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**RELIEF FROM THE COLLATERAL CONSEQUENCES OF  
A CRIMINAL CONVICTION:  
A STATE-BY-STATE RESOURCE GUIDE**

by

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## BACKGROUND

Persons convicted of a crime are generally exposed to a number of legal penalties and disabilities that remain with them long after they have fully served the sentence imposed by the court. These so-called “collateral consequences of conviction” take many forms and vary widely from jurisdiction to jurisdiction. In addition to permanent changes in an individual’s legal status as a result of conviction, the stigma of a criminal conviction brings into play more subtle and wide-ranging forms of discrimination and shaming.

Limited employment opportunities are perhaps the most troublesome of the secondary legal consequences of conviction, since an inability to get or keep a job has been identified as a major factor in recidivism. The natural reluctance to hire people with a criminal record has been exacerbated since the 9/11 terrorist attacks, so that it is now more likely than ever that a criminal record will be discovered, and that it will result in loss of a job or other professional opportunity. Indeed, federal law now compels background checks, and mandates disqualification based on conviction, for a wide variety of employments, including education, healthcare services, child and elder care, financial institutions, and transportation.

Our reluctance to welcome convicted persons back into the community is reflected in the air of mystery surrounding the existing legal mechanisms for obtaining relief from collateral consequences. Offenders generally don’t understand the multiplicity of changes brought about in their legal status by virtue of a conviction, much less what can be done to remedy the situation. Often the mechanics of restoration are unclear even to those responsible for administering and enforcing the law, and one jurisdiction often has very little idea of what is going on in others. Once someone has been tagged as a criminal, it is almost impossible to get rid of the label; the public is easily persuaded that “convicted felons” must be segregated and excluded from the rest of society. This phenomenon is hardly new; what is new is the scale of the problem.

It should come as no surprise that not a single U.S. jurisdiction has attempted a comprehensive assessment of its regime of collateral consequences. More to the point for the present study, not a single jurisdiction has considered it necessary or appropriate to develop a systematic and accessible way for convicted persons to overcome or avoid the legal barriers to reentry and reintegration. At a time when the front-end mechanics of the justice system have become increasingly efficient in processing people in, the mechanics of processing them out have been largely ignored.

In almost every U.S. jurisdiction, offenders seeking to put their criminal past behind them are frustrated by a legal system that is complex and unclear and entirely inadequate to the task. Categorical disqualifications are generally overbroad, and discretionary decision-making is often unfair and unreliable. A few states enacted comprehensive statutory restoration schemes in the 1970s, but in the intervening years these schemes have been riddled with exceptions and in some cases dismantled altogether. Pardon has never been routinely available to ordinary people in more than a handful of states, and administrative certificates of rehabilitation have not caught on

outside of New York. Authority for courts to expunge or seal adult felony convictions, where it exists at all, is narrowly drawn to exclude many offenses. While more than half the states have laws that limit consideration of criminal history in the workplace, these laws are generally subject to significant exceptions and often have no mechanism for enforcement.

As a practical matter, therefore, in most jurisdictions people convicted of a crime have no hope of ever being able to fully discharge their debt to society. Notwithstanding our fond national self-image, ours is not a land of second chances, at least as far as the legal system is concerned.

### **PLAN OF THE RESOURCE GUIDE**

There is presently no single source of information about the mechanisms available in each U.S. jurisdiction for avoiding or mitigating the collateral legal consequences of conviction. In 1988 the National Governors Association published a survey of executive clemency in the 50 states, and in 1996 the Office of the Pardon Attorney in the U.S. Department of Justice published a state-by-state survey of “civil disabilities” of convicted persons. While still useful, neither of these surveys is currently a reliable guide for policymakers, practitioners or potential beneficiaries, in part because neither presents a full picture of the various possibilities for obtaining relief from collateral consequences, and in part because the law has changed so much since they were published. The present publication is intended to fill that gap.

The first three sections of the resource guide, whose research findings and conclusions are summarized here, analyze the principal avenues to restoration available in U.S. jurisdictions today: 1) the executive pardon power; 2) judicial expungement and sealing of adult felony convictions; and 3) laws that limit consideration of conviction in employment and licensing. A fourth section describes how voting rights are regained after a felony conviction, focusing on those jurisdictions where restoration depends upon a subjective test of suitability, as opposed to an objective test like release from prison or satisfaction of sentence.

The guide’s two appendices are reprinted here in full. One consists of charts that give an overview of each type of restoration mechanism, and allow state-to-state comparisons. The second appendix consists of individual profiles of law and practice in 54 U.S. jurisdictions, organized into three categories: 1) automatic restoration of rights; 2) discretionary restoration mechanisms, including pardon and judicial expungement; and 3) nondiscrimination provisions. The extraordinary variety and uncertainty in the law, and the dysfunction of the institutional arrangements for administering it in most jurisdictions, reflect the absence of a political constituency for people with criminal records.

One goal of this resource guide is to raise public awareness of the inefficiency and unfairness of keeping criminal offenders forever branded and apart, and to encourage policymakers to consider the advantages of allowing them to discharge their debt to

society at some point. A more modest goal is to help people understand what the law is and what their options are, whether they are offenders seeking to overcome the disadvantages of a criminal record, practitioners seeking to advise their clients, or officials looking for more functional approaches to criminal law enforcement. Hopefully it will prove useful for jurisdictions considering changes in their laws or policies to know what the experience of other jurisdictions has been. If all it does is start a conversation among practitioners and policymakers in different jurisdictions with similar interests, it will have served its purpose.

### SUMMARY OF RESEARCH FINDINGS AND CONCLUSIONS

This resource guide surveys the legal mechanisms available in each U.S. jurisdiction by which a person convicted of a crime may avoid or mitigate the collateral penalties and disabilities that accompany a criminal conviction. These mechanisms sometimes recognize and reward rehabilitation after the court-imposed sentence has been fully served, such as executive pardon and judicial expungement. Sometimes they are aimed at keeping certain types of offenders from incurring a criminal record in the first place, such as deferred adjudication and set-aside. Whether preemptive at the front end of the system or restorative at the back-end or, they represent an effort to neutralize the negative effect of a criminal record on an offender's ability to reenter and reintegrate into the community after an adverse encounter with the criminal justice system.

The principal conclusions from the research undertaken for this resource guide are as follows:

- ❖ ***In every U.S. jurisdiction, the legal system erects formidable barriers to the reintegration of criminal offenders into free society.*** When a person is convicted of a crime, that person becomes subject to a host of legal disabilities and penalties under state and federal law. These so-called “collateral consequences of conviction” may continue long after the court-imposed sentence has been fully served. Their scope and duration are often unclear not only to those who experience them, but also to those who administer and enforce them. While most states now routinely restore the right to vote upon completion of the court-imposed sentence, a criminal record can be grounds for exclusion from many benefits and opportunities, including employment in education, health care, and transportation. The collateral consequences of conviction have grown more numerous and more disabling since the terrorist attacks of 9/11, and criminal background checks have become a routine and pervasive way of identifying who should be subject to them. This web of “invisible punishment” can frustrate the chances of successful offender reentry, and thereby actually increase risk to public safety.
- ❖ ***These legal barriers are always difficult and often impossible to overcome, so that persons convicted of a crime can expect to carry the collateral disabilities and stigma of conviction to their grave, no matter how successful their efforts to rehabilitate themselves.*** Most states have not yet developed a comprehensive and

effective way of “neutralizing” the effect of a prior criminal record in cases where it is no longer necessary or appropriate to take it into account. In almost every U.S. jurisdiction, offenders seeking to put their criminal past behind them are frustrated by a legal system that is complex and unclear and entirely inadequate to the task. As a practical matter, in most jurisdictions people convicted of a crime have no hope of ever being able to fully discharge their debt to society.

- ❖ ***While every jurisdiction provides at least one way that convicted persons can avoid or mitigate the collateral consequences of conviction, the actual mechanisms for relief are generally inaccessible and unreliable, and are frequently not well understood even by those responsible for administering them.*** Relief mechanisms of the same nominal type (e.g., pardon, expungement, sealing, set-aside) vary widely in effect and availability from state to state, and there is no national model to which state or federal authorities seeking guidance may refer. There is also no central clearinghouse of information about state and federal restoration of rights mechanisms, so that authorities in one state have little or no information about law and practice even in their neighboring states. Often officials responsible for administering one type of relief are unaware of alternatives available in their own state for mitigating or avoiding collateral consequences. Federal regulatory schemes sometimes give effect to state pardon and expungement remedies, apparently without considering their wide variation. Few jurisdictions provide information about avenues of relief from collateral disabilities to offenders leaving prison or completing probation, even where the law requires that this be done. It is often unclear what if any relief may be available for persons with convictions from other jurisdictions. The scope or effect of relief is also not well-understood, either by those seeking it or by those responsible for administering it.
- ❖ ***Pardon remains the most common relief mechanism, but it has been allowed to atrophy in recent years.*** In most U.S. jurisdictions, executive pardon is the only way to mitigate the impact of collateral legal penalties and disabilities, and the governor has exclusive and unreviewable authority to exercise the pardon power. At the same time, most governors no longer regard pardoning as a routine function of their office. In at least a dozen states where a governor’s pardon is the exclusive means of avoiding or mitigating collateral disabilities, the governor has not exercised the power with any regularity for many years. The federal pardoning process has also withered in the past 20 years, producing only a handful of grants despite a steady stream of applications from people who may long since have completed their court-imposed sentences.
- ❖ ***The states that have issued the greatest number of pardons are generally ones in which the pardon power has some degree of protection from the political process, through exercise or administration by an independent appointed board.*** There are only 13 states in which there have been more than a handful of pardons granted each year since 1995, and in only nine of these states is pardon regularly available to ordinary people whose circumstances are not in some way exceptional. In most of

the states where pardons are still routinely available, the pardon power is either exercised or controlled by an appointed board.

- ❖ ***Judicial restoration remedies like expungement and sealing are generally available to adult felony offenders in only a few states, but where they exist they appear to be widely utilized.*** In some states expungement and/or sealing are available only to first offenders, or to misdemeanants, and serious or violent offenses are almost always ineligible for this relief. Persons whose convictions are expunged or sealed are frequently authorized by law to deny their conviction, including for purposes of employment, though the conviction ordinarily remains available for law enforcement purposes.
- ❖ ***A number of jurisdictions provide for some form of deferred adjudication or deferred sentencing, whereby minor offenders or persons without a prior criminal record can avoid a criminal record entirely if they successfully complete a term of community supervision.*** The growing popularity of deferred adjudication and deferred sentencing schemes appears to reflect a recognition that public safety is better served by keeping certain kinds of offenders out of the justice system entirely. Many such schemes offer not only the possibility that the conviction will be set aside or “erased” after successful completion of a period of probation, but also that the record itself will be expunged or sealed.
- ❖ ***Two- thirds of the states have laws that forbid denial or termination of employment and/or licensure “solely” because of a conviction, and/or require that a conviction be “substantially related” to the license or employment at issue; but it is unclear how effective these laws are.*** Thirty-three states have laws on their books that purport to limit consideration of conviction in connection with employment and/or licensing decisions, requiring that the offense of conviction be “substantially” or “directly” related to the license and/or employment sought. A few states allow consideration of an offender’s rehabilitation, establishing a standard that, if met, precludes denial of licensure or employment. In a few states rehabilitation is presumed after the passage of a certain period of time. Some states apply a general limitation on consideration of conviction only if the conviction has been pardoned or expunged or sealed. However, these general nondiscrimination laws are subject to significant exceptions in the form of specific prohibitions under state or federal law that apply to particular jobs or licenses. Also, many states have no mechanism for enforcement, so that it is not clear how effective these laws are in discouraging employers from firing or refusing to hire people on grounds related to conviction.
- ❖ ***In all but a handful of states, most offenders regain the vote upon completion of sentence.*** A total of 39 States, the District of Columbia and the territories, either do not suspend the right to vote at all upon conviction, or restore it automatically to all felony offenders upon the satisfaction of some objective criterion (e.g., release from prison, discharge from sentence, or expiration of sentence plus an additional specified term of years). Eleven states make restoration of the right to vote discretionary for at least some offenders who have completed their court-imposed sentences, but only

three states (Florida, Kentucky and Virginia) currently disenfranchise all felony offenders for life, unless and until they can successfully navigate an executive pardon or restoration process, or obtain a judicial restoration order.

- ❖ ***The ability to overcome the disabling effect of a criminal record is becoming an important issue in the national conversation about offender reentry.*** Of the hundreds of thousands of people coming home from prison each year, many will make a reasonable effort to stay out of further trouble with the law, but will be frustrated by unreasonable legal barriers to their rehabilitative efforts. Particularly since 9/11, people with a felony conviction in their past are disqualified from a wide variety of jobs and licenses. The widespread availability of criminal record information has made it easier for employers and licensing boards to identify and reject people with a criminal record. Existing relief mechanisms in many jurisdictions have been flooded with applications from people seeking relief from employment barriers. In order to encourage rehabilitation of offenders and reduce recidivism, it has become essential to develop an accessible and reliable way to neutralize the effect of a criminal conviction in appropriate cases.

## II. PARDONING POLICY AND PRACTICE IN THE UNITED STATES

- ❖ ***Pardon is assigned a central role in overcoming the legal barriers to reintegration of criminal offenders in almost every U.S. jurisdiction, and in most jurisdictions it is the only mechanism by which adult felony offenders can avoid or mitigate collateral penalties and disabilities.*** Every state constitution provides for an executive pardon authority, and in most states pardon continues to play a key role in the criminal justice system. Indeed, in 42 states, and for federal offenders, pardon provides the only system-wide relief from collateral sanctions and disqualifications based on conviction. Particularly since 9/11, there has been increased pressure on pardoning mechanisms in many of those 42 jurisdictions. In every state, a pardon is sufficient to overcome most legal disabilities imposed by state law, and many federal laws and regulations also give effect to state pardons. While most states now restore basic civil rights automatically upon release from prison or completion of sentence, few states have established any systematic alternative to pardon that would allow adult felony offenders to avoid or mitigate conviction-related disabilities and disqualifications affecting employment, housing, and a myriad of other benefits and opportunities.
- ❖ ***Notwithstanding the central role it is assigned in the justice system, pardon has little operational usefulness in most U.S. jurisdictions.*** The research confirms that pardons are sparingly granted in all but a very few U.S. jurisdictions. Even in jurisdictions where pardon is the only way to avoid or mitigate collateral disabilities, granting pardons is evidently not regarded as an integral and routine part of a chief executive's job. While the modern politician's reluctance to pardon may be

attributable to a pragmatic concern about making a politically costly mistake, it takes comfort in a theory of pardon as a generally unwarranted interference with the proper functioning of the justice system. In all but a handful of states, the pardon power is thought of as “a lightning strike, like a winning lottery ticket, that almost never will be deployed except for some extremely unusual or distinctive case.” But in a few states, pardon still functions as an integral part of the justice system, and is available to ordinary people with garden variety convictions who can meet the basic eligibility requirements and demonstrate their rehabilitation. With the new interest in facilitating offender reentry and “neutralizing” the effect of a criminal record in appropriate cases, the experience of these states will presumably be of interest.

- ❖ ***The pardon power is administered differently from jurisdiction to jurisdiction, and tends to play a more operational role in the justice system where its exercise is regulated and somewhat insulated from politics.*** The jurisdictions in which pardoning is most frequent and regular are those in which decision-making authority lies in an independent board of appointed officials, and least frequent and regular where the governor exercises the power without administrative constraint. In states where the pardon power is unconstrained, there are very few governors who exercise their power in a routine accountable manner. (The applicable administrative model for each state is shown in Chart #1, Appendix A.) The states that presently issue the most pardons are ones in which the pardon process is regulated by law and reasonably transparent, and in which the pardoning authority has some degree of protection from the political process. This may be accomplished by placing the pardon power in an independent statutory board, or by making the governor’s power dependent upon a favorable board recommendation (though neither model necessarily produces a large number of pardon grants).
- ❖ ***Only nine states administer the pardon power in a regular manner and issue a significant number of pardons each year.*** There are only 13 states in which there have been more than a token number of pardons each year since 1995. And, pardon appears to be a reasonably attainable form of relief in only nine of these. See Appendix A, Chart #4. Alabama, Arkansas, Connecticut, Delaware, Georgia, Nebraska, Oklahoma, Pennsylvania, and South Carolina all issue a substantial number of pardons each year, and grant a substantial percentage of the applications filed. Of these nine states, all but Georgia and Arkansas administer the power through a public application process and hold hearings at regular intervals. Most are required to publish the reasons for their recommendations or, in the case of the independent boards, their grants. Several other states also hold public pardon hearings at regular intervals, but are not counted among the nine either because of recent irregularities in the pardon process, or a sluggish pardoning rate by the current governor, or both. Maryland’s current governor has shown a commendable interest in pardoning, but he does not have the benefit of a statutory administrative apparatus that would give him a regular stream of reliable recommendations and a measure of political protection.

- ❖ ***Even in jurisdictions that routinely grant pardons to eligible applicants, relatively few people apply for pardon.*** Considering the many thousands of people with a criminal conviction even in the smallest states, it is surprising that so few people apply for a pardon. Even in states where pardon is granted to more than half of those who apply, the absolute number of applicants is very small. See Appendix A, Chart #4. A number of state pardon authorities reported a recent upswing in pardon applications since the 9/11 terrorist attacks, which they attribute to increased reliance by employers on criminal background checks and greater reluctance (sometimes mandated by law) to hire or retain people with criminal convictions. The relative paucity of applications could be attributable to the time and expense involved, the uncertain prospects of success, doubts about the efficacy of a pardon, or some combination of these factors.

### III. JUDICIAL EXPUNGEMENT, SEALING AND SET-ASIDE OF ADULT FELONY CONVICTIONS

#### A. Findings

- ❖ ***Judicial procedures for avoiding or mitigating collateral disabilities and penalties are found in more than half the states, and sometimes are accompanied by expungement or sealing of the record. In most states, however, these procedures are made available only to first offenders, to minor offenders sentenced to probation, or to misdemeanants.*** The popularity of expungement and sealing statutes peaked in the 1970s, and by the 1990's this form of relief had been severely cut back in most jurisdictions. At the present time, many jurisdictions no longer authorize expungement of any adult felony convictions.
- ❖ ***Only a handful of jurisdictions have a comprehensive judicial restoration scheme available to adult felony offenders.*** Eight jurisdictions (Arizona, Kansas, Massachusetts, Nevada, New Hampshire, Puerto Rico, Utah, Washington) have general sealing or expungement schemes applicable to most adult felony convictions. Most of these states impose an eligibility waiting period that varies depending upon the seriousness of the offense, and exclude the most serious offenses altogether. An additional number of states offer an expungement or sealing remedy only to first offenders and/or non-violent offenders, or only to probationers or misdemeanants, or only to those who have received an executive pardon.
- ❖ ***What it means as a practical matter to have a record set aside or sealed or expunged (or vacated or annulled) varies widely from state to state.*** There is no common understanding of the terminology used to describe judicial restoration mechanisms. In most jurisdictions the purpose and effect of expungement or set-aside is to restore convicted persons to the legal status they enjoyed prior to conviction, at least until they commit another crime, but this is not always the case. Many jurisdictions regard expungement as a more comprehensive remedy than

sealing, but even expunged convictions generally remain available to courts and law enforcement agencies, and ordinarily revive in the event of a subsequent offense. (Connecticut appears to be the only state that authorizes the actual destruction of criminal records after expungement.) Most jurisdictions permit persons whose records have been sealed or expunged to deny that they were ever convicted, including when asked to report prior convictions on an employment application.

- ❖ ***Often judicial relief from collateral consequences takes the form of deferred adjudication or deferred sentencing, followed by a set-aside of the conviction upon successful completion of period of probation. In some jurisdictions, the court is also authorized to expunge or seal the record.*** The purpose of relief in these cases is to allow minor offenders or persons with no prior conviction to come away from an adverse encounter with the justice system without a permanent mark on their record. Upon successful completion of probation the charges are dismissed (or the record of conviction set aside), and in at least twelve states the record may be expunged. Eligibility for deferred adjudication tends to be controlled by prosecutors, and its use has grown in popularity in recent years.
- ❖ ***Judicial expungement and sealing are evidently perceived as both more effective and more attainable than pardon, and are widely sought after in jurisdictions where they are available.*** On balance, at least until there is a sea change in public attitudes, the expungement or sealing of a conviction would seem to offer the most effective form of relief from the collateral consequences of conviction. Certainly the fear generated in employers and others by a criminal record makes it convenient to indulge the fiction that it does not exist. And, the courts as decision-makers offer the necessary accessibility, reliability, and respectability to make their relief at least as effective as an executive pardon. On the other hand, the limited and/or uncertain legal effect of expungement in some jurisdictions, the general unreliability of criminal record systems and the additional uncertainties introduced by new information-sharing technologies, and the anxiety necessarily produced by a system built upon denial, all combine to raise questions about the usefulness of expungement as a restoration device. Also, it is likely to be more expensive for a criminal offender to hire a lawyer to go to court to seek expungement, than it is to file an application for pardon, which can generally be done pro se.

#### IV. STATE LAWS REGULATING LICENSURE AND EMPLOYMENT OF CONVICTED PERSONS

- ❖ ***Thirty-three states have general laws that prohibit a refusal to hire and/or issue a professional or occupational license to a person “solely” because of their criminal record, or otherwise limit consideration of a conviction in connection with employment or licensing.*** Most of these “nondiscrimination” laws, originally enacted in the 1970’s, provide that disqualification is lawful only if the criminal offense is “directly related” (or “substantially related” or “rationally related”) to the license or employment sought. A few states apply a general limitation on consideration of conviction only if it has been pardoned or expunged or sealed. In

some states, specific “non-discrimination” provisions are incorporated into particular licensing laws. Exceptions to the general rule against disqualification have been separately enacted in laws prohibiting employment or licensure of convicted persons in particular professions, notably education and health care, and the federal government has more recently introduced conviction-related hiring requirements into federally regulated areas such as health and child care, transportation, education, and banking.

- ❖ *Few states have an administrative mechanism for enforcement of these “nondiscrimination” laws, and all carve out large areas of exception.* In a few states, laws protecting people with convictions against indiscriminate exclusion from employment and licensing have been enacted as a part of the state’s fair employment practices scheme. Some of the laws provide for enforcement through the state’s administrative procedure act, but in most states they are free-standing with no mechanism for administrative enforcement. It is therefore hard to suggest any conclusions about the effectiveness of a particular state’s nondiscrimination policy in helping people with convictions secure employment. It is therefore hard to assess the effectiveness in practice. Yet nondiscrimination laws are important insofar as they express a public policy of the state that can be built upon by law reformers.

#### V. REGAINING THE RIGHT TO VOTE IN THE 50 STATES

- ❖ *In 48 states and the District of Columbia, some or all felony offenders lose the right to vote upon conviction, but in all but a handful of states most offenders regain the vote upon completion of sentence.* In Maine, Vermont and Puerto Rico, conviction does not result in loss of the franchise, and even prisoners are entitled to vote. In Mississippi and Alabama disenfranchisement may or may not result from conviction, depending upon the nature of the offense (drug offenders may vote from prison in Mississippi). In 19 states, and the District of Columbia and the Virgin Islands, disenfranchisement results only while if a person is actually incarcerated; in 12 of these 19 states the vote is restored upon release from prison, and in seven states released prisoners must complete their supervision before being permitted to vote again. In 17 additional states, including most recently Iowa, the vote is lost upon conviction of a felony but restored automatically upon completion of the court-imposed sentence, including any period of parole or probation. Four more states, including most recently Nebraska, restore the vote automatically to some or all offenders after an additional eligibility waiting period.
- ❖ *A total of 39 States, the District of Columbia and the territories, either do not suspend the right to vote at all upon conviction, or restore it automatically to all felony offenders upon the satisfaction of some objective criterion* (e.g., release from prison, discharge from sentence, or expiration of sentence plus an additional specified term of years). Other civil rights lost upon conviction of a felony, notably the right to run for office and sit on a jury, are sometimes restored automatically along with the franchise, and sometimes they can be regained only through a pardon or judicial

expungement.

- ❖ ***Eleven states make restoration of the right to vote discretionary for at least some offenders who have completed their court-imposed sentences, but only four states permanently disenfranchise all felony offenders.*** These 11 states are formally distinguishable from the states where restoration of the right to vote depends only upon satisfaction of an objective eligibility criterion, such a discharge from sentence or the passage of a specific period of time. On the other hand, some so-called “automatic” states erect logistical obstacles that discourage felony offenders from registering. Within the group of 11 there is considerable variety in approach. Only three states (Florida, Kentucky, and Virginia) disenfranchise all felony offenders for life, unless and until they can successfully navigate an executive pardon or restoration process, or obtain a judicial restoration order. Tennessee may be added to this list as a fourth state, insofar as it requires all persons convicted since 1996 to petition the governor or a court for a restoration order. Arizona, Maryland, and Nevada allow first offenders and/or non-violent offenders to vote as soon as they have completed their court-imposed sentence. Delaware and Wyoming have recently modified their laws to permit non-violent and/or first offenders to petition for administrative restoration five years after completion of sentence, and Alabama now has an expedited administrative restoration process applicable to all but murderers and sex offenders. Anyone who does not fall within the class of individuals eligible for administrative restoration in these states must obtain a court restoration order or executive pardon before being permitted to vote.

## CONCLUSION

Many people who commit a crime – or even more than one crime – make a reasonable effort to turn their lives around and stay out of trouble with the law. It would seem sound public policy to encourage them to do so. Where they encounter unreasonable legal barriers to their rehabilitative efforts, the law should also provide a way to overcome or mitigate the effect of these barriers. In addition, at some point offenders may seek to neutralize the disabling effect of having a criminal record through official confirmation that they have been successful in their rehabilitative efforts, such as a pardon or certificate of good conduct. Such relief mechanisms have become all the more necessary where employment and other opportunities are concerned, because of the current widespread availability of and interest in criminal record information.

And yet, as more and more people have a criminal record, relief from the collateral consequences of conviction has never seemed more elusive in most of the states and for federal offenders. It would seem that if rehabilitation of criminal offenders is a desirable social goal, it would be helpful to begin serious discussion of the growing contrary pressures that seem to consign all persons with a criminal record to the margins of society, and to a permanent outcast status in the eyes of the law. It is hoped that this survey will be helpful in moving this discussion forward.

## APPENDICES

### APPENDIX A: CHARTS

- CHART #1 Models for Administration of the Pardon Power
- CHART #2 Characteristics of Independent Pardon Boards
- CHART #3 Characteristics of Boards Whose Recommendations Bind the Governor
- CHART #4 Characteristics of the 12 Most Active Pardon Authorities
- CHART #5 Judicial Expungement, Sealing and Set-Aside in the United States
- CHART #6 Consideration of Criminal Record in Licensing and Employment
- CHART #7 Felony Disenfranchisement in the United States
- CHART #8 States that Do Not Restore the Vote Automatically to Some or All Felony Offenders

### APPENDIX B: JURISDICTIONAL PROFILES

Alabama	Louisiana	Oregon
Alaska	Maine	Pennsylvania
Arizona	Maryland	Puerto Rico
Arkansas	Massachusetts	Rhode Island
California	Michigan	South Carolina
Colorado	Minnesota	South Dakota
Connecticut	Mississippi	Tennessee
Delaware	Missouri	Texas
District of Columbia	Montana	Utah
Federal	Nebraska	Vermont
Florida	Nevada	Virgin Islands
Georgia	New Hampshire	Virginia
Hawaii	New Jersey	Washington
Idaho	New Mexico	West Virginia
Illinois	New York	Wisconsin
Indiana	North Carolina	Wyoming
Iowa	North Dakota	
Kansas	Ohio	
Kentucky	Oklahoma	

#### DISCLAIMER

It is important to emphasize several limitations of this resource guide:

1) The guide does not purport to identify all of the collateral consequences of conviction in each jurisdiction, but deals primarily with avenues of relief and mitigation. The Herculean (perhaps Augean is a better word) task of cataloguing all of the legal sanctions and discriminations that accompany a criminal conviction has been attempted for only a few jurisdictions, and remains in most an outstanding obligation of sentencing reform. Similarly, while the guide describes general laws limiting consideration of conviction in employment and licensure, it does not catalogue the many specific statutory exceptions to the general law.

2) The guide does not deal with relief mechanisms that may be available to persons who are incarcerated, such as executive commutation or judicial sentence reduction.

3) The guide does not attempt to assess the effectiveness of the relief mechanisms it describes. While it includes some statistical information about the number of pardon applications and grants in many of the states, it contains very little information about the number of judicial expungements and set-asides that are granted each year by the courts. Nor does it include very much information about the effectiveness of various nondiscrimination provisions that exist in many of the states. This is obviously an important area for further study.

4) The guide is not intended as legal advice, but rather as a starting point for researchers and practitioners, and for those whose rights and reputations are at stake. Any lay person seeking to understand how the law applies in a particular case is encouraged to contact the relevant state agency or court, or a private attorney.

5) Finally, changes in this area of the law are frequent, and the reader is cautioned to consult the most recent pocket parts of statute books. While every effort has been made to ensure thoroughness and accuracy, errors and omissions are inevitable. Corrections and additions from readers are welcome, for this is a work in progress and it will be updated on a regular basis.

