

# Collateral Consequences of a Criminal Conviction

## A civil liberties briefing



Criminal convictions present many barriers to people, such as difficulty finding housing and employment. Not only does a person serve a sentence for a criminal conviction, but that person carries the conviction with them throughout life.

### What Is a Collateral Consequence?

A collateral consequence, or sanction, is not part of a criminal sentence. It is an additional penalty or disadvantage imposed as a consequence of a criminal conviction. Collateral consequences can affect a wide range of areas including employment or occupational licensing, access to housing, and eligibility for educational grants.<sup>1</sup> A collateral consequence does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.<sup>2</sup>

### Sealing a Criminal Record

Some criminal records may be sealed, making the record unavailable to the public. A sealed criminal record does not appear when most employers, landlords, or the general public conduct a criminal history background check.<sup>3</sup> However, the records will remain available to certain organizations and individuals, such as prosecutors and certain professional licensing boards.<sup>4</sup> In Ohio, adult records cannot be “expunged,” or completely erased.

When a record is sealed, the individual can honestly state on applications that the sealed conviction or offense does not exist.<sup>5</sup>

<sup>1</sup> R.C. 2953.25(A)(1).

<sup>2</sup> *Id.*

<sup>3</sup> Note: In general, a school does not have access to a student or applicant’s sealed records.

<sup>4</sup> R.C. 2953.32. Includes, Prosecutors, judges, and police during future criminal investigations; judges considering convictions for sentencing in future crimes; a few employers, such as law enforcement, jobs working with children or the elderly (e.g. schools or health-care services), and some jobs in real-estate and financial institutions; and certain professional licensing boards such as the State Accountancy Board, State Medical Board, State Board of Nursing, or the Board of Commissioners on Character and Fitness.

<sup>5</sup> <http://www.ohiojpc.org/text/publications/OJPCCrRecManual.pdf>

**Qualification:** A person convicted of an offense in Ohio or any other jurisdiction may have their criminal record sealed if they have only one felony conviction, only two misdemeanor convictions for separate offenses, or no more than one felony conviction and one misdemeanor conviction.<sup>6</sup>

### Certificate of Qualified Employment

Some professions are restricted by law from hiring people with certain criminal convictions. A Certificate of Qualified Employment (CQE) creates a possibility for a person with a conviction to join a particular profession, but does not guarantee a job.

The CQE creates a process for an individual, who is subject to a collateral consequence, to obtain an order of limited relief from a court that will help relieve certain bars on employment or occupational licensing in the state of Ohio.<sup>7</sup>

Individuals must apply for a CQE in the county in which they live. Then a judge will decide on whether to approve the CQE.

If an employer hires someone with a CQE, the employer cannot be sued for negligent hiring of someone convicted of a crime.

If the holder of a CQE commits another felony, the CQE is automatically revoked. Some convictions are also ineligible for a CQE in certain professions, such as healthcare.

**When Can You Apply For A CQE?** For a felony conviction: one year from the end of a sentence, including parole. For a misdemeanor conviction: six months from the end of the sentence, including probation. The clock starts when you are done with paying all fines, jail, probation, or parole.

*Applications available at [www.drccqe.com](http://www.drccqe.com)*

<sup>6</sup> R.C. 2953.31(A). Note: Certain specified offenses do not count as convictions for purposes of sealing a criminal record. Certain offenses cannot be sealed such as automobile-related offenses, sexual offenses and offenses of violence.

<sup>7</sup> ODRC, <http://www.drc.ohio.gov/web/cqe.htm>