

Amendment No. 416

Senate Amendment to Senate Bill No. 395

(BDR 14-22)

Proposed by: Senate Committee on Judiciary**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

VMS/BJE



Date: 4/21/2013

S.B. No. 395—Enacts the Uniform Collateral Consequences of Conviction Act.
(BDR 14-22)



SENATE BILL NO. 395—SENATOR SEGERBLOM

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—~~Enacts the Uniform Collateral Consequences of Conviction Act.~~
Requires the Attorney General to prepare and publish certain information. (BDR 14-22)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
 Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to criminal procedure; ~~enacting the Uniform Collateral Consequences of Conviction Act;~~ requiring the Attorney General to prepare and publish certain information concerning the collateral consequences of a conviction; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~This bill enacts the Uniform Collateral Consequences of Conviction Act. Sections 4, 5 and 8 of this bill define a collateral consequence of conviction as: (1) a legal disability that occurs by operation of law because of a conviction but is not part of the sentence for the crime; or (2) a disadvantage or disability that an administrative agency, civil court or other state actor other than a sentencing court is authorized, but not required, to impose based on a conviction.~~

Section ~~424~~ 1 of this bill requires the Attorney General to prepare and publish a collection of the provisions of existing law which impose or authorize a collateral consequence of conviction and any provisions of existing law allowing relief from those collateral consequences. **Section 1** defines a collateral consequence of conviction as: (1) a legal disability that occurs by operation of law because of a conviction but is not part of the sentence for the crime; or (2) a disadvantage or disability that an administrative agency, civil court or other state actor other than a sentencing court is authorized, but not required, to impose based on a conviction. Under **section ~~424~~ 2** of this bill, the first such collection must be prepared on or before January 1, 2014, and under **section ~~424~~ 1**, the Attorney General must update the collection not later than 45 days after each regular legislative session. **Section ~~424~~ 1** also requires the collection to be made available on the Internet not later than 14 days after it is created or updated.

~~Sections 14 and 15 of this bill require notice of collateral consequences of conviction to be provided to a defendant during a criminal case. Section 14 requires the court to provide notice of collateral consequences at the time a person receives formal notice of criminal charges against him or her. Sections 15 and 22 of this bill require certain information concerning collateral consequences to be provided at sentencing and before release from incarceration.~~

~~Section 16 of this bill allows a collateral consequence that is a legal disability occurring by operation of law as a result of a conviction to be imposed only by statute, ordinance or formally adopted regulation. Section 17 of this bill requires governmental decision makers to~~

~~consider certain information when deciding whether to impose a legal disadvantage or disability that the decision maker is authorized, but not required, to impose based on a conviction.~~

~~Section 18 of this bill defines the judgments that constitute convictions for the purposes of imposing collateral consequences. Section 18 further prescribes the manner in which out of state convictions and juvenile adjudications will be used to impose collateral consequences in this State. Section 18 also excludes convictions which have been overturned or pardoned or which did not result in a final conviction because of diversion or deferred adjudication. Under section 18, if another state has granted certain types of relief from a conviction based on rehabilitation or the passage of time, that relief has the same effect in this State as in the other state, except that the relief does not remove the requirements for sex offender registration or the prohibition against certain convicted persons being employed as a peace officer.~~

~~Section 19 of this bill allows the sentencing court to provide, at the time of sentencing, relief from collateral consequences of conviction related to employment, education, housing, public benefits or occupational licensing. Under section 19, such relief lifts the automatic bar of a collateral consequence and leaves an agency free to consider on a case by case basis whether it is appropriate to deny the opportunity to an individual.~~

~~Section 12 of this bill provides that neither the provisions of this bill nor noncompliance with them are a basis for invalidating a plea or conviction, making a claim of ineffective assistance of counsel or suing anyone for money damages.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 25 of this bill and replace with the following new sections 1 through 3:

Section 1. Chapter 174 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Attorney General:

(a) Shall identify or cause to be identified any provision in the Nevada Constitution, the Nevada Revised Statutes and the Nevada Administrative Code which imposes a collateral sanction or authorizes the imposition of a disqualification, and any provision of law that may afford relief from a collateral consequence;

(b) Shall prepare or cause to be prepared a collection of citations to, and the text or short descriptions of, the provisions identified under paragraph (a);

(c) Shall update or cause to be updated the collection within 45 days after each regular session of the Legislature; and

(d) In complying with paragraphs (a) and (b), may rely on the study of this State's collateral sanctions, disqualifications and relief provisions prepared by the National Institute of Justice described in section 510 of the Court Security Improvement Act of 2007, Public Law 110-177.

2. The Attorney General shall include or cause to be included the following statements in a prominent manner at the beginning of the collection required by subsection 1:

(a) This collection has not been enacted into law and does not have the force of law.

(b) An error or omission in this collection, or in any reference work cited in this collection, is not a reason for invalidating a plea, conviction or sentence or for not imposing a collateral sanction or authorizing a disqualification.

1 (c) The laws of other jurisdictions and local governments in this State which
2 impose additional collateral sanctions and authorize additional disqualifications
3 are not included in this collection.

4 (d) This collection does not include any law or other provision regarding the
5 imposition of or relief from a collateral sanction or a disqualification enacted or
6 adopted after the date on which the collection was prepared or last updated.

7 3. The Attorney General shall publish or cause to be published the
8 collection prepared and updated as required by subsection 1. If available, the
9 Attorney General shall also publish or cause to be published, as part of this
10 collection, the title and Internet address of the most recent collection of:

11 (a) Collateral consequences imposed by federal law; and

12 (b) Any provision of federal law that may afford relief from a collateral
13 consequence.

14 4. The collection described in subsection 3 must be made available to the
15 public on the Internet without charge not later than 14 days after it is prepared or
16 updated.

17 5. As used in this section:

18 (a) "Collateral consequence" means a collateral sanction or a
19 disqualification.

20 (b) "Collateral sanction" means a penalty, disability or disadvantage,
21 however denominated, imposed on a person as a result of the person's conviction
22 of an offense which applies by operation of law whether or not the penalty,
23 disability or disadvantage is included in the judgment or sentence. The term does
24 not include imprisonment, probation, parole, supervised release, forfeiture,
25 restitution, fine, administrative assessment or costs of prosecution.

26 (c) "Conviction" includes, without limitation, an adjudication of delinquency
27 by a court having jurisdiction over juveniles.

28 (d) "Disqualification" means a penalty, disability or disadvantage, however
29 denominated, that an administrative agency, governmental official or court in a
30 civil proceeding is authorized, but not required, to impose on a person on
31 grounds relating to the person's conviction of an offense.

32 (e) "Offense" means a felony, gross misdemeanor or misdemeanor or a
33 delinquent act for which a child may be adjudicated delinquent under the laws of
34 this State, another state or the United States.

35 Sec. 2. On or before January 1, 2014, the Attorney General shall prepare
36 or cause to be prepared the collection required by paragraph (b) of subsection
37 1 of section 1 of this act.

38 Sec. 3. 1. This section and section 2 of this act become effective upon
39 passage and approval.

40 2. Section 1 of this act becomes effective upon passage and approval for
41 the purposes of preparing and publishing the collection required by section 1
42 of this act, and on January 1, 2014, for all other purposes.