

HOUSE BILL 659

E2

5l2493
CF 5l1677

By: **Delegates Anderson and McComas**

Introduced and read first time: February 12, 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

29 (2008 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Criminal Procedure**

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

6 **10–301.**

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

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

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

16 (2) “COLLATERAL SANCTION” DOES NOT INCLUDE:

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

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

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

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

26 (F) “DECISION MAKER” MEANS THE STATE ACTING THROUGH A
27 DEPARTMENT, AN AGENCY, OR AN OFFICER, INCLUDING A POLITICAL SUBDIVISION,
28 AN EDUCATIONAL INSTITUTION, A BOARD, OR A COMMISSION, OR ITS EMPLOYEES,
29 OR A GOVERNMENT CONTRACTOR, INCLUDING A SUBCONTRACTOR, MADE SUBJECT
30 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 GOVERNMENT OFFICIAL, OR
3 A COURT IN A CIVIL PROCEEDING IS AUTHORIZED, BUT NOT REQUIRED, TO IMPOSE
4 ON A PERSON ON GROUNDS RELATING TO THE PERSON'S CONVICTION OF AN
5 OFFENSE.

6 10-302.

7 (A) THIS SUBTITLE DOES NOT APPLY TO:

8 (1) A PERSON INCARCERATED OR CURRENTLY BEING SUPERVISED,
9 ON PROBATION, OR CONVICTED IN THIS STATE FOR A CRIME OF VIOLENCE, AS
10 DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE;

11 (2) A PERSON INCARCERATED OR CURRENTLY BEING SUPERVISED,
12 ON PROBATION, OR CONVICTED IN THIS STATE FOR A CRIME UNDER TITLE 3,
13 SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE;

14 (3) A PERSON INCARCERATED OR CURRENTLY BEING SUPERVISED,
15 ON PROBATION, OR CONVICTED IN THIS STATE FOR A VIOLATION OF § 2-503, §§
16 5-602 THROUGH 5-617, § 5-627, OR § 5-628 OF THE CRIMINAL LAW ARTICLE; OR

17 (4) A PERSON REGISTERED OR ELIGIBLE FOR REGISTRATION UNDER
18 TITLE 11, SUBTITLE 7 OF THIS ARTICLE.

19 (B) THIS SUBTITLE DOES NOT PROVIDE A BASIS FOR:

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

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

22 (3) A CLAIM FOR RELIEF FROM OR DEFENSE TO THE APPLICATION OF
23 A COLLATERAL CONSEQUENCE BASED ON A FAILURE TO COMPLY WITH § 10-303, §
24 10-304, OR § 10-305 OF THIS SUBTITLE.

25 (C) THIS SUBTITLE DOES NOT AFFECT:

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

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

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

1 **10-303.**

2 (A) **THE ATTORNEY GENERAL:**

3 (1) **SHALL IDENTIFY ANY PROVISION IN THE STATE'S CONSTITUTION,**
4 **STATUTES, AND ADMINISTRATIVE RULES THAT IMPOSES OR AUTHORIZES THE**
5 **IMPOSITION OF A COLLATERAL SANCTION AND ANY PROVISION OF LAW THAT MAY**
6 **AFFORD RELIEF FROM A COLLATERAL CONSEQUENCE;**

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

10 (3) **SHALL UPDATE THE COLLECTION WITHIN 180 DAYS AFTER EACH**
11 **REGULAR SESSION OF THE GENERAL ASSEMBLY; AND**

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

17 (B) **THE ATTORNEY GENERAL SHALL INCLUDE THE FOLLOWING IN A**
18 **PROMINENT MANNER AT THE BEGINNING OF THE COLLECTION REQUIRED BY**
19 **SUBSECTION (A) OF THIS SECTION:**

20 (1) **"THIS COLLECTION HAS NOT BEEN ENACTED INTO LAW AND DOES**
21 **NOT HAVE THE FORCE OF LAW";**

22 (2) **"AN ERROR OR OMISSION IN THIS COLLECTION OR IN ANY**
23 **REFERENCE WORK CITED IN THIS COLLECTION IS NOT A REASON FOR INVALIDATING**
24 **A PLEA, CONVICTION, OR SENTENCE IMPOSED OR FOR NOT IMPOSING A COLLATERAL**
25 **SANCTION OR AUTHORIZING A DISQUALIFICATION";**

26 (3) **"THE LAWS OF OTHER JURISDICTIONS AND COUNTIES THAT**
27 **IMPOSE ADDITIONAL COLLATERAL SANCTIONS AND AUTHORIZE ADDITIONAL**
28 **DISQUALIFICATIONS ARE NOT INCLUDED IN THIS COLLECTION"; AND**

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

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

3 (2) IF AVAILABLE, THE ATTORNEY GENERAL SHALL PUBLISH, AS
4 PART OF THE COLLECTION, THE TITLE AND INTERNET ADDRESS OF THE MOST
5 RECENT COLLECTION OF:

6 (I) THE COLLATERAL CONSEQUENCES IMPOSED BY FEDERAL
7 LAW; AND

8 (II) ANY PROVISION OF FEDERAL LAW THAT MAY PROVIDE
9 RELIEF FROM A COLLATERAL CONSEQUENCE.

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

13 10-304.

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

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

20 "NOTICE OF ADDITIONAL LEGAL CONSEQUENCES

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

24 THESE CONSEQUENCES MAY INCLUDE:

25 (1) BEING UNABLE TO OBTAIN OR KEEP SOME LICENSES, PERMITS, OR
26 JOBS;

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

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

1 (4) HAVING THE GOVERNMENT TAKE POSSESSION OF CERTAIN
2 PROPERTY OF YOURS; AND

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

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

7 THE LAW MAY PROVIDE WAYS TO OBTAIN SOME RELIEF FROM THESE
8 CONSEQUENCES. FURTHER INFORMATION ABOUT THE CONSEQUENCES OF
9 CONVICTION IS AVAILABLE ON THE INTERNET WEB SITE TO BE ESTABLISHED BY
10 THE MARYLAND ATTORNEY GENERAL.”.

11 (C) BEFORE THE COURT ACCEPTS A PLEA OF GUILTY OR NOLO
12 CONTENDERE FROM A PERSON, THE COURT SHALL CONFIRM THAT THE PERSON
13 RECEIVED AND UNDERSTANDS THE NOTICE REQUIRED BY SUBSECTION (A) OF THIS
14 SECTION AND HAS HAD AN OPPORTUNITY TO DISCUSS THE NOTICE WITH COUNSEL.

15 **10-305.**

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

18 (1) THAT COLLATERAL CONSEQUENCES MAY APPLY BECAUSE OF THE
19 CONVICTION;

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

22 (3) THAT THERE MAY BE WAYS TO OBTAIN RELIEF FROM COLLATERAL
23 CONSEQUENCES;

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

27 (5) OF WHEN A PERSON CONVICTED OF AN OFFENSE MAY VOTE UNDER
28 THE STATE’S LAW.

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

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

5 **10-306.**

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

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

12 **10-307.**

13 (A) IN DECIDING WHETHER TO IMPOSE A DISQUALIFICATION, A
14 DECISION MAKER SHALL UNDERTAKE AN INDIVIDUALIZED ASSESSMENT TO
15 DETERMINE WHETHER THE BENEFIT OR OPPORTUNITY AT ISSUE SHOULD BE
16 DENIED TO THE PERSON.

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

20 (1) THE PARTICULAR FACTS AND CIRCUMSTANCES INVOLVED IN THE
21 OFFENSE; AND

22 (2) THE ESSENTIAL ELEMENTS OF THE OFFENSE.

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

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

30 **10-308.**

1 (A) FOR PURPOSES OF AUTHORIZING OR IMPOSING A COLLATERAL
2 CONSEQUENCE IN THE STATE, A CONVICTION OF AN OFFENSE IN A COURT OF
3 ANOTHER STATE OR THE UNITED STATES IS CONSIDERED A CONVICTION OF THE
4 OFFENSE IN THIS STATE WITH THE SAME ELEMENTS.

5 (B) IF THERE IS NO OFFENSE IN THE STATE WITH THE SAME ELEMENTS, A
6 CONVICTION UNDER SUBSECTION (A) OF THIS SECTION IS CONSIDERED A
7 CONVICTION OF THE MOST SERIOUS OFFENSE IN THE STATE THAT IS ESTABLISHED
8 BY THE ELEMENTS OF THE OFFENSE.

9 (C) A MISDEMEANOR IN THE JURISDICTION OF CONVICTION MAY NOT BE
10 CONSIDERED A FELONY IN THE STATE, AND AN OFFENSE LESSER THAN A
11 MISDEMEANOR IN THE JURISDICTION OF CONVICTION MAY NOT BE CONSIDERED A
12 CONVICTION OF A FELONY OR MISDEMEANOR IN THE STATE.

13 (D) (1) FOR PURPOSES OF AUTHORIZING OR IMPOSING A COLLATERAL
14 CONSEQUENCE IN THE STATE, AN ADJUDICATION AS DELINQUENT IN ANOTHER
15 STATE OR THE UNITED STATES MAY NOT BE CONSIDERED A CONVICTION OF A
16 FELONY, A MISDEMEANOR, OR AN OFFENSE LESSER THAN A MISDEMEANOR IN THIS
17 STATE, BUT MAY BE CONSIDERED AN ADJUDICATION AS DELINQUENT FOR THE ACT
18 IN THIS STATE WITH THE SAME ELEMENTS.

19 (2) IF THERE IS NO DELINQUENT ACT IN THE STATE WITH THE SAME
20 ELEMENTS, THE ADJUDICATION AS DELINQUENT DESCRIBED IN PARAGRAPH (1) OF
21 THIS SUBSECTION IS CONSIDERED AN ADJUDICATION AS DELINQUENT OF THE MOST
22 SERIOUS ACT IN THE STATE THAT IS ESTABLISHED BY THE ELEMENTS OF THE
23 OFFENSE.

24 (E) A CONVICTION REVERSED, OVERTURNED, OR OTHERWISE VACATED BY
25 A COURT OF COMPETENT JURISDICTION OF THE STATE, ANOTHER STATE, OR THE
26 UNITED STATES ON GROUNDS OTHER THAN REHABILITATION OR GOOD BEHAVIOR
27 MAY NOT SERVE AS THE BASIS FOR AUTHORIZING OR IMPOSING A COLLATERAL
28 CONSEQUENCE IN THE STATE.

29 (F) A PARDON ISSUED BY ANOTHER STATE OR THE UNITED STATES HAS THE
30 SAME EFFECT FOR PURPOSES OF AUTHORIZING, IMPOSING, AND RELIEVING A
31 COLLATERAL CONSEQUENCE IN THE STATE AS IT HAS IN THE ISSUING
32 JURISDICTION.

33 (G) (1) A CONVICTION, RELIEVED BY EXPUNGEMENT, SEALING,
34 ANNULMENT, SET ASIDE, OR VACATING BY A COURT OF COMPETENT JURISDICTION
35 OF ANOTHER STATE OR THE UNITED STATES ON GROUNDS OF REHABILITATION OR
36 GOOD BEHAVIOR OR FOR WHICH CIVIL RIGHTS ARE RESTORED IN ACCORDANCE

1 WITH STATUTE, IS CONSIDERED A CONVICTION FOR PURPOSES OF AUTHORIZING OR
2 IMPOSING COLLATERAL CONSEQUENCES IN THE STATE AS PROVIDED IN
3 SUBSECTION (A) OF THIS SECTION.

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

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

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

20 10-309.

21 (A) (1) A PERSON CONVICTED OF AN OFFENSE MAY PETITION FOR AN
22 ORDER OF LIMITED RELIEF FROM ONE OR MORE COLLATERAL SANCTIONS RELATED
23 TO EMPLOYMENT, EDUCATION, HOUSING, PUBLIC BENEFITS, OR OCCUPATIONAL
24 LICENSING.

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

26 (I) THE SENTENCING COURT AT OR BEFORE SENTENCING; OR

27 (II) THE COMMISSION AT ANY TIME AFTER SENTENCING.

28 (B) EXCEPT AS OTHERWISE PROVIDED IN § 10-311 OF THIS SUBTITLE, THE
29 COURT OR THE COMMISSION MAY ISSUE AN ORDER OF LIMITED RELIEF RELIEVING
30 ONE OR MORE OF THE COLLATERAL SANCTIONS DESCRIBED IN SUBSECTION (A) OF
31 THIS SECTION IF, AFTER REVIEWING THE PETITION, THE PERSON'S CRIMINAL
32 HISTORY, ANY FILING BY A VICTIM IN ACCORDANCE WITH § 10-314 OF THIS
33 SUBTITLE OR BY A PROSECUTOR, AND ANY OTHER RELEVANT EVIDENCE, THE COURT

1 OR THE COMMISSION FINDS THE PERSON HAS ESTABLISHED BY A PREPONDERANCE
2 OF THE EVIDENCE THAT:

3 (1) GRANTING THE PETITION WILL MATERIALLY ASSIST THE PERSON
4 IN OBTAINING OR MAINTAINING EMPLOYMENT, EDUCATION, HOUSING, PUBLIC
5 BENEFITS, OR OCCUPATIONAL LICENSING;

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

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

10 (C) AN ORDER OF LIMITED RELIEF UNDER SUBSECTION (B) OF THIS
11 SECTION SHALL SPECIFY:

12 (1) THE COLLATERAL SANCTION FROM WHICH RELIEF IS GRANTED;
13 AND

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

16 (D) AN ORDER OF LIMITED RELIEF RELIEVES A COLLATERAL SANCTION TO
17 THE EXTENT PROVIDED IN THE ORDER.

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

21 10-310.

22 (A) AN INDIVIDUAL CONVICTED OF AN OFFENSE MAY PETITION THE
23 SENTENCING COURT OR, IF PAROLED, THE COMMISSION FOR A CERTIFICATE OF
24 RESTORATION OF RIGHTS RELIEVING COLLATERAL SANCTIONS NOT SOONER THAN
25 5 YEARS AFTER THE PERSON'S MOST RECENT CONVICTION OF A FELONY OR
26 MISDEMEANOR IN ANY JURISDICTION OR NOT SOONER THAN 5 YEARS AFTER THE
27 PERSON'S RELEASE FROM CONFINEMENT IN ACCORDANCE WITH A CRIMINAL
28 SENTENCE IN ANY JURISDICTION, WHICHEVER IS LATER.

29 (B) EXCEPT AS OTHERWISE PROVIDED IN § 10-311 OF THIS SUBTITLE, THE
30 SENTENCING COURT OR THE COMMISSION MAY ISSUE A CERTIFICATE OF
31 RESTORATION OF RIGHTS IF, AFTER REVIEWING THE PETITION, THE PERSON'S
32 CRIMINAL HISTORY, ANY FILING BY A VICTIM UNDER § 10-314 OF THIS SUBTITLE OR

1 BY A PROSECUTOR, AND ANY OTHER RELEVANT EVIDENCE, THE SENTENCING COURT
2 OR THE COMMISSION FINDS THE PERSON HAS ESTABLISHED BY A PREPONDERANCE
3 OF THE EVIDENCE THAT:

4 (1) THE PERSON IS ENGAGED IN OR SEEKING TO ENGAGE IN A LAWFUL
5 OCCUPATION OR ACTIVITY, INCLUDING EMPLOYMENT, TRAINING, EDUCATION, OR
6 REHABILITATIVE PROGRAMS, OR THE PERSON OTHERWISE HAS A LAWFUL SOURCE
7 OF SUPPORT;

8 (2) THE PERSON IS NOT IN VIOLATION OF THE TERMS OF ANY
9 CRIMINAL SENTENCE, OR ANY FAILURE TO COMPLY IS JUSTIFIED, EXCUSED,
10 INVOLUNTARY, OR INSUBSTANTIAL;

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

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

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

17 (D) A CERTIFICATE OF RESTORATION OF RIGHTS RELIEVES ALL
18 COLLATERAL SANCTIONS, EXCEPT THOSE LISTED IN § 10-311 OF THIS SUBTITLE
19 AND ANY OTHER COLLATERAL SANCTION SPECIFICALLY EXCLUDED IN THE
20 CERTIFICATE.

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

24 10-311.

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

27 (1) A MOTOR VEHICLE LICENSE SUSPENSION, REVOCATION,
28 LIMITATION, OR INELIGIBILITY IN ACCORDANCE WITH TITLE 21, SUBTITLE 9 OR
29 TITLE 16, SUBTITLE 3 OF THE TRANSPORTATION ARTICLE; OR

30 (2) INELIGIBILITY FOR EMPLOYMENT IN ACCORDANCE WITH LAWS
31 RESTRICTING EMPLOYMENT OF CONVICTED PERSONS BY LAW ENFORCEMENT
32 AGENCIES, INCLUDING THE ATTORNEY GENERAL, A STATE'S ATTORNEY'S OFFICE,

1 A POLICE DEPARTMENT, A SHERIFF'S DEPARTMENT, THE DEPARTMENT OF STATE
2 POLICE, OR THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

3 10-312.

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

12 (2) THE COURT OR THE COMMISSION MAY ISSUE AN ORDER OR A
13 CERTIFICATE UNDER THIS SUBTITLE, SUBJECT TO RESTRICTION, CONDITION, OR
14 ADDITIONAL REQUIREMENT.

15 (3) WHEN ISSUING, DENYING, MODIFYING, OR REVOKING AN ORDER
16 OR A CERTIFICATE UNDER THIS SUBTITLE, THE COURT OR THE COMMISSION MAY
17 IMPOSE CONDITIONS FOR REAPPLICATION.

18 (B) (1) THE SENTENCING COURT OR THE COMMISSION MAY RESTRICT OR
19 REVOKE AN ORDER OF LIMITED RELIEF OR A CERTIFICATE OF RESTORATION OF
20 RIGHTS THAT THE SENTENCING COURT OR THE COMMISSION ISSUED OR AN ORDER
21 OF LIMITED RELIEF ISSUED BY A COURT IN THE STATE IF THE SENTENCING COURT
22 OR THE COMMISSION FINDS JUST CAUSE BY A PREPONDERANCE OF THE EVIDENCE.

23 (2) (I) A JUST CAUSE DESCRIBED IN PARAGRAPH (1) OF THIS
24 SUBSECTION INCLUDES SUBSEQUENT CONVICTION OF A FELONY IN THE STATE OR
25 OF AN OFFENSE IN ANOTHER JURISDICTION THAT IS CONSIDERED A FELONY IN THIS
26 STATE UNDER § 10-308(A) OF THIS SUBTITLE.

27 (II) AN ORDER OF RESTRICTION OR REVOCATION MAY BE
28 ISSUED:

29 1. ON A MOTION OF THE PROSECUTOR THAT OBTAINED
30 THE CONVICTION OR A STATE AGENCY DESIGNATED BY THAT PROSECUTOR;

31 2. AFTER NOTICE TO THE PERSON AND ANY
32 PROSECUTOR THAT HAS ENTERED AN APPEARANCE IN THE MATTER; AND

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

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

9 **(2) IF THERE ARE DISPUTED MATERIAL ISSUES OF FACT OR LAW, THE**
10 **PERSON AND ANY PROSECUTOR NOTIFIED UNDER SUBSECTION (A) OF THIS SECTION**
11 **OR ANOTHER PROSECUTORIAL AGENCY DESIGNATED BY A PROSECUTOR NOTIFIED**
12 **UNDER SUBSECTION (A) OF THIS SECTION MAY SUBMIT EVIDENCE AND BE HEARD ON**
13 **THOSE ISSUES.**

14 **(D) (1) THE COURT OR THE COMMISSION SHALL MAINTAIN AS PART OF**
15 **THE COURT'S OR THE COMMISSION'S PUBLIC RECORDS THE ISSUANCE,**
16 **MODIFICATION, AND REVOCATION OF ORDERS OF LIMITED RELIEF AND**
17 **CERTIFICATES OF RESTORATION OF RIGHTS.**

18 **(2) THE CRIMINAL HISTORY RECORD SYSTEM OF THE STATE SHALL**
19 **INCLUDE REFERENCE TO ISSUANCE, MODIFICATION, AND REVOCATION OF ORDERS**
20 **AND CERTIFICATES.**

21 **(E) THE MARYLAND COURT OF APPEALS AND THE COMMISSION MAY**
22 **ADOPT RULES FOR APPLICATION, DETERMINATION, MODIFICATION, AND**
23 **REVOCATION OF ORDERS OF LIMITED RELIEF AND CERTIFICATES OF RESTORATION**
24 **OF RIGHTS.**

25 **(F) (1) THE ISSUANCE OF AN ORDER OF LIMITED RELIEF OR OF A**
26 **CERTIFICATE OF RESTORATION OF RIGHTS SHALL APPLY ONLY TO CONSEQUENCES**
27 **IMPOSED BY OPERATION OF LAW.**

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

31 **10-313.**

32 **IN A JUDICIAL OR AN ADMINISTRATIVE PROCEEDING ALLEGING NEGLIGENCE**
33 **OR OTHER FAULT, AN ORDER OF LIMITED RELIEF OR A CERTIFICATE OF**
34 **RESTORATION OF RIGHTS MAY BE INTRODUCED AS EVIDENCE OF A PERSON'S DUE**

1 CARE IN HIRING, RETAINING, LICENSING, LEASING TO, ADMITTING TO A SCHOOL OR
2 PROGRAM, OR OTHERWISE TRANSACTING BUSINESS OR ENGAGING IN ACTIVITY
3 WITH THE PERSON TO WHOM THE ORDER OR CERTIFICATE WAS ISSUED, IF THE
4 PERSON KNEW OF THE ORDER OR CERTIFICATE AT THE TIME OF THE ALLEGED
5 NEGLIGENCE OR OTHER FAULT.

6 **10-314.**

7 A VICTIM OF AN OFFENSE MAY PARTICIPATE IN A PROCEEDING FOR ISSUANCE,
8 MODIFICATION, OR REVOCATION OF AN ORDER OF LIMITED RELIEF OR A
9 CERTIFICATE OF RESTORATION OF RIGHTS IN THE SAME MANNER AS AT A
10 SENTENCING PROCEEDING OR PAROLE HEARING AS PERMITTED BY COURT AND
11 COMMISSION RULES.

12 **10-315.**

13 IN APPLYING AND CONSTRUING THIS ACT, CONSIDERATION MUST BE GIVEN
14 TO THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO THE
15 SUBJECT MATTER AMONG STATES THAT ENACT THE LAW.

16 **10-316.**

17 (A) THIS SUBTITLE APPLIES TO COLLATERAL CONSEQUENCES WHENEVER
18 ENACTED OR IMPOSED UNLESS THE LAW CREATING THE COLLATERAL
19 CONSEQUENCE EXPRESSLY STATES THAT THIS SUBTITLE DOES NOT APPLY.

20 (B) THIS SUBTITLE DOES NOT INVALIDATE THE IMPOSITION OF A
21 COLLATERAL SANCTION ON AN INDIVIDUAL BEFORE JULY 1, 2015, BUT A
22 COLLATERAL SANCTION VALIDLY IMPOSED BEFORE JULY 1, 2015, MAY BE THE
23 SUBJECT OF RELIEF UNDER THIS SUBTITLE.

24 **10-317.**

25 THIS SUBTITLE MAY BE CITED AS THE MARYLAND UNIFORM COLLATERAL
26 CONSEQUENCES OF CONVICTION ACT.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
28 1, 2015.