



General Assembly

January Session, 2013

Raised Bill No. 1063

LCO No. 4217



Referred to Committee on JUDICIARY

Introduced by:
(JUD)

***AN ACT CONCERNING THE UNIFORM COLLATERAL
CONSEQUENCES OF CONVICTION ACT.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) Sections 1 to 17,
2 inclusive, of this act may be cited as the Collateral Consequences of
3 Conviction Act.

4 Sec. 2. (NEW) (*Effective October 1, 2013*) As used in sections 1 to 17,
5 inclusive, of this act:

6 (1) "Collateral consequence" means a collateral sanction or a
7 disqualification;

8 (2) "Collateral sanction" means a penalty, disability or disadvantage,
9 however denominated, imposed on an individual as a result of the
10 individual's conviction of an offense which applies by operation of law
11 whether or not the penalty, disability or disadvantage is included in
12 the judgment or sentence. "Collateral sanction" does not include
13 incarceration, probation, parole, supervised release, forfeiture under

14 title 54 of the general statutes, criminal fine, assessment or costs of
15 prosecution;

16 (3) "Conviction" means a judgment entered by a court upon a plea of
17 guilty, a plea of nolo contendere or a finding of guilty by a jury or the
18 court notwithstanding any pending appeal or habeas corpus
19 proceeding arising from such judgment, and includes conviction of a
20 delinquent act, as defined in section 46b-120 of the general statutes;

21 (4) "Decision-maker" means the state acting through a department,
22 agency, officer or instrumentality, including a political subdivision,
23 educational institution, board or commission, or its employees;

24 (5) "Disqualification" means a penalty, disability or disadvantage,
25 however denominated, that an administrative agency, governmental
26 official or court in a civil proceeding is authorized, but not required, to
27 impose on an individual on grounds relating to the individual's
28 conviction of an offense;

29 (6) "Offense" means a felony, as defined in section 53a-25 of the
30 general statutes, a misdemeanor, as defined in section 53a-26 of the
31 general statutes, a violation, as defined in section 53a-27 of the general
32 statutes, any violation of the sections of the general statutes deemed to
33 be infractions, or a delinquent act, as defined in section 46b-120 of the
34 general statutes, or any offense the essential elements of which are
35 substantially the same as any such felony, misdemeanor, violation,
36 infraction or delinquent act under the law of another state or the
37 United States;

38 (7) "Person" means an individual, corporation, business trust, estate,
39 trust, partnership, limited liability company, association, joint venture,
40 public corporation, government or governmental subdivision, agency
41 or instrumentality, or any other legal or commercial entity; and

42 (8) "State" means a state of the United States, the District of
43 Columbia, the Commonwealth of Puerto Rico, the United States Virgin

44 Islands or any territory or insular possession subject to the jurisdiction
45 of the United States.

46 Sec. 3. (NEW) (*Effective October 1, 2013*) (a) Sections 1 to 17, inclusive,
47 of this act do not provide a basis for:

48 (1) Invalidating a plea, conviction or sentence;

49 (2) A cause of action for money damages; or

50 (3) A claim for relief from or defense to the application of a
51 collateral consequence based on a failure to comply with any provision
52 of section 4, 5 or 6 of this act.

53 (b) Sections 1 to 17, inclusive, of this act do not affect:

54 (1) The duty an individual's attorney owes to the individual;

55 (2) A claim or right of a victim of an offense; or

56 (3) A right or remedy under law other than sections 1 to 17,
57 inclusive, of this act, that are available to an individual who is
58 convicted of an offense.

59 Sec. 4. (NEW) (*Effective October 1, 2013*) (a) The Judicial Branch:

60 (1) Shall identify or cause to be identified any provision in the
61 Constitution of the state of Connecticut, the general statutes or the
62 regulations of Connecticut state agencies which imposes a collateral
63 sanction or authorizes the imposition of a disqualification, and any
64 provision of law that may afford relief from a collateral consequence;

65 (2) Not later than July 1, 2014, shall prepare or cause to be prepared
66 a collection of citations to, and the text or short descriptions of, the
67 provisions identified in subdivision (1) of this subsection;

68 (3) Not later than July 1, 2015, and annually thereafter, shall update
69 or cause to be updated the collection; and

70 (4) In complying with subparagraphs (1) and (2) of this subsection,
71 may rely on the study of this state's collateral sanctions,
72 disqualifications and relief provisions prepared by the National
73 Institute of Justice described in Section 510 of the Court Security
74 Improvement Act of 2007, P.L. 110-177.

75 (b) The Judicial Branch shall include or cause to be included the
76 following statements in a prominent manner at the beginning of the
77 collection required by subsection (a) of this section:

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

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

84 (3) The laws of other jurisdictions and municipal ordinances,
85 regulations and bylaws which impose additional collateral sanctions
86 and authorize additional disqualifications are not included in this
87 collection.

88 (4) This collection does not include any law or other provision
89 regarding the imposition of or relief from a collateral sanction or a
90 disqualification enacted or adopted after the date the collection was
91 prepared or last updated (... insert date).

92 (c) The Judicial Branch shall publish or cause to be published the
93 collection prepared and updated as required under subsection (a) of
94 this section. If available, the Judicial Branch shall publish or cause to be
95 published, as part of the collection, the title and Internet web site
96 address of the most recent collection of:

97 (1) The collateral consequences imposed by federal law; and

98 (2) Any provision of federal law that may afford relief from a

99 collateral consequence.

100 (d) The collection prepared and updated pursuant to this section
101 shall be made available to the public on the Internet web site of the
102 Judicial Branch without charge not later than July 1, 2014, and
103 annually thereafter.

104 Sec. 5. (NEW) (*Effective October 1, 2013*) (a) Whenever an individual
105 receives formal notice that the individual is charged with an offense,
106 the Judicial Branch shall cause notice substantially similar to the
107 following to be communicated to the individual:

108 NOTICE OF ADDITIONAL LEGAL CONSEQUENCES

109 If you plead guilty or are convicted of an offense you may suffer
110 additional legal consequences beyond jail or prison, fines, probation,
111 parole, special parole or other supervision. These consequences may
112 include:

- 113 1. Being unable to get or keep some licenses, permits or jobs;
- 114 2. Being unable to get or keep benefits such as public housing or
115 education;
- 116 3. Receiving a harsher sentence if you are convicted of another
117 offense in the future;
- 118 4. Having the government take your property; and
- 119 5. Being unable to vote or possess a firearm.

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

123 The law may provide ways to obtain some relief from these
124 consequences.

125 Further information about the consequences of conviction is
126 available on the Internet at (... insert Internet web site address of the
127 collection of laws published under subsections (c) and (d) of section 4
128 of this act).

129 (b) Before the court accepts a plea of guilty or nolo contendere from
130 an individual with respect to an offense, the court shall confirm that
131 the individual received and understands the notice required by
132 subsection (a) of this section and had an opportunity to discuss the
133 notice with his or her attorney.

134 Sec. 6. (NEW) (*Effective October 1, 2013*) (a) An individual convicted
135 of an offense shall be given notice as provided in subsections (b) and
136 (c) of this section:

137 (1) That collateral consequences may apply because of the
138 conviction;

139 (2) Of the Internet web site address of the collection of laws
140 published under subsection (c) of section 4 of this act;

141 (3) That there may be ways to obtain relief from collateral
142 consequences;

143 (4) Of contact information for government or nonprofit agencies,
144 groups or organizations, if any, offering assistance to individuals
145 seeking relief from collateral consequences; and

146 (5) Of when an individual convicted of an offense may vote under
147 Connecticut law.

148 (b) The court shall provide the notice described in subsection (a) of
149 this section as a part of sentencing.

150 (c) If an individual is sentenced to a period of incarceration, the
151 officer or agency releasing the individual shall provide the notice
152 described in subsection (a) of this section not more than thirty, and, if

153 practicable, at least ten days before release from incarceration.

154 Sec. 7. (NEW) (*Effective October 1, 2013*) (a) A collateral sanction may
155 be imposed only by statute or the regulations of Connecticut state
156 agencies.

157 (b) A law creating a collateral consequence that is ambiguous as to
158 whether it imposes a collateral sanction or authorizes a disqualification
159 shall be construed as authorizing a disqualification.

160 Sec. 8. (NEW) (*Effective October 1, 2013*) In deciding whether to
161 impose a disqualification, a decision-maker shall undertake an
162 individualized assessment to determine whether the benefit or
163 opportunity at issue should be denied the individual. In making that
164 decision, the decision-maker may consider, if substantially related to
165 the benefit or opportunity at issue, the particular facts and
166 circumstances involved in the offense and the essential elements of the
167 offense. A conviction itself may not be considered except as having
168 established the elements of the offense. The decision-maker shall also
169 consider other relevant information, including the effect on third
170 parties of granting the benefit or opportunity and whether the
171 individual has been granted relief such as a provisional pardon.

172 Sec. 9. (NEW) (*Effective October 1, 2013*) (a) For purposes of
173 authorizing or imposing a collateral consequence in this state, a
174 conviction of an offense in a court of another state or the United States
175 is deemed a conviction of the offense in this state with the same
176 elements. If there is no offense in this state with the same elements, the
177 conviction is deemed a conviction of the most serious offense in this
178 state which is established by the elements of the offense. A
179 misdemeanor in the jurisdiction of conviction may not be deemed a
180 felony in this state, and an offense lesser than a misdemeanor in the
181 jurisdiction of conviction may not be deemed a conviction of a felony
182 or misdemeanor in this state.

183 (b) For purposes of authorizing or imposing a collateral

184 consequence in this state, a juvenile adjudication in another state or the
185 United States may not be deemed a conviction of a felony,
186 misdemeanor or offense lesser than a misdemeanor in this state, but
187 may be deemed a conviction of a delinquent act in this state with the
188 same elements. If there is no delinquent act in this state with the same
189 elements, the juvenile adjudication is deemed an adjudication of the
190 most serious delinquent act in this state which is established by the
191 elements of the offense.

192 (c) A conviction that is reversed, overturned or otherwise vacated
193 by a court of competent jurisdiction of this state, another state or the
194 United States on grounds other than rehabilitation or good behavior
195 may not serve as the basis for authorizing or imposing a collateral
196 consequence in this state.

197 (d) A pardon issued by another state or the United States has the
198 same effect for purposes of authorizing, imposing and relieving a
199 collateral consequence in this state as it has in the issuing jurisdiction.

200 (e) A conviction that has been relieved by expungement, sealing,
201 annulment, set-aside or vacating by a court of competent jurisdiction
202 of another state or the United States on grounds of rehabilitation or
203 good behavior, or for which civil rights are restored pursuant to
204 statute, has the same effect for purposes of authorizing or imposing
205 collateral consequences in this state as it has in the jurisdiction of
206 conviction, except that such relief or restoration of civil rights does not
207 relieve collateral consequences applicable under the law of this state
208 for which relief could not be granted under section 12 of this act or for
209 which relief was expressly withheld by the court order or by the law of
210 the jurisdiction that relieved the conviction. An individual convicted in
211 another jurisdiction may seek relief under section 10 or 11 of this act
212 from any collateral consequence for which relief was not granted in the
213 issuing jurisdiction, other than those listed in section 12 of this act, and
214 the Board of Pardons and Paroles shall consider that the conviction
215 was relieved or civil rights restored in deciding whether to issue an

216 order of limited relief or certificate of restoration of rights.

217 (f) A charge or prosecution in any jurisdiction which has been
218 finally terminated without a conviction and imposition of sentence
219 based on participation in a deferred adjudication or diversion program
220 may not serve as the basis for authorizing or imposing a collateral
221 consequence in this state. The provisions of this subsection do not
222 affect the validity of any restriction or condition imposed by law as
223 part of participation in the deferred adjudication or diversion program,
224 before or after the termination of the charge or prosecution.

225 Sec. 10. (NEW) (*Effective October 1, 2013*) (a) An individual convicted
226 of an offense may petition for an order of limited relief from one or
227 more collateral sanctions related to employment, education, housing,
228 public benefits, or the granting of a license, as defined in section 54-
229 130e of the general statutes. The petition may be presented to:

230 (1) The sentencing court at or before sentencing; or

231 (2) The Board of Pardons and Paroles at any time after sentencing.

232 (b) Except as otherwise provided in section 12 of this act, the court
233 or the Board of Pardons and Paroles may issue an order of limited
234 relief relieving one or more of the collateral sanctions described in
235 subsection (a) of this section if, after reviewing the petition, the
236 individual's criminal history, any filing by a victim under section 15 of
237 this act or a prosecutor, and any other relevant evidence, it finds the
238 individual has established by a preponderance of the evidence that:

239 (1) Granting the petition will materially assist the individual in
240 obtaining or maintaining employment, education, housing, public
241 benefits or licensing;

242 (2) The individual has substantial need for the relief requested in
243 order to live a law abiding life; and

244 (3) Granting the petition would not pose an unreasonable risk to the

245 safety or welfare of the public or any individual.

246 (c) The order of limited relief shall specify:

247 (1) The collateral sanction from which relief is granted; and

248 (2) Any restriction imposed pursuant to subsection (a) of section 13
249 of this act.

250 (d) An order of limited relief relieves a collateral sanction to the
251 extent provided in the order.

252 (e) If a collateral sanction has been relieved pursuant to this section,
253 a decision-maker may consider the conduct underlying a conviction as
254 provided in section 8 of this act.

255 Sec. 11. (NEW) (*Effective October 1, 2013*) (a) An individual convicted
256 of an offense may petition the Board of Pardons and Paroles for a
257 certificate of restoration of rights relieving collateral sanctions not
258 sooner than five years after the individual's most recent conviction of a
259 felony or misdemeanor in any jurisdiction, or not sooner than five
260 years after the individual's release from confinement pursuant to a
261 criminal sentence in any jurisdiction, whichever is later.

262 (b) Except as otherwise provided in section 12 of this act, the Board
263 of Pardons and Paroles may issue a certificate of restoration of rights
264 if, after reviewing the petition, the individual's criminal history, any
265 filing by a victim under section 15 of this act or a prosecutor, and any
266 other relevant evidence, it finds the individual has established by a
267 preponderance of the evidence that:

268 (1) The individual is engaged in, or is seeking to engage in, a lawful
269 occupation or activity, including employment, training, education or
270 rehabilitative programs, or the individual otherwise has a lawful
271 source of support;

272 (2) The individual is not in violation of the terms of any criminal

273 sentence, or that any failure to comply is justified, excused,
274 involuntary or insubstantial;

275 (3) A criminal charge is not pending against the individual; and

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

278 (c) A certificate of restoration of rights shall specify any restriction
279 imposed and collateral sanction from which relief has not been granted
280 under subsection (a) of section 13 of this act.

281 (d) A certificate of restoration of rights relieves all collateral
282 sanctions, except those listed in section 12 of this act and any others
283 specifically excluded in the certificate.

284 (e) If a collateral sanction has been relieved pursuant to this section,
285 a decision-maker may consider the conduct underlying a conviction as
286 provided in section 8 of this act.

287 Sec. 12. (NEW) (*Effective October 1, 2013*) An order of limited relief or
288 certificate of restoration of rights may not be issued to relieve the
289 following collateral sanctions:

290 (1) Requirements imposed by chapter 969 of the general statutes to
291 register as a sexual offender or requirements imposed by the
292 notification act enacted pursuant to 42 USC Section 14071 or 42 USC
293 Section 16901 et seq. or with regulations promulgated thereunder;

294 (2) A motor vehicle license suspension, revocation, limitation or
295 ineligibility pursuant to title 14 of the general statutes, for which
296 restoration or relief is available pursuant to title 14 of the general
297 statutes; or

298 (3) Ineligibility for employment pursuant to any provision of the
299 general statutes under which such employment is prohibited.

300 Sec. 13. (NEW) (*Effective October 1, 2013*) (a) When a petition is filed
301 under section 10 or 11 of this act, including a petition for enlargement
302 of an existing order of limited relief or certificate of restoration of
303 rights, the Board of Pardons and Paroles shall notify the office that
304 prosecuted the offense giving rise to the collateral consequence from
305 which relief is sought and, if the conviction was not obtained in a court
306 of this state, the office of the Chief State's Attorney. The court may
307 issue an order and the Board of Pardons and Paroles may issue an
308 order or certificate subject to restriction, condition or additional
309 requirement. When issuing, denying, modifying or revoking an order
310 or certificate, the Board of Pardons and Paroles may impose conditions
311 for reapplication.

312 (b) The Board of Pardons and Paroles may restrict or revoke an
313 order of limited relief or certificate of restoration of rights it issued or
314 an order of limited relief issued by a court in this state if it finds just
315 cause by a preponderance of the evidence. Just cause includes
316 subsequent conviction of a felony in this state or of an offense in
317 another jurisdiction that is deemed a felony in this state under
318 subsection (a) of section 9 of this act. An order of restriction or
319 revocation may be issued:

320 (1) On motion of the Board of Pardons and Paroles, the office of the
321 prosecutor that obtained the conviction or a government agency
322 designated by that prosecutor;

323 (2) After notice to the individual and any prosecutor that has
324 appeared in the matter; and

325 (3) After a hearing under chapter 54 of the general statutes, if
326 requested by the individual or the prosecutor that made the motion or
327 any prosecutor that has appeared in the matter.

328 (c) The court or Board of Pardons and Paroles shall order any test,
329 report, investigation or disclosure by the individual it reasonably
330 believes necessary to its decision to issue, modify or revoke an order of

331 limited relief or certificate of restoration of rights. If there are material
332 disputed issues of fact or law, the individual and any prosecutor
333 notified under subsection (a) of this section or another prosecutorial
334 agency designated by a prosecutor notified under subsection (a) of this
335 section may submit evidence and be heard on those issues.

336 (d) The Board of Pardons and Paroles shall maintain a public record
337 of the issuance, modification and revocation of orders of limited relief
338 and certificates of restoration of rights. Criminal history record
339 information, as defined in section 54-142g of the general statutes, shall
340 include issuance, modification and revocation of orders and
341 certificates.

342 (e) The Board of Pardons and Paroles may adopt regulations, in
343 accordance with chapter 54 of the general statutes, to provide for
344 application, determination, modification and revocation of orders of
345 limited relief and certificates of restoration of rights.

346 Sec. 14. (NEW) (*Effective October 1, 2013*) In a judicial or
347 administrative proceeding alleging negligence or other fault, an order
348 of limited relief or a certificate of restoration of rights may be
349 introduced as evidence of a person's due care in hiring, retaining,
350 licensing, leasing to, admitting to a school or program or otherwise
351 transacting business or engaging in activity with the individual to
352 whom the order was issued, if the person knew of the order or
353 certificate at the time of the alleged negligence or other fault.

354 Sec. 15. (NEW) (*Effective October 1, 2013*) A victim of an offense may
355 participate in a proceeding for issuance, modification or revocation of
356 an order of limited relief or a certificate of restoration of rights.

357 Sec. 16. (NEW) (*Effective October 1, 2013*) In applying and construing
358 this uniform act, consideration shall be given to the need to promote
359 uniformity of the law with respect to its subject matter among states
360 that enact it.

361 Sec. 17. (NEW) (*Effective October 1, 2013*) (a) Sections 1 to 17,
362 inclusive, of this act apply to collateral consequences whenever
363 enacted or imposed, unless the law creating the collateral consequence
364 expressly states that sections 1 to 17, inclusive, of this act does not
365 apply.

366 (b) Sections 1 to 17, inclusive, of this act do not invalidate the
367 imposition of a collateral sanction on an individual before October 1,
368 2013, but a collateral sanction validly imposed before October 1, 2013,
369 may be the subject of relief under sections 1 to 17, inclusive, of this act.

370 Sec. 18. Subdivision (7) of subsection (b) of section 54-203 of the
371 general statutes is repealed and the following is substituted in lieu
372 thereof (*Effective October 1, 2013*):

373 (7) To provide each person who applies for compensation pursuant
374 to section 54-204, [within] not later than ten days [of] after the date of
375 receipt of such application, with a written list of rights of victims of
376 crime involving personal injury and the programs available in this
377 state to assist such victims. The Office of Victim Services, the state or
378 any agent, employee or officer thereof shall not be liable for the failure
379 to supply such list or any alleged inadequacies of such list. Such list
380 shall include, but not be limited to:

381 (A) Subject to the provisions of sections 18-81e and 51-286e, the
382 victim shall have the right to be informed concerning the status of his
383 or her case and to be informed of the release from custody of the
384 defendant;

385 (B) Subject to the provisions of section 54-91c, the victim shall have
386 the right to present a statement of his or her losses, injuries and wishes
387 to the prosecutor and the court prior to the acceptance by the court of a
388 plea of guilty or nolo contendere made pursuant to a plea agreement
389 with the state wherein the defendant pleads to a lesser offense than the
390 offense with which the defendant was originally charged;

391 (C) Subject to the provisions of section 54-91c, prior to the
392 imposition of sentence upon the defendant, the victim shall have the
393 right to submit a statement to the prosecutor as to the extent of any
394 injuries, financial losses and loss of earnings directly resulting from the
395 crime;

396 (D) Subject to the provisions of section 54-126a, the victim shall have
397 the right to appear before a panel of the Board of Pardons and Paroles
398 and make a statement as to whether the defendant should be released
399 on parole and any terms or conditions to be imposed upon any such
400 release;

401 (E) Subject to the provisions of section 54-36a, the victim shall have
402 the right to have any property the victim owns which was seized by
403 police in connection with an arrest to be returned;

404 (F) Subject to the provisions of sections 54-56e and 54-142c, the
405 victim shall have the right to be notified of the application by the
406 defendant for the pretrial program for accelerated rehabilitation and to
407 obtain from the court information as to whether the criminal
408 prosecution in the case has been dismissed;

409 (G) Subject to the provisions of section 54-85b, the victim cannot be
410 fired, harassed or otherwise retaliated against by an employer for
411 appearing under a subpoena as a witness in any criminal prosecution;

412 (H) Subject to the provisions of section 54-86g, the parent or legal
413 guardian of a child twelve years of age or younger who is a victim of
414 child abuse or sexual assault may request special procedural
415 considerations to be taken during the testimony of the child;

416 (I) Subject to the provisions of section 46b-15, the victim of assault
417 by a spouse or former spouse, family or household member has the
418 right to request the arrest of the offender, request a protective order
419 and apply for a restraining order;

420 (J) Subject to the provisions of sections 52-146k, 54-86e and 54-86f,
 421 the victim of sexual assault or domestic violence can expect certain
 422 records to remain confidential; [and]

423 (K) Subject to the provisions of section 53a-32, the victim may
 424 receive notification from a probation officer whenever the officer has
 425 notified a police officer that the probation officer has probable cause to
 426 believe that the offender has violated a condition of such offender's
 427 probation; and

428 (L) Subject to the provisions of sections 1 to 17, inclusive, of this act,
 429 the victim may participate in any hearing on the issuance, modification
 430 and revocation of orders of limited relief and certificates of restoration
 431 of rights.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	New section
Sec. 3	<i>October 1, 2013</i>	New section
Sec. 4	<i>October 1, 2013</i>	New section
Sec. 5	<i>October 1, 2013</i>	New section
Sec. 6	<i>October 1, 2013</i>	New section
Sec. 7	<i>October 1, 2013</i>	New section
Sec. 8	<i>October 1, 2013</i>	New section
Sec. 9	<i>October 1, 2013</i>	New section
Sec. 10	<i>October 1, 2013</i>	New section
Sec. 11	<i>October 1, 2013</i>	New section
Sec. 12	<i>October 1, 2013</i>	New section
Sec. 13	<i>October 1, 2013</i>	New section
Sec. 14	<i>October 1, 2013</i>	New section
Sec. 15	<i>October 1, 2013</i>	New section
Sec. 16	<i>October 1, 2013</i>	New section
Sec. 17	<i>October 1, 2013</i>	New section
Sec. 18	<i>October 1, 2013</i>	54-203(b)(7)

Statement of Purpose:

To adopt the Uniform Collateral Consequences of Conviction Act.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]