



NORTH DAKOTA

SNAPSHOT OF EMPLOYMENT-RELATED COLLATERAL CONSEQUENCES

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The National Inventory of Collateral Consequences of Conviction (NICCC) is an online database that catalogs the state and federal statutes and regulations that limit or prohibit people convicted of crimes from accessing various rights, benefits, and opportunities.

As of 2020, the NICCC identifies 470 provisions of North Dakota law that impose these “collateral consequences,” a large majority of which act as barriers to employment for people with criminal convictions (see FIG. A). This fact sheet provides an overview of employment-related collateral consequences in North Dakota.

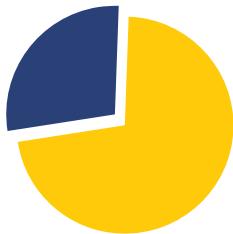


FIGURE A
PERCENTAGE OF TOTAL CONSEQUENCES RELATED TO EMPLOYMENT

■ EMPLOYMENT-RELATED 73%
■ OTHER 27%

TYPES OF EMPLOYMENT-RELATED CONSEQUENCES

Collateral consequences impact employment opportunities either by restricting access to occupational licenses needed to work in certain fields, restricting access to business licenses needed to pursue self-employment, or directly limiting the ability of employers to hire or retain workers with certain conviction histories. FIG. B shows the number of North Dakota consequences that impact each of these three employment-related opportunities.

For more, visit niccc.nationalreentryresourcecenter.org

FIGURE B

NUMBER OF EMPLOYMENT-RELATED CONSEQUENCES BY TYPE

222	OCCUPATIONAL LICENSING
139	BUSINESS LICENSING
92	EMPLOYMENT (DIRECT)

IMPACTED FIELDS

Collateral consequences affect a range of employment fields. FIG. C identifies the top 10 fields impacted by employment-related consequences in North Dakota. The figures indicate the number of employment-related consequences that impact each field.

FIGURE C

FIELDS MOST IMPACTED

107	HEALTH CARE
34	PUBLIC EMPLOYMENT
28	EDUCATION & SCHOOLS
21	REAL ESTATE & PROPERTY
20	GAMING, LOTTERY & RACING
20	INSURANCE SALES & SERVICE
20	AGRICULTURE, LIVESTOCK & FOOD
17	CONSTRUCTION, ETC.*
15	TRANSPORTATION & COMMERCIAL MOTOR VEHICLES
14	HAZARDOUS MATERIALS, PESTICIDES, CHEMICALS & WASTE

*Includes construction, improvement & repair, engineering, plumbing, HVAC, surveying, design & architecture

DISCRETION IN APPLICATION

State law determines whether a consequence must be imposed or may be imposed. Mandatory consequences generally prohibit, without exception, the employment, retention, or licensing of a person with a conviction for a

specified offense. Discretionary consequences authorize employers, licensing entities, and other decision-makers to impose a consequence, but do not require that they do so. Note that some laws require criminal background checks of applicants for employment or licensure without indicating how the decision-maker should act in response to the results. For the purposes of FIG. D, these “background check-only” provisions are considered discretionary consequences. FIG. D indicates the percentage of North Dakota’s employment-related consequences that are either mandatory or discretionary.

FIGURE D
DISCRETION TO IMPOSE CONSEQUENCES



DURATION OF EFFECT

Employment-related consequences may remain in effect for a time-limited duration (usually a specific length of time, beginning on the date of conviction or completion of sentence) or may be indefinite in duration (i.e., no specific time included in the law). FIG. E indicates the percentage of North Dakota’s employment-related consequences that are either time-limited or indefinite. For the purposes of FIG. E, consequences that end once a person satisfies some legal condition, such as completing a drug treatment program or driver training course, are treated as time-limited. Note that a consequence described as indefinite may not be permanent if state or federal law allows the consequence to be removed through a legal process such as criminal record clearance or executive pardon (see General Relief from Collateral Consequences for more).

FIGURE E
CONSEQUENCE DURATION



TRIGGERING OFFENSES

Collateral consequences can be triggered by convictions for a wide range of criminal offenses. Some consequences are triggered by specific offenses, while others are triggered by broader categories of offenses such as “any felony” or “violent crimes.” FIG. F highlights some of the triggering offense categories used by the NICCC and the number of North Dakota’s employment-related consequences triggered by convictions within each category. Note that a consequence assigned to a triggering offense category like “controlled substances offenses” may be triggered only by one specific type of controlled substance offense in the jurisdiction, not all controlled substances offenses.

FIGURE F
NUMBER OF EMPLOYMENT-RELATED CONSEQUENCES TRIGGERED BY OFFENSE CATEGORIES



GENERAL RELIEF FROM COLLATERAL CONSEQUENCES

RECORD CLEARANCE: Most convictions may be sealed upon petition after a waiting period of 3 to 10 years, depending upon the offense. Sealing limits the imposition of many collateral consequences. Prior convictions may impact eligibility.

LIMITS ON CONSIDERATION OF CONVICTIONS: Public employment and licensure may not generally be denied unless it is determined that the offense has a “direct bearing” on the person’s ability to serve the public or the person is determined not to be “sufficiently rehabilitated.” Agencies must consider factors including age of conviction, the nature of the offense, and evidence of rehabilitation.

For information on record clearance in North Dakota, see the Clean Slate Clearinghouse website at CleanSlateClearinghouse.org.