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S.F. No. 3313 (1st Engrossment) - Criminal Collateral Consequences

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SF No. 3313, the first engrossment, enacts the Collateral Consequences of Conviction Model Act proposed by the Uniform Laws Commission. The act requires notice to persons that collateral consequences may apply upon conviction for an offense, requires that the state compile and publish a list of existing collateral consequences, and provides a process for relief from certain collateral consequences.

Article 1 Collateral Consequences of Conviction Model Act

Section 1 provides a short title for the law.

Section 2 defines key terms used in the article including: “collateral consequence,” “collateral sanction,” “conviction,” “decision maker,” “disqualification,” “offense,” “person,” and “state.” Of note, “collateral consequence” is an umbrella term that includes both collateral sanctions (defined to include penalties or disabilities that flow *automatically* from a conviction (but not including imprisonment, criminal fines, etc.)) and disqualifications (defined to include penalties or disabilities that are *authorized* but not *required* to be imposed based on a criminal conviction).

Section 3 specifies limitations on the scope of the article.

Section 4 requires the Revisor of Statutes to identify, prepare, and publish a collection of citations to provisions imposing or authorizing collateral consequences or authorizing relief from them, and to annually update this.

Section 5 requires peace officers and prosecutors to provide specified notice regarding collateral consequences when citing or charging a person with an offense, and courts to confirm, before accepting a guilty plea, that the person received and understands the notice and had the opportunity to discuss it with counsel.

Section 6 requires courts upon sentencing and the releasing authority upon a person's release from incarceration to provide specified notice relating to collateral consequences.

Section 7 provides that a collateral sanction may only be imposed by statute, ordinance, or administrative rule. Provides that where the law imposing a collateral consequence is unclear as to whether it is creating a collateral sanction or a disqualification, it must be construed as providing a disqualification.

Section 8 requires a decision maker to undertake an individualized assessment when determining whether to impose a disqualification and specifies the process for so doing.

Section 9 addresses issues related to things occurring in other states, including the impact of convictions and juvenile adjudications from other states, and overturned, pardoned, or expunged convictions from other states.

Section 10 authorizes a person to petition for an order of limited relief from one or more collateral sanctions relating to employment, education, housing, public benefits, or occupational licensing. The petition may be presented to the sentencing court (at or before sentencing) or the Department of Corrections (at any time after sentencing). Specifies the criteria for ordering relief and what the order, if granted, must specify. If an order is granted, decision makers are authorized to consider the conduct underlying the conviction as provided in **section 8** (decision to disqualify). An order may not grant relief from collateral sanctions described in **section 12**.

Section 11 authorizes a person to petition the Department of Corrections for a certificate of restoration of rights regarding collateral sanctions. A petition may be brought no sooner than three years from the date of the person's most recent conviction or from release from incarceration, whichever is later. Specifies the criteria for issuing the certificate and what the certificate, if granted, must specify. If a certificate is issued, decision makers are authorized to consider the conduct underlying the conviction as provided in **section 8** (decision to disqualify). A certificate relieves all collateral sanctions except those described in **section 12**.

Section 12 provides that an order of limited relief (**section 10**) or a certificate of restoration of rights (**section 11**) does not relieve collateral sanctions related to predatory offender registration, certain driver's licensing restrictions, certain public safety-related employment ineligibility, or firearms restrictions.

Section 13 authorizes the Department of Corrections to issue orders of limited relief (**section 10**) or certificates of restoration of rights (**section 11**) that are restricted or subject to additional requirements and to restrict or revoke previously issued orders or certificates. Requires the department to maintain a public record related to these orders. Authorizes the Department of Corrections to adopt rules.

Section 14 provides that orders of limited relief (**section 10**) and certificates of restoration of rights (**section 11**) may be introduced as evidence of a person's due care in certain judicial or administrative proceedings alleging negligence or other fault.

Section 15 provides that this article applies to all collateral consequences unless the law creating them expressly states otherwise. Provides that this article does not invalidate preexisting collateral sanctions but that they may be the subject of an order for relief under the article.

Section 16 requires that the uniform traffic citation and the statewide standard citation must include a notice of collateral consequences substantially similar to that described in **section 5**. If this is not feasible, then the ticket and citation must generally inform the person about the issue of potential collateral consequences.

Section 18 provides an appropriation of an unspecified amount to the courts to implement their duties under the article.

Section 19 provides the article's effective dates. Of note, the effective date for the requirement that when peace officers issue a citation, the officer must ensure that the person receives a notice regarding collateral consequences (see **section 5**) is delayed until 2028.

Article 2

Conforming Amendments

Sections 1 and 2 amend Minnesota Statutes, chapter 245C (Human Services Background Studies) to address issues specific to these studies and disqualifications. Authorizes the commissioner of human services to set aside a person's disqualification under chapter 245C if the person has been issued an order for limited relief (**article 1, section 10**) or a certificate of restoration of rights (**article 1, section 11**). Requires a person who received such a set aside to inform the commissioner if the underlying order or certificate gets restricted or revoked and, if this occurs, for the commissioner to rescind the set aside.

Section 3 provides an exception to the provisions of Minnesota Statutes, chapter 364 (criminal offenders rehabilitation) relating to article 1.

Section 4 repeals provisions in Minnesota Statutes, chapter 609B (collateral sanctions) relating to criminal sanctions.