

## HIDDEN PUNISHMENT

By

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Few people, even among those who work in criminal justice, know of and understand the full consequences of a criminal conviction. Aside from the punishment imposed by a judge at sentencing, hundreds of other penalties are imposed by rules and laws that do not take into account the nature of the offense or the offender. When a person is convicted of a crime, these barriers will automatically bar that person from employment, take away rights and may even restrict their movements. An American Bar Association study finds 570 such rules and laws in Minnesota.

These "collateral consequences", denying employment and prohibiting certain activities, make a lot of sense if applied in a common sense manner to a particular offender for a particular crime. We all would agree a person convicted of a sexual offense with a child should not be allowed to work in a day care.

But that is not how they are applied. They apply without consideration of the nature of the crime or the characteristics of the offender. Let us understand that each crime may be unique. Stealing a bike from an attached garage while the owner is busy making dinner is burglary in the first degree; breaking into a home at night, stealing electronics and jewelry and assaulting the homeowner is also burglary in the first degree, even though the conduct in this scenario is much more serious.

Each offender is different. Age, education, criminal background, circumstances leading to the crime, such as alcohol or drug use, peer group pressure, economic and family circumstances, are different for each person convicted. An 18 year old influenced by alcohol and friends who commits a crime is different from a 30 year old who is committing crimes repeatedly for a profit; they should receive different sentences and different collateral sanctions.

In sentencing a person for committing a crime, a judge may take into account the circumstances of the crime and the characteristics of the

offender. The judge will want to punish the offender but not destroy or permanently debilitate him. To this end, the court receives information necessary for an appropriate sentence, including information regarding the offender's background, chemical dependency, and amenability to probation. The judge may not, however, do anything about the collateral consequences applied automatically by rule or law.

Beyond the unfair application of the blind and blanket application of these rules and laws, the barriers they create to participating in society decreases public safety. Probation and parole officers working with offenders to assist them in finding employment, housing and a law-abiding life, know the difficulties their clients face in overcoming these barriers. Unknowingly, we have created a growing underclass that will increasingly threaten our economic and social stability, to say nothing of the personal hopelessness for those who may have made a minor mistake.

If we create unreasonable barriers for an offender to find employment and housing, we create a danger to public safety. You do not need an employment license to burglarize a house or sell drugs. If offenders are unable to find employment and, with some justification, believe they are being unfairly prevented from obtaining a job, it is a small step to survive through criminal activity.

The legislature has an opportunity to bring justice into sentencing and improve public safety when it considers the "Uniform Collateral Consequences of Conviction Act" proposed by the Uniform Law Commission. Under the proposed law, common sense relief from an unreasonable collateral consequence may be made by the sentencing judge and further relief may be provided by a judge in following years if warranted.

As more and more of our fellow citizens are marginalized, we need this law both out of a sense of fairness to the offender and, frankly, in our own self interest.