



MONTANA

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 531 provisions of Montana 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 Montana.

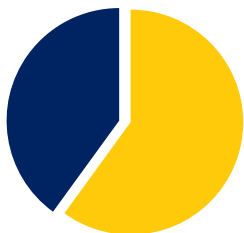


FIGURE A
PERCENTAGE OF TOTAL CONSEQUENCES RELATED TO EMPLOYMENT

■ **EMPLOYMENT-RELATED 60%**
■ **OTHER 40%**

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 Montana consequences that impact each of these three employment-related opportunities.

FIGURE B

NUMBER OF EMPLOYMENT-RELATED CONSEQUENCES BY TYPE

157 OCCUPATIONAL LICENSING
128 EMPLOYMENT (DIRECT)
119 BUSINESS LICENSING

IMPACTED FIELDS

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

FIGURE C

FIELDS MOST IMPACTED

79 HEALTH CARE
27 TRANSPORTATION & COMMERCIAL MOTOR VEHICLES
26 PUBLIC EMPLOYMENT
25 BANKING, LENDING, SECURITIES & FINANCE
22 INSURANCE SALES & SERVICE
20 EDUCATION & SCHOOLS
20 AGRICULTURE, LIVESTOCK & FOOD
18 GAMING, LOTTERY & RACING
18 REAL ESTATE & PROPERTY
17 CHILDCARE PROVIDERS & YOUTH PROGRAMS

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 Montana’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 Montana’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 Montana’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

Montana law provides the following broadly effective mechanisms that may reduce the legal effects of employment-related collateral consequences:

RECORD CLEARANCE: Expungement is available for most misdemeanors and is presumptive after five years. Expungement limits the imposition of many collateral consequences. Prior convictions may impact eligibility.

LIMITS ON CONSIDERATION OF CONVICTIONS: Occupational licensing bodies may not generally deny a license solely on the basis of conviction. Conviction-based denials may only be based on an offense that “relates to the public health, welfare, and safety as it applies to the occupation for which the license is sought.”

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