standard virtually impossible to meet under the extant system, with concomitant implications for establishing knowing and voluntary pleas and effective assistance of counsel. Nevertheless, whether or not they have a *right* to know, the desirability of providing all defendants with as much information as is reasonably possible is indisputable. Rule 11 itself recognizes that certain collateral consequences are sufficiently grave that they must form part of the court's colloquy with the defendant. If the defendant is not a U.S. citizen, the court must advise that conviction may result in "deportation, exclusion from admission to the United States, or denial of naturalization pursuant to federal law." In addition, the court must provide written notice of Alaska's sex offender registration requirements to defendants charged with a statutorily defined sex offense or child kidnapping. AK. R. Crim. P. 11(c) .

Taken together, the provisions of Rule 11 reflect that expectation of fair play on which our constitutional doctrines rest. Simply put, the failure to provide defendants with complete knowledge of the consequences of their plea "is contrary to our basic concepts of notice and fairness." *Shaulis v. Com., Dept. of Transp., Bureau of Driver Licensing*, 638 A.2d 362 (Pa. Cmhw. Ct. 1994) (J. Kelley dissenting). Given this standard, the fact that it is presently so difficult to find all of the information necessary to provide such notice casts a shadow of unfairness over the entire plea bargaining process.

Proportionality

Just as troubling as the absence of complete notice is the lack of proportionality resulting from the vast network of regulatory measures barring offenders from full civic and economic participation. In many cases, the conflation of collateral consequences with the actual sentence imposed results in punishment far beyond what most would consider just.

First, the collateral consequences of a conviction may impose on the defendant lifelong stigmatization, a result contrary to the policy of rehabilitation underlying Alaska's criminal administration. Nearly 30 years ago, Justice Dimond explained the cultural values underlying this policy. He wrote: "[T]o the extent [the offender] is rehabilitated into a law-abiding person, his inherent dignity as a human being will be enhanced. He will be the object of respect, rather than of fear or loathing by his fellow citizens, and to that extent, will benefit from the sense of personal satisfaction enjoyed by those who live decent lives, unsullied by disobedience and rebellion against the laws by which we govern ourselves in a peaceful and tranquil society." *Abraham v. State*, 585 P.2d 526, 531 (Alaska 1978). Conversely, laws that establish unnecessary classifications between

released offenders and non offenders devalue the inherent dignity of the individual.

In addition, collateral consequences are associated with a diminution of overall life chances — the ability to obtain safe housing, adequate nutrition and medical care, higher education, and economic independence. The combined effect of the regulatory barriers triggered by a criminal conviction may include, as noted above, ineligibility for public housing assistance and food stamps, denial of student loans, revocation of driver’s license, destruction of family bonds, and a host of employment limitations. The financial impact of a criminal conviction, moreover, is not limited to the employment limitations imposed by statute or regulation. Private employers in all sectors of the economy have historically discriminated against those with a criminal history. (For some employers, the potential threat of a negligent hire lawsuit adds economic impetus to this practice.) Thus, for as long the law continues to permit private employment discrimination on the basis of criminal history, the actual percentage of the job pool unavailable to former offenders will be far larger than that represented by those jobs placed off limits by statute or regulation. Moreover, the recent practice of providing public access to criminal prosecution information over the internet means that, with next to no effort, every potential employer may review an applicant’s local criminal history. The Alaska Court Sytem’s CourtView program, for example, provides information about criminal (and civil) cases, including traffic cases and other minor offenses, in Anchorage, Barrow, Fairbanks, Kotzebue, Nome, Palmer, and Unalakleet. *See* CourtView, <http://www.courtrecords.alaska.gov>. In sum, the combined effect of jobs that are unavailable by operation of law, and the reluctance of employers to hire offenders even for those jobs for which they are legally qualified, creates a formidable barrier to economic success and life satisfaction. The net effect on overall life chances will be, for many offenders, a far harsher penalty than that imposed under the state’s penal code.

More disturbing than all of the foregoing, however, is the disproportionate impact of collateral consequences on certain ethnic groups. Throughout the country, a complex network of economic and political disadvantages have led to the overrepresentation of discrete groups in the incarcerated population. Statistically, Alaska Natives/American Indians and African-Americans are disproportionately represented in Alaska’s offender population. Thus, to the extent the civil disabilities imposed on former offenders unduly impede their economic success and civic involvement, these groups as a whole are impoverished and disenfranchised to a greater extent than ethnic groups with lower levels of representation in the offender population.

Challenges for the Bar and the Movement toward Change

As the number of statutory and regulatory measures negatively affecting offender re-entry continues to grow, the bar has begun examining its role in shaping a more just and humane system. To facilitate these efforts, the American Bar Association’s Criminal Justice Section established the Re-entry & Collateral Consequences Committee to “focus specifically on trying to assist offenders

to rebuild their lives and re-enter society with the goal of achieving a productive future.” American Bar Association Criminal Justice Section: Re-Entry & Collateral Consequences Committee, *Message from the Co-chairs*, www.abanet.org/dch/committee.cfm?com=CR206500.

Justice Anthony Kennedy of the U.S. Supreme Court gave considerable impetus to this movement in an August 2003 speech to the American Bar Association (ABA), in which he addressed the justice system’s failure to concern itself with the post-incarceration fate of offenders. He observed that a criminal justice system, the purpose of which is “to degrade or demean individuals is not acceptable in a society founded on respect for the inalienable rights of the people.” He urged lawmakers and lawyers in both civil and criminal practice to turn their attention to what happens to prisoners after they are locked away, “to help find more just solutions and more humane policies for those who are the least deserving of our citizens, but citizens nonetheless.” *Speech at the American Bar Association Annual Meeting: An Address by Anthony M. Kennedy Associate Justice, Supreme Court of the United States*, http://meetings.abanet.org/webupload/commupload/CR209800/newsletterpubs/Justice_Kennedy_ABA_Speech_Final.pdf.

During the same month Justice Kennedy issued his call for action, the ABA House of Delegates approved standards designed to provide a legislative model for mitigating the overly harsh effect of extensive federal and state restrictions on the civic participation of former offenders. The standards include recommendations for limiting the sheer number of restrictions; ensuring that restrictions bear a legitimate relationship to the risks posed by the offenders’ criminal conduct; gathering restrictions in one place so that legal professionals, offenders, and the public may find them; requiring notice of collateral restrictions in the sentencing process; prohibiting unreasonable public and private discrimination against former offenders; and increasing the availability of methods for obtaining relief from extant restrictions. *See, ABA Standards for Criminal Justice (Third Edition) Collateral Sanctions and Discretionary Disqualification of Convicted Persons* (August 2003), http://www.abanet.org/crimjust/standards/collateral_toc.html.

Of these, the standard calling for collection and identification of collateral consequences statutes and regulations, Standard 19-2.1, has received the most ready, albeit informal, response. Standard 19-2.1 calls upon state legislatures to “collect, set out or reference all collateral sanctions in a single chapter or section of the jurisdiction’s criminal code.” It further specifies that the “chapter or section should identify with particularity the type, severity and duration of collateral sanctions applicable to each offense, or to a group of offenses specifically identified by name, section number, severity level, or other easily determinable means.” In lieu of, or as a prelude to legislative action, a number of local bar groups around the country have begun compiling lists and tables of these collateral sanctions. *See, e.g., Jennifer L. Bahnson & Robert J. Dieter, Collateral Effects of a Criminal Conviction in Colorado*, 35 Colo. Law. 39 (June 2006).

Note that by its terms, Standard 19-2.1’s call for identification and collection of collateral consequences is limited to those disabilities that are imposed automatically upon a conviction. *See*

Standard 19-1.1(a) (distinguishing “collateral sanctions” and “discretionary disqualifications”). However, for a great many defendants, as noted above, discretionary disqualifications — those disabilities that do not flow automatically from a conviction, but which may be imposed by virtue of an individual’s particular circumstances — may be even more devastating. Consider, for example, the recent case of J. P., a young Kenai Peninsula resident, who was sentenced to six months in jail, five years probation, and payment of restitution after pleading no contest to forgery and theft. Approximately four years after her sentencing, Ms. P. applied for certification as a nurse’s aide. Her probation officer supported the application, stating that she had made “noted progress” during probation. *State Div. of Corp’s., Bus. and Prof’l. Licensing v. Platt*, 169 P.3d 595, n.2 (Alaska 2007). However, the Board of Nursing denied the application, finding, pursuant to its statutory authority, that the facts surrounding Ms. P.’s criminal conduct were incompatible with the duties of a nursing assistant. For Ms. P., the inability to work in her chosen profession may well be a greater penalty than her actual sentence. To take this example one step further, assume hypothetically that Ms. P. someday finds herself unable to bear children, and she and her husband decide to adopt. Under current Alaska law, her criminal history may prevent her from ever adopting a child or serving as a legal guardian.

It may be that in the foregoing example, Alaska’s professional licensing system worked exactly as it should. The board reasoned that, because Ms. P.’s criminal conduct victimized older persons, vulnerable to her actions, she should not be “in frequent contact with persons who, by reason of their medical condition,” are “extremely vulnerable to their caregivers.” *Id.* at 601. But, even if this particular case struck the right balance between public safety and reintegration, it is doubtful that Ms. P. understood the full range of career options that would be potentially unavailable following her plea, or the potential ramifications the plea might carry for her in the future, such as posing a barrier to adoption or guardianship. For that reason alone, jurisdictions should make every reasonable effort to increase the visibility of both automatic and discretionary or potential collateral consequences. Leaving in place a complex system of regulatory penalties that is essentially hidden from most defendants contravenes our basic ideals of fair play and justice.

Locating Collateral Consequences in Alaska

In Alaska, statutes and regulations potentially affecting an offender’s civic and economic reintegration occupy well over one hundred different sections of the Alaska Statutes and Alaska Administrative Code.⁷ Other limitations imposed on offenders are omitted from these sources entirely, and instead may be found only through careful perusal of the rules of evidence, rules of court, or unpublished agency policies. In this, Alaska is like every other state — the task of identifying all of the legal disabilities potentially triggered by a criminal conviction is enormously

7. Similar restrictions are embedded in local ordinances throughout the state.

difficult. For an individual without time, resources, or training, it is likely to be impossible.

The accompanying tables represent a preliminary effort to pull together in one place all of these state statutes and regulations. Federal statutes and regulations are thoroughly treated elsewhere, and are omitted here, except to the extent that Alaska's rules incorporate the federal.

Please note that this is the first of a series of articles looking at this issue, and is intended merely as a starting place for analysis.⁸ Any legislative reform in this area will require a difficult balancing of public safety concerns and the community's legitimate interest in voicing condemnation of anti-social behavior, against preserving the offender's inherent integrity as a human being, and promoting the public's interest in restoring him as a productive member of the community. A thorough review of the complex questions of public policy associated with striking this balance is well beyond the scope of this piece. Pending such review, however, it may be well to remember Justice Kennedy's admonishment that "a people confident in its laws and institutions should not be ashamed of mercy."

Collection of Collateral Consequences Statutes and Regulations in Alaska

The following is a preliminary effort to pull together in one place all of the provisions of state law that may diminish in some respect the opportunities available to an individual with a criminal conviction in his or her background. This listing is intended to serve a notice function only. The laws listed are summarized in general terms, but the list is not intended to serve as a complete description of the measures' legal effect or scope. Readers are cautioned to review the entire text of any authority on which they intend to rely. In addition, please note that the laws listed were current as of October, 2007. Changes published since that time will not be reflected here.

At present, this list includes only those measures that have been enacted or apply at the state level. Federal laws are omitted, as are the multitude of provisions that have been enacted by local governments. *Cf.* Soldotna Municipal Code § 2.28 (providing, *inter alia*, that an employee charged with a felony or misdemeanor of moral turpitude may be summarily suspended or terminated).

Although every effort has been made to identify all of the measures currently in effect, it is inevitable that some have been overlooked. The author invites reader contact regarding omissions or other suggestions for improving the list.

8. For further reading, see the accompanying bibliography of suggested resources.

Table 1. General Civil Disabilities

The table below collects those provisions of Alaska law that automatically affect or have the potential to affect adversely an offender's ability to enjoy the ordinary benefits of American citizenship or residency. It includes both those adverse consequences triggered by any conviction, and those associated only with particular crimes.

Voting	A conviction for felony involving moral turpitude under either state or federal law will suspend voting rights in federal, state and municipal elections until the date of unconditional discharge.	Alaska Const. art. 5, Sect. 2; AS 15.05.030(a); AS 33.30.241(a). See also AS 15.60.010(9) (defining felony of moral turpitude); AS 12.55.185 (defining unconditional discharge); AS 15.07.135 (cancellation of registration of convicted persons).
Jury service	A felony conviction will disqualify an individual from serving as a juror until the conviction is unconditionally discharged.	AS 09.20.020(2); 33.30.241(b). See also AS 12.55.185 (defining unconditional discharge).
Permanent Fund eligibility	An individual is not eligible for a dividend if during the qualifying year the individual was sentenced on a felony conviction or was incarcerated on a felony conviction or a misdemeanor following a prior felony or two or more prior misdemeanors.	AS 43.23.005(d); AS 43.23.028 (public notice).
Inclusion of record in state central repository of criminal justice information / disclosure to third parties	The state maintains a central repository of criminal history record information. The information is available to third parties under various conditions and subject to various levels of protection.	AS 12.62.110. See also 13 AAC 68.310 (disclosure to any person); 13 AAC 68.315 (disclosure to interested persons); 13 AAC 68.320 (disclosure pursuant to state or federal law); AS 12.62.900 (definitions).
Inclusion of information in court system online public records	Basic information related to a conviction is available to the general public through the Alaska Court System's online public records system. Availability of records varies by jurisdiction.	See CourtView, www.courtrecords.alaska.gov .
Loss of parental rights	Incarceration of a parent may, under some circumstances, be grounds for determination that a child is a child in need of aid. Conviction for sexual assault or sexual abuse of a minor may result in termination of parent rights.	AS 47.10.080 (o); AS 25.23.180(c). See also AS 47.10.011 (conditions that may lead to state intervention include incarceration of parent without adequate arrangement for child, sexual abuse of child, leaving child alone with convicted sex offender and exposing the child to specified offenses against the person by one household member against another).

Table 2. Occupational / Enterprise Disabilities

A criminal conviction carries with it a significant limitation on the kinds of employment subsequently available to the offender. In Alaska, as in most states, these occupational limitations generally fall into one of three categories: those that require evidence of “good character” as a prerequisite to employment, those that prohibit employment following conviction of a crime of “moral turpitude,” and those that prohibit employment following conviction of a crime (including misdemeanors) arising from behavior deemed incompatible with the requirements of a given profession. Some of these regulatory prohibitions are limited to relatively recent offenses; others encompass criminal conduct no matter how dated. Some flow inevitably from the conviction, others are subject to provisions allowing for a variance or exemption.

Small business loans	Eligibility for Small Business Loan turns on demonstrating “good character.”	AS 45.81.260.
State employees generally	Application forms require applicants to report misdemeanor convictions within the preceding five years, and felony convictions regardless of date. The conviction may disqualify the applicant; factors include the seriousness and date of the offense and requirements of the position.	2 AAC 07.086; 2 AAC 07.091. See also 2 AAC 07.416 (employee who violates federal or state law may be subject to disciplinary action, including dismissal, if there is a clear nexus between the offense and the employee’s duties or the violation impairs the employee’s ability to perform; employees must report citations requiring court appearance and arrests or convictions for misdemeanor or felony).
Persons licensed by departments or boards under Title 8 of the Alaska Statutes	Conviction for failure to submit a report of harm regarding a vulnerable adult under AS 47.24.010 is cause for disciplinary proceedings or sanctions.	AS 08.01.077.
Accountants	Accountant’s license may be suspended or revoked for conviction of a felony or conviction of any crime of dishonesty or fraud. Applicant for license must be of good moral character.	AS 08.04.450(5),(6); AS 08.04.110. See also 12 AAC 04.520; 12 AAC 04.990 (good moral character means no incident of a dishonest or felonious act within five years preceding application).
Acupuncturists	Disciplinary sanctions may be imposed where licensed acupuncturist is convicted of felony or other crime that affects licensee’s ability to practice competently and safely. Applicant for license must be of good moral character.	AS 08.06.070(4); AS 08.06.030.
Alaska Housing Finance Corporation energy rater	Applications for authorization to perform energy ratings for AHFC must include a statement that the applicant is not under indictment for forgery, theft, extortion, conspiracy to defraud or any felony involving moral turpitude, and a statement whether the applicant has ever been convicted of the same. Said convictions are grounds for termination or suspension of an energy rater agreement.	15 AAC 155.530; 15 AAC 155.560.

Table 3. Effect on Subsequent Prosecutions / Sentencings

The most readily identifiable of the indirect consequences arising from a criminal conviction is the inflation of a subsequent offense. Once an individual stands convicted, that conviction may alter that status of a second offense and will almost certainly increase the severity of any penalties imposed. Even for experienced practitioners, accurately interpreting the impact of an earlier conviction on a subsequent prosecution and sentencing can be challenging. See, eg., *Mooney v. State*, 157 P.3d 81, 82 (Alaska App. 2007) (“during the plea negotiations, both the prosecutor and the defense attorney shared the same mistaken belief” concerning whether prior offenses counted in such a way as to render the defendant a second felony offender or third felony offender).

Sentencing factors generally	A defendant’s conviction will be a factor in the court’s consideration of an appropriate sentence for any subsequent crime.	AS 12.55.005(2); AS 12.55.185 (definitions).
Authorized sentences generally	Should a defendant commit a subsequent crime, imprisonment is more likely to be imposed as a result of the defendant’s prior conviction.	AS 12.55.015(b)(1); AS 12.55.185 (definitions). See also Alaska R. Crim. P. 32.1(c), (f).
Suspended imposition of sentence	Certain misdemeanor convictions or a felony conviction may render individual ineligible for suspended imposition of sentence in a subsequent prosecution.	AS 12.55.085.
Sentences of imprisonment for felonies	A conviction will trigger enhanced penalties on a subsequent conviction for various offenses.	AS 12.55.125; AS 12.55.145 (limits, definitions); AS 12.55.185 (definitions).
Aggravating factors generally	Prior felony or misdemeanor convictions may serve as aggravating factors to support a sentence above the presumptive range. This includes juvenile offenses that would have been felonies if committed by an adult.	AS 12.55.155; AS 12.55.185 (definitions).
Minor treated as adult	Prior adjudication as a delinquent or conviction as adult of specified crimes may lead to minor being prosecuted, sentenced and incarcerated as an adult.	AS 47.12.030.
Commercial fishing violations	Previous conviction for variety of commercial fishing violations will trigger enhanced penalties on subsequent conviction.	AS 16.05.723; AS 16.10.265 (fish buyers).
Offenses related to alcohol and controlled substances	Previous conviction for refusal to submit to chemical test triggers enhanced penalties and classification of offence on subsequent conviction; prior conviction for driving under the influence of alcohol, inhalants or controlled substances triggers enhanced penalties on subsequent conviction.	AS 28.35.032; AS 28.35.030.
Computation of good time for sex offenders	A prior sexual felony conviction makes an offender ineligible for a good time deduction on a subsequent conviction for a sexual felony.	AS 33.20.010.
Eligibility for correctional restitution centers	Individuals who have been previously convicted of a felony involving violence or force or convicted of certain sexual offenses are ineligible to serve time in a correctional restitution center on a subsequent conviction.	AS 33.30.161.

Bibliography

- Allard, Patricia. (Feb 2002). *Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses*. Washington, DC: The Sentencing Project. (http://www.soros.org/initiatives/baltimore/articles_publications/publications/lifesentences/03-18-03patriciaAllardReport.pdf).
- American Bar Association. (2004). *ABA Standards for Criminal Justice, Third Edition: Collateral Sanctions and Discretionary Disqualification of Convicted Persons*. Washington, DC: American Bar Association. (http://www.abanet.org/crimjust/standards/collateral_toc.html).
- American Bar Association. (3 Oct 2007). *ABA Criminal Justice Section: Re-entry & Collateral Consequences Committee* (web site). (www.abanet.org/dch/committee.cfm?com=CR206500). (Accessed 6 Nov 2007.)
- American Bar Association. (15 Oct 2007). *ABA Commission on Effective Criminal Sanctions* (web site). (<http://www.abanet.org/dch/committee.cfm?com=CR209800>). (Accessed 6 Nov 2007.)
- American Bar Association Justice Kennedy Commission. (Aug 2004). *Reports With Recommendations to the ABA House of Delegates*. Washington, DC: American Bar Association. (http://meetings.abanet.org/webupload/commupload/CR209800/newsletterpubs/JusticeKennedyCommissionReports_Final_081104.pdf).
- Human Rights Watch. (Sep 2007). "No Easy Answers: Sex Offender Laws in the U.S." *Human Rights Watch* 19(4(G)). (<http://hrw.org/reports/2007/us0907/>).
- Kennedy, Anthony M. (9 Aug 2003). "Speech at the American Bar Association Annual Meeting: An Address by Anthony M. Kennedy Associate Justice, Supreme Court of the United States." American Bar Association. (http://meetings.abanet.org/webupload/commupload/CR209800/newsletterpubs/Justice_Kennedy_ABA_Speech_Final.pdf).
- Love, Margaret Colgate. (2006). *Relief From the Collateral Consequences of a Criminal Conviction: A State by State Resource Guide*. Buffalo, NY: William S. Hein. (<http://www.sentencingproject.org/PublicationDetails.aspx?PublicationID=486>).
- Love, Margaret Colgate and Frazier, April. (1 Oct 2006). *Certificates of rehabilitation and other forms of relief from the collateral consequences of conviction: A survey of state laws*. American Bar Association Commission on Effective Criminal Sanctions. (http://meetings.abanet.org/webupload/commupload/CR209800/sitesofinterest_files/AllStatesBriefingSheet10106.pdf).
- Mauer, Marc and Chesney-Lind, Meda, editors. (2002). *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*. New York: New Press.
- National District Attorneys Association. (17 Jul 2005). *Policy Positions on Prisoner Reentry Issues*. Alexandria, VA: National District Attorneys Association. (http://www.ndaa.org/pdf/policy_position_prisoner_reentry_july_17_05.pdf).
-

- Pinard, Michael. (Jun 2006). "An Integrated Perspective on the Collateral Consequences of Criminal Convictions and Reentry Issues Faced by Formerly Incarcerated Individuals." *Boston University Law Review* 86: 623-690. (http://papers.ssrn.com/sol3/papers.cfm?abstract_id=928481).
- Pinard, Michael and Thompson, Anthony C. (2006). "Offender Reentry and the Collateral Consequences of Criminal Convictions: An Introduction." *New York University Review of Law and Social Change* 30(4): 585-620 .
- Reentry Policy Council. *Reentry Policy Council* (web site). Council of State Governments Justice Center. (www.reentrypolicy.org). (Accessed 6 Nov 2007.)
- Smyth, McGregor. (May 2003-Jun 2003). "Bridging the Gap: A Practical Guide to Civil-Defender Collaboration." *Clearinghouse Review: Journal of Poverty Law and Policy* (37): 56-63. (<http://www.bronxdefenders.org/UserFiles/581e8e6b0f12b94f9febbf517b249bbf.pdf>).
- U.S. Department of Justice. (2000). *Federal Statutes Imposing Collateral Consequences Upon Conviction*. U.S. Department of Justice, Office of the Pardon Attorney. (<http://www.reentry.net/search.cfm?fa=download&resourceID=91421&print>).