Collateral Consequences 101

*Collateral Consequences* refers to the system of laws that restrict your rights, privacy, and mobility on the outside on the basis of your criminal record. In other words, a criminal conviction results in more consequences than just the terms of your criminal sentence (such as imprisonment, community service, restitution, probation, etc.). Even after you’ve served your criminal sentence, your criminal conviction can affect your access to basic rights like housing, voting, and education. This is a guide to some of the most common collateral consequences of criminal conviction facing Illinois residents.

**Name Change Restrictions**
If you have been convicted of any felony, you will not be eligible to change your legal name in Illinois until 10 years have passed since you finished your sentence for that felony. For example, if you have been convicted of Felony Retail Theft, and are sentenced to 12 months of probation, then you will not be eligible to change legal your name in Illinois until ten years after the date that you terminated your probation. If you have been convicted of any of the following offenses, you are permanently barred from changing your legal name in Illinois: identity theft; aggravated identity theft; misdemeanor criminal sexual abuse when the victim of the offense at the time of its commission is under 18 years of age; misdemeanor sexual exploitation of a child; misdemeanor indecent solicitation of a child; misdemeanor indecent solicitation of an adult in this State or any other state. Please refer to the Illinois name change documents on this website for more information regarding the name change process.

**Welfare Assistance**
**LINK:** If you are a US citizen, a criminal conviction will not affect your eligibility for LINK, formerly known as “food stamps.”

**TANF:** If you have been convicted of a Class X or Class 1 felony, you will not be eligible for cash assistance through Temporary Assistance for Needy Families (TANF). If you have been convicted of any other type of felony, you will be ineligible for cash assistance until two years have passed since the date of your conviction, unless you agree to be admitted to a drug treatment program, aftercare program, or similar program.

**SSI & SSDI:** People who are incarcerated in jail or prison may not receive SSI or SSDI benefits during their incarceration, but may apply after they are released. However, people who were injured while committing a felony or while incarcerated may not apply for disability benefits on the basis of that injury.

**Medicaid & Medicare:** Criminal convictions do NOT impact your eligibility for Medicaid or Medicare. However, people who are incarcerated in jail or prison are not eligible for Medicaid or Medicare until they are released.
**Immigration Status**

If you are not a US citizen, and you have a green card, the government may have the power to cancel your green card, place you in an immigrant detention center, and deport you from the country on the basis of a criminal conviction. While you can be placed in deportation proceedings for most kinds of criminal convictions, even nonviolent ones (e.g., shoplifting), examples of convictions that will *not* lead to being deported include most traffic violations (excluding certain DUI’s). If you have a green card, and you are going through deportation proceedings, you may be able to petition the government to allow you to stay in the country. If you are undocumented, and you were arrested and/or convicted for any (suspected) crime, you have a high chance of being placed into deportation proceedings, though it is not certain.

If you are a non-citizen and have committed a crime that labels you an “aggravated felon,” it is now impossible for you to ask a judge for a pardon, or for release on bond. Further, people convicted of “aggravated felonies” who are deported are permanently barred from re-entering the country, and face extremely harsh punishments for illegal re-entry. In other words, there are increasingly strict mandatory requirements for your permanent deportation if you are not a U.S. citizen, or for your incarceration if you are not eligible for deportation. If you have been sentenced to mandatory detention, immigration courts are not allowed to hear your case, and federal courts cannot review the decisions made by immigration authorities. These efforts, like mandatory minimum sentences for full citizens convicted on drug charges, make it easier for the government to isolate immigrants from their friends and family. Further, courts are allowed to deport people “by surprise”, after they have finished your time in a detainment facility and may have been led to believe that they are returning home. Some prosecutorial offices have been specifically trained by immigration authorities to obtain convictions that result in deportation.

**Employment Discrimination**

In Illinois, it is unlawful for an employer, employment agency, or labor organization to ask about an arrest or any criminal record information that has been expunged or sealed. You are not legally obligated to answer any questions about this information. It is also unlawful for an employer or employment agency to refuse to hire, recruit, promote, select for training, discharge, or discipline you on the basis of a criminal record that has been expunged or sealed. However, this does *not* mean that discrimination on the basis of arrest records alone does not happen.

Further, Illinois employers are lawfully allowed to discriminate against job applicants on the basis of the circumstances that led to your arrest (i.e., your alleged behavior, and not your actual arrest), as well as on the basis of your prior criminal convictions. Remember that all arrest and conviction records that are not expunged or sealed are open to the public, and that over 80% of large employers conduct criminal background checks.

You may legally be denied a professional license for either a felony, or certain types of misdemeanors. For example, Cosmetology and Barber licenses will be suspended or denied following a felony conviction, and Nursing licenses may be suspended or denied for various criminal convictions on a case-by-case basis. Licenses for social workers and other professional counselors might also be denied, suspended, or revoked on the basis of a criminal conviction; this is decided on a case-by-case basis.
**Education Discrimination**
Increasingly, colleges and universities are denying applicants solely on the basis of prior criminal convictions. Schools tend to be especially concerned with convictions for alcohol, drug, sex, and violent crimes. More than 60% of colleges and universities consider applicants’ criminal records, though only half of them receive training regarding how to interpret those records.

When it comes to receiving financial assistance, if you mark on the FAFSA form that you have been convicted of “possessing or selling illegal drugs”, you will be required to fill out a worksheet to determine whether you will be eligible for financial aid. As of 2006, the government will deny federal financial aid only to those who were convicted of a drug offense while enrolled and receiving federal financial aid.

**Housing Discrimination**
It is unlawful for landlords to discriminate against a person in the housing market on the basis of arrest records alone, though it is legal to discriminate on the basis of felony convictions. In reality, landlords and real estate agents often unlawfully evict or deny people for housing on the basis of arrests alone.

If you are applying for public housing and have been arrested but not convicted of a crime, you may be placed on a wait list until your case is resolved. Further, public housing organizations have been known to deny applicants vouchers and access to housing if their spouse or partner has been convicted of a violent crime. The Chicago Housing Authority also refuses to give housing subsidies to people with felony convictions, which may restrict your access to most housing classified as affordable and low-income. If you have a violent or a drug-related offense on your record, you are ineligible for public housing for three years since the date of your conviction. If you have been convicted of arson, manufacturing methamphetamine, child molestation, or have ever been on the Sex Offender Registry, you are forever banned from living in public housing facilities in Chicago, with the exception of some transitional housing facilities.

Many homeless shelters, domestic violence shelters, and youth shelters, in addition to being sex-segregated and inaccessible to trans people, may lawfully deny applications on the basis of what they consider a “violent crime.”

**Voting Restrictions**
You are not allowed to vote in government elections while you are incarcerated in Illinois. However, you may vote upon completion of your sentence and while on probation and parole.

**Driver’s License**
If you have been convicted of a drug-related offense, your driver’s license will be suspended for a period of time decided by the judge, or revoked indefinitely. If it is revoked, you cannot apply to get it back for at least one year after the first offense, five years after a second offense occurring within twenty years of the first one, and ten years after your third offense. On the fourth offense, you license will be permanently revoked. If you are under twenty-one at the time of your conviction, your license will be revoked for at least two years on the first offense, five years on the second offense (or until your twenty-first birthday), ten years for the third
offense, and will be permanently revoked for the fourth offense. If your license has not been permanently revoked, you may apply for a restricted driving permit if you need to drive to work, school, alcohol rehab, or to receive medical care.

**Prison and Jail Visitation Restrictions**
While in IDOC custody, you may be restricted to having non-contact visits for any of the following reasons: if you are in an adult closed maximum security facility, in segregation, or are considered an “extremely high escape risk”; if you have failed a drug test or have been discovered in possession of illegal drugs; if you are suspected of being involved in gang activity. If you are on bond, parole, mandatory supervised release, probation, or an ex-inmate, you may only visit a person in IDOC custody with the approval of the Warden at the facility you are trying to visit. The Warden may deny your request on the basis of your criminal history.

Further, Cook County Jail runs background checks anyone who requests visitation with someone detained there, and can deny your visitation application on the basis of a criminal record.

**Effects on Future Criminal Prosecutions**
In certain cases, having a criminal history may mean that your sentence for a future conviction is magnified. For example, prosecutors in Cook County take into account previous criminal convictions when deciding whether to offer certain non-convictions like court supervision and deferred prosecution. These options mean that, if you complete certain requirements, then the case will NOT count as a conviction on your record. However, you may be ineligible for these programs if you have certain previous criminal convictions. Further, prior criminal convictions are also taken into account when the judge determines your bond. This means that if you have certain criminal convictions, you may have to post a higher bond – or not be allowed to post bond at all – in order to get out of jail while your case is going on.

Admitting guilt and accepting a plea bargain may be an effective short-term strategy for staying out of jail, but doing so may also be more harmful to you in the long run if you are picked up again. It is important that you speak to a defense attorney before pleading guilty and accepting any plea-bargains – especially if you believe yourself to be innocent of the charges.

**Sex Offender Registry**
If you have been convicted of one or more of the following offenses, you will be required to have your name, photo, home location, and the offense on the Sex Offender Registry for at least 10 years: indecent solicitation of a child; sexual exploitation of a child; custodial sexual misconduct; soliciting for a juvenile prostitute; keeping a place of juvenile prostitution; patronizing a juvenile prostitute; juvenile pimping; exploitation of a child; child pornography; criminal sexual assault; aggravated criminal sexual assault; predatory criminal sexual assault of a child; criminal sexual abuse; aggravated criminal sexual abuse; and ritualized abuse of a child. The information that you put on the Registry is open to the public, and the police are required to disseminate your information to any schools near your place of residence.
As a registered sex offender, you will not be allowed to live within 500 feet of a school, Public Park, daycare center, or the survivor/victim and their family. You will also not be allowed to live in the same building as another registered sex offender, and will be ineligible for public housing, other than licensed transitional housing facilities.

While guidelines for the Sex Offender Registry vary depending on the offense, you will generally have to pay $20 for the first time that you register, and $10 for every year you are required to register after that. Registration must be done in person with the police force in the county in which you live, work, and/or go to school. Some convictions require that you register once a year, and others require that you register four times a year. You also must register every time you move, get a new job, or attend a new school. Be sure you know exactly when, where, and under what conditions you are supposed to register according to your offense, as it can vary with the offense. Failing to register as a sex offender is a Class 3 felony, for which you will be fined $500 and sentenced to a minimum of seven days in jail. Further, your parole and probation will be revoked, and the time limit for which you are required to register will be extended by another ten years.

Expunging or sealing your criminal record can help reduce the impact of some of these collateral consequences. For some people, certain legal certificates and waivers may also be available to improve your employment options. Please speak with an attorney at TJLP and ask if you are eligible.