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### Article 1:

#### Uniform Collateral Consequences of Conviction Act

### Overview

This article adopts the Uniform Collateral Consequences of Conviction Act. It requires the revisor to identify and publish a list of collateral consequences following convictions. It also requires peace officers, prosecutors, and courts to inform defendants of the existence of collateral consequences following convictions. Clarifies that individuals convicted in other jurisdictions are subject to the collateral consequences that would apply under the most similar Minnesota laws. Individuals can petition for relief from collateral sanctions and courts may issue orders granting or denying that relief. Orders granting or denying relief may be modified and the Bureau of Criminal Apprehension (BCA) is required to include orders as part of an individual's criminal record.

#### Section

- 1** **Short Title.** Refers to the new section as the "Uniform Collateral Consequences of Conviction Act."
- 2** **Definitions.** Defines "collateral consequence," "collateral sanction," "conviction," "convicted," "decision maker," "disqualification," "offense," "person," and "state" as used within the new section.

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- 3 **Limitation on scope.** Clarifies that the new section does not create a basis for a claim for relief under criminal or civil law, and does not affect duties owed by attorneys or other rights of convicted persons.
- 4 **Identification, collection, and publication of laws regarding collateral consequences.** Requires the revisor to identify, publish, and regularly update a list of statutes and rules which impose a collateral consequence and any provision that may provide relief from a collateral consequence.
- 5 **Notice of collateral consequences in citation, pretrial proceeding, and at guilty plea.** Requires peace officers issuing citations and prosecutors issuing formal charges to provide notice of the possible existence of collateral consequences. Requires judges to confirm that defendants received notice of potential collateral consequences and time to discuss those with counsel before accepting guilty pleas.
- 6 **Notice of collateral consequences at sentencing and upon release.** Requires courts and prisons or jails to provide notice of the possible existence of collateral consequences at sentencing and before release from custody.
- 7 **Authorization required for collateral sanction; ambiguity.** Limits mandatory collateral sanctions to those created by statute, ordinance, or rule adopted under chapter 14. Directs that any ambiguity as to whether a consequence is mandatory or optional shall be interpreted as creating an optional consequence.
- 8 **Decision to disqualify.** Requires individualized assessments to determine whether an optional collateral consequence should be imposed.
- 9 **Effect of conviction by another state or the United States; relieved or pardoned conviction.** Permits convictions from other states and the United States to be treated as a violation of a Minnesota law with the same elements or, if there is no identical law, the most serious Minnesota law established by the elements of the other offense. Prohibits misdemeanors in other jurisdictions from being treated as felony convictions under Minnesota law, or offenses lesser than misdemeanors in another jurisdiction from being treated as criminal offenses in Minnesota. Allows juvenile adjudications in other jurisdictions to be treated as juvenile adjudications under Minnesota law with the same requirements as adult convictions. Requires Minnesota to recognize when convictions in other jurisdictions are reversed or pardoned. Requires Minnesota to recognize when convictions in other jurisdictions are expunged or vacated if the same relief is available under Minnesota law. Permits individuals convicted in other jurisdictions to seek relief from collateral consequences under Minnesota law. Prohibits using participation in a deferred adjudication or diversion programs as a basis to impose collateral consequences.
- 10 **Order of limited relief.** Permits individuals to petition for relief from collateral sanctions. Provides guidance for courts to consider granting or denying petitions for relief. Authorizes the court to charge a fee for petitions.
- 11 **Certificate of restoration of rights.** Permits individuals to petition for a certificate of restoration of rights three years after a conviction or three years after release from custody, whichever is later. Requires courts to make specific findings and, if relief is granted, to identify any collateral sanctions which are not relieved. A certificate of restoration of rights

## Section

relieves all collateral sanctions other than those listed in section 638.21 and any specific sanction listed in the order.

- 12 Collateral sanctions not subject to order of limited relief or certificate of restoration of rights.** Exempts certain collateral sanctions, including: (1) registration as a predatory offender; (2) driver's license suspensions and revocations for driving while intoxicated; (3) ineligibility for employment by law enforcement agencies; and (4) eligibility to possess a firearm from relief granted by a certificate of restoration of rights.
- 13 Issuance, modification, and revocation of order of limited relief and certificate of restoration of rights.** Permits judges to issue orders or certificates subject to restrictions, conditions, or additional requirements. Permits judges to restrict or revoke an order of limited relief or certificate of restoration of rights on just cause. The modification proceeding is subject to the civil law standard requiring a preponderance of evidence. Courts may require tests, investigations, or disclosures before issuing, revoking, or modifying an order. Orders issued under this section are public and the BCA must include orders as part of criminal history records.
- 14 Reliance on order or certificate as evidence of due care.** Permits orders and certificates issued under this chapter to be offered as evidence in judicial or administrative proceedings alleging negligence or other fault in hiring, retaining, licensing, leasing to, admitting to school, or otherwise transacting business with individuals to whom orders were issued.
- 15 Uniformity of application and construction.** Requires application and interpretation of the uniform act to consider the need to promote uniformity of the law between the states that adopt it.
- 16 Savings and transitional provisions.** Affirms that the provisions of the uniform act apply to all collateral consequences unless the law creating the consequence expressly exempts the consequence from the act. Affirms that existing consequences are unchanged, but that the act applies to those existing consequences.
- 17 Change to uniform traffic ticket and statewide standard citation.** Requires the uniform traffic ticket to adopt the notice requirements in section 638.14 by January 1, 2019.
- 18 Appropriation.** Appropriates money from the general fund to the court to fulfill the duties under this article.
- 19 Effective date.** Establishes January 1, 2018 as the effective date for all sections other than section 5, paragraph (a). Establishes July 1, 2022 as the effective date for section 5, paragraph (a).

## Section

### Article 2:

#### Conforming Amendments

### Overview

This article includes provisions to conform existing statutes to the Uniform Collateral Consequences of Conviction Act. Establishes that the human services background studies procedures satisfy the requirements of section 638.17 and permits the commissioner to consider an order of relief or certificate of restoration of rights when deciding whether to set aside a disqualification. Establishes that the Act takes precedence over the existing sections describing priorities in the rehabilitation of criminals. It repeals chapter 609B which contains cross-references to statutes that impose collateral consequences.

- 1 **Disqualification decisions related to chapter 638.** Establishes that the disqualification procedure in section 245C.24 relating to human services background studies meets the individualized assessment required under section 638.17.
- 2 **Disqualification decisions related to chapter 638.** Permits the commissioner to consider issuing a set-aside of a disqualification under section 245C.24, the human services background studies section, for offenders issued an order of limited relief or a certificate of restoration of rights. Requires individuals who receive a set-aside to notify the commissioner if a court modifies or revokes an order or certificate. Requires the commissioner to revoke a set-aside upon receiving notice that a court revoked or modified an order or certificate.
- 3 **Application.** Establishes that the provisions of sections 638.10 through 638.26 take precedence over the provisions of sections 364.01 through 364.10 which relates to the rehabilitation of criminal offenders.
- 4 **Repealer.** Repeals the provisions of chapter 609B. Chapter 609B contains cross-references to Minnesota Statutes imposing collateral sanctions in 22 separate categories but does not create collateral consequences. This chapter would be replaced by the list published by the revisor under section 638.13.
- 5 **Effective date.** Makes sections 1 and 2 effective January 1, 2018.