

National Clearinghouse for the Defense of Battered Women

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Collateral Consequences of Arrest, Conviction & Incarceration

Internet Resources

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The following resources are organized according to different categories of collateral consequences of an arrest or conviction. Within the categories, when we know of online resources that address the topic, we have included information about where to find them. This is not an exhaustive listing of resources. If you know of additional online resources that should be added to this list, please contact the National Clearinghouse.

NOTE: Many of these resources are state-specific, but we are sharing them in case they contain useful information or models that would be relevant to people in other states.

Child custody consequences

Rebuttable presumption against child custody

- ◆ **Collateral Consequences of Criminal Convictions in the District of Columbia: A Guide for Criminal Defense Lawyers** created by the Community Re-entry Program of the Public Defender Service for the District of Columbia (2004).
Comprehensive review of statutes in the District of Columbia on a range of issues including civil forfeiture, democratic participation, employment, child custody and parental rights, housing, immigration, and more. Designed for criminal defense attorneys.
→ http://www.reentry.net/search/item.121665Collateral_Consequences_of_Criminal_Convictions_in_the_District_of_Columbia?tab=pane_search-results-1

Child Protective Services involvement

- ◆ **Incarcerated Parents Manual: Your Legal Rights and Responsibilities** by Legal Services for Prisoners with Children (2007).
Overview of California law and legal options for incarcerated parents.
→ <http://www.prisonerswithchildren.org/pubs/ipm.pdf>

Termination of parental rights if incarcerated

- ◆ **When “Free” Means Losing Your Mother: The Collision of Child Welfare and the Incarceration of Women in New York State** by Julie Kowitz Margolies and Tamar Kraft-Stolar of the Women in Prison Project of the Correctional Association of New York (2006).
Explores the impact of the Adoption & Safe Families Act on incarcerated mothers and their children and makes recommendations for policy reforms.
→ http://www.correctionalassociation.org/publications/download/wipp/reports/When_Free_Rpt_Feb_2006.pdf

Economic Consequences

Court fines, fees & restitution

- ◆ **Ordering Restitution to the Crime Victim** by the U.S. Department of Justice (2002).
An overview of laws and practices throughout the U.S. for ordering people convicted of crimes to pay restitution to the victim in the case.
→ <http://www.ojp.usdoj.gov/ovc/publications/bulletins/legalseries/bulletin6/ncj189189.pdf>

Loss of eligibility for some public benefits (e.g., food stamps & cash benefits for drug convictions)

- ◆ **Collateral Consequences: Denial of Basic Social Services Based Upon Drug Use** by Robin Levi and Judith Appeal, Office of Legal Affairs, Drug Policy Alliance (2003).
Describes collateral consequences of drug crime convictions focusing on impacts related to housing, higher education, public benefits, and child welfare.
→ http://www.drugpolicy.org/docUploads/Postincarceration_abuses_memo.pdf
- ◆ **Finding the Key to Successful Transition from Jail or Prison to the Community: An Explanation of federal Medicaid and Disability Program Rules for People with Serious Mental Illnesses** by the Bazelon Center for Mental Health Law (2009)
Describes federal income support through the Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) programs, and health coverage under Medicaid and Medicare, and how people with a severe mental illness can access these supports to improve their transition from jail or prison.
→ <http://www.bazelon.org/LinkClick.aspx?fileticket=Bd6LW9BVRhQ%3d&tabid=104>
- ◆ **Life Sentences: Denying Welfare Benefits to Women Convicted of Drug Offenses** by Patricia Allard for the Sentencing Project (2002).
Explores the impact on women and children of the lifetime ban on receiving cash assistance and food stamps for those convicted of state or federal drug crimes. This ban is a provision of the 1996 “welfare reform” act.
→ http://www.sentencingproject.org/doc/publications/women_lifesentences.pdf

Fees for probation supervision, drug testing, mandatory treatment groups, etc.

- ◆ **Hot Topic: Supervision Fees** by the American Probation and Parole Association (2002).
Includes a listing of U.S. jurisdictions that collect supervision fees from people on probation.
→ http://www.appa-net.org/eweb/DynamicPage.aspx?webcode=VB_HotTopicDetail&fq_key=efb7e2c8-b6ce-4b0d-a36c-f42d9a1e2ace
- ◆ **Issue Paper: Supervision Fees** by the American Probation and Parole Association (2001).
Raises questions about current policies and procedures associated with the collection of supervision fees.
→ http://www.appa-net.org/eweb/Dynamicpage.aspx?site=APPA_2&webcode=IB_IssuePaper&wps_key=bbe810ce-4464-4519-a1d7-4993574a8d61

Loss of eligibility for pension plans

- ◆ **State can strip rights to pension** by Lewis Kamb for the *Seattle Post-Intelligencer* (2006). Article that reviews laws governing states' rights to deny pensions to people who work for state or federal agencies who are convicted of crimes.
→ http://www.seattlepi.com/local/269826_pensionstates11web.asp

Education

Loss of eligibility for federal financial aid

- ◆ **Unchaining Civil Rights: Overcoming Criminalized Inequality** by the Center for Community Alternatives and the Legal Action Center's National Hire Network (no date). Includes information about restricted access to financial aid for people with convictions among other examples of discrimination and structural exclusion.
→ <http://www.unchainingcivilrights.org/assets/documents/FramingPaper.pdf>

Exclusion from some institutions of higher learning

- ◆ **After Prison: Roadblocks to Reentry. A Report on State Legal Barriers Facing People with Criminal Records** by Paul Samuels and Debbie Mukamal for the Legal Action Center (2004).
A comprehensive overview regarding state laws that restrict access of people with criminal records to a range of supports and services. Includes a state-by-state report card rating states according to how restrictive their laws are for people convicted of crimes.
→ http://www.hirenetwork.org/pdfs/LAC_PrintReport.pdf

Employment consequences

Preclusion from being hired for certain jobs

- ◆ **Answering Questions from Employers About Criminal Records or Arrests** from Legal Momentum (2005).
Provides information for individuals who are victims of assault and who have also been arrested or convicted of a crime related to violence, including advice for responding to questions about violence and criminal activity from potential employers.
→ <http://www.legalmomentum.org/assets/pdfs/answerincrquestions.pdf>
- ◆ **Employment of Ex-Offenders: Employer Perspectives** by Jennifer Fahey, Cheryl Roberts, and Len Engel of Crime and Justice Institute (2006).
Findings of focus groups with 28 Boston-area employers regarding their views about hiring formerly incarcerated people.
→ http://cjinstitute.org/files/ex_offenders_employers_12-15-06.pdf
- ◆ **A Higher Hurdle: Barriers to Employment for Formerly Incarcerated Women** by Monique W. Morris, Michael Sumner, and Jessica Z. Borja for the Thelton E. Henderson Center for Social Justice (2008).
Used unique research methods to measure the differential treatment among formerly incarcerated women seeking employment compared to women who had not been

incarcerated. Found that a criminal record has a negative impact on employment opportunities of women.

→ http://www.law.berkeley.edu/files/A_Higher_Hurdle_December_2008%281%29.pdf

- ◆ **How to Address Arrests or Convictions when Seeking Employment** prepared by Student Legal Services (no date).
Pamphlet designed to assist individuals with criminal histories seeking employment. Contains advice about job seeking and responding to application and interview questions.
→ <http://www.odos.uiuc.edu/sls/brochureAds/downloads/EmplArrestsConv.pdf>

Professional licensure loss / preclusion

- ◆ **After Prison: Roadblocks to Reentry. A Report on State Legal Barriers Facing People with Criminal Records** by Paul Samuels and Debbie Mukamal for the Legal Action Center (2004).
A comprehensive overview regarding state laws that restrict access of people with criminal records to a range of supports and services. Includes a state-by-state report card rating states according to how restrictive their laws are for people convicted of crimes.
→ http://www.hirenetwork.org/pdfs/LAC_PrintReport.pdf

Loss of employment resulting from firearms prohibition

- ◆ **Firearms Prohibitions and Domestic Violence Convictions: The Lautenberg Amendment** by T.J. Halstead for the Congressional Research Service (2001).
Review of federal legislation regarding access to firearms for people convicted of domestic violence-related crimes.
→ <http://www.vlp.org/dvconference/lautenberg.pdf>

Enhanced penalties

If arrested or convicted again, increased sentence due to being a “repeat offender”

- ◆ **2006 Initiative Analysis: The Repeat Criminal Offender / Three Strikes Fair Sentencing Act of 2006** by the California Legislative Analyst’s Office (2006).
Overview of existing California law regarding sentencing enhancements and the fiscal impact of proposed 2006 amendments.
→ <http://www.lao.ca.gov/ballot/2006/060112.htm>

If abusive partner sabotages compliance with terms of probation or parole, could have enhanced penalties or be incarcerated

- ◆ **Victim-Defendants: An Emerging Challenge in Responding to Domestic Violence in Seattle and the King County Region** by Meg Crager, Merrill Cousin, and Tara Hardy of the King County Coalition Against Domestic Violence (Seattle, WA) (2003).
Report on domestic violence survivors who are defendants in domestic violence-related crimes in King County (Seattle) in Washington State. Contains information for practitioners and policy-makers in community-based and criminal justice system agencies who share goals of ensuring safety, justice, and support for domestic violence survivors

accused of domestic violence-related crimes. Although focused on King County, practitioners from other will find a lot of relevant and useful information for their own communities.

→ <http://kccadv.org/Reports/victimdefendantfinalreport1.pdf>

Mandated treatment (e.g., batterer intervention programs, NA / AA, parenting classes)

- ◆ **Vista: A Program for Women Who Use Force** by Lisa Young Larance, Allison Hoffman-Ruzicka, and Jane Baldwin Shivas for Jersey Center for Nonviolence, a Program of Jersey Battered Women's Services, Inc. (2009).

A 20-week curriculum designed for women who use any combination of control, force, or violence in their intimate relationships and have been mandated by the courts to attend an intervention group.

→ <http://jbws.org/publications.html>

Housing

Loss of public / assisted housing

- ◆ **An Affordable Home on Re-Entry: Federally Assisted Housing and Previously Incarcerated Individuals** by Catherine Bishop for the National Housing Law Project (2009).

Guide for advocates working with individuals with criminal records seeking access to federally assisted housing programs. Includes overview of current state of the law, barriers people with records face in securing housing, and suggestions for policy change.

→ <http://nhlp.org/guidebooks> or <http://nhlp.org/files/01%20Re-entry%20zip%207.09.zip>

- ◆ **Policy brief: No Place Like Home: Housing and the Ex-Prisoner** by Katharine H. Bradley, R.B. Michael Oliver, Noel C. Richardson, and Elspeth M. Slayter for Community Resources for Justice (2001).

An overview of housing policies affecting the needs of formerly incarcerated people.

→ http://cjinstitute.org/files/No_Place_Like_Home.pdf

Preclusion from renting with private landlords who do criminal background checks

- ◆ **Taking Stock: Housing, Homelessness, and Prisoner Reentry** by Caterina Gouvis Roman and Jeremy Travis for the Urban Institute (2004).

Overview of the housing needs of formerly incarcerated people which includes a review of barriers people encounter in the private housing market, in addition to barriers in public housing.

→ http://www.urban.org/UploadedPDF/411096_taking_stock.pdf

Immigration consequences

Deportation consequences

- ◆ **The Defending Immigrants Partnership**

Because the immigration consequences of arrests and convictions are so serious, the Immigrant Legal Resource Center, Immigrant Defense Project, National Legal Aid and Defender Association, and the National Immigration Project of the National Lawyers Guild have formed the Defending Immigrants Partnership to assist criminal defenders in representing non-citizens.

→ <http://defendingimmigrants.org/>

Immigration detention while awaiting deportation proceedings

- ◆ **Detention and Deportation in the Age of ICE: Immigrants and Human Rights in Massachusetts** by Laura Rótolo for the American Civil Liberties Union of Massachusetts (2008).

Study documenting the conditions of confinement for persons held in Immigration & Customs Enforcement (ICE) facilities in Massachusetts.

→ http://www.aclum.org/ice/documents/aclu_ice_detention_report.pdf

Restricted rights

Loss of right to vote

- ◆ **Jim Crow in New York** by Ericka Wood and Liz Budnitz, with Garima Malhotra of the Brennan Center for Justice (2009).

Exploration of the impact of New York's criminal disenfranchisement law, which is nearly identical to the provision enacted 140 years ago designed to bar African Americans from voting.

→ http://brennan.3cdn.net/50080b21f7f0197339_z7m6i20ud.pdf

- ◆ **Voting after Criminal Conviction Project** of the Brennan Center for Justice.

The Brennan Center works nationwide to restore the vote to people with criminal convictions.

→ http://www.brennancenter.org/content/section/category/voting_after_criminal_conviction

Loss of right to travel or relocate (e.g., while on parole, probation, bail)

- ◆ **Policy Directive: Travel Restrictions for Probationers and Parolees** by the Michigan Department of Corrections (2009).

Overview of Michigan Department of Corrections' policy about when and how people on parole or probation can travel within and outside the state.

→ http://www.michigan.gov/documents/corrections/06_04_110_283823_7.pdf

Prohibition on purchasing, possessing, transferring, concealing, or obtaining a license for firearms or ammunition

- ◆ **Background Checks for Firearm Transfers, 2005** by Michael Bowling, Gene Lauver, Matthew J. Hickman, and Devon B. Adams for the Bureau of Justice Statistics (2006).

National estimates of the total number of applications and rejections resulting from state laws and the federal Brady Handgun Violence Prevention Act (Brady Act), which

mandates criminal history background checks on persons applying to purchase firearms from federally licensed firearm dealers.

→ <http://bjs.ojp.usdoj.gov/content/pub/pdf/bcft05.pdf>

Limitations on expungement per state law

- ◆ **Clean Slate Program** by the San Francisco Office of the Public Defender (no date).
Information about how to receive assistance in expunging one's criminal record. Includes a list of which crimes are eligible for expungement.
→ http://sfpublicdefender.org/files/2009/04/cleanslate09_applic_rev.pdf
- ◆ **Cleaning Up Criminal Records: Expungement Program** by Michigan Reentry Law (no date).
Information about expungements in Michigan shared through a collaborative effort by people involved in reentry in Michigan to provide relevant, current information on legal issues facing people with criminal records.
→ http://reentry.mplp.org/reentry/index.php/Cleaning_Up_Criminal_Records:_Expungement
- ◆ **How to Get and Clean Up Your New York State Rap Sheet** by the Legal Action Center (2007).
Comprehensive manual for people in NY State about cleaning up their criminal records.
→ http://lac.org/doc_library/lac/publications/NYS_Rap_Sheet_Final.pdf
- ◆ **Second Chance Through Expungement Program** by Wayne County, Michigan (2009).
A program aimed at assisting Wayne County (MI) residents expunge non-violent convictions from their records.
→ <http://www.waynecounty.com/documents/StepExample.pdf>

Loss of right to privacy while on parole (i.e., subject to random searches)

- ◆ **Parolee Conditions** by the CA Department of Corrections & Rehabilitation (no date).
A listing of conditions of parole for people in California, including the "Advisement that the parolee, their residence, and possessions can be searched at any time of the day or night, with or without a warrant, and with or without a reason" by a parole agent or police officer.
→ http://www.cdcr.ca.gov/Parole/Parolee_Conditions/index.html

Limited enforcement of basic human rights during incarceration (e.g., subject to violent/abusive conditions; poor medical, dental, and mental health care; restricted access to visits with children or other loved ones; isolation, etc.)

- ◆ **"Not Part of My Sentence": Violations of the Human Rights of Women in Custody** by Amnesty International (1999).
Describes violations of internationally guaranteed human rights of women incarcerated in prisons and jails in the United States. Violations include rape and other forms of sexual abuse; the cruel, inhuman and degrading use of restraints on incarcerated women who are pregnant or seriously ill; inadequate access to treatment for physical and mental health needs; and confinement in isolation for prolonged periods in conditions of reduced sensory stimulation.

→ <http://www.amnesty.org/en/library/asset/AMR51/019/1999/en/7588269a-e33d-11dd-808b-bfd8d459a3de/amr510191999en.pdf>

Privacy consequences

Information about criminal records easily available on line

- ◆ Texas Department of Public Safety Crime Records Service by the Texas Department of Public Safety (no date).
An example of a statewide searchable criminal history database.
→ https://records.txdps.state.tx.us/DPS_WEB/Portal/index.aspx?Redirected

Additional safety and service consequences

Many of the above consequences may directly or indirectly limit domestic violence survivors' options for enhancing their safety. Additional potential implications of arrest or conviction for battered women's safety include (among other things):

Subsequent help-seeking behavior (based on experience or perception of how people respond to people convicted of crimes)

- ◆ **Victim-Defendants: An Emerging Challenge in Responding to Domestic Violence in Seattle and the King County Region** by Meg Crager, Merrill Cousin, and Tara Hardy of the King County Coalition Against Domestic Violence (Seattle, WA) (April 2003).
Report on the issue of domestic violence survivors who are defendants in domestic violence-related crimes in the Seattle area. Includes accounts from interviews with victim-defendants about their reluctance to call the police after having been arrested.
→ <http://kccadv.org/Reports/victimdefendantfinalreport1.pdf>

General overview of collateral consequences

- ◆ **After Prison: Roadblocks to Reentry – A Report on State Legal Barriers Facing People with Criminal Records** a report by the Legal Action Center (2004).
Provides information about legal obstacles faced by individuals with criminal records upon reentering communities. Includes information on laws by state regarding collateral consequences and an analysis of the impact of those laws.
→ <http://www.lac.org/roadblocks-to-reentry/index.php>
- ◆ **Beyond the Conviction: What Defense Attorneys in Washington State Need to Know About Collateral and Other Non-Confinement Consequences of Criminal Convictions** by Kim Ambrose for the Washington Defender Association (2005).
Provides information targeted to defense attorneys in Washington State about collateral consequences including as regarding employment, housing, public benefits, family issues, and more.
→ http://www.reentry.net/search/item.121666-Beyond_the_Conviction_What_Defense_Attorneys_in_Washington_State_Need_to_Kn?tab=pane_search-results-1

- ◆ **Collateral Consequences of Criminal Convictions in the District of Columbia: A Guide for Criminal Defense Lawyers** created by the Community Re-entry Program of the Public Defender Service for the District of Columbia (2004).
Comprehensive review of statutes in the District of Columbia on a range of issues including civil forfeiture, democratic participation, employment, child custody and parental rights, housing, immigration, and more. Designed for criminal defense attorneys.
→ http://www.reentry.net/search/item.121665Collateral_Consequences_of_Criminal_Convictions_in_the_District_of_Columbia?tab=pane_search-results-1
- ◆ **Every Door Closed: Barriers Facing Parents with Criminal Records** by Amy E. Hirsch, Sharon M. Dietrich, Rue Landau, Peter D. Schneider, Irv Ackelsburg, Judith Berstein-Baker, and Joseph Hohenstein for the Center for Law and Social Policy and Philadelphia Community Legal Services (2002).
Examines the impact of a criminal conviction on employment, welfare benefits, housing, child custody, immigration, and student loans. Includes policy recommendations for enhancing the ability of people with criminal records to access needed resources.
→ http://www.clasp.org/publications/every_door_closed.pdf (Full report)
→ http://www.clasp.org/admin/site/publications_archive/files/0139.pdf (Fact sheets)
- ◆ **Federal Statutes Imposing Collateral Consequences** prepared by the Office of the Pardon Attorney (2000).
Provides information about the collateral consequences of federal felony offense conviction; focuses on legal consequences.
→ http://www.usdoj.gov/pardon/collateral_consequences.pdf
- ◆ **The Intended and Unintended Consequences of the Criminal Justice System** from Defending Justice (2005).
Overview of collateral consequences presented in a fact sheet.
→ <http://www.defendingjustice.org/pdfs/factsheets/16-Fact%20Sheet%20-%20Collatoral%20Consequences.pdf>
- ◆ **Internal Exile: Collateral Consequences of Conviction in Federal Laws and Regulations** by the American Bar Association Commission on Effective Criminal Sanctions and the Public Defender Service for the District of Columbia (2009).
→ <http://www.pdsdc.org/Resources/Publication/Collateral%20Consequences%20of%20Conviction%20in%20Federal%20Laws%20and%20Regulations.pdf>
- ◆ **A Practitioner's Guide to Collateral Consequences of Conviction** by Christine Tramantano (2006).
This 39-page manual, written for the Justice Action Center Student Capstone Journal at New York Law School, includes a discussion of the effects of collateral consequences and laws that permit their occurrence in housing, public benefits, employment, licensing and sex offender registry federally and in New York.
→ http://www.nyls.edu/user_files/1/3/4/30/59/65/68/capstone050603.pdf
- ◆ **Relief from the Collateral Consequences of a Criminal Conviction: A State-by-State Resource Guide** by Margaret Colgate Love for the Sentencing Project (2005).

This resource guide describes consequences for each state, for the federal system, and contains an executive summary with general information applicable nation-wide. Reviews state and federal laws and practices regarding restoration of rights following a criminal conviction. The website is interactive and designed to be updated as needed.

→ http://www.sentencingproject.org/detail/publication.cfm?publication_id=115

Executive Summary:

→ <http://www.sentencingproject.org/doc/File/Collateral%20Consequences/execsumm.pdf>

ORGANIZATIONS/WEBSITES/PROJECTS

The following list is of ongoing projects specifically related to collateral consequences with information available on-line.

- ◆ All of Us or None:
→ <http://allofusornone.org/>
- ◆ Legal Action Center Advocacy Toolkits to Combat Legal Barriers Facing Individuals with Criminal Records:
→ <http://www.lac.org/toolkits/Introduction.htm>
- ◆ National Reentry Resource Center: A project of the Council of State Governments Justice Center
→ <http://www.nationalreentryresourcecenter.org/>
- ◆ Reentry Net: A collaboration between the Bronx Defenders, Prisoner Reentry Institute at John Jay College, and Pro Bono Net
→ <http://www.reentry.net/>
- ◆ The Sentencing Project Collateral Consequences focus:
→ <http://www.sentencingproject.org/template/page.cfm?id=143>