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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1324 Session of  
2020

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INTRODUCED BY MUTH, FONTANA, STREET, BLAKE, SCHWANK, COSTA AND  
HUGHES, SEPTEMBER 21, 2020

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REFERRED TO JUDICIARY, SEPTEMBER 21, 2020

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AN ACT

1 Providing for uniformity of collateral consequences of  
2 convictions; imposing duties on the Pennsylvania Commission  
3 on Sentencing and on courts; and providing for notice to  
4 offender of rights and remedies.

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14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. Short title.

17 This act shall be known and may be cited as the Uniform  
18 Collateral Consequences of Conviction Act.

19 Section 2. Definitions.

20 The following words and phrases when used in this act shall  
21 have the meanings given to them in this section unless the  
22 context clearly indicates otherwise:

23 "Collateral consequence." A collateral sanction or a  
24 disqualification.

25 "Collateral sanction." A penalty, disability or  
26 disadvantage, or its equivalent, imposed on an individual as a  
27 result of the individual's conviction for an offense which  
28 applies by operation of law whether the penalty, disability or  
29 disadvantage is included in the judgment of sentence. The term  
30 shall not include imprisonment, probation, parole, supervised

1 release, forfeiture, restitution, fine, assessment or costs of  
2 prosecution.

3 "Commission." The Pennsylvania Commission on Sentencing.

4 "Conviction." Includes an adjudication as a juvenile  
5 delinquent.

6 "Decision maker." The Commonwealth acting through a  
7 department, agency, officer or instrumentality, including a  
8 political subdivision, educational institution, board or  
9 commission, or any of their employees.

10 "Disqualification." A penalty, disability or disadvantage,  
11 or its equivalent, that an administrative agency, governmental  
12 official or court in a civil proceeding is authorized, but not  
13 required, to impose on an individual on grounds relating to the  
14 individual's conviction for an offense.

15 "Offense." A felony, misdemeanor or summary offense under  
16 Federal or State law.

17 "State." A state or commonwealth of the United States, the  
18 District of Columbia, Puerto Rico, the United States Virgin  
19 Islands or any territory or insular possession subject to the  
20 jurisdiction of the United States.

21 Section 3. Declaration of purpose.

22 The General Assembly finds and declares as follows:

23 (1) This act does not provide a basis for any of the  
24 following:

25 (i) Invalidating a plea, conviction or sentence.

26 (ii) A cause of action for money damages.

27 (iii) A claim for relief from or defense to the  
28 application of a collateral consequence based on a  
29 failure to comply with section 4, 5 or 6.

30 (2) This act affects all of the following:

1 (i) The duty an individual's attorney owes to the  
2 individual.

3 (ii) A claim or right of a victim of an offense.

4 (iii) A right or remedy under any other law of this  
5 Commonwealth available to an individual convicted of an  
6 offense.

7 Section 4. Identification, collection and publication of laws  
8 regarding collateral consequences.

9 (a) General powers and duties of commission.--The  
10 commission:

11 (1) Shall identify provisions in the Constitution of  
12 Pennsylvania, other laws of this Commonwealth, regulations  
13 and rules of court which:

14 (i) impose a collateral sanction or authorize the  
15 imposition of a disqualification; and

16 (ii) may afford relief from a collateral  
17 consequence.

18 (2) No later than 180 days after the effective date of  
19 this section, shall prepare a collection of citations to, and  
20 the text or short descriptions of, the provisions identified  
21 under paragraph (1).

22 (3) Shall update the collection under paragraph (2)  
23 within 30 days after each regular session of the General  
24 Assembly.

25 (4) In complying with paragraphs (1) and (2), may  
26 consult on the study of the Commonwealth's collateral  
27 sanctions, disqualifications and relief provisions prepared  
28 by the National Institute of Justice under section 510 of the  
29 Court Security Improvement Act of 2007 (Public Law 110-177,  
30 121 Stat. 2534).

1 (b) Collection statements.--The commission shall include all  
2 of the following statements in a prominent manner at the  
3 beginning of the collection required under subsection (a):

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

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

11 (3) The laws of other jurisdictions and political  
12 subdivisions of this Commonwealth that impose additional  
13 collateral sanctions and authorize additional  
14 disqualifications are not included in this collection.

15 (4) This collection does not include any law or other  
16 provision regarding the imposition of or relief from a  
17 collateral sanction or disqualification enacted or adopted  
18 after the date when the collection was created or updated.

19 (c) Collection publication.--The commission shall publish  
20 the collection prepared and updated as required under subsection  
21 (a). If available, it shall be published as part of the  
22 collection, the title and publicly accessible Internet website  
23 address containing the most recent collection of all of the  
24 following:

25 (1) The collateral consequences imposed by Federal law.

26 (2) Any provision of Federal law that may afford relief  
27 from a collateral consequence.

28 (d) Availability.--The collection described under subsection  
29 (c) shall be available on the commission's publicly accessible  
30 Internet website without charge no later than 14 days after the

1 collection is created or updated.

2 Section 5. Notice of collateral consequences in pretrial  
3 proceeding and at guilty plea.

4 (a) Notice.--When an individual receives formal notice that  
5 the individual is charged with an offense, the charging officer  
6 or prosecuting agency shall communicate information  
7 substantially similar to the following to the individual:

8 NOTICE OF ADDITIONAL LEGAL CONSEQUENCES

9 If you plead guilty or are convicted of an offense, you may  
10 suffer additional legal consequences beyond jail or prison,  
11 probation, parole, fines, costs and restitution. These  
12 consequences may include all of the following:

13 (1) Being unable to obtain or keep some licenses,  
14 permits or jobs.

15 (2) Being unable to obtain or keep benefits, such as  
16 public 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 your property.

20 (5) Being unable to vote or possess a firearm.

21 If you are not a United States citizen, a guilty plea or  
22 conviction may also result in your deportation, removal or  
23 exclusion from admission to the United States or denial of  
24 citizenship.

25 The law may provide ways to obtain some relief from these  
26 consequences.

27 Further information about the consequences of conviction is  
28 available on the Internet at (insert publicly accessible  
29 Internet website address of the collection of laws published  
30 under section 4(c) and (d)).

1 (b) Notice confirmation.--Before the court accepts a plea of  
2 guilty or nolo contendere from an individual, the court shall  
3 confirm that the individual received and understands the notice  
4 required under subsection (a) and had an opportunity to discuss  
5 the notice with counsel.

6 Section 6. Notice of collateral consequences at sentencing and  
7 upon release.

8 (a) Notice.--An individual convicted of an offense shall be  
9 given notice of all the following as provided under subsections  
10 (b) and (c):

11 (1) That collateral consequences may apply because of  
12 the conviction.

13 (2) The publicly accessible Internet website address of  
14 the collection of laws published under section 4(c).

15 (3) That there may be ways to obtain relief from  
16 collateral consequences.

17 (4) The contact information for government or nonprofit  
18 agencies, groups or organizations, if any, offering  
19 assistance to individuals seeking relief from collateral  
20 consequences.

21 (5) When an individual convicted of an offense may vote  
22 under the laws of this Commonwealth.

23 (b) Notice at sentencing.--The charging officer or  
24 prosecuting agency shall provide the notice under subsection (a)  
25 as part of sentencing.

26 (c) Notice before release.--If an individual is sentenced to  
27 imprisonment or other incarceration, the officer or agency  
28 releasing the individual shall provide the notice under  
29 subsection (a) no more than 30 days before release.

30 Section 7. Authorization required for collateral sanction.

1 (a) General rule.--A collateral sanction may be imposed only  
2 by statute or ordinance or by a rule authorized by State law and  
3 adopted in accordance with the act of June 25, 1982 (P.L.633,  
4 No.181), known as the Regulatory Review Act.

5 (b) Ambiguity.--A law establishing a collateral consequence  
6 that is ambiguous as to whether or not it imposes a collateral  
7 sanction or authorizes a disqualification shall be construed as  
8 authorizing a disqualification.

9 Section 8. Decision to disqualify.

10 (a) Disqualification.--In deciding whether or not to impose  
11 a disqualification, a decision maker shall undertake an  
12 individualized assessment to determine whether or not the  
13 benefit or opportunity at issue should be denied to the  
14 individual.

15 (b) Factors to consider.--

16 (1) In making the decision under subsection (a), the  
17 decision maker may consider, if substantially related to the  
18 benefit or opportunity at issue:

19 (i) The particular facts and circumstances involved  
20 in the offense.

21 (ii) The essential elements of the offense. A  
22 conviction itself may not be considered, except as having  
23 established the elements of the offense.

24 (2) In making the decision under subsection (a), the  
25 decision maker shall consider other relevant information,  
26 including all of the following:

27 (i) The effect on third parties of granting the  
28 benefit or opportunity.

29 (ii) Whether or not the individual has been granted  
30 relief, such as an order of limited relief or a



1 certificate of restoration of rights.

2 Section 9. Effect of conviction under Federal law or another  
3 state law.

4 (a) Convictions.--

5 (1) For the purposes of authorizing or imposing a  
6 collateral consequence in this Commonwealth, a conviction of  
7 an offense under Federal law or another state law shall be  
8 deemed a conviction of the offense in this Commonwealth with  
9 the same elements.

10 (2) If there is no offense in this Commonwealth with the  
11 same elements, the conviction shall be deemed a conviction of  
12 the most serious offense in this Commonwealth which is  
13 established by the elements of the offense.

14 (b) Juvenile adjudications.--

15 (1) For the purposes of authorizing or imposing a  
16 collateral consequence in this Commonwealth, a juvenile  
17 adjudication under Federal law or another state law may not  
18 be deemed a conviction of a felony, misdemeanor or offense  
19 lesser than a misdemeanor in this Commonwealth, but may be  
20 deemed a juvenile adjudication for the delinquent act in this  
21 Commonwealth with the same elements.

22 (2) If there is no delinquent act in this Commonwealth  
23 with the same elements, the juvenile adjudication shall be  
24 deemed an adjudication of the most serious delinquent act in  
25 this Commonwealth which is established by the elements of the  
26 juvenile adjudication.

27 (c) Convictions vacated.--A conviction that is reversed,  
28 overturned or otherwise vacated by a court of competent  
29 jurisdiction of the United States, this Commonwealth or another  
30 state on grounds other than rehabilitation or good behavior may

1 not serve as the basis for authorizing or imposing a collateral  
2 consequence in this Commonwealth.

3 (d) Pardons.--A pardon issued by the United States or  
4 another state shall have the same effect for purposes of  
5 authorizing, imposing and relieving a collateral consequence in  
6 this Commonwealth as the pardon has in the issuing jurisdiction.

7 (e) Convictions expunged.--

8 (1) A conviction that has been relieved by expungement,  
9 sealing, annulment, set-aside or vacation by a court of  
10 competent jurisdiction of the United States or another state  
11 on grounds of rehabilitation or good behavior, or for which  
12 civil rights are restored under law, shall be deemed a  
13 conviction for purposes of authorizing or imposing collateral  
14 consequences in this Commonwealth under subsection (a).

15 (2) An individual convicted in another jurisdiction may  
16 seek relief under section 10 or 11 from any authorized or  
17 imposed collateral consequence, other than those listed under  
18 section 12, and the court shall consider that the conviction  
19 was relieved or civil rights restored in deciding whether or  
20 not to issue an order of limited relief or certificate of  
21 restoration of rights.

22 (f) Deferred adjudications.--

23 (1) A charge or prosecution in a jurisdiction that has  
24 been finally terminated without a conviction and imposition  
25 of sentence based on participation in a deferred adjudication  
26 or diversion program may not serve as the basis for  
27 authorizing or imposing a collateral consequence in this  
28 Commonwealth.

29 (2) Nothing in this section shall be construed to affect  
30 the validity of a restriction or condition imposed by law as

1 part of participation in the deferred adjudication or  
2 diversion program, before or after termination of the charge  
3 or prosecution.

4 Section 10. Order of limited relief.

5 (a) Petition.--An individual convicted of an offense may  
6 petition for an order of limited relief from one or more  
7 collateral sanctions related to employment, education, housing,  
8 public benefits or occupational licensing. The petition may be  
9 presented to the sentencing court at or before sentencing or at  
10 any time after sentencing.

11 (b) Issuance.--Except as otherwise provided in section 12,  
12 the sentencing court may issue an order of limited relief  
13 relieving one or more of the collateral sanctions described  
14 under subsection (a) if, after reviewing the petition, the  
15 individual's criminal history, any filing by a victim under  
16 section 15 or a prosecutor and any other relevant evidence, the  
17 sentencing court finds that the individual has established by a  
18 preponderance of the evidence that:

19 (1) Granting the petition will materially assist the  
20 individual in obtaining or maintaining employment, education,  
21 housing, public benefits or occupational licensing.

22 (2) The individual has substantial need for the relief  
23 requested in order to live a law-abiding life.

24 (3) Granting the petition would not pose an unreasonable  
25 risk to the safety or welfare of the public or any  
26 individual.

27 (c) Contents.--An order of limited relief issued under  
28 subsection (b) shall specify the following:

29 (1) The collateral sanction from which relief is  
30 granted.

1 (2) A restriction imposed under section 13(b).

2 (d) Relief.--An order of limited relief relieves a  
3 collateral sanction to the extent provided in the order.

4 (e) Underlying conduct.--If a collateral sanction has been  
5 relieved under this section, a decision maker may consider the  
6 conduct underlying a conviction under section 8.

7 Section 11. Certificate of restoration of rights.

8 (a) Petition.--An individual convicted of an offense may  
9 petition the sentencing court for a certificate of restoration  
10 of rights relieving collateral sanctions no earlier than:

11 (1) five years after the individual's most recent  
12 conviction of a felony or misdemeanor in any jurisdiction; or

13 (2) five years after the individual's release from  
14 confinement pursuant to a criminal sentence in any  
15 jurisdiction,

16 whichever five-year period ends later.

17 (b) Issuance.--Except as provided under section 12, the  
18 sentencing court may issue a certificate of restoration of  
19 rights if, after reviewing the petition, the individual's  
20 criminal history, any filing by a victim under section 15 or a  
21 prosecutor and any other relevant evidence, it finds that the  
22 individual has established by a preponderance of the evidence  
23 that:

24 (1) The individual is engaged in, or seeking to engage  
25 in, a lawful occupation or activity, including employment,  
26 training, education or rehabilitative programs, or the  
27 individual otherwise has a lawful source of support.

28 (2) The individual is not in violation of the terms of a  
29 criminal sentence or that a failure to comply with the terms  
30 of a criminal sentence is justified, excused, involuntary or

1 insubstantial.

2 (3) A criminal charge is not pending against the  
3 individual.

4 (4) Granting the petition would not pose an unreasonable  
5 risk to the safety or welfare of the public or an individual.

6 (c) Contents.--A certificate of restoration of rights shall  
7 specify a restriction imposed and collateral sanction from which  
8 relief has not been granted under section 13(b).

9 (d) Relief.--A certificate of restoration of rights shall  
10 relieve all collateral sanctions, except those listed under  
11 section 12 and any other specifically excluded in the  
12 certificate.

13 (e) Underlying conduct.--If a collateral sanction has been  
14 relieved under this section, a decision maker may consider the  
15 conduct underlying a conviction under section 8.

16 Section 12. Collateral sanctions not subject to order of  
17 limited relief or certificate of restoration of  
18 rights.

19 An order of limited relief or certificate of restoration of  
20 rights may not be issued to relieve any of the following  
21 collateral sanctions:

22 (1) Requirements imposed under Title I of the Adam Walsh  
23 Child Protection and Safety Act of 2006 (Public Law 109-248,  
24 120 Stat. 587).

25 (2) A motor vehicle license suspension, revocation,  
26 limitation or ineligibility under 75 Pa.C.S. Ch. 37 (relating  
27 to miscellaneous provisions) or 38 (relating to driving after  
28 imbibing alcohol or utilizing drugs).

29 (3) Ineligibility for employment with a law enforcement  
30 agency.

1 Section 13. Issuance, modification and revocation of order of  
2 limited relief and certificate of restoration of  
3 rights.

4 (a) Notice.--When a petition is filed under section 10 or  
5 11, including a petition for enlargement of an existing order of  
6 limited relief or certificate of restoration of rights, the  
7 sentencing court shall notify the office that prosecuted the  
8 offense giving rise to the collateral consequence from which  
9 relief is sought and, if the conviction was not obtained in a  
10 court within this Commonwealth, the Office of Attorney General.

11 (b) Revocation.--

12 (1) The sentencing court may restrict or revoke an order  
13 of limited relief or certificate of restoration of rights  
14 issued by the sentencing court or an order of limited relief  
15 issued by a court in this Commonwealth if the sentencing  
16 court finds just cause by a preponderance of the evidence.

17 (2) An order of restriction or revocation may be issued:

18 (i) On the court's own motion or on the motion of  
19 the office of the prosecutor that obtained the conviction  
20 or a government agency designated by the prosecutor.

21 (ii) After notice to the individual and any  
22 prosecutor that has appeared in the matter.

23 (iii) After a hearing, if requested by the  
24 individual or the prosecutor that made the motion or any  
25 prosecutor that has appeared in the matter.

26 (3) As used in this subsection, the term "just cause"  
27 shall include a subsequent conviction of a felony in this  
28 Commonwealth or of an offense in another jurisdiction that is  
29 deemed a felony in this Commonwealth under section 9(a).

30 (c) Necessary orders.--

1           (1) The sentencing court shall order any test, report,  
2 investigation or disclosure by the individual that the  
3 sentencing court reasonably believes necessary to the  
4 decision to issue, modify or revoke an order of limited  
5 relief or certificate of restoration of rights.

6           (2) If there are material disputed issues of fact or  
7 law, the individual and any prosecutor notified under  
8 subsection (a) or another prosecutorial agency designated by  
9 a prosecutor notified under subsection (a) may submit  
10 evidence and be heard on those issues.

11       (d) Public records.--The sentencing court shall maintain a  
12 public record of the issuance, modification and revocation of  
13 orders of limited relief and certificates of restoration of  
14 rights. The criminal history record system of the Pennsylvania  
15 State Police and the Administrative Office of Pennsylvania  
16 Courts shall include issuance, modification and revocation of  
17 orders and certificates.

18       (e) Rules.--The Supreme Court of Pennsylvania may adopt  
19 rules for application, determination, modification and  
20 revocation of orders of limited relief and certificates of  
21 restoration of rights.

22 Section 14. Reliance on order or certificate as evidence of due  
23 care.

24 In a judicial or administrative proceeding alleging  
25 negligence or other fault, an order of limited relief or a  
26 certificate of restoration of rights may be introduced as  
27 evidence of a person's due care in hiring, retaining, licensing,  
28 leasing to, admitting to a school or program or otherwise  
29 transacting business or engaging in activity with the individual  
30 to whom the order was issued, if the person knew of the order or

1 certificate at the time of the alleged negligence or other  
2 fault.

3 Section 15. Victims' rights.

4 A victim of an offense may participate in a proceeding for  
5 issuance, modification or revocation of an order of limited  
6 relief or a certificate of restoration of rights in the same  
7 manner as at a sentencing proceeding.

8 Section 16. Uniformity of application and construction.

9 In applying and construing this act, consideration shall be  
10 given to the need to promote uniformity of law with respect to  
11 its subject matter among states that enact it.

12 Section 17. Savings and transactional provisions.

13 (a) Applicability.--This act applies to collateral  
14 consequences whenever enacted or imposed, unless the law  
15 creating the collateral consequence expressly states that this  
16 act does not apply.

17 (b) Validity.--Nothing in this act shall be construed to  
18 invalidate the imposition of a collateral sanction on an  
19 individual before the effective date of this section, but a  
20 collateral sanction validly imposed before the effective date of  
21 this section may be the subject of relief under this act.

22 Section 18. Effective date.

23 This act shall take effect in 60 days.