

HOUSE BILL 1059

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CF SB 686

By: **Delegates D. Barnes, Campos, Carter, Fennell, Glenn, Knotts, Lam, McCray, Oaks, Platt, B. Robinson, Rosenberg, Smith, Valderrama, Vaughn, and M. Washington**

Introduced and read first time: February 13, 2015

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Maryland Uniform Collateral Consequences of Conviction**
3 **Act**

4 FOR the purpose of requiring the Attorney General to take certain steps to identify, collect,
5 and publish in a certain manner certain laws that impose a certain collateral
6 sanction on a person who is convicted of a certain offense; requiring a State’s
7 Attorney to provide certain information to a person charged with a certain offense;
8 requiring a court to confirm that a certain notice has been received and is understood
9 by a certain person; providing that a new collateral sanction may be imposed only by
10 a certain procedure; requiring a certain decision maker to take certain steps in
11 making a certain determination; providing for the construction of a case disposition
12 from another jurisdiction; authorizing a certain petition for a certain order of limited
13 relief; authorizing a certain petition for a certain order for a certain certificate of
14 restoration of rights; providing that a certain order may not be issued for a certain
15 purpose; requiring a certain sentencing court or the Maryland Parole Commission to
16 make a certain notification, issue a certain order, or impose a certain condition;
17 authorizing a sentencing court or the Commission to restrict or revoke a certain order
18 under certain circumstances; authorizing the court and the Commission to issue a
19 certain order under certain circumstances; authorizing the introduction of a certain
20 certificate at a certain judicial or administrative hearing; providing for participation
21 by a certain victim in a certain proceeding; providing for the construction of this Act;
22 providing for the application of this Act; providing for the citation of this Act; defining
23 certain terms; and generally relating to the collateral consequences of a conviction.

24 BY adding to
25 Article – Criminal Procedure
26 Section 10–301 through 10–317 to be under the new subtitle “Subtitle 3. Maryland
27 Uniform Collateral Consequences of Conviction Act”
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2008 Replacement Volume and 2014 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Criminal Procedure

**SUBTITLE 3. MARYLAND UNIFORM COLLATERAL CONSEQUENCES OF CONVICTION
ACT.**

10–301.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(B) “COLLATERAL CONSEQUENCE” MEANS A COLLATERAL SANCTION OR A
DISQUALIFICATION.

(C) (1) “COLLATERAL SANCTION” MEANS A PENALTY, DISABILITY, OR
DISADVANTAGE IMPOSED ON A PERSON AS A RESULT OF THE PERSON’S CONVICTION
OF AN OFFENSE THAT APPLIES BY OPERATION OF LAW WHETHER OR NOT THE
PENALTY, DISABILITY, OR DISADVANTAGE IS INCLUDED IN THE JUDGMENT OR
SENTENCE.

(2) “COLLATERAL SANCTION” DOES NOT INCLUDE:

(I) IMPRISONMENT, PROBATION, PAROLE, SUPERVISED
RELEASE, FORFEITURE, RESTITUTION, FINE, ASSESSMENT, OR COSTS OF
PROSECUTION; OR

(II) A DISCRETIONARY PENALTY, CONDITION, OR OTHER LEGAL
CONSEQUENCE IMPOSED BY A LICENSING OR REGULATORY BOARD AFTER THE
OPPORTUNITY FOR A HEARING.

(D) “COMMISSION” MEANS THE MARYLAND PAROLE COMMISSION.

(E) “CONVICTION” AND “CONVICTED” INCLUDE AN ADJUDICATION AS
DELINQUENT AS A CHILD.

(F) “DECISION MAKER” MEANS THE STATE ACTING THROUGH A
DEPARTMENT, AN AGENCY, OR AN OFFICER, INCLUDING A POLITICAL SUBDIVISION,
AN EDUCATIONAL INSTITUTION, A BOARD, OR A COMMISSION, OR ITS EMPLOYEES,
OR A GOVERNMENT CONTRACTOR, INCLUDING A SUBCONTRACTOR, MADE SUBJECT
TO THIS SUBTITLE BY CONTRACT OR BY LAW OTHER THAN THIS SUBTITLE.

1 (G) "DISQUALIFICATION" MEANS A PENALTY, DISABILITY, OR
2 DISADVANTAGE THAT AN ADMINISTRATIVE AGENCY, A GOVERNMENTAL OFFICIAL,
3 OR A COURT IN A CIVIL PROCEEDING IS AUTHORIZED, BUT NOT REQUIRED, TO
4 IMPOSE ON A PERSON ON GROUNDS RELATING TO THE PERSON'S CONVICTION OF AN
5 OFFENSE.

6 **10-302.**

7 (A) THIS SUBTITLE DOES NOT PROVIDE A BASIS FOR:

8 (1) INVALIDATING A PLEA, CONVICTION, OR SENTENCE IMPOSED;

9 (2) A CAUSE OF ACTION FOR MONEY DAMAGES; OR

10 (3) A CLAIM FOR RELIEF FROM OR DEFENSE TO THE APPLICATION OF
11 A COLLATERAL CONSEQUENCE BASED ON A FAILURE TO COMPLY WITH § 10-303, §
12 10-304, OR § 10-305 OF THIS SUBTITLE.

13 (B) THIS SUBTITLE DOES NOT AFFECT:

14 (1) THE DUTY A PERSON'S ATTORNEY OWES TO THE PERSON;

15 (2) A CLAIM OR RIGHT OF A VICTIM OF AN OFFENSE; OR

16 (3) A RIGHT OR REMEDY UNDER LAW OTHER THAN THIS SUBTITLE
17 AVAILABLE TO A PERSON CONVICTED OF AN OFFENSE.

18 **10-303.**

19 (A) THE ATTORNEY GENERAL:

20 (1) SHALL IDENTIFY ANY PROVISION IN THE STATE'S CONSTITUTION,
21 STATUTES, AND ADMINISTRATIVE RULES THAT IMPOSES OR AUTHORIZES THE
22 IMPOSITION OF A COLLATERAL SANCTION AND ANY PROVISION OF LAW THAT MAY
23 AFFORD RELIEF FROM A COLLATERAL CONSEQUENCE;

24 (2) NOT LATER THAN 180 DAYS AFTER JULY 1, 2015, SHALL PREPARE
25 A COLLECTION OF CITATIONS TO AND THE TEXT OR SHORT DESCRIPTIONS OF THE
26 PROVISIONS IDENTIFIED UNDER ITEM (1) OF THIS SUBSECTION;

27 (3) SHALL UPDATE THE COLLECTION WITHIN 180 DAYS AFTER EACH
28 REGULAR SESSION OF THE GENERAL ASSEMBLY; AND

1 (4) IN COMPLYING WITH ITEMS (1) AND (2) OF THIS SUBSECTION, MAY
2 RELY ON THE STUDY OF THE STATE'S COLLATERAL SANCTIONS,
3 DISQUALIFICATIONS, AND RELIEF PROVISIONS PREPARED BY THE NATIONAL
4 INSTITUTE OF JUSTICE DESCRIBED IN § 510 OF THE FEDERAL COURT SECURITY
5 IMPROVEMENT ACT OF 2007.

6 (B) THE ATTORNEY GENERAL SHALL INCLUDE THE FOLLOWING
7 STATEMENTS IN A PROMINENT MANNER AT THE BEGINNING OF THE COLLECTION
8 REQUIRED BY SUBSECTION (A) OF THIS SECTION:

9 (1) "THIS COLLECTION HAS NOT BEEN ENACTED INTO LAW AND DOES
10 NOT HAVE THE FORCE OF LAW";

11 (2) "AN ERROR OR OMISSION IN THIS COLLECTION OR IN ANY
12 REFERENCE WORK CITED IN THIS COLLECTION IS NOT A REASON FOR INVALIDATING
13 A PLEA, CONVICTION, OR SENTENCE IMPOSED OR FOR NOT IMPOSING A COLLATERAL
14 SANCTION OR AUTHORIZING A DISQUALIFICATION";

15 (3) "THE LAWS OF OTHER JURISDICTIONS AND COUNTIES THAT
16 IMPOSE ADDITIONAL COLLATERAL SANCTIONS AND AUTHORIZE ADDITIONAL
17 DISQUALIFICATIONS ARE NOT INCLUDED IN THIS COLLECTION"; AND

18 (4) "THIS COLLECTION DOES NOT INCLUDE ANY LAW OR OTHER
19 PROVISION REGARDING THE IMPOSITION OF OR RELIEF FROM A COLLATERAL
20 SANCTION OR A DISQUALIFICATION ENACTED OR ADOPTED AFTER JULY 1, 2015".

21 (C) (1) THE ATTORNEY GENERAL SHALL PUBLISH THE COLLECTION
22 PREPARED AND UPDATED AS REQUIRED BY SUBSECTION (A) OF THIS SECTION.

23 (2) IF AVAILABLE, THE ATTORNEY GENERAL SHALL PUBLISH, AS
24 PART OF THE COLLECTION, THE TITLE AND INTERNET ADDRESS OF THE MOST
25 RECENT COLLECTION OF:

26 (I) THE COLLATERAL CONSEQUENCES IMPOSED BY FEDERAL
27 LAW; AND

28 (II) ANY PROVISION OF FEDERAL LAW THAT MAY AFFORD
29 RELIEF FROM A COLLATERAL CONSEQUENCE.

30 (D) THE COLLECTION DESCRIBED IN SUBSECTION (C) OF THIS SECTION
31 SHALL BE AVAILABLE TO THE PUBLIC ON THE INTERNET WITHOUT CHARGE NOT
32 LATER THAN 180 DAYS AFTER THE COLLECTION IS CREATED OR UPDATED.

1 10-304.

2 (A) WHEN A PERSON RECEIVES FORMAL NOTICE THAT THE PERSON IS
3 CHARGED WITH AN OFFENSE, THE STATE'S ATTORNEY SHALL PROVIDE NOTICE OF
4 POTENTIAL LEGAL CONSEQUENCES.

5 (B) THE NOTICE REQUIRED IN SUBSECTION (A) OF THIS SECTION SHALL BE
6 SUFFICIENT FOR THE PURPOSES OF THIS SECTION IF IT IS IN SUBSTANTIALLY THE
7 FOLLOWING FORM:

8 "NOTICE OF ADDITIONAL LEGAL CONSEQUENCES

9 IF YOU PLEAD GUILTY OR ARE CONVICTED OF AN OFFENSE, YOU MAY SUFFER
10 ADDITIONAL LEGAL CONSEQUENCES BEYOND JAIL OR PRISON, PROBATION,
11 PAROLE, AND FINES.

12 THESE CONSEQUENCES MAY INCLUDE:

13 (1) BEING UNABLE TO OBTAIN OR KEEP SOME LICENSES, PERMITS, OR
14 JOBS;

15 (2) BEING UNABLE TO RECEIVE OR KEEP BENEFITS SUCH AS PUBLIC
16 HOUSING OR EDUCATION;

17 (3) RECEIVING A HARSHER SENTENCE IF YOU ARE CONVICTED OF
18 ANOTHER OFFENSE IN THE FUTURE;

19 (4) HAVING THE GOVERNMENT TAKE POSSESSION OF CERTAIN
20 PROPERTY OF YOURS; AND

21 (5) BEING UNABLE TO VOTE OR TO POSSESS A FIREARM.

22 IF YOU ARE NOT A UNITED STATES CITIZEN, A GUILTY PLEA OR CONVICTION
23 MAY ALSO RESULT IN YOUR DEPORTATION, REMOVAL, EXCLUSION FROM ADMISSION
24 TO THE UNITED STATES, OR DENIAL OF CITIZENSHIP.

25 THE LAW MAY PROVIDE WAYS TO OBTAIN SOME RELIEF FROM THESE
26 CONSEQUENCES. FURTHER INFORMATION ABOUT THE CONSEQUENCES OF
27 CONVICTION IS AVAILABLE ON THE INTERNET WEB SITE TO BE ESTABLISHED BY
28 THE MARYLAND ATTORNEY GENERAL."

29 (C) BEFORE THE COURT ACCEPTS A PLEA OF GUILTY OR NOLO
30 CONTENDERE FROM A PERSON, THE COURT SHALL CONFIRM THAT THE PERSON

1 RECEIVED AND UNDERSTANDS THE NOTICE REQUIRED BY SUBSECTION (A) OF THIS
2 SECTION AND HAS HAD AN OPPORTUNITY TO DISCUSS THE NOTICE WITH COUNSEL.

3 **10-305.**

4 (A) AS PROVIDED IN SUBSECTIONS (B) AND (C) OF THIS SECTION, A PERSON
5 CONVICTED OF AN OFFENSE SHALL BE GIVEN NOTICE:

6 (1) THAT COLLATERAL CONSEQUENCES MAY APPLY BECAUSE OF THE
7 CONVICTION;

8 (2) OF THE INTERNET WEB SITE FOR THE COLLECTION OF LAWS
9 PUBLISHED UNDER § 10-303(C) OF THIS SUBTITLE;

10 (3) THAT THERE MAY BE WAYS TO OBTAIN RELIEF FROM COLLATERAL
11 CONSEQUENCES;

12 (4) OF CONTACT INFORMATION FOR GOVERNMENT OR NONPROFIT
13 AGENCIES, GROUPS, OR ORGANIZATIONS, IF ANY, OFFERING ASSISTANCE TO A
14 PERSON SEEKING RELIEF FROM COLLATERAL CONSEQUENCES; AND

15 (5) OF WHEN A PERSON CONVICTED OF AN OFFENSE MAY VOTE UNDER
16 THE STATE'S LAW.

17 (B) THE COURT SHALL PROVIDE THE NOTICE DESCRIBED IN SUBSECTION
18 (A) OF THIS SECTION AS A PART OF SENTENCING.

19 (C) IF A PERSON IS SENTENCED TO IMPRISONMENT OR OTHER
20 INCARCERATION, THE OFFICER OR AGENCY RELEASING THE PERSON SHALL
21 PROVIDE THE NOTICE REQUIRED IN SUBSECTION (A) OF THIS SECTION NOT MORE
22 THAN 30 AND, IF PRACTICABLE, AT LEAST 10 DAYS BEFORE RELEASE.

23 **10-306.**

24 (A) A NEW COLLATERAL SANCTION, EFFECTIVE AFTER JULY 1, 2015, MAY
25 BE IMPOSED ONLY BY STATUTE OR ORDINANCE OR BY A RULE AUTHORIZED BY LAW
26 AND ADOPTED IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

27 (B) A LAW CREATING A COLLATERAL CONSEQUENCE THAT IS AMBIGUOUS
28 AS TO WHETHER IT IMPOSES A COLLATERAL SANCTION OR AUTHORIZES A
29 DISQUALIFICATION SHALL BE CONSTRUED AS AUTHORIZING A DISQUALIFICATION.

30 **10-307.**

1 (A) IN DECIDING WHETHER TO IMPOSE A DISQUALIFICATION, A
2 DECISION MAKER SHALL UNDERTAKE AN INDIVIDUALIZED ASSESSMENT TO
3 DETERMINE WHETHER THE BENEFIT OR OPPORTUNITY AT ISSUE SHOULD BE
4 DENIED TO THE PERSON.

5 (B) IN MAKING THE DECISION DESCRIBED IN SUBSECTION (A) OF THIS
6 SECTION, THE DECISION MAKER MAY CONSIDER, IF SUBSTANTIALLY RELATED TO
7 THE BENEFIT OR OPPORTUNITY AT ISSUE:

8 (1) THE PARTICULAR FACTS AND CIRCUMSTANCES INVOLVED IN THE
9 OFFENSE; AND

10 (2) THE ESSENTIAL ELEMENTS OF THE OFFENSE.

11 (C) A CONVICTION ITSELF MAY NOT BE CONSIDERED EXCEPT AS HAVING
12 ESTABLISHED THE ELEMENTS OF THE OFFENSE.

13 (D) THE DECISION MAKER SHALL ALSO CONSIDER OTHER RELEVANT
14 INFORMATION, INCLUDING THE EFFECT ON THIRD PARTIES OF GRANTING THE
15 BENEFIT OR OPPORTUNITY AND WHETHER THE INDIVIDUAL HAS BEEN GRANTED
16 RELIEF SUCH AS AN ORDER OF LIMITED RELIEF OR A CERTIFICATE OF RESTORATION
17 OF RIGHTS.

18 10-308.

19 (A) FOR PURPOSES OF AUTHORIZING OR IMPOSING A COLLATERAL
20 CONSEQUENCE IN THE STATE, A CONVICTION OF AN OFFENSE IN A COURT OF
21 ANOTHER STATE OR THE UNITED STATES IS CONSIDERED A CONVICTION OF THE
22 OFFENSE IN THIS STATE WITH THE SAME ELEMENTS.

23 (B) IF THERE IS NO OFFENSE IN THE STATE WITH THE SAME ELEMENTS, A
24 CONVICTION UNDER SUBSECTION (A) OF THIS SECTION IS CONSIDERED A
25 CONVICTION OF THE MOST SERIOUS OFFENSE IN THE STATE THAT IS ESTABLISHED
26 BY THE ELEMENTS OF THE OFFENSE.

27 (C) A MISDEMEANOR IN THE JURISDICTION OF CONVICTION MAY NOT BE
28 CONSIDERED A FELONY IN THE STATE, AND AN OFFENSE LESSER THAN A
29 MISDEMEANOR IN THE JURISDICTION OF CONVICTION MAY NOT BE CONSIDERED A
30 CONVICTION OF A FELONY OR MISDEMEANOR IN THE STATE.

31 (D) (1) FOR PURPOSES OF AUTHORIZING OR IMPOSING A COLLATERAL
32 CONSEQUENCE IN THE STATE, AN ADJUDICATION AS DELINQUENT IN ANOTHER

1 STATE OR THE UNITED STATES MAY NOT BE CONSIDERED A CONVICTION OF A
2 FELONY, MISDEMEANOR, OR OFFENSE LESSER THAN A MISDEMEANOR IN THIS
3 STATE, BUT MAY BE CONSIDERED AN ADJUDICATION AS DELINQUENT FOR THE ACT
4 IN THIS STATE WITH THE SAME ELEMENTS.

5 (2) IF THERE IS NO DELINQUENT ACT IN THE STATE WITH THE SAME
6 ELEMENTS, THE ADJUDICATION AS DELINQUENT DESCRIBED IN PARAGRAPH (1) OF
7 THIS SUBSECTION IS CONSIDERED AN ADJUDICATION AS DELINQUENT OF THE MOST
8 SERIOUS ACT IN THE STATE THAT IS ESTABLISHED BY THE ELEMENTS OF THE
9 OFFENSE.

10 (E) A CONVICTION REVERSED, OVERTURNED, OR OTHERWISE VACATED BY
11 A COURT OF COMPETENT JURISDICTION OF THE STATE, ANOTHER STATE, OR THE
12 UNITED STATES ON GROUNDS OTHER THAN REHABILITATION OR GOOD BEHAVIOR
13 MAY NOT SERVE AS THE BASIS FOR AUTHORIZING OR IMPOSING A COLLATERAL
14 CONSEQUENCE IN THIS STATE.

15 (F) A PARDON ISSUED BY ANOTHER STATE OR THE UNITED STATES HAS THE
16 SAME EFFECT FOR PURPOSES OF AUTHORIZING, IMPOSING, AND RELIEVING A
17 COLLATERAL CONSEQUENCE IN THIS STATE AS IT HAS IN THE ISSUING
18 JURISDICTION.

19 (G) (1) A CONVICTION, RELIEVED BY EXPUNGEMENT, SEALING,
20 ANNULMENT, SET ASIDE, OR VACATING BY A COURT OF COMPETENT JURISDICTION
21 OF ANOTHER STATE OR THE UNITED STATES ON GROUNDS OF REHABILITATION OR
22 GOOD BEHAVIOR OR FOR WHICH CIVIL RIGHTS ARE RESTORED IN ACCORDANCE
23 WITH STATUTE, IS CONSIDERED A CONVICTION FOR PURPOSES OF AUTHORIZING OR
24 IMPOSING COLLATERAL CONSEQUENCES IN THIS STATE AS PROVIDED IN
25 SUBSECTION (A) OF THIS SECTION.

26 (2) AN INDIVIDUAL CONVICTED IN ANOTHER JURISDICTION MAY
27 SEEK RELIEF UNDER § 10-309 OR § 10-310 OF THIS SUBTITLE FROM ANY
28 AUTHORIZED OR IMPOSED COLLATERAL CONSEQUENCE, OTHER THAN THOSE
29 LISTED IN § 10-311 OF THIS SUBTITLE, AND THE COURT OR THE COMMISSION SHALL
30 CONSIDER THAT THE CONVICTION WAS RELIEVED OR CIVIL RIGHTS RESTORED IN
31 DECIDING WHETHER TO ISSUE AN ORDER OF LIMITED RELIEF OR CERTIFICATE OF
32 RESTORATION OF RIGHTS.

33 (H) (1) A CHARGE OR PROSECUTION IN A JURISDICTION THAT HAS BEEN
34 FINALLY TERMINATED WITHOUT A CONVICTION AND IMPOSITION OF SENTENCE
35 BASED ON PARTICIPATION IN A DEFERRED ADJUDICATION OR DIVERSION PROGRAM
36 MAY NOT SERVE AS THE BASIS FOR AUTHORIZING OR IMPOSING A COLLATERAL
37 CONSEQUENCE IN THE STATE.

1 **(2) THIS SUBSECTION DOES NOT AFFECT THE VALIDITY OF A**
2 **RESTRICTION OR CONDITION IMPOSED BY LAW AS PART OF PARTICIPATION IN THE**
3 **DEFERRED ADJUDICATION OR DIVERSION PROGRAM, BEFORE OR AFTER THE**
4 **TERMINATION OF THE CHARGE OR PROSECUTION.**

5 **10-309.**

6 **(A) (1) A PERSON CONVICTED OF AN OFFENSE MAY PETITION FOR AN**
7 **ORDER OF LIMITED RELIEF FROM ONE OR MORE COLLATERAL SANCTIONS RELATED**
8 **TO EMPLOYMENT, EDUCATION, HOUSING, PUBLIC BENEFITS, OR OCCUPATIONAL**
9 **LICENSING.**

10 **(2) A PETITION UNDER THIS SUBSECTION MAY BE PRESENTED TO:**

11 **(I) THE SENTENCING COURT AT OR BEFORE SENTENCING; OR**

12 **(II) THE COMMISSION AT ANY TIME AFTER SENTENCING.**

13 **(B) EXCEPT AS OTHERWISE PROVIDED IN § 10-311 OF THIS SUBTITLE, THE**
14 **COURT OR THE COMMISSION MAY ISSUE AN ORDER OF LIMITED RELIEF RELIEVING**
15 **ONE OR MORE OF THE COLLATERAL SANCTIONS DESCRIBED IN SUBSECTION (A) OF**
16 **THIS SECTION IF, AFTER REVIEWING THE PETITION, THE PERSON'S CRIMINAL**
17 **HISTORY, ANY FILING BY A VICTIM IN ACCORDANCE WITH § 10-314 OF THIS**
18 **SUBTITLE OR BY A PROSECUTOR, AND ANY OTHER RELEVANT EVIDENCE, IT FINDS**
19 **THE PERSON HAS ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE THAT:**

20 **(1) GRANTING THE PETITION WILL MATERIALLY ASSIST THE PERSON**
21 **IN OBTAINING OR MAINTAINING EMPLOYMENT, EDUCATION, HOUSING, PUBLIC**
22 **BENEFITS, OR OCCUPATIONAL LICENSING;**

23 **(2) THE PERSON HAS SUBSTANTIAL NEED FOR THE RELIEF**
24 **REQUESTED IN ORDER TO LIVE A LAW-ABIDING LIFE; AND**

25 **(3) GRANTING THE PETITION WOULD NOT POSE AN UNREASONABLE**
26 **RISK TO THE SAFETY OR WELFARE OF THE PUBLIC OR ANOTHER PERSON.**

27 **(C) AN ORDER OF LIMITED RELIEF UNDER SUBSECTION (B) OF THIS**
28 **SECTION SHALL SPECIFY:**

29 **(1) THE COLLATERAL SANCTION FROM WHICH RELIEF IS GRANTED;**
30 **AND**

1 **(2) ANY RESTRICTION IMPOSED IN ACCORDANCE WITH § 10-312(A)**
2 **OF THIS SUBTITLE.**

3 **(D) AN ORDER OF LIMITED RELIEF RELIEVES A COLLATERAL SANCTION TO**
4 **THE EXTENT PROVIDED IN THE ORDER.**

5 **(E) IF A COLLATERAL SANCTION HAS BEEN RELIEVED IN ACCORDANCE**
6 **WITH THIS SECTION, A DECISION MAKER MAY CONSIDER THE CONDUCT**
7 **UNDERLYING A CONVICTION AS PROVIDED IN § 10-307 OF THIS SUBTITLE.**

8 **10-310.**

9 **(A) AN INDIVIDUAL CONVICTED OF AN OFFENSE MAY PETITION THE**
10 **SENTENCING COURT OR, IF PAROLED, THE COMMISSION FOR A CERTIFICATE OF**
11 **RESTORATION OF RIGHTS RELIEVING COLLATERAL SANCTIONS NOT SOONER THAN**
12 **5 YEARS AFTER THE PERSON'S MOST RECENT CONVICTION OF A FELONY OR**
13 **MISDEMEANOR IN ANY JURISDICTION OR NOT SOONER THAN 5 YEARS AFTER THE**
14 **PERSON'S RELEASE FROM CONFINEMENT IN ACCORDANCE WITH A CRIMINAL**
15 **SENTENCE IN ANY JURISDICTION, WHICHEVER IS LATER.**

16 **(B) EXCEPT AS OTHERWISE PROVIDED IN § 10-311 OF THIS SUBTITLE, THE**
17 **SENTENCING COURT OR THE COMMISSION MAY ISSUE A CERTIFICATE OF**
18 **RESTORATION OF RIGHTS IF, AFTER REVIEWING THE PETITION, THE PERSON'S**
19 **CRIMINAL HISTORY, ANY FILING BY A VICTIM OR A PROSECUTOR UNDER §**
20 **10-314 OF THIS SUBTITLE, AND ANY OTHER RELEVANT EVIDENCE, IT FINDS THE**
21 **PERSON HAS ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE THAT:**

22 **(1) THE PERSON IS ENGAGED IN OR SEEKING TO ENGAGE IN A LAWFUL**
23 **OCCUPATION OR ACTIVITY, INCLUDING EMPLOYMENT, TRAINING, EDUCATION, OR**
24 **REHABILITATIVE PROGRAMS, OR THE PERSON OTHERWISE HAS A LAWFUL SOURCE**
25 **OF SUPPORT;**

26 **(2) THE PERSON IS NOT IN VIOLATION OF THE TERMS OF ANY**
27 **CRIMINAL SENTENCE, OR THAT ANY FAILURE TO COMPLY IS JUSTIFIED, EXCUSED,**
28 **INVOLUNTARY, OR INSUBSTANTIAL;**

29 **(3) A CRIMINAL CHARGE IS NOT PENDING AGAINST THE PERSON; AND**

30 **(4) GRANTING THE PETITION WOULD NOT POSE AN UNREASONABLE**
31 **RISK TO THE SAFETY OR WELFARE OF THE PUBLIC OR ANOTHER PERSON.**

1 (C) A CERTIFICATE OF RESTORATION OF RIGHTS MUST SPECIFY ANY
2 RESTRICTION IMPOSED AND COLLATERAL SANCTION FROM WHICH RELIEF HAS NOT
3 BEEN GRANTED UNDER § 10-312(A) OF THIS SUBTITLE.

4 (D) A CERTIFICATE OF RESTORATION OF RIGHTS RELIEVES ALL
5 COLLATERAL SANCTIONS, EXCEPT THOSE LISTED IN § 10-311 OF THIS SUBTITLE
6 AND ANY OTHER COLLATERAL SANCTION SPECIFICALLY EXCLUDED IN THE
7 CERTIFICATE.

8 (E) IF A COLLATERAL SANCTION HAS BEEN RELIEVED IN ACCORDANCE
9 WITH THIS SECTION, A DECISION MAKER MAY CONSIDER THE CONDUCT
10 UNDERLYING A CONVICTION AS PROVIDED IN § 10-307 OF THIS SUBTITLE.

11 10-311.

12 AN ORDER OF LIMITED RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS
13 MAY NOT BE ISSUED TO RELIEVE THE FOLLOWING COLLATERAL SANCTIONS:

14 (1) REQUIREMENTS IMPOSED BY THE STATE'S SEX OFFENDER
15 REGISTRATION LAW;

16 (2) A MOTOR VEHICLE LICENSE SUSPENSION, REVOCATION,
17 LIMITATION, OR INELIGIBILITY IN ACCORDANCE WITH TITLE 21, SUBTITLE 9 OR
18 TITLE 16, SUBTITLE 3 OF THE TRANSPORTATION ARTICLE; OR

19 (3) INELIGIBILITY FOR EMPLOYMENT IN ACCORDANCE WITH LAWS
20 RESTRICTING EMPLOYMENT OF CONVICTED PERSONS BY LAW ENFORCEMENT
21 AGENCIES, INCLUDING THE ATTORNEY GENERAL, STATE'S ATTORNEY'S OFFICE,
22 POLICE DEPARTMENT, SHERIFF'S DEPARTMENT, DEPARTMENT OF STATE POLICE,
23 OR DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

24 10-312.

25 (A) (1) WHEN A PETITION IS FILED UNDER § 10-309 OR § 10-310 OF THIS
26 SUBTITLE, INCLUDING A PETITION FOR ENLARGEMENT OF AN EXISTING ORDER OF
27 LIMITED RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS, THE SENTENCING
28 COURT OR THE COMMISSION RECEIVING THE PETITION SHALL NOTIFY THE OFFICE
29 THAT PROSECUTED THE OFFENSE GIVING RISE TO THE COLLATERAL CONSEQUENCE
30 FROM WHICH RELIEF IS SOUGHT AND, IF THE CONVICTION WAS NOT OBTAINED IN A
31 COURT OF THE STATE, THE ATTORNEY GENERAL OR AN APPROPRIATE
32 PROSECUTING OFFICE IN THE STATE.

1 **(2) THE COURT OR THE COMMISSION MAY ISSUE AN ORDER OR**
2 **CERTIFICATE UNDER THIS SUBTITLE, SUBJECT TO RESTRICTION, CONDITION, OR**
3 **ADDITIONAL REQUIREMENT.**

4 **(3) WHEN ISSUING, DENYING, MODIFYING, OR REVOKING AN ORDER**
5 **OR CERTIFICATE UNDER THIS SUBTITLE, THE COURT OR THE COMMISSION MAY**
6 **IMPOSE CONDITIONS FOR REAPPLICATION.**

7 **(B) (1) THE SENTENCING COURT OR THE COMMISSION MAY RESTRICT OR**
8 **REVOKE AN ORDER OF LIMITED RELIEF OR CERTIFICATE OF RESTORATION OF**
9 **RIGHTS THAT THE SENTENCING COURT OR THE COMMISSION ISSUED OR AN ORDER**
10 **OF LIMITED RELIEF ISSUED BY A COURT IN THE STATE IF THE SENTENCING COURT**
11 **OR THE COMMISSION FINDS JUST CAUSE BY A PREPONDERANCE OF THE EVIDENCE.**

12 **(2) (I) A JUST CAUSE DESCRIBED IN PARAGRAPH (1) OF THIS**
13 **SUBSECTION INCLUDES SUBSEQUENT CONVICTION OF A FELONY IN THE STATE OR**
14 **OF AN OFFENSE IN ANOTHER JURISDICTION THAT IS CONSIDERED A FELONY IN THIS**
15 **STATE UNDER § 10-308(A) OF THIS SUBTITLE.**

16 **(II) AN ORDER OF RESTRICTION OR REVOCATION MAY BE**
17 **ISSUED:**

18 **1. ON A MOTION OF THE PROSECUTOR THAT OBTAINED**
19 **THE CONVICTION OR A STATE AGENCY DESIGNATED BY THAT PROSECUTOR;**

20 **2. AFTER NOTICE TO THE PERSON AND ANY**
21 **PROSECUTOR THAT HAS ENTERED AN APPEARANCE IN THE MATTER; AND**

22 **3. AFTER A HEARING, IF REQUESTED BY THE PERSON OR**
23 **THE PROSECUTOR THAT MADE THE MOTION OR ANY PROSECUTOR THAT HAS**
24 **APPEARED IN THE MATTER.**

25 **(C) (1) THE COURT OR THE COMMISSION MAY ORDER ANY TEST, REPORT,**
26 **INVESTIGATION, OR DISCLOSURE BY A PERSON THAT THE COURT OR THE**
27 **COMMISSION REASONABLY BELIEVES NECESSARY FOR THE COURT'S OR THE**
28 **COMMISSION'S DECISION TO ISSUE, MODIFY, OR REVOKE AN ORDER OF LIMITED**
29 **RELIEF OR CERTIFICATE OF RESTORATION OF RIGHTS UNDER THIS SUBTITLE.**

30 **(2) IF THERE ARE DISPUTED MATERIAL ISSUES OF FACT OR LAW, THE**
31 **PERSON AND ANY PROSECUTOR NOTIFIED UNDER SUBSECTION (A) OF THIS SECTION**
32 **OR ANOTHER PROSECUTORIAL AGENCY DESIGNATED BY A PROSECUTOR NOTIFIED**
33 **UNDER SUBSECTION (A) OF THIS SECTION MAY SUBMIT EVIDENCE AND BE HEARD ON**
34 **THOSE ISSUES.**

1 (D) (1) THE COURT OR THE COMMISSION SHALL MAINTAIN AS PART OF
2 THE COURT'S OR THE COMMISSION'S PUBLIC RECORDS THE ISSUANCE,
3 MODIFICATION, AND REVOCATION OF ORDERS OF LIMITED RELIEF AND
4 CERTIFICATES OF RESTORATION OF RIGHTS.

5 (2) THE CRIMINAL HISTORY RECORD SYSTEM OF THE STATE SHALL
6 INCLUDE REFERENCE TO ISSUANCE, MODIFICATION, AND REVOCATION OF ORDERS
7 AND CERTIFICATES.

8 (E) THE MARYLAND COURT OF APPEALS AND THE COMMISSION MAY
9 ADOPT RULES FOR APPLICATION, DETERMINATION, MODIFICATION, AND
10 REVOCATION OF ORDERS OF LIMITED RELIEF AND CERTIFICATES OF RESTORATION
11 OF RIGHTS.

12 (F) (1) THE ISSUANCE OF AN ORDER OF LIMITED RELIEF OR OF A
13 CERTIFICATE OF RESTORATION OF RIGHTS SHALL APPLY ONLY TO CONSEQUENCES
14 IMPOSED BY OPERATION OF LAW.

15 (2) AN ORDER OR CERTIFICATE DESCRIBED IN PARAGRAPH (1) OF
16 THIS SUBSECTION SHALL SUPERSEDE ANY DISCRETIONARY ACTION IMPOSED BY A
17 LICENSING OR REGULATORY BOARD AFTER THE OPPORTUNITY FOR A HEARING.

18 **10-313.**

19 IN A JUDICIAL OR ADMINISTRATIVE PROCEEDING ALLEGING NEGLIGENCE OR
20 OTHER FAULT, AN ORDER OF LIMITED RELIEF OR A CERTIFICATE OF RESTORATION
21 OF RIGHTS MAY BE INTRODUCED AS EVIDENCE OF A PERSON'S DUE CARE IN HIRING,
22 RETAINING, LICENSING, LEASING TO, ADMITTING TO A SCHOOL OR PROGRAM, OR
23 OTHERWISE TRANSACTING BUSINESS OR ENGAGING IN ACTIVITY WITH THE PERSON
24 TO WHOM THE ORDER OR CERTIFICATE WAS ISSUED, IF THE PERSON KNEW OF THE
25 ORDER OR CERTIFICATE AT THE TIME OF THE ALLEGED NEGLIGENCE OR OTHER
26 FAULT.

27 **10-314.**

28 A VICTIM OF AN OFFENSE MAY PARTICIPATE IN A PROCEEDING FOR ISSUANCE,
29 MODIFICATION, OR REVOCATION OF AN ORDER OF LIMITED RELIEF OR A
30 CERTIFICATE OF RESTORATION OF RIGHTS IN THE SAME MANNER AS AT A
31 SENTENCING PROCEEDING OR PAROLE HEARING AS PERMITTED BY COURT AND
32 PAROLE COMMISSION RULES.

33 **10-315.**

1 **IN APPLYING AND CONSTRUING THIS ACT, CONSIDERATION MUST BE GIVEN**
2 **TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO THE**
3 **SUBJECT MATTER AMONG STATES THAT ENACT THE LAW.**

4 **10-316.**

5 **(A) THIS SUBTITLE APPLIES TO COLLATERAL CONSEQUENCES WHENEVER**
6 **ENACTED OR IMPOSED UNLESS THE LAW CREATING THE COLLATERAL**
7 **CONSEQUENCE EXPRESSLY STATES THAT THIS SUBTITLE DOES NOT APPLY.**

8 **(B) THIS SUBTITLE DOES NOT INVALIDATE THE IMPOSITION OF A**
9 **COLLATERAL SANCTION ON AN INDIVIDUAL BEFORE JULY 1, 2015, BUT A**
10 **COLLATERAL SANCTION VALIDLY IMPOSED BEFORE JULY 1, 2015, MAY BE THE**
11 **SUBJECT OF RELIEF UNDER THIS SUBTITLE.**

12 **10-317.**

13 **THIS SUBTITLE MAY BE CITED AS THE MARYLAND UNIFORM COLLATERAL**
14 **CONSEQUENCES OF CONVICTION ACT.**

15 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
16 **1, 2015.**