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Collateral Consequences of Criminal Conviction in Arizona

Prepared By
The Law, Criminal Justice and Security Program
University of Arizona

Kate Adamson, J.D. '07
Flynn Carey, J.D. '07
Jean Nash, J.D. '07

Ryan Flynn, J.D., '06
Josh Baker, J.D., '07
Rimal Popat, B.S., '05
Student Research Fellows

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INTRODUCTION

In August 2003, the American Bar Association (ABA) House of Delegates adopted criminal justice standards on collateral sanctions for convicted persons. These standards address the wide ranging prohibitions and disqualifications that often face ex-offenders upon the completion of criminal sentences.¹ These include, but are not limited to, access to public benefits, housing benefits, restrictions on employment, voting and other forms of participation in civic life.

At the time of sentencing, criminal defendants and their counsel are most often unaware that these collateral consequences will attach to conviction. Recognizing the direct relationship between collateral consequences and ex-offenders' ability to re-enter society productively, the ABA standards recommend that each jurisdiction collect and codify its respective collateral consequences,² implement mechanisms to inform defendants of these consequences as part of the guilty plea process,³ require sentencing

¹ See generally ABA CRIM. J. STDS ON COLLATERAL SANCTIONS AND DISCRETIONARY DISQUALIFICATION OF CONVICTED PERSONS (adopted Aug. 2003) (hereafter ABA STANDARDS ON COLLATERAL SANCTIONS).

² *Id.* Std. 19-2.1.

³ *Id.*, Std 19-2.3 Notification of collateral sanctions before plea of guilty

(a) The rules of procedure should require a court to ensure, before accepting a plea of guilty, that the defendant has been informed of collateral sanctions made applicable to the offense or offenses of conviction under the law of the state or territory where the prosecution is pending, and under federal law. Except where notification by the court itself is otherwise required by law or rules of procedure, this requirement may be satisfied by confirming on the record that defense counsel's duty of advisement under Standards 14-3.2(f) has been discharged.

(b) Failure of the court or counsel to inform the defendant of applicable collateral sanctions, shall not be a basis for withdrawing the plea of guilty, except where otherwise provided by law or rules of procedure, or where the failure renders the plea constitutionally invalid.

courts to consider these consequences as part of the sentencing process,⁴ and narrow the range of these consequences.⁵

The purpose of this report is to inform Arizona judicial officials about the existence and breadth of collateral consequences imposed on persons in Arizona as a result of their criminal convictions.⁶ In Arizona, as with other jurisdictions, the list of collateral consequences imposed upon a person when convicted of a crime is extensive, but non-centralized.⁷ In most circumstances, neither a criminal defendant nor defense counsel is aware of the various collateral consequences associated with a conviction – whether reached by guilty plea or by a judge or jury verdict -- because these various penalties, disabilities and disadvantages are not identified in the formal criminal process.⁸

⁴ *Id.*, Std. 19-2.4.

⁵ *Id.*, Std. 19-2.5(a) (allowing courts to waive, modify or grant relief from collateral sanctions); Std. 19-2.6 (recommending the prohibition of certain collateral sanctions).

⁶ *See* Skok v. State, 361 Md. 52, 77 (2000) (observing that “serious collateral consequences have become much more frequent in recent years”).

⁷ *See* ABA STANDARDS ON COLLATERAL SANCTIONS, *supra* note 1, at R-5 (“collateral consequences have accumulated with little coordination in disparate provisions of state and federal codes, making it difficult to determine all of the penalties and disabilities applicable to a particular offense”).

⁸ *See e.g.*, Gabriel J. Chin and Richard W. Holmes, Jr., *Effective Assistance of Counsel and the Consequences of Guilty Pleas*, 87 CORN. L. REV. 697, 699 (2002) (highlighting that the majority of states and eleven circuits have declared that lawyers are not required to explain collateral consequences to their clients).

EXECUTIVE SUMMARY

The ABA classifies collateral consequences as collateral sanctions and discretionary disqualifications. A collateral sanction is defined as “a legal penalty, disability or disadvantage, however denominated, that is imposed on a person automatically upon that person’s conviction for a felony, misdemeanor or other offense, even if it is not included in that sentence”.⁹ A discretionary disqualification is defined as a “penalty, disability, or disadvantage, however denominated, that a civil court, administrative agency, or official is authorized but not required to impose on a person convicted of an offense on grounds related to the conviction”.¹⁰

Collateral consequences generally outlast the direct sentences imposed upon defendants. As a result, these disabilities often impose harsher and further reaching penalties than the actual criminal sentence.¹¹ Despite the lasting and sometimes permanent effects that collateral consequences impose upon ex-offenders and their families, no formal mechanism exists for defendants in Arizona or any other state to be informed of these consequences prior to their convictions. Because these consequences are not considered part of the formal criminal process, defense attorneys and judges are largely unaware of their existence and breadth.

As a result, criminal defendants in Arizona, as in other states, often plead guilty to criminal offenses totally unaware of the *range* of consequences that will attach to their

⁹ ABA STANDARDS ON COLLATERAL SANCTIONS, *supra* note 1, Std. 19-1.1(a).

¹⁰ *Id.*, Std. 19-1.1(b).

¹¹ *See, e.g.,* Gabriel J. Chin, *Race, the War on Drugs, and the Collateral Consequences of Criminal Convictions*, 6 J. GENDER RACE & JUST. 253, 253 (2002) (observing that “collateral consequences may be the most significant penalties resulting from a criminal conviction”); Rodney J. Uphoff, *The Criminal Defense Lawyer as Effective Negotiator: A Systemic Approach*, 2 CLIN. L. REV. 73, 101 (1995) (noting that such consequences “may be considerably more important to the defendant than the punishment meted out by the judge at sentencing”).

pleas. While defendants in Arizona are made aware of possible deportation consequences¹² and possible lifetime registration in instances that qualify,¹³ they are left in the dark as to the constellation of other consequences that can and do affect their daily lives upon re-entry or otherwise upon the conclusion of their criminal sentence.

The principles of fairness and justice alone dictate that defendants be fully advised of the ramifications of their convictions, particularly before entering guilty pleas. The collateral consequences described in this report affect important aspects of the ex-offender's daily life, such as receiving benefits that provide for life necessities, living in affordable housing, being properly licensed and employable, and being able to vote. Indeed, these consequences can last a lifetime and affect not only the individual ex-offender, but also his or her family.

There is a professional responsibility dimension to informing criminal defendants of collateral consequences as well. Criminal defense attorneys are required to provide competent and zealous representation.¹⁴ This includes advising the defendant as to the full effects of a guilty plea – not only the immediate effect of a fine or prison term, but also the ways in which such a conviction could shape the defendant's future. In fact, the Arizona Rules of Professional Conduct support this norm, asserting that lawyers “shall explain...matters to the extent reasonably necessary to permit the client to make informed decisions.”¹⁵ Yet, despite these requirements, decisions by Arizona defendants to plead guilty are often woefully uninformed, as they are left unaware of both the existence and the extent of the various consequences that attach to their pleas. Accordingly, the ABA

¹² See MD CT. R. § 4-242(c) (2003)

¹³ See *infra*, Part I(E)(1).

¹⁴ The Preamble to the Arizona Rules of Professional Conduct provides that “a lawyer zealously asserts his client's position.” MD RULES OF PROF'L CONDUCT, Preamble: A Lawyer's Responsibilities.

¹⁵ MD RULES OF PROF'L CONDUCT, R. 1.4(b) (2003)..

has for several years called for defense counsel to fully inform their clients of these consequences,¹⁶ and its newly adopted standards call for judges to ensure that counsel has done so.¹⁷

Without question, the ABA resolution raises some important concerns and questions. Some may be concerned, for example, that a guilty plea could later be withdrawn by a defendant, or overturned by an appellate court because of the judge's failure to ensure that the defendant had been properly advised of collateral consequences. In cases in which defense counsel advised the defendant of most but not all of the possible consequences, would there be a basis to have a guilty plea invalidated? The ABA's recommendations account for these concerns. The standards adopted by the House of Delegates clearly indicate that "[f]ailure of the court or counsel to inform the defendant of applicable collateral sanctions, shall not be a basis for withdrawing the plea of guilty, except where otherwise provided by law or rules of procedure, or where the failure renders the plea constitutionally invalid."¹⁸

Yet another possible concern is that properly informing defendants of all collateral consequences would further drain judicial and court resources by slowing down already overcrowded dockets. However, as the ABA has recognized, the responsibility for imparting the information falls largely and first upon defense attorneys. In most cases, a lengthy discussion about collateral consequences will not take place in the courtroom. Indeed, the judge's role should be limited to ensuring that the defense

¹⁶ ABA STANDARDS FOR CRIMINAL JUSTICE: PLEAS OF GUILTY (3d Ed.) (adopted Aug. 1997), Std. 14-3.2 ("To the extent possible, defense counsel should determine and advise the defendant, sufficiently in advance of the entry of any plea, as the possible collateral consequences that might ensue from entry of the contemplated plea.")

¹⁷ ABA STANDARDS ON COLLATERAL SANCTIONS, *supra* note 1, Std. 19-2.3(a) (the sentencing court may satisfy this requirement "by confirming on the record that defense counsel's duty of advisement . . . has been discharged").

¹⁸ *Id.*, Std. 19-2.3(b).

attorney has conveyed the information to the defendant. The ABA Standards reflect that this can be accomplished with a question by the judge as to whether defense counsel has properly informed the defendant as to the possible collateral consequences, followed by an affirmative answer.¹⁹

As this report makes clear, ex-offenders in Arizona face a number of post-release sanctions that may negatively impact their ability to become productive, self-sufficient members of their communities. A criminal defendant convicted of a felony drug offense, for example, may find upon completing her sentence that she is ineligible for public housing, welfare or student loans. She may be ineligible for the kind of jobs for which her educational background makes her qualified – driving a taxi, working in a hospital, or as a day care provider. Her opportunities for further education are likely to be limited by ineligibility for federal student loans and grants. In short, many ex-offenders in Arizona are disqualified from the safety net provided by many social service programs. Yet this is often precisely the safety net ex-offenders need when they are first released in order to avoid recidivism. This is a problem that will affect a large proportion of the ex-offender population because the communities to which most ex-offenders will return in Arizona are already struggling with lack of affordable housing and meaningful employment opportunities.²⁰

In addition, some collateral consequences, such as restrictions on the right to vote, can attach to crimes that many defendants and defense counsel are unlikely to know will

¹⁹ *Id.*, Std. 19-2.3(a).

²⁰ *See, e.g.*, Nancy La Vigne et al., *A Portrait of Prisoner Reentry in Arizona*, Urban Institute Justice Policy Center, March, 2003, at 39 (observing that the “community context of prisoner reentry can have an important influence on post-release success of failure. . .[as] ex-prisoners returning to communities with high unemployment rates, limited affordable housing options, and few services are more likely to relapse and recidivate”), available at http://www.urban.org/uploadedPDF/410655___MDPortraitReentry.PDF

trigger grave consequences. “Infamous crimes” as defined and interpreted under Arizona law, for example, includes using a false identification, writing bad checks, stealing a car, or credit card fraud.²¹ Conviction for these crimes can result in disenfranchisement.

In sum, this report constitutes a first step towards compliance with the ABA’s recommendations in Arizona. It identifies the range of collateral consequences that can attach to criminal convictions for a wide range of crimes. The results of this preliminary work clearly indicate that more effort and study will be needed in Arizona to properly address this complex and important criminal justice concern.

²¹ *See infra* note 92

I. COLLATERAL CONSEQUENCES OF CRIMINAL CONVICTIONS IN ARIZONA

A. PUBLIC BENEFITS

A person who is convicted of a crime in Arizona may lose many of his state and federal benefits. Most of these lost benefits would undoubtedly help the defendant reintegrate back into society.

1. Arizona's Denial of Benefits for Drug Related Crimes (A.R.S. 13-3418)

Section 13-3418 of the Arizona Revised Statutes authorizes courts to limit benefits available to persons convicted of certain crimes. The statute applies to persons convicted of "any offense in this chapter," which is apparently Chapter 34, drug offenses. A.R.S. 13-3418(A). The sentencing court may "render the person who is convicted ineligible to receive any public benefits. The court shall determine the length of time that shall elapse before the person's eligibility is restored." *Id.* Benefits that may be eliminated include "any money or services provided by this state for scholarships or tuition waivers granted for state funded universities or community colleges, welfare benefits, public housing or other subsidies, but does not include benefits available for drug abuse treatment, rehabilitation, or counseling programs." A.R.S. 13-3418(C).

Evidently the court may not, through a sentence, limit the benefits that would otherwise go "directly or indirectly . . . to any innocent person." A.R.S. 13-3418(B). Apparently this means, for example, that a court could not render homeless innocent family members by declaring a parent ineligible for public housing.

2. Arizona's Denial of Worker's Compensation to Incarcerated Persons (A.R.S. 23-1031).

Any individual that has been convicted of a crime or adjudicated delinquent and incarcerated in a state, federal, county, or city jail or in a correctional facility is ineligible to receive an award of worker's compensation. A.R.S. 23-1031(A). However, the law provides that payments may continue to the extent they have been garnished to pay a family support obligation. A.R.S. 23-1031(B).

3. Denial of federal benefits for drug related crimes (21 U.S.C. § 862)

Federal law also allows deprivation of public benefits based on conviction of a drug offense. Critically, the statute provides that a state or federal court may impose these sanctions upon conviction; they are not applicable exclusively to federal convictions.

a. Distributing a controlled substance.

Any individual convicted of a state or federal offense consisting of distribution of a controlled substance may become ineligible for public benefits.²² Upon the first conviction for such an offence, the defendant may be ineligible for any or all federal benefits for up to five years.²³ Upon a second conviction, the defendant may be ineligible for any or all federal benefits for up to ten years.²⁴ Finally, upon a third or subsequent

²² Federal benefits include "issuance of any grant, contract, loan, professional license or commercial license provided by an agency of the United States or by appropriated funds of the United States." Federal benefits do not include "retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility." 21 USCS § 862 (2005).

²³ *Id.* at § 862(a)(1)(A)

²⁴ *Id.* at § 862(a)(1)(B)

conviction, the defendant may become permanently ineligible for any or all federal benefits.²⁵ The imposition of all of these restrictions is at the discretion of the court.

b. Drug Possession

Any individual who is convicted of a federal or state offense involving the possession of a controlled substance may suffer similar consequences as those who are convicted of distribution of a controlled substance, again subject to the discretion of the court.²⁶ Upon the first conviction of possessing a controlled substance, the defendant may be ineligible for any or all federal benefits for up to one year.²⁷ Upon a second or subsequent conviction, the defendant may become ineligible for any or all federal benefits for up to five years.²⁸ In addition to losing benefits, the defendant may be required to complete a drug treatment program and perform community service.²⁹ Any of the penalties for conviction of possession of a controlled substance may be waived if the person declares himself to be an addict and submits to long-term treatment for addiction or is deemed to be rehabilitated.³⁰

C. Suspension of Ineligibility

A defendant's ineligibility for federal benefits, due to a conviction of possessing or distributing a controlled substance, may be suspended under the following circumstances: (1) if the defendant completes a supervised drug rehabilitation program; (2) has otherwise been rehabilitated; or (3) has made a good faith effort to join a

²⁵ *Id.* at § 862(a)(1)(C)

²⁶ Controlled substances are defined in 21 U.S.C. § 802(6) (2005).

²⁷ *Id.* at § 862(b)(1)(A)

²⁸ *Id.* at § 862(b)(1)(B)

²⁹ *Id.* at § 862(b)(1)(A)(i)-(ii)

³⁰ *Id.* at § 862(b)(2)

supervised drug rehabilitation program but is unable to due to inaccessibility or unavailability of the program or if the defendant can not afford the program.³¹

4. Denial of Social Security Act and Food Stamp Act benefits for felony drug offenses (21 U.S.C. § 862a)

A person who is convicted, under state or federal law, of a felony that involves possession, use, or distribution of a controlled substance will be ineligible for certain food stamp and social security benefits.³² Additionally, the family members of the defendant will also be affected by the defendant's conviction. Under state programs funded by the Social Security Act, the benefits afforded to family members of the defendant will be reduced by the amount which would have been made available to the defendant.³³ Benefits under the Food and Stamp Act, for the defendant's family, will be recalculated as if the defendant were not a member of the family, except that the income and resources of the defendant shall be considered to be income and resources of the household.³⁴

A state may enact a law to exempt individuals of that state from the provisions of 21 U.S.C. 862a or to limit the period of prohibition.³⁵ Arizona has not done so, instead adding its own authorization for denial of public benefits. A.R.S. 13-3418.

5. Denial of student loans for a drug related offense (20 U.S.C. § 1091)

A student who has been convicted of a drug offense, under state or federal law, involving possession or distribution of a controlled substance, is ineligible for federal

³¹ *Id.* at § 862(c)

³² *Id.* at § 862a(a). Specifically, the defendant will not be eligible for any state program funded by part A of title IV of the Social Security Act, any state program carried out under the Food Stamp Act of 1977, and any benefits under the food stamp program.

³³ *Id.* at § 862a(b)(1)

³⁴ *Id.* at § 862a(b)(2)

³⁵ *Id.* at § 862a(d)

grants, federally subsidized loans, and federal work assistance.³⁶ The period of ineligibility begins on the date of conviction and ends after the following interval:

Conviction of an Offense Involving Possession of a Controlled Substance	Ineligibility Period
First Offense	1 Year
Second Offense	2 Years
Third Offense	Indefinite

Conviction of an Offense Involving the Sale of a Controlled Substance	Ineligibility Period
First Offense	2 Years
Second Offense	Indefinite

B. HOUSING BENEFITS

Federal law regulates who is eligible for public housing and public assistance. These statutes limit eligibility based on criminal conviction. In most cases, these laws give states and local authorities the ability to expand ineligibility for public housing and assistance based on criminal convictions.

1. Federal Framework

There are two methods for which public housing benefits can be dispensed: government vouchers paid to private landlords (commonly referred to as Section 8 vouchers) and public housing projects. Under the public housing projects, a state or municipality will build, allocate and manage government-owned housing units. With Section 8 vouchers, the government pays part of the tenants' rent, yet the overriding control of the property remains with the private landlord.

³⁶ *Id.* at § 1091(r)(1) This restriction applies to benefits located in subchapter IV of chapter 28 of Title 20 and in part C of subchapter I of chapter 34 of Title 42 of the Arizona Revised Statutes.

The rules governing eligibility for these benefits originate in federal statutes. These rules are largely codified at 42 U.S.C. § 13661, § 13662, and § 13663, and 42 U.S.C. § 1437f(d)(1)(B)(iii).

1. 42 U.S.C. § 13661: Screening of Applicants for Federally Assisted Housing

This statute provides for the screening of applicants before such benefits are conferred. Its sub-sections render anyone ineligible for Federal public housing assistance (either housing in a publicly-owned unit or a Section 8 voucher) who has previously been evicted for drug-related criminal activity,³⁷ anyone who the local housing authority deems a “drug user” or an “alcohol abuser,”³⁸ and anyone who engaged “drug-related or violent criminal activity”, or whose criminal activity (in the eyes of the local authority) threatens the peaceful enjoyment of other residents.³⁹

The Federal statutes indicate that this ineligibility need not always be permanent. With respect to ineligibility for drug-related criminal activity, the offender’s ineligibility lasts for three years from the date of their conviction.⁴⁰ The second sub-section, which provides for ineligibility of illegal drug users and alcohol abusers, provides the applicant with a chance to demonstrate rehabilitation.⁴¹ The public housing agency may consider whether the individual has successfully completed a rehabilitation program,⁴² whether the individual has been successfully rehabilitated on his own,⁴³ or whether the individual is currently going through the process of rehabilitation.⁴⁴ The final sub-section, which renders applicants ineligible if their drug-related crime, violent criminal activity, or other

³⁷ 42 U.S.C. § 13661(a) (2000).

³⁸ *Id.* at (b).

³⁹ *Id.* at (c).

⁴⁰ *Id.* at (a).

⁴¹ *Id.* at (b)(2).

⁴² *Id.* at (b)(2)(A).

⁴³ *Id.* at (b)(2)(B).

⁴⁴ *Id.* at (b)(2)(C).

criminal activity threatens the peaceful enjoyment of the neighbors, provides that the ineligibility attaches only if the particular criminal activity took place recently, before a “reasonable” amount of time had passed.⁴⁵

2. 42 U.S.C. § 13662: Termination of Tenancy and Assistance for Illegal Drug Users and Alcohol Abusers in Federally Assisted Housing

This statute similarly renders certain people ineligible for housing benefits. However, this statute deals with termination of existing assistance, as opposed to the screening process for those applying for such assistance. The first sub-section provides that “a public housing agency or an owner of federally assisted housing” has the authority “to terminate the tenancy or assistance for any household with a member” who is illegally using a controlled substance or whose alcohol abuse “interfere[s] with the health, safety, or right to peaceful enjoyment” of the other residents.⁴⁶ Both the determination as to whether a particular resident is illegally using a controlled substance or abusing alcohol in a way that interferes with the other residents and the decision to evict the household are left to the local authority (in the case of publicly-owned projects) or to the private landlords (in the case of a government voucher). In reaching this determination, the public housing agency or owner may consider whether the household member has been rehabilitated⁴⁷ or is in the process of being rehabilitated.⁴⁸

3. 42 U.S.C. § 13663: Ineligibility of Dangerous Sex Offenders for Admission to Public Housing

⁴⁵ *Id.* at (c)(2).

⁴⁶ 42 U.S.C. § 13662(a) (2000).

⁴⁷ *Id.* at (b)(1) & (2) .

⁴⁸ *Id.* at (b)(3) .

The third statute deals with those determined to be “dangerous sex offenders.” Any household that includes an individual who is subject to a lifetime registration requirement under a state sex offender registration program shall be prohibited from receiving federally-assisted housing.⁴⁹ Accordingly, this prohibition is mandatory and leaves the owner of such housing with no discretion.⁵⁰

4. 42 U.S.C. § 1437f(d)(1)(B)(iii): Criminal Activity as Cause for Termination of Low-Income Housing Assistance

This statute deals solely with ineligibility for continued assistance in the form of government vouchers. Specifically, the statute provides that when a tenant has entered into a residential lease with assistance from a Section 8 voucher, “any criminal activity that threatens the health, safety, or right of peaceful enjoyment” of the neighbors, or “any drug-related activity on or near such premises...shall be cause for termination of the tenancy.”⁵¹

In essence, the federal government provides a basic framework within which the local authority (of either option) exercises its own prudence. Therefore, it is the duty of the local authority to determine: 1) the eligibility requirements of public benefits, 2) the duration of the consequences and 3) the severity of the offense (whether conviction or simply a pattern of behavior).

In Arizona, these particular applications are not codified per se, but rather exist as a collection of local plan and policy. The next sub-section provides some examples of

⁴⁹ 42 U.S.C. § 13663(a) (2000).

⁵⁰ There also sub-sections to this statute that sets forth the means for public housing agencies and owners to obtain this information, see *id.* at (b)(1)-(2) & (c) obtaining this information, and a sub-section that gives the individual an opportunity to dispute the adverse action. *Id.* at (d).

⁵¹ 42 U.S.C. § 1437f(d)(1)(B)(iii) (2000).

how local housing authorities in Arizona exercise the discretion afforded by these Federal statutes.

2. Examples of Local Application

According to the Selective-Enforcement classification of the Arizona Constitution (Art 2 § 13, 22), the prosecuting agency may exercise conscious scrutiny on a citizen, so long as it is not based upon race or religion. This scrutiny may extend to one charged with a misdemeanor, such as convicted with the possession of hard drugs, etc and thereby being refused for public housing. Therefore, ex-offenders are subject to question when purchasing a home or renting public-housing.

The standard policy for determining a family's suitability for public housing in Arizona is carried out on a local level. The Public Housing Authority (PHA) of each city has discretion to determine eligibility for families in some cases, while mandatory denial of assistance is required in others.

i. Mandatory Ineligibility

a. Permanent Denial

Tucson, Phoenix, Tempe, Glendale, and Mesa, all require that any applicants registered as lifetime sex offenders be denied for life from federally assisted public housing.⁵² Phoenix further bans any applicant who has ever been convicted of a felony and/or two or more misdemeanor sexual offenses within a rolling 24-month period.⁵³

⁵² *Admissions and Continued Occupancy Policy*, City of Tucson, Community Services Department Housing Management Division, April, 2005; *Housing Department Admissions and Continued Occupancy Policy*, City of Phoenix, Revised Nov., 2004; *Administrative Program*, Section 8 Housing Choice Voucher Program, City of Tempe, Developmental Services Department, Housing Services Division; *Administrative Plan*, Housing Choice Voucher Program, Housing Authority of the City of Glendale, Revised and Adopted July, 2004; *Screening of Applicants on Criminal Activity*, Mesa Housing Services, Effective July, 2003.

⁵³ *Housing Department Admissions and Continued Occupancy Policy*, City of Phoenix, Revised Nov., 2004

Tucson, Phoenix, and Glendale also ban for life any applicants convicted of manufacturing methamphetamine (speed) on the premises of federally assisted housing.

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b. Temporary Denial

Tucson

Any applicant arrested for a felony is ineligible for admission for a 5-year period beginning from the completion of the sentence, including probation. Any applicant who was evicted from federally assisted housing within 5 years of the projected date of admission because of drug-related criminal activity is ineligible for admission for a 5-year period beginning from the date of eviction⁵⁵

Phoenix

Any applicant convicted of a felony for drug-related criminal activity or violent criminal activity, or who demonstrates a pattern of three or more violent criminal or drug-related criminal incidents is denied admission for a five year period, beginning from the completion of the sentence. Any applicant who was evicted from federally assisted housing because of drug-related criminal activity involving the illegal manufacture, sale, distribution, or possession with the intent to manufacture, sell, distribute a controlled substance is denied admission for a five-year period beginning from the date of the eviction.

⁵⁴ *Admissions and Continued Occupancy Policy*, City of Tucson, Community Services Department Housing Management Division, April, 2005; *Housing Department Admissions and Continued Occupancy Policy*, City of Phoenix, Revised Nov., 2004; *Administrative Plan*, Housing Choice Voucher Program, Housing Authority of the City of Glendale, Revised and Adopted July, 2004.

⁵⁵ *Admissions and Continued Occupancy Policy*, City of Tucson.

Any applicant evicted from federally assisted housing because of drug-related criminal activity involving personal use or possession for personal use of a controlled substance is generally denied admission for three years from the date of eviction.

Any Applicant convicted of a felony for fraud, bribery or corruption is denied admission for two-years from the time of the conviction. Applicants with one or more convictions within the last two years for a felony for non-violent criminal activities, or who demonstrate a pattern of three or more non-violent criminal incidents are denied admission for two years.⁵⁶

Mesa, Tempe

Any applicant convicted of a sex crime who is not required to register as a sex offender is denied admission for a period of five years, beginning from the completion of the sentence. Any applicant who has been arrested for anything involving drug-related criminal activity or violent criminal activity is denied admission for a period of five years beginning from the date of sentencing or end of prison term, whichever is later. Any applicant who has been evicted from federally assisted housing for drug-related criminal activity is denied admission for a five-year period beginning from the date of eviction.⁵⁷

Glendale

Any applicant who has been evicted from federally assisted housing for drug-related criminal activity is generally denied admission for five years, beginning from the date of eviction.⁵⁸

ii. Discretionary Ineligibility

⁵⁶ *Housing Department Admissions and Continued Occupancy Policy*, City of Phoenix.

⁵⁷ *Screening of Applicants on Criminal Activity*, Mesa Housing Services; *Administrative Program*, City of Tempe.

⁵⁸ *Administrative Plan*, Housing Authority of the City of Glendale.

Tucson

The PHA has discretion to deny assistance to individuals based on any of the following:

- a. A history of criminal activity involving crimes of physical violence against persons or property and any other criminal activity including drug-related criminal activity that would adversely affect the health, safety, or well-being of other tenants or staff or cause damage to the property;
- b. A history of disturbing neighbors or destruction of property;
- c. Having committed fraud in connection with any Federal housing assistance program;

Currently using an illegal controlled substance or abusing alcohol in a way that may interfere with health, safety, or right to peaceful enjoyment of the premises by other residents. The PHA may use their discretion to approve an individual who has demonstrated that they no longer engage in drug-related criminal activity or abuse of alcohol, who has successfully completed or is participating in a supervised drug or alcohol rehabilitation program, or who has otherwise been rehabilitated successfully.

d. The PHA has discretion to approve applicants arrested for a drug-related felony within the past five years, based on evidence of rehabilitation.⁵⁹

Phoenix

PHA has the discretion to deny assistance to individuals based on any of the following:

- a. Having committed fraud, bribery, or any other corruption in connection with any federal housing assistance program at any time;

⁵⁹ *Admissions and Continued Occupancy Policy*, City of Tucson.

- b. A history of disturbing neighbors or destruction of property;
- c. A history of criminal activity involving crimes of physical violence against persons or property and any other criminal activity, including drug-related criminal activity at any time;
- d. Currently (including the last 12 months) engaging in illegal use of a drug.
- e. Having a felony conviction for illegal drug use within the previous two-year period, or three or more incidents involving drug use within the previous two-year period;
- f. Having engaged in threatening or violent behavior towards any Housing Department staff or residents.
- g. The PHA has discretion to approve applicants evicted from federal housing because of drug related criminal activity involving personal use or possession for personal use of a controlled substance based on successful completion of a supervised drug or alcohol rehabilitation program.⁶⁰

Mesa

The PHA only has discretion to approve an applicant convicted of a sex crime within the past five years if no felony charges were brought in those five years.

The PHA has discretion to approve an applicant who has been arrested for a drug-related criminal activity and is still serving the sentence, before the five-year period is up, only if the applicant is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

⁶⁰ *Housing Department Admissions and Continued Occupancy Policy*, City of Phoenix.

The PHA has discretion to approve an applicant who has been arrested for a violent criminal activity before the five-year period is up, only if the applicant has served the sentence and/or successfully completed the program.

The PHA has discretion to deny assistance to any applicant currently engaged in criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.⁶¹

Glendale

The PHA has discretion in reviewing the extent of participation or culpability of applicants and the length of time since the violation occurred in determining eligibility of applicants. Reasons for ineligibility may include:

- a. A pattern of alcohol abuse that threatens health, safety, or peaceful enjoyment of the premises for other residents;
- b. Any alcohol-related criminal activity on or near the premises within a five-year period;
- c. A pattern of criminal involvement within the past five years;
- d. Any history of fraud in connection with federally assisted housing;
- e. Any history of threats violence toward PHA personnel;
- f. Actual physical abuse or violence toward anyone.

The PHA has the discretion to determine whether there is reasonable cause to believe that an applicant's criminal activity may threaten the health and safety of other residents, staff, and PHA employees.

The PHA has discretion to determine whether an applicant should be denied admission based on previous drug-related criminal activity, illegal drug use, or violent

⁶¹ *Screening of Applicants on Criminal Activity*, Mesa Housing Services.

criminal activity, or whether a reasonable amount of time has passed and the applicant should be admitted.⁶²

Tempe

An applicant who is currently engaged in criminal activity which may threaten the health, safety, or right to peaceful enjoyment by other residents may be denied admission. The PHA has discretion to determine this standard.⁶³

C. CIVIL DISABILITIES

In addition to the direct consequences of a criminal conviction such as a prison sentence, probation period, and/or fine, an ex-offender in Arizona faces restrictions and limitations on civil privileges, such as jury service, commercial driver's licenses, firearm possession, and voting. Individuals convicted of felony offenses are prohibited by federal law from serving in the United States Military. This subsection spells out these restrictions.

1. Jury Service

Arizona law provides that a person is not eligible for jury service if he or she has been convicted of a felony, unless the juror's civil rights have been restored. Ariz. Rev. Stat. § 21-201(3); Ariz. Rev. Stat. § 13-904((A)(3)). When a person completes all probation conditions, including fines and restitution, for a first or second felony conviction, or is absolutely discharged, rights to serve on a jury are automatically restored by the Clerk of the Court.

⁶² *Administrative Plan*, Housing Authority of the City of Glendale.

⁶³ *Administrative Program*, City of Tempe.

2. Driver's Licenses

A. Class D Vehicle Driver's Licenses

Under 23 U.S.C. section 159, each state is required to either revoke driver's licenses of drug offenders or complete an annual certification that they do not wish to revoke driver's licenses—if they fail to do one or the other, they lose highway funds. Arizona has opted for the latter. At this time, there is no driver's license revocation for those convicted of a drug offense.

B. Commercial Driver's Licenses

In the state of Arizona, there is a broad range of offenses that lead to the disqualification of a commercial driver's license, each resulting in varying lengths of suspension time. An individual must be disqualified from driving a commercial vehicle for one year if:

- 1) The individual is convicted of a first violation of any of the following:
 - (a) Driving a commercial motor vehicle under the influence of intoxicating liquor or a controlled substance or while having an alcohol concentration of 0.04 or more.
 - (b) Leaving the scene of an accident involving a motor vehicle driven by the person.
 - (c) Using a motor vehicle in the commission of a felony.
 - (d) A violation of Chapter 4, article 3 of this title while operating a noncommercial motor vehicle. Ariz. Rev. Stat. § 28-3312((A)(1))

A violation of Chapter 4, article 3 of this title includes:

driving under the influence of intoxicating liquor, any drug, or vapor releasing substance containing toxic substance or any combination of liquor, drugs or vapor releasing substance if the person is impaired to the slightest degree, having a blood alcohol concentration of 0.08 or more within two hours of driving or being in actual physical control of the vehicle and the alcohol concentration results from alcohol consumed either before or while driving or being in actual physical control of the vehicle. Ariz. Rev. Stat. § 28-1381(A).

An individual will be disqualified from driving a commercial vehicle for the life of the person if the person is convicted of two or more of the offenses listed in paragraph 1 or of any combination of those offenses arising from two or more separate incidents. The department only considers offenses committed from and after December 31, 1989 in applying this paragraph. Ariz. Rev. Stat. § 28-3312((A)(3)). An individual will also be disqualified from driving a commercial vehicle for the life of that person if the person uses a commercial vehicle in the commission of a felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance. Ariz. Rev. Stat. § 28-3312((A)(4)).

A person shall be permanently disqualified from driving a commercial motor vehicle if the person uses a noncommercial motor vehicle in the commission of a felony more than once. Ariz. Rev. Stat. § 28-3312((E)(3)).

3. Firearm Possession

Arizona prohibits any person from possessing a gun who has been convicted within or without this state of a felony or who has been adjudicated delinquent and whose civil right to possess or carry a gun or firearm has not been restored. Ariz. Rev. Stat. § 13-3101((A)(6)(b)). Arizona also prohibits any person from possessing a gun who is serving a term or probation pursuant to a conviction for a domestic violence offense as defined in Ariz. Rev. Stat. § 13-360. Ariz. Rev. Stat. § 13-3101((A)(6)(d)). A person convicted of a serious offense may not apply to carry a gun for ten years. Ariz. Rev. Stat. § 13-905(C). "Serious offense" means any of the following offenses if committed in this state or any offense committed outside this state which if committed in this state would

constitute one of the following offenses: first degree murder, second degree murder, manslaughter, aggravated assault resulting in serious physical injury or involving the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, sexual assault, any dangerous crime against children, arson of an occupied structure, armed robbery, burglary in the first degree, kidnapping, and sexual conduct with a minor under fifteen years of age. Ariz. Rev. Stat. § 13-604.

4. Voting Rights

If a person has been convicted of a felony in Arizona, he or she cannot vote unless the right has been restored. Ariz. Rev. Stat. § 16-101. A first time offender's right to vote is automatically restored upon absolute discharge from incarceration or completion of community supervision or probation. If a person has been convicted of two or more felonies, they must apply to the court that sentenced them. If the sentence resulted in prison, there is a two-year waiting period before a person can apply. If a person is convicted of more than one felony in another state, there is no provision for restoring your Arizona right to vote. Ariz. Rev. Stat. § 13-905.

5. Military Service

Federal law governs military enlistment. No person who is insane, intoxicated, or a deserter from an armed force, or who has been convicted of a felony, may be enlisted in an armed force. However, exceptions may be authorized in meritorious cases. 10 U.S.C. § 504. The statute does not offer an explanation of what a meritorious case is nor is there case law on the subject matter.

D. FAMILY LIFE

Incarceration or conviction for a felony can have wide-ranging consequences, including effecting parenting and visitation time and providing the non-convicted spouse cause to petition for dissolution of a covenant marriage.

Dissolution of Marriage

Arizona is a “no-fault” divorce state. As long as other jurisdictional and controversy requirements met, the Court only requires a finding that the marriage be “irretrievably broken.” Ariz. Rev. Stat. § 25-312(3) (2005).

However, a married couple may, either before or after nuptials, petition the court for a covenant marriage. *See* Ariz. Rev. Stat. § 25-901 (creation of a covenant marriage) *and* Ariz. Rev. Stat. § 25-902 (conversion to a covenant marriage). A covenant marriage carries with it stringent requirements before the couple may file for dissolution, including a trial separation period. Ariz. Rev. Stat. § 25-903.

In regard to collateral consequences, the court may grant a separation when “[t]he respondent spouse has committed a felony and has been sentenced to death or imprisonment in any federal, state, county or municipal correctional facility.” Ariz. Rev. Stat. § 25-904(2). Imprisonment or a death sentence for a felony may also be grounds for dissolution of a covenant marriage. Ariz. Rev. Stat. § 25-903(2).

While case law of precedential value is scant in regards to annulment, the Arizona Supreme Court has granted that annulment may be used “when the false representation or concealment is such that the fundamental purpose of the injured party in entering into the

marriage is defeated. The majority view is that courts under general equity powers have inherent jurisdiction to entertain and adjudicate actions for annulment of marriage, irrespective of statute.” *Means v. Industrial Commission*, 110 Ariz. 72, 74-75 (1973).

Child visitation

A parent convicted of certain crimes may be denied freedoms that a parent without such convictions enjoys without state interference. A conviction for these crimes will create a rebuttable presumption against the convicted party that joint custody over a child is not the child’s best interest.

For instance, a parent convicted of any drug offense under Title 13, Chapter 34 or of certain driving while intoxicated offenses faces a presumption by the court that he or she should not be granted sole or joint custody over a child. Ariz. Rev. Stat. § 25-403(K).

In order to rebut this presumption, the court will consider evidence that the parent has not been convicted of other drug offenses within five years of the petition for custody, Ariz. Rev. Stat. § 25-403(L)(1), and evidence that the parent has passed drug testing, as required by the statute. *Id.* at 25-403(L)(2).

There is also a legal presumption that incidents of domestic violence are against the best interests of a child. Ariz. Rev. Stat § 25-403(N). In the event that the parent is able to rebut a presumption “that parenting time will not endanger the child or significantly impair the child's emotional development,” by showing progress such as completing an anger management course, and completing substance counseling or parenting classes, the court still retains the ability to place restrictions upon the parent. Ariz. Rev. Stat. § 25-403(P).

For instance, the court can hold that the exchange of the child from one parent to the other only occur in certain places or settings, that parenting time by the convicted parent only occur in the presence of a court-appointed agent, or that overnight visits shall be prohibited. Ariz. Rev. Stat. § 25-403(P). The court also has the power to place upon the parties “any other condition that the court determines is necessary to protect the child, the other parent and any other family or household member.” Ariz. Rev. Stat. § 25-403(P).

Visitation or parenting time may be suspended or terminated in the instance that a parent is charged with certain crimes of violence, or those relating to child molestation. Ariz. Rev. Stat. § 25-408(M). In such an instance, the other parent may petition for a expedited hearing and the court may, in the interim, suspend parenting time in regard to the charged parent. *Id.*

Termination of parental rights

Under Arizona law, a parent’s rights can be terminated in regard to raising his or her child if the party petitioning for termination can show abandonment of the parent-child relationship. Ariz. Rev. Stat. § 8-533(B)(1). Abandonment is defined as “the failure of a parent to provide reasonable support and to maintain regular contact with the child, including providing normal supervision. . . Failure to maintain a normal parental relationship with the child without just cause for a period of six months constitutes prima facie evidence of abandonment.” Ariz. Rev. Stat. § 8-531(1).

A third-party with a valid interest in the child can petition for the termination of the parent-child relationship; evidence of abandonment is sufficient evidence for a court

to find that the parent-child relationship should be terminated.⁶⁴ Ariz. Rev. Stat. § 8-533(B)(1). Due to the fact-intensive nature of family law adjudication, statutes regarding termination of parental rights have been developed significantly by case law.

Incarceration of the parent, standing alone, is insufficient evidence of abandonment of the parent-child relationship. The Arizona Supreme Court held “[i]mprisonment, per se, neither provide[s] a legal defense to a claim of abandonment nor alone justifies severance on the grounds of abandonment.” *Michael J. v. Arizona Dept. of Economic Sec.*, 196 Ariz. 246, 250, 995 P.2d 682, 686 (Ariz. 2000) (internal quotations omitted) quoting *In re Pima County Juvenile Action No. S-624*, 126 Ariz. 488, 490, 616 P.2d 948, 950 (App.1980). The court will consider, along with other factors, whether the incarcerated parent’s conduct demonstrates that the parent “act[ed] persistently to establish the relationship however possible.” *In re Appeal in Pima County Juvenile Severance Action No. S-114487*, 179 Ariz. 86, 97, 876 P.2d 1121, 1132 (Ariz. 1994). While the parent is incarcerated, the parent must still “do something” to show that he or she is attempting to maintain a relationship with the child. *Id.*

Ariz. Rev. Stat. § 8-533(B)(4) provides that the length of incarceration can be an important factor in deciding the parental rights of the incarcerated parent. A parent-child relationship may be terminated with sufficient evidence that the parent’s sentence “is of such length that the child will be deprived of a normal home for a period of years” Ariz. Rev. Stat § 8-533(B)(4).

Arizona courts have declined to attach a fixed sentence length to this statute. *See James S. v. Arizona Dept. of Economic Sec.*, 193 Ariz. 351, 972 P.2d 684 (Ariz. App.

⁶⁴ When making a determination about the termination of parenting rights, the Court, along with other factors discussed in this section, will consider the “best interests of the child.” Ariz. Rev. Stat. § 8-533(B).

Div. 1, 1998) (5.5 year sentence deprived child of a normal home); *In re Maricopa County Juvenile Action No. JS-9104*, 183 Ariz. 455, 904 P.2d 1279 (Ariz. App. Div. 1, 1995) *abrogated on other grounds* *Kent K. v. Bobby M.*, 210 Ariz. 279, 110 P.3d 1013 (2005) (5.25 year sentence deprived child of a normal home); *In re Appeal in Maricopa County Juvenile Action No. JS-5609*, 149 Ariz. 573, 720 P.2d 548 (Ariz. App. Div. 1, 1986) (nine-year sentence deprived child of a normal home).

However, the Court will look at the total amount of time the child and parent are separated due to incarceration, not simply the time remaining on the sentence nor the potential early release of the incarcerated parent.⁶⁵ *Jesus M. v. Arizona Dept. of Economic Sec.*, 203 Ariz. 278, 281, 53 P.3d 203, 206 (Ariz. App. Div. 2, 2002).

The Court in *Jesus M.* listed factors to be used by the trial courts regarding cases in which a parent faced termination of the parent-child relationship due to incarceration. *Id.* The trial court should examine: (1) the quality (length/strength) of the parent-child relationship prior to incarceration, (2) the extent to which the relationship can continued given the incarceration of the parent, (3) the “age of the child and the relationship between the child's age and the likelihood that incarceration will deprive the child of a normal home”, (4) the length of the sentence, (5) availability of another parent to provide a “normal home life”, (6) the effect on the child of being deprived of a “parental presence”. *Id.* (all quoted material in these factors, *Id.*)

⁶⁵ “What matters to a dependent child is the total length of time the parent is absent from the family, not the more random time that may elapse between the conclusion of legal proceedings for severance and the parent's release from prison. We conclude the legislature used the words "will be deprived" in § 8-533(B)(4) to mean "will have been deprived" in total, intending to encompass the entire period of the parent's incarceration and absence from the home.” *Jesus M.*, 203 Ariz. at 281, 53 P.3d at 206.

Federal law imposes restrictions, but also relief for incarcerated and convicted parents, through a series of acts passed in the last twenty years aimed at addressing the adoption and child welfare systems.

Federal law grants money to states that create a child welfare plan according to certain federal guidelines.⁶⁶ Under the requirements of the state plan, the qualifying state must make reasonable efforts to eliminate the need to remove the child from the home⁶⁷ and take reasonable efforts to avoid a situation in which a child and parent are separated. Arizona has codified this requirement with similar phrasing: “the court shall order the department [Child Protective Services] to make reasonable efforts to provide services to the child and the child's parent. Ariz. Rev. Stat. § 8-846(A).

However, the federal code sections that describe the requirements for the plan specifically exempt the state from the “reasonable efforts” requirement mentioned above in situations in which the parent committed the murder or voluntary manslaughter of another child of the parent, aided or abetted such murder, or committed a felony assault of another child of the parent⁶⁸. The state also does not need to take reasonable efforts to reunite a family or prevent the removal of the child if the parent’s rights have been involuntarily terminated⁶⁹.

The state has the power to include a more extensive list of the types of crimes that can waive the “reasonable efforts” requirement in the Act. For instance, in Arizona the court can weigh such “aggravating circumstances” such as whether the child has been previously removed due to physical, sexual, or emotional abuse by the parent or guardian,

⁶⁶ See 42 USC § 602 for a basic requirements of a qualifying state plan.

⁶⁷ 42 USC § 671(a)(15)(B)(i).

⁶⁸ *Id.* at § 671(a)(15)(D)(ii).

⁶⁹ *Id.* at § 671(a)(15)(D)(iii).

or if the parent should have reasonably know his or her child was being abused, and whether the parent's rights to another child have been terminated. Ariz. Rev. Stat. § 8-846(B)(1). The reasonable efforts also do not have to be taken if the parent has been convicted of "murder or manslaughter of a child, or of sexual abuse, sexual assault of a child, sexual conduct with a minor, molestation of a child, commercial sexual exploitation of a minor, sexual exploitation of a minor, or luring a minor for sexual exploitation" or of aiding or abetting in the above crimes. Ariz. Rev. Stat. § 8-846(B)(2)-(3).

E. SEX OFFENDER REGISTRATION

In response to public safety concerns focusing on child sexual offenders and sexually violent offenders, Congress passed the "Wetterling Act" in 1994.⁷⁰ This Act called for the establishment of guidelines for state programs pertaining to registration. Arizona's law, codified in the Criminal Procedure Article, §§ 11-701-11-721 of the Annotated Code of Arizona, sets out the state's provisions for sex offender registration.

1. *Statutory Requirements*
2. *Repercussions of Failure to Register*
3. Notice to the Community
4. *Possible Relief from Registration Requirements*

F. EMPLOYMENT AND LICENSING

A criminal conviction creates various collateral consequences regarding

⁷⁰ JACOB WETTERLING CRIMES AGAINST CHILDREN AND SEXUALLY VIOLENT OFFENDER REGISTRATION ACT 42 U.S.C. §14071 (2000).

employment and licensing. Arizona has established collateral sanctions through statutory prohibitions, licensing, and statutorily required background checks.

While there are a few explicit statutory and regulatory prohibitions that bar ex-offenders from employment opportunities in specific fields, the most significant employment barriers for ex-offenders are presented by statutorily required background checks that require disclosure of criminal convictions. A person who has had his civil rights restored may not be disqualified from an occupation for which a license is required solely because of a prior conviction. *Id.* However, pursuant to A.R.S. § 13-904(E), a person *may be denied employment* by the state or any of its agencies or political subdivisions or a person who has had his civil rights restored may be denied a license, permit or certificate to engage in an occupation by reason of the prior conviction of a felony or misdemeanor *if the offense has a reasonable relationship to the functions of the employment* or occupation for which the license, permit or certificate is sought. (emphasis added). . Consequently, state licensing agencies have enormous discretion to deny ex-offenders from obtaining licenses. The non-discrimination section described above does not apply to law enforcement. A.R.S.. § 13-904(F). See “Rehabilitating the Ex-felon: Impact of Arizona's pardons and civil rights restoration statutes,” Law & Soc. Ord., 1971, p. 793.

While the statutory and regulatory provisions vary depending on the nature of the particular license, the “reasonable relationship” concept articulated in § 13-904(E) pervades throughout the statutory and regulatory provisions. Most statutory and regulatory provisions require disclosure for felonies committed in any jurisdiction,

regardless of whether the offense bears a reasonable relationship to the functions of employment.

1. *Explicit Statutory and Regulatory Prohibitions:*

a. Peace Officers

Arizona law prohibits persons who have been convicted of a felony in Arizona or an offense in any other jurisdiction that would be considered a felony in Arizona from becoming a peace officer. Additionally, a conviction for any offense involving the sale, possession, transportation, or cultivation of illegal drugs, or violations of traffic regulations with a frequency that demonstrates a disrespect for traffic laws will also disqualify an individual from obtaining employment as a peace officer. Under A.A.C R13-4-105:

A. Before appointment or attending an academy, a person shall meet the following minimum qualifications:

6. Not have been convicted of a felony or any offense that would be a felony if committed in Arizona;
7. Not have been dishonorably discharged from the United States Armed Forces;
8. Not have been previously denied certified status, have certified status revoked, or have current certified status suspended;
9. Not have illegally sold, produced, cultivated, or transported marijuana for sale;
10. Not have illegally used marijuana for any purpose within the past three years;
11. Not have ever illegally used marijuana other than for experimentation;
12. Not have ever illegally used marijuana while employed or appointed as a peace officer;
13. Not have illegally sold, produced, cultivated, or transported for sale any dangerous drug or narcotic, other than marijuana;
14. Not have illegally used a dangerous drug or narcotic, other than marijuana, for any purpose within the past seven years;
15. Not have ever illegally used a dangerous drug or narcotic other than for experimentation;
16. Not have ever illegally used a dangerous drug or narcotic while employed or appointed as a peace officer;
17. Not have a pattern of abuse of prescription medication;
18. Undergo a polygraph examination that meets the requirements of R13-4-106, unless prohibited by law;
19. Not have been convicted of or adjudged to have violated traffic regulations

governing the movement of vehicles with a frequency within the past three years that indicates a disrespect for traffic laws or a disregard for the safety of other persons on the highway

b. Education

Pursuant to A.R.S. 15-534, certification as a state educational employee requires individuals to obtain a valid fingerprint clearance card to certify that they have not been convicted of any offenses enumerated under A.R.S. § 41-1758.03, which contains an extensive list of offenses.

2. Licensing and Statutorily Required and Optional Background Checks:

Arizona primarily regulates the employment filed through licensing agencies and by requiring or giving employers the option to conduct background checks before making personnel decisions. The State requires a license or permit for a substantial amount of occupations, ranging from jobs in nursing and medicine to pest control and cosmetology. Therefore, a significant amount of employment opportunities rest upon having a permit or license with a state licensing board.

a. Statutorily Required Background Checks

Generally, licensing agencies are required to conduct background checks, which can then be used as a factor in determining whether to issue the specific license. In most instances, felony convictions in any jurisdiction must be disclosed and can be grounds for denial of a license. Additionally, most licensing agencies require disclosure of any lesser offense involving moral turpitude or of a nature that is incompatible with the duties of the specific type of employment for which the license is required. These lesser offenses can also serve as grounds for denial of a license. For example, under AZ. Admin. Code R2-

12-1201 applicants for the electronic notary commission must disclose: any felony convictions or undesignated offenses in Arizona or any other jurisdiction and whether the applicant has been restored civil rights. Additionally, applicants must disclose whether the applicant has been convicted of a lesser offense involving moral turpitude or of a nature that is incompatible with the duties of a notary public in Arizona or any other jurisdiction.

In some instances, disclosure obligations for certain offenses are subject to time restrictions, which usually only require disclosure for certain offenses committed within 5 or 10 years of the date that the application was filed. For example, under AZ. Admin. Code R4-12-202, applicants for an intern, embalmer or funeral director license must disclose: whether the applicant has even been convicted or entered into a plea of no contest to a class 1 or 2 felony, and whether the applicant, within five years from the date of the application, has been convicted of or entered into a plea of no contest to a felony or to a misdemeanor that is reasonably related to the applicant's proposed area of licensure.

Some regulations provide that entities applying for licenses must disclose felony or misdemeanor convictions for business partners, stockholders and management level officials associated with the specific license applicant. For example, under A.A.C. R4-28-301 applicants for a real estate license must disclose whether the applicant, including, if an entity, any officer, director, member, manager, partner, owner, trust beneficiary holding 10% or more beneficial interest, stockholder owning 10% or more stock, or other person exercising control of the entity, has been convicted of a misdemeanor or felony, or deferral of a judgment or sentencing for a misdemeanor or felony; and, any order, judgment, or adverse decision entered against the applicant involving fraud or dishonesty,

or involving the conduct of any business or transaction in real estate, cemetery property, time-share intervals, membership camping contracts, or campgrounds. Therefore, even though statutorily required background checks are not per se prohibitions on employment for ex-offenders, the tremendous amount of discretionary power afforded to state licensing agencies may prohibit ex-offenders from obtaining licenses.

b. Optional Background Checks and the Negligent Hiring Doctrine

Even when criminal background checks are not required by statute, the Negligent Hiring Doctrine creates an incentive for employers to investigate each applicant's criminal background. Under this doctrine, employers are potentially liable for hiring or retaining employees who are unfit and consequently injure a third person. This doctrine is well established under Arizona case law. See Mulhern v. City of Scottsdale, 165 Ariz. 395; Pruitt v. Pavelin, 141 Ariz. 195. Therefore, employers often subject applicants to criminal background checks, even when not required to do so, in order to avoid liability for negligence under this common law doctrine.

c. Juveniles and Employment

Some juvenile offenders face significant employment obstacles because of statutory provisions that disqualify the juvenile from civil service appointments or make records of juvenile convictions endure through adulthood. Under A.R.S. § 8-207, crimes provided by A.R.S. §§ 13-904, 13-2901.01, 28-3304, 28-3306, 28-3320 may impose civil disabilities ordinarily resulting from a conviction or disqualify the juvenile in any civil service application or appointment. Additionally, juveniles convicted of felonies or offenses listed in A.R.S. 13-501(A) or (B), or Title 28, Chapter 4, are not eligible to have records destroyed. Finally, Article 4, Pt. 2 § 22 of the Arizona Constitution provides that

juvenile records are public records. Thus, ex-juvenile offenders face significant employment barriers on account of criminal convictions.

Therefore, ex-offenders in Arizona are often separated from employment opportunities as a result of various statutes and regulations, as well as the vast discretion afforded to licensing agencies and employers to deny licenses or employment based on an applicant’s criminal record. These various mechanisms significantly limit the employability of ex-offenders as their criminal history becomes inextricably intertwined with future employment opportunities.

Quick Reference Charts:

A.R.S.

[M]- denotes mandatory restriction

[D]- denotes discretionary restriction

Statute/ Regulation	Prohibitions/ Explanation
A.R.S. Const. Art. 4 Pt. 2 § 22 Juvenile justice [M]	Juveniles 15 or older who are chronic felony offenders shall be prosecuted as adults; additionally, juvenile proceedings shall be open to public and records of juvenile proceeding are public records.
Title 3. Agriculture § 3-1348(D)(4) [D]	Discretionary denial, suspension or revocation of equine trader permit for a conviction of a felony involving a crime related to equine trade w/in 7 years

<p>Title 3. Agriculture § 3-1348(D)(4) [D]</p>	<p>Inspection may be denied if the applicant or anyone responsibly connected with applicant (management level official or shareholder w/10% or more interest) has been convicted, in any federal or state court, within the previous ten years of any felony or more than one misdemeanor under any law based upon the acquiring, handling or distributing of adulterated, mislabeled or deceptively packaged food or fraud in connection with transactions in food, or any felony involving fraud, bribery, extortion or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health</p>
<p>Title 3. Agriculture § 2-2164 [D]</p>	<p>The inspector may refuse to provide inspection services (or withdraw the inspection service) if the applicant or anyone “responsibly connected” has been convicted “in any federal or state court, within the previous ten years of any felony or more than one misdemeanor under any law based upon the acquiring, handling or distributing of adulterated, mislabeled or deceptively packaged food or fraud in connection with transactions in food, or any felony involving fraud, bribery, extortion or any other act or circumstances indicating a lack of the integrity needed for the conduct of operations affecting the public health.” <i>Id.</i></p>
<p>Title 4. Alcoholic Beverages § 4-111 [D]</p>	<p>Director of department may be removed by governor for a felony conviction</p>

<p>Title 4. Alcoholic Beverages § 4-202; 4-203.04 [M]</p>	<p>Licenses are prohibited for any applicant convicted in this or any other state of a felony within 5 years of license application</p>
<p>Title 4. Alcoholic Beverages § 4-210 [D]</p>	<p>After notice and a hearing, the director may revoke or refuse to renew a license if the licensee or controlling person is convicted of a felony. If a corporation is convicted of a felony, then the conduct giving rise to the felony must be related to the employment of the corporate official.</p>
<p>Title 5. Amusements and Sports § 5-108 [D]</p>	<p>Department may refuse to issue or renew a permit if the individual, or if a corporation, firm or association is controlled by an individual who has been convicted of a felony or crime involving moral turpitude.</p>
<p>Title 5. Amusements and Sports § 5-404 [M]</p>	<p>Person convicted of a misdemeanor involving moral turpitude or a felony cannot serve as manager, proceeds coordinator, assistant, or lessor of property for a bingo gaming operation.</p>
<p>Title 6. Banking and Financial Institutions. § 6-708; § 6-863; § 6-905; § 6-945; § 6-982; § 6-1210; § 6-1258; § 6-1404 [D]</p>	<p>The Superintendent may deny, suspend, revoke or refuse to renew a license if the applicant or licensee has been convicted in any state of a felony or a crime involving a breach of trust or dishonesty.</p>

<p>Title 6. Banks and Financial Institutions. § 6-1204(A)(4)(f) [M]</p> <p>Applicants for a license shall disclose: “Criminal convictions, excluding traffic offenses.”</p>	
<p>Title 6. Banks and Financial Institutions, Deferred Presentment Companies. § 6-1254(A) [M]</p> <p>Among other provisions, the applicant shall “be a person of honesty, truthfulness and good moral character.” <i>Id.</i> § at 6-1254(A)(2) and “shall not have been convicted of a crime that involves moral turpitude.” <i>Id.</i> § at 6-1254(A)(3)</p>	<p>This section applies to licensing for “deferred presentment companies”, in which the licensee contractually agrees to hold a check for an individual for five days before cashing the check. Ariz. Rev. Stat. § 6-1251(3). Licensees must not have been convicted of a crime of moral turpitude.</p>
<p>Title 8. Children. § 8-203.01 [M]</p>	<p>Juvenile probation officers must certify that they are not awaiting trial on or have been convicted of any of the criminal offenses listed in the statute, such as any sexual offenses involving a minor, arson, kidnapping, robbery, burglary, or a dangerous offense as listed in 13-604.01.</p>
<p>Title 8. Children. § 8-207 [D]</p>	<p>Crimes provided by 13-904, 13-2901.01, 28-3304, 28-3306, 28-3320 may impose civil disabilities ordinarily resulting from a conviction or disqualify the juvenile in any civil service application or appointment.</p>
<p>Title 8. Children § 8-349 [M]</p>	<p>Juvenile convicted of any felony or offense listed in 13-501(A) or (B), or title 28 chapter 4 is not eligible to have records destroyed.</p>

<p>Title 10. Corporations and Associations. § 10-202(D)(1)(a, b) [D]</p> <p>This section sets forth the requirements for an association’s or corporation’s articles of incorporation and certificate of disclosure:</p> <ul style="list-style-type: none"> ▪ The certificate must disclose certain criminal information regarding “officers, directors, trustees, incorporators and persons controlling or holding over ten per cent of the issued and outstanding common shares or ten per cent of any other proprietary, beneficial or membership interest in the corporation.” ▪ This section requires the disclosure of any felony convictions against any of the above individuals if those felonies involved securities transactions, consumer fraud, or antitrust <i>in any state or federal jurisdiction</i>, and occurred within the 7 years preceding the execution of the certificate of disclosure. ▪ This section requires the disclosure of felony convictions in which “fraud, misrepresentation, theft by false pretenses or restraint of trade or monopoly” was an essential element, and which occurred within 7 years preceding the execution of the certificate of disclosure. 	<p>If one of the individuals listed in this section <i>does</i> have a felony conviction of the types described in § 10-202(D)(1), the commission may direct additional, detailed interrogatories to that person, requesting “any additional relevant information deemed necessary by the commission.” <i>Id.</i> at § 10-202(G).</p>
<p>Title 10. Corporations and Associations, non-profit organizations. [D] § 10-3202(D)(1)(a, b)</p>	<p>Almost identical in substance and phrasing to the section previously listed.</p> <p>10-3202(D)(1)(a)-(b) list the felonies for which there must be disclosure.</p> <p>10-3202(G) details the commission’s power to require further interrogatories.</p>

<p>Title 13. Criminal Code. Disposition of offenders. 13-603(G) [D]</p>	<p>“If a person or an enterprise is convicted of any felony, the court may, in addition to any other sentence authorized by law, order the forfeiture, suspension or revocation of any charter, license, permit or prior approval granted to the person or enterprise by any department or agency of the state or of any political subdivision.” <i>Id.</i></p>
<p>Title 13. Criminal Code § 13-904(E) [D]</p>	<p>A person may be denied employment by the state or any of its agencies or political subdivisions or a person who has had his civil rights restored may be denied a license, permit or certificate to engage in an occupation by reason of the prior conviction of a felony or misdemeanor <u>if the offense has a reasonable relationship to the functions of the employment or occupation for which the license, permit or certificate is sought.</u></p>
<p>Title 13. Criminal Code § 13-390 [M]</p>	<p>Court will provide notice of conviction to state board of education, community college board, or charter school board, for any teacher convicted of felony or offense found w/in title 13.</p>

<p>Title 14. Trusts, Estates, and Protective Proceedings. § 14-5106(A)(1). [M]</p>	<p>Any proposed appointee (excepting trust companies and certain other business entities) who wishes to become a guardian or conservator must answer, under oath, if he or she has been convicted of a felony. If so, the proposed appointee must disclose “the nature of the offense, the name and address of the sentencing court, the case number, the date of conviction, the terms of the sentence, the name and telephone number of any current probation or parole officer and the reasons why the conviction should not disqualify the proposed appointee.” <i>Id.</i> at § 14-5106(A)(1).</p>
<p>Title 14. Trusts, Estates, and Protective Proceedings. Protection of Persons Under Disability and Their Property. § 14-5651(C)(3) [M]</p>	<p>An individual that wishes to be a fiduciary for a person under a disability shall not have been convicted of felony. <i>Id.</i> at § 14-5651(C)(3).</p>
<p>Title 15. Education § 15-512 [D]</p>	<p>A school district may refuse to hire (or terminate after a hearing) any employee who has been convicted of, or admitted in open court, or admitted in a plea agreement to have committed: any types of violent crimes, any types of crimes involving children, any types of sexual offenses, any felony convictions for use, distribution or possession of drugs, any misdemeanor crimes involving possession, use or distribution of marijuana, theft, arson, burglary.</p>

<p>Title 15. Education §15-534; §15-1330 [M certification] & [D disciplinary action]</p>	<p>Certification for state educational employees <u>requires</u> a valid fingerprint clearance card, which certifies that the individual has not been convicted of any offenses enumerated under A.R.S. § 41-1758.03</p> <p>The state board of education <u>may take disciplinary action against or not renew the certificate</u> of a person on a finding that the certificated person engaged in conduct that is immoral or unprofessional or engaged in conduct that would warrant disciplinary action if the person had been certified at the time that the alleged conduct occurred. The board shall prescribe guidelines for this process.</p>
<p>Title 15. Education §15-1765; [M disclosure] & §15-1766 [D denial, revocation or suspension]</p>	<p>Any person applying to be registered as an athlete agent in this state <u>must disclose</u> any felony convictions, crimes of moral turpitude, instances where there has been an administrative or judicial determination that the applicant committed fraudulent, false or misleading statements or representations by the applicant or any partner, shareholder, manager, associates or members of the partnership. If the applicant is employed by a corporation, then applicant must disclose the above convictions for any managers, partners, or shareholders with 5% or more interest.</p> <p>Sec. of State can deny certification for any athlete agents convicted of felony or crime of moral turpitude; or any crimes involving fraud, false statements; or any conduct that would prevent applicant from serving in a fiduciary capacity.</p>

<p>Title 16. Elections and Electors. Registration. § 16-101(A)(5). [M]</p>	<p>This section details the individuals that are qualified to vote. An individual with a felony (or treason) conviction may not vote, unless his or her civil rights have been restored.</p>
<p>Title 16. Elections and Electors. § 16-152(A)(16) [M]</p>	<p>Electors <u>must certify</u> that they have not been convicted of a felony, or if they have been convicted, that their civil rights have been restored.</p>
<p>Title 16. Election and Electors. Causes for Cancellation. § 16-165(A)(4). [M]</p>	<p>The county recorder's office must cancel a registration when it receives notice of a registered voter with a felony conviction.</p>
<p>Title 20. Insurance. § 20-295(A)(6) [D]</p>	<p>An insurance producer's license may be denied, suspended for up to 12 months, revoked, or refused a renewal for a felony conviction.</p>
<p>Title 20. Insurance. §§ 20-340.03, 20-340.04 [M]</p>	<p>Bail bond agent cannot employ or assist in the employment of any person who has been convicted in any jurisdiction of theft or of any felony or any crime involving carrying or the possession of a deadly weapon or dangerous instrument.</p>

<p>Title 20. Insurance § 20-2508[M]</p>	<p>The director shall deny a certificate to a utilization review agent who has been convicted of a misdemeanor involving moral turpitude or a felony or who employs a person who has been convicted of a felony.</p>
<p>Title 20. Insurance. § 20-2606 [D]</p>	<p>2. Without the director's prior written approval, the insurer shall not employ any person in connection with the handling of separate account assets who within the last ten years either:</p> <p>(a) Was convicted of a felony or a misdemeanor offense involving embezzlement, fraudulent conversion, the misappropriation of funds or securities or a violation of <u>18 United States Code § 1341, 1342 or 1343.</u></p> <p>(b) Was found to have violated or has acknowledged violating any law involving fraud, deceit or knowing misrepresentation.</p>
<p>Title 21. Juries. Qualifications. § 21-201(3). [M]</p>	<p>An individual is barred from serving as a juror if he or she has been convicted of a felony and has not had his or her civil rights restored.</p>
<p>Title 23. Labor. Misconduct connected with employment. § 23-619.01(B). [M]</p>	<p>Conviction for a felony <i>or crime</i> related to an employer's business or which could have a "substantial adverse effect" on the employer's business or public relations is considered "wilful [sic] or negligent misconduct connected with the employment." <i>Id.</i> at § 23-619.01(B).</p>

Title 27. Minerals, Oil and Gas. § 27-905 [M]	Certificate of disclosure must be filed with mining reclamation division by person involved in mining related felony
Title 28. Transportation. § 28-3153. [M]	The DMV shall not issue a permit or license (class D, G, M) to anyone with certain felony convictions.
Title 28. Transportation. § 28-3312 [M]	<p>Mandatory disqualification of commercial driver license: for <u>one year from date of conviction</u> for operating a vehicle w/ a BAC above 0.04, using a motor vehicle in the commission of a felony, or leaving the scene of an accident where the driver of the motor vehicle was involved, or</p> <p>for the life of the person, if the person uses a commercial motor vehicle in the commission of a felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance.</p>

<p>Title 28. §§ 28-4365, 28-5003 [D]</p>	<p>Vehicle Dealers, Automotive Recyclers, Transporters and Title Service Companies may be denied a license if an individual included in the application [applicant, and each partner, officer, director or agent or each stockholder owning twenty per cent or more of a corporation] has been convicted of fraud or an auto related felony in a state, territory or possession of the United States or a foreign country within the ten years immediately preceding the date the criminal records check is complete or an individual included in the application has been convicted of a felony, other than a felony described in paragraph 2 of this subsection, in a state, territory or possession of the United States or a foreign country within the five years immediately preceding the date the criminal records check is complete.</p>
<p>Title 28. Transportation, Vehicle Dealers, Automotive Recyclers and Transporters. § 28-4493 [D]</p> <p>“The director <i>may</i> suspend or cancel the license, off-premise exhibition permit, off-premises display and sales permit, or special event permit” (emphasis added). <i>Id.</i> § at 28-4493(A).</p>	<p>The director can revoke any license in which an individual listed on the application has been convicted of a “fraud or an auto related felony” within the 10 years preceding the criminal records check which is part of the application. <i>Id.</i> at § 28-4493(B)(2)</p> <p>The director can revoke a license in which an individual listed on the application has been convicted of <i>any</i> felony in the past five years. <i>Id.</i> at § 28-4493(B)(3)</p> <p>The conviction is not jurisdiction- nor sovereign-specific. The felonies under this statute are those committed “in a state, territory or possession of the United States or a foreign country.” <i>Id.</i> at § 28-4493(B)(2)</p>

<p>Title 28. Transportation, Third-Party Authorization. § 28-5105. [D]</p> <p>“The director may deny [a third party’s] application for authorization or certification” Ariz. Rev. Stat. § 28-5105(B)</p>	<p>This section applies to “third-parties,” which the director can authorize to perform specific Department of Transportation tasks, such as “title and registration, motor carrier licensing and tax reporting, dealer licensing and driver license functions.” <i>Id.</i> at § 28-5101(A)</p> <p>Such requests for authorization may be denied if any individual listed in the application has been convicted of an “auto felony” within the 10 years preceding a criminal records check pursuant to this authorization, or if the individual has been convicted of any other felony within 5 years preceding the criminal records check. <i>Id.</i> at § 28-5105(B).</p>
<p>Title 28. Transportation, Third-Party Authorization. § 28-5108. [D]</p>	<p>This section applies to the suspension and cancellation of licenses to third-parties once granted.</p> <p>The director may suspend or cancel a license if the applicant failed to disclose on the application that an individual listed in the application has been convicted of an “auto felony” within the 10 years preceding a criminal records check pursuant to this authorization, or the individual has been convicted of any other felony within 5 years preceding the criminal records check. <i>Id.</i> at § 28-5108(B)(2)-(3).</p>
<p>Title 32. Professions and Occupations. § 32-122.02 [M]</p>	<p>An applicant for certification as a home inspector shall be of good moral character and repute and have received an absolute discharge from sentence at least five years before the application if the person has been convicted of one or more felonies, provided the board determines the applicant is of good moral character and repute.</p>

<p>Title 32. Professions and Occupations, Architects, Assayers, Engineers, Geologists, Home Inspectors, Landscape Architects and Surveyors. § 32-131 [M]</p> <p>A person is not eligible to receive certification as a “remediation specialist” if that person has, in the seven years prior to the application for certification, has been convicted of:</p> <ul style="list-style-type: none"> ▪ “a felony involving a transaction in securities or consumer fraud in any state or federal jurisdiction”. <i>Id.</i> at § 32-131(C)(1) ▪ “a felony, the essential elements of which consisted of fraud, misrepresentation or theft by false pretenses in any state or federal jurisdiction.” <i>Id.</i> at § 32-131(C)(2) ▪ “a felony or <i>misdemeanor</i> that had a reasonable relationship to the person's occupation or to the environment.” <i>Id.</i> at § 32-131(C)(4), emphasis added. 	<ul style="list-style-type: none"> ▪ Of note, criminal littering, codified in Ariz. Rev. Stat. § 13-1603, occurs when “Throws, places, drops or permits to be dropped...destructive or injurious material which he does not immediately remove.” <i>Id.</i> This creates the potential for a conviction of a class 6 felony, or a class 1 or class 2 misdemeanor.
<p>Title 32. Professions and Occupations. § 32-572 [D]</p>	<p>The [Cosmetology] board may take disciplinary action or refuse to issue or renew a license for any of the following causes continued performance of cosmetology, aesthetics or nail technology services by a person: knowingly having an infectious or communicable disease; conviction of a crime; commission of an act involving dishonesty; fraud or deceit with the intent to substantially benefit oneself or another or substantially injure another; malpractice or incompetency; knowingly advertising by means of false, misleading, deceptive or fraudulent statements through communication media.</p>

<p>Title 32. Professions and Occupations, Certified Public Accountants, Board of Accountancy powers and duties § 32-703(B)(3). [D]</p> <p>Allows the board to “require registrants to report any. . . criminal convictions, civil judgments involving negligence in the practice of accounting by a certified public accountant or by a public accountant”</p>	<p>Under this statute, the Board of Accountancy can require certified accountants to report criminal convictions.</p>
<p>Title 32. Professions and Occupations. § 32-741 [D]</p>	<p>After notice and an opportunity for a hearing, the [Accounting] board may revoke or suspend any certificate granted under this chapter and may take disciplinary action concerning the holder of any certificate for... conviction of a felony under the laws of any state or of the United States if civil rights have not been restored.</p>
<p>Case Law Construing A.R.S. provisions: A.R.S. § 23-1045 Worker’s Compensation, Compensation for Total Disability [D]</p>	<p>Administrative law judge can consider claimant’s pre-injury felony conviction to determine what jobs were reasonably available for determining the claimant’s present earning capacity <i>see</i> <u>W.F. Dunn, Sr. & Son v. Industrial Com'n of Arizona (App. Div.1 1989) 160 Ariz. 343, 773 P.2d 241</u></p>

<p>Title 32. Professions and Occupations, Certified Public Accountants, reinstatement of certificate § 32-748(B)(2). [D]</p> <p>Upon completing “all requirements prescribed by the board and for <i>good cause shown</i>”, an accountant has an opportunity to have his or her certificate reinstated. <i>Id.</i> at § 32-748(A), emphasis added.</p>	<p>“Good cause shown”, a requirement to reinstate one’s license requires the applicant to show he is “completely rehabilitated” in regard to the conduct that led to the initial revocation. <i>Id.</i> at § 32-748(B).</p> <p>Evidence of rehabilitation in regard to the criminal conviction that led to revocation requires the applicant show that his “civil rights have been fully restored pursuant to statute or other applicable recognized judicial or gubernatorial order.” <i>Id.</i> at § 32-748(B)(2).</p>
<p>Title 32. Professions and Occupations, Chiropractic. Grounds for disciplinary action. § 32-924(A)(6).</p>	<p>A misdemeanor conviction involving moral turpitude or a felony conviction provides sufficient grounds for disciplinary action.</p>
<p>Title 32. Professions and Occupations, Collection Agencies, Denial, Revocation or suspension of license. § 32-1053(A)(4). [D]</p>	<p>The superintendent may deny, revoke, or suspend a license if the licensee has been convicted of “Has been convicted in any state of any felony or other crime involving breach of trust or dishonesty.” <i>Id.</i> at § 32-1053(A)(4).</p> <p>This section extends to officers, directors, etc. and any “controlling person” with more than 20% equity in the collection agency. <i>Id.</i> at § 32-1053(B).</p>
<p>Title 32. Professions and Occupations, Dentistry, Removal from the Dental Board. § 32-1204. [D]</p>	<p>A conviction of felony “shall ipso facto terminate his membership.” <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Dentistry, Reinstatement of license. § 32-1235(A)(2) [M]</p> <p>A dentist, hygienist, or denturist whose license was previously suspended or revoked may have the opportunity to have the license reinstated upon written application to the state board of dental examiners. <i>Id.</i> at § 32-1235(A)</p>	<p>The applicant must demonstrate to the “board's satisfaction that the applicant is completely rehabilitated with respect to the conduct that was the basis for the suspension” <i>Id.</i> at § 32-1235(A).</p> <p>Among other evidence, the board will consider, “if a criminal conviction was a basis for the suspension, revocation or surrender, that the applicant's civil rights have been fully restored pursuant to statute or any other applicable recognized judicial or gubernatorial order.” <i>Id.</i> at § 32-1235(A)(2).</p>

<p>Title 32. Professions and Occupations, Dentistry, Grounds for disciplinary action. § 32-1263(2) [D]</p>	<p>This section details the grounds for which disciplinary actions can be commenced by the state board of dental examiners.</p> <p>In addition to unprofessional conduct, and physical or mental incompetence, <i>Id.</i> at § 32-1263(1), the board may initiate proceedings upon the individual’s “[c]onviction of a felony or of a misdemeanor involving moral turpitude, in which case the record of conviction or a certified copy is conclusive evidence.” <i>Id.</i> at § 32-1263(2).</p>
<p>Title 32. Professions and Occupations, Funeral Directors and Embalmers. § 32-1301(28)(a)-(b), (d) [M]</p>	<p>This is a definition section under the Funeral Directors and Embalmers chapter of the Professions and Occupations Title.</p> <p>“Good moral character” listed as one of the definitions. In relevant part, good moral character is defined as a person who:</p> <ul style="list-style-type: none"> ▪ “Has not been convicted of a class 1 or 2 felony by a court of competent jurisdiction.” <i>Id.</i> at § 32-1301(28)(a) ▪ “Has not, within five years of application for licensure or registration, been convicted of a felony or misdemeanor if the offense has a reasonable relationship to the person's proposed area of licensure or registration.” <i>Id.</i> at § 32-1301(28)(b) ▪ “is not currently incarcerated in or on community supervision after a period of imprisonment in a local, state or federal penal institution or on criminal probation.” <i>Id.</i> at § 32-1301(28)(d)
<p>Title 32. Professions and Occupations, Funeral Directors and Embalmers, Prearranged funeral sales endorsement. § 32-1391.12(A)(5)(e). [M]</p>	<p>This section applies to funeral businesses that wish to preemptively sell services funded via clients’ trusts. The establishment must declare that the funeral director appointed for the position “has not been convicted any felony or convicted of any other crime involving dishonesty, fraud, deception, misrepresentation, embezzlement or breach of fiduciary duty in any state or federal court within the seven year period immediately preceding the date of application.” <i>Id.</i></p>

<p>Title 32. Professions and Occupations, Funeral Directors and Embalmers, Prearranged funeral salespersons. § 32-1391.14(A)(3). [M]</p>	<p>A salesperson hired to sell services described in the above section shall not have been convicted “of any felony or convicted of any other crime involving dishonesty, fraud, deception, misrepresentation, embezzlement or breach of fiduciary duty in any state or federal court within the seven year period immediately preceding the date of application.” <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Medicine and Surgery, Board of Medical Examiners. § 32-1403.01(A) [M]</p>	<p>The Board of Medical Examiners shall provide for the public a listing of information for each licensee under this chapter. This listing shall include:</p> <ul style="list-style-type: none"> ▪ A listing of any felonies or misdemeanors involving moral turpitude to which the individual plead guilty, was found guilty, or pled no contest. <i>Id.</i> at § 32-1403.01(A)(1)-(2)
<p>Title 32. Professions and Occupations, Medicine and Surgery, Reinstatement of license. § 32-1458(A)(2) [M]</p> <p>A physician whose license was previously suspended or revoked may have the opportunity to have the license reinstated upon written application to the state board of medical examiners. <i>Id.</i> at § 32-1458(A).</p>	<p>The applicant must demonstrate to the “board's satisfaction that the applicant is completely rehabilitated with respect to the conduct that was the basis for the revocation or surrender.” <i>Id.</i> at § 32-1458(A).</p> <p>Among other evidence, the board will consider, “if a criminal conviction was a basis of the revocation or surrender, that the applicant's civil rights have been fully restored pursuant to statute or any other applicable recognized judicial or gubernatorial order.” <i>Id.</i> at § 32-1458(A)(2).</p>
<p>Title 32. Professions and Occupations, Nursing, Board of Nursing powers and duties. § 32-1606(B)(17). [M]</p> <p>This section divides the powers and duties of the Board of Nursing into two sections: § 32-1606(A), which denotes what the board “may” do, and § 32-1606(B), which denotes what the board “shall” do. The text regarding previous felony convictions falls under the section B, the “shall” section.</p>	<p>The Board of Nursing <i>shall not</i> grant a license, or shall revoke a license if previously granted, or decline to renew the license of “an applicant who has one or more felony convictions and who has not received an absolute discharge from the sentences for all felony convictions five or more years before the date of filing an application.” <i>Id.</i> at § 32-1606(B)(17).</p>

<p>Title 32. Professions and Occupations, Nursing, Application and qualifications for license. § 32-1632(2). [M]</p>	<p>The applicant for a nursing license must submit proof that he or she has received an “absolute discharge from the sentences for all felony convictions five or more years before the date of filing an application.” <i>Id.</i> at § 32-1632(2).</p>
<p>Title 32. Professions and Occupations, Nursing, Licensing out-of-state professional nurses. § 32-1634(B) [M]</p> <p>“The board shall not issue a license to an applicant who has one or more felony convictions and who has not received an absolute discharge from the sentences for all felony convictions five or more years before the date of filing the application.” <i>Id.</i></p>	<p>**Does not apply to those individuals enrolled in a professional nursing program before 07/01/1998</p>
<p>Title 32. Professions and Occupations, Nursing, Licensing of foreign-graduate professional nurses. § 32-1634.01(A)(5) [M] <i>See also, Id.</i> at § 32-1634.02(A)(4) [M]</p>	<p>This section applies to nurses who are graduates of foreign nursing programs. The applicant must disclose any felonies, and indicate the date of discharge of the sentence(s). <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Nursing, Application and qualifications for a practical nursing license. § 32-1637(2) [M]</p>	<p>The applicant for a practical nursing license must submit proof that he or she has received an “absolute discharge from the sentences for all felony convictions five or more years before the date of filing the application.” <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Nursing, Licensing out-of-state practical nurses. § 32-1639(B). [M]</p>	<p>Similar to the above licensing statute of the in-state practical nurse, barring the board from issuing a practical nursing license to an individual who has felonies that have not been absolutely discharged 5 years prior to submitting the application. <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Nursing, Licensing of foreign-graduate practical nurses. § 32-1639.01(5). [M] <i>See also, Id.</i> at § 32-1639.02(4). [M]</p>	<p>This section applies to nurses who are graduates of foreign nursing programs. The applicant must disclose any felonies, and indicate the date of discharge of the sentence(s). <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Nursing, Renewal of license. § 32-1642(B), (D). [M]</p> <p>§ 32-1642(B) applies to professional and practical nurses. § 32-1642(D) applies to nursing assistants.</p>	<p>This section requires that nurses renew their licenses on at set intervals, and disclose any felonies at the time of renewal, and the dates of absolute discharge for those felonies.</p>

<p>Title 32. Professions and Occupations, Nursing, Application and qualifications for a nursing assistant license. § 32-1645 [M]</p>	<p>The applicant for a nursing assistant license must submit proof that he or she has received an “absolute discharge from the sentences for all felony convictions.” <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Nursing, board powers in regard to nursing assistants. § 32-1646(B) [M]</p> <p>The board shall revoke the license of, or decline to issue a license to any individual who “has not received an absolute discharge from the sentences for all felony convictions five or more years prior to the date of filing an application.” <i>Id.</i></p>	<p>Note: If the applicant’s has filed for certification or recertification before 08/01/1998 and previously disclosed his or her conviction, this section does not apply. <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Nursing, Acceptance of out-of-state certificates. § 32-1648(B) [M]</p> <p>“The board shall not issue a certificate to an applicant who has one or more felony convictions and who has not received an absolute discharge from the sentences for all felony convictions five or more years prior to the date of filing the application.”</p>	
<p>Title 32. Professions and Occupations, Nursing, Licensure Compact. § 32- 1669(C) [M]</p>	<p>An applicant for a nursing license must disclose any felonies for which an absolute discharge has not been obtained at least five years before the applicant submits his or her application.</p> <p>“A person who violates this subsection [by not reporting] commits an act of unprofessional conduct.” <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Dispensing Opticians, Qualifications § 32-1683(2) [M]</p>	<p>An applicant to be a dispensing optician shall “[n]ot have been convicted of a crime involving moral turpitude” <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Optometry, grounds for censure, denial, revocation, etc. § 32-1743(1). [D]</p>	<p>The Board may impose certain restrictions (or revocation) upon a licensee for the conviction of a felony or a misdemeanor involving moral turpitude.</p>
<p>Title 32. Professions and Occupations, Optometry, Board investigations. § 32-1744(E)(4)-(5). [D]</p>	<p>The Board can initiate a hearing without first holding an informal interview with the licensee if the probable violation involves a felony or a crime involving moral turpitude. <i>Id.</i></p>

<p>Title 32. Professions and Occupations, Registration of non-residents to dispense soft contacts § 32-1773(F)(3) [D]</p>	<p>The license of a non-resident soft contact dispenser can be refused, revoked, or suspended if he or she has been convicted of a felony. <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Pharmacy, Denial, revocation, or suspension of license. § 32-1927 [D]</p>	<p>The license of a pharmacist or intern may be revoked, suspended, or denied if the licensee has been convicted of a felony. (In the current version, the conviction of a felony is specifically mentioned. In the pending legislation, which repeals the above version, the Board can take action when it has evidence of “unprofessional conduct,” which includes felony convictions and misdemeanors involving moral turpitude or drugs.)</p> <p><i>Compare A.R.S. § 32-1927(2004) to 2005 Ariz. Legis. Serv. Ch. 241 (S.B. 1126) (WEST)</i></p>
<p>Title 32. Professions and Occupations, Pharmacy Technicians, Denial, revocation, or suspension of license. § 32-1927.01 [D]</p>	<p>The license of a pharmacy tech may be revoked, suspended, or denied if the licensee has been convicted of a felony. (In the current version, the conviction of a felony is specifically mentioned. In the pending legislation, which repeals the above version, the Board can take action when it has evidence of “unprofessional conduct,” which includes felony convictions and misdemeanors involving moral turpitude or drugs.)</p> <p><i>Compare A.R.S. § 32-1927.01(2004) to 2005 Ariz. Legis. Serv. Ch. 241 (S.B. 1126) (WEST)</i></p>
<p>Title 32. Professions and Occupations, Regulation of Physical Therapy, Grounds for Disciplinary Action. § 32-2044(7) [D]</p>	<p>Conviction of a felony or a misdemeanor involving moral turpitude is grounds for discipline.</p>

<p>Title 32. Professions and Occupations, Board of Physical Therapy, Substance Abuse Recovery Program § 32- 2050 [D/M]</p> <p>This section is discretionary in that the physical therapy board can opt to allow the licensee to enter an approved substance abuse treatment program in lieu of the standard list of disciplines. However, it is mandatory in that this option is not available to those applicants with felony convictions related to controlled substances.</p>	<p>The board of physical therapy may opt to place a licensee into a substance abuse recovery program instead of applying the standard disciplinary sanctions available in Ariz. Rev. Stat. § 32- 2048, provided that the licensee has “not been convicted of a felony relating to a controlled substance in a court of law of the United States or any other territory or country.” <i>Id.</i> at § 32-2050(2).</p>
<p>Title 32. Professions and Occupations, Real Estate, Power and duties of the commissioner § 32-2108(C) [D]</p>	<p>This section outlines the powers of the real estate commissioner.</p> <p>The commissioner may compel of a licensee or applicant for a license information regarding his or her prior criminal record. <i>Id.</i> at § 32-2108(C)(1).</p>
<p>Title 32. Professions and Occupations, Real Estate, Application for broker or salesperson license. § 32-2123(B)(4) [M]</p>	<p>An applicant shall disclose “whether the applicant has ever been convicted of a felony and, if so, the nature of the felony, where and when committed and the disposition of the conviction, or whether the applicant has been disbarred or suspended from the practice of law.” <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Real Estate, Qualifications of licensees. § 32-2124(M) [M]</p> <p>“The commissioner shall not issue a license to a person who has been convicted of a felony offense and who is currently incarcerated for the conviction, paroled or under community supervision and under the supervision of a parole or community supervision officer or who is on probation as a result of the conviction.” <i>Id.</i></p>	
<p>Title 32. Professions and Occupations, Real Estate, Renewal of license. § 32-2130 (E) [M]</p>	<p>This section is similar to the above section, preventing the state real estate department from renewing a license when the applicant is convicted of a felony and incarcerated, on parole, or under supervision during probation.</p>

<p>Title 32. Professions and Occupations, Real Estate, Denial, Suspension or Revocation of licenses § 32-2153(B)(2) [D]</p>	<p>This section grants the power to the real estate commission to revoke, suspend, or deny the license of any licensee that has “been convicted in a court of competent jurisdiction in this or any other state of a felony or of any crime of forgery, theft, extortion, conspiracy to defraud, a crime of moral turpitude or any other like offense.” <i>Id.</i></p> <p>The commissioner has other options in regard to licenses, such as offering a provisional license.</p>
<p>Title 32. Professions and Occupations, Real Estate, Summary Suspension of license § 32-2157(C) [D]</p>	<p>The state department of real estate has the ability to issue a summary suspension of a real estate license when the licensee is “convicted of a felony offense and is currently incarcerated for the conviction, paroled or under the supervision of a parole or community supervision officer or is on probation as a result of the conviction.” <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Real Estate, Exempt sales and leases. § 32-2181.02 [M]</p> <p>A subdivider of property is exempt from certain statutory reporting and disclosure requirements (under Ariz. Rev. Stat. § 32-2181(A) and Ariz. Rev. Stat. § 32-2183(A)) in certain instances.</p> <p>However, if an “owner of a ten per cent or greater interest, subdivider, director, partner, agent, officer or developer of the subdivision” has “been convicted of a felony or any crime involving theft, dishonesty, violence against another person, fraud or real estate,” the subdivider does not get the benefit of the exemptions. <i>Id.</i> at § 32-2181.02(B)(2)(h)-(h)(i).</p>	<p>Of note, regardless of whether the convictions are expunged, the subdivider does not get to benefit from the exemptions detailed in this section.</p>
<p>Title 32. Professions and Occupations, Real Estate, Surety Bond. § 32-2193.02(A)(2) [D]</p>	<p>If the applicant/licensee has been convicted of a felony or a misdemeanor involving real estate, that individual may be required to post surety bond.</p>

<p>Title 32. Professions and Occupations, Real Estate, Regulation of cemeteries. § 32-2194.03 [D]</p>	<p>This section effects “certificates of authority” which, in regard to cemeteries, allows the sale of cemetery plots.</p> <p>Such a certificate can be denied if certain members of the organization, including individuals in the position of owner, agent, or officer has been “convicted of a felony or misdemeanor involving fraud or dishonesty or involving conduct of any business or a transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.” <i>Id.</i> at § 32-2194.03(B)(9)(a).</p>
<p>Title 32. Professions and Occupations, Real Estate, Sale of unsubdivided land. § 32-2195.03(C)(8)(a) [D]</p>	<p>This section effects the issuance of an “unsubdivided land report” by the real estate commissioner.</p> <p>Similar to the above section regarding cemetery certificates, the commissioner may withhold the issuance of a land report if certain individuals involved with the transaction have felony or misdemeanor convictions “involving fraud or dishonesty or involving conduct of any business or a transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.”</p>
<p>Title 32. Professions and Occupations, Real Estate, Timeshares. § 32-2197.08(B)(4) [D]</p>	<p>This section, in relevant part, is similar to the above listed section, except that it applies in this instance to the suspension, revocation, or denial of a public report for a timeshare.</p>
<p>Title 32. Professions and Occupations, Real Estate, Timeshares. § 32-2197.14 [D]</p> <p>The real estate commissioner in regard to the sale of a timeshare, “may conduct an investigation, issue a summary order as provided in § 32-2157 or hold a public hearing.” <i>Id.</i> at § 32-2197.14(B).</p>	<p>The commissioner can take the listed actions on his own motion or with “satisfactory evidence” that “the owner, agent, developer, officer or partner, developer trust beneficiary or, if a corporation, any stockholder owning ten per cent or more of the stock in such corporation has participated in, operated or held an interest in any land development company which is bankrupt or has been indicted for fraud or against whom an information for fraud has been filed or has been convicted of a felony, before or after the commissioner issues the public report.” <i>Id.</i></p>

<p>Title 32. Professions and Occupations, Real Estate, Membership Camping Public Reports. § 32- 2198.08(A)(11)(a) [D]</p>	<p>This section effects the issuance of an “land report” by the real estate commissioner for membership campgrounds.</p> <p>Similar to the above section regarding cemetery certificates, the commissioner may withhold the issuance of a land report if certain individuals involved with the transaction have felony or misdemeanor convictions “involving fraud, dishonesty, moral turpitude or any like offense, or involving a transaction in real estate, cemetery property, time-share intervals or membership camping campgrounds or contracts.” <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Veterinarians, Unprofessional Conduct. § 32-2232(10). [N/A]</p>	<p>A felony conviction, or a conviction involving moral turpitude is considered unprofessional conduct.</p>
<p>Title 32. Professions and Occupations, Certification of Veterinary Technicians. § 32-2249(A)(2). [D]</p>	<p>The Board has the discretion to revoke a veterinary technician’s certificate if he or she is convicted of a felony or a charge of cruelty to animals.</p>
<p>Title 32. Professions and Occupations, Pest Control, Applicator license. § 32-2312 [D]</p> <p>This statute is discretionary in that a felony does not automatically prevent one from becoming a licensed pesticide applicator. However, the commission will take the conviction into account.</p>	<p>This section describes the requirements for an applicant to receive a license to apply pesticides for structural pest control.</p> <p>A felony conviction must be disclosed on the application, regardless of the type or when/where the felony occurred.</p> <p>While a felony conviction is not an automatic disqualification, the statute states, “An applicator shall be of good moral character. A felony conviction may demonstrate a lack of good moral character.” <i>Id.</i> at § 32-2312(D).</p>
<p>Title 32. Professions and Occupations, Pest Control, Qualifying party license. § 32- 2314 [D]</p>	<p>Similar to the above statute for pesticide applicators, but this statute applies to “qualifying parties,” those individuals that are “licensed by the commission to ensure the supervision and training of all employees of a business licensee in the business of structural pest control.” <i>Id.</i> at § 32- 2312(20).</p>

<p>Title 32. Professions and Occupations, Pest Control, Disciplinary Actions. § 32-2321 [D]</p>	<p>This statute gives a list of violations that can lead to disciplinary actions against a licensee. In this list, there are two specific criminal conviction statements:</p> <ul style="list-style-type: none"> ▪ “Conviction of a felony or misdemeanor arising from or in connection with a license issued pursuant to this chapter after issuance of the license.” <i>Id.</i> at § 32-2321(B)(7) ▪ “Conviction of a felony.” <i>Id.</i> at § 32-2321(B)(8)
<p>Title 32. Professions and Occupations, Private Investigators, Qualification of applicants. § 32-2441(3)-(4). [M]</p>	<p>To meet the qualifications for the associate or employee registration, the applicant must not have been convicted of or currently be under indictment for a felony. Furthermore, the applicant must not have been convicted of a misdemeanor involving: personal violence or force (or threats of either), misconduct with a deadly weapon, dishonesty or fraud, arson, theft, domestic violence, sexual misconduct.</p>
<p>Title 32. Professions and Occupations, Private Investigators, Grounds for disciplinary action. § 32-2457(7)-(9), (11). [D]</p>	<p>The Board may take action if the licensee is: convicted of a felony, convicted of misconduct involving a weapon, convicted of using personal violence or force (or threatening to use such force), convicted of any act involving dishonesty or fraud.</p>
<p>Title 32. Professions and Occupations, Physician’s Assistant, Licensee Profiles § 32-2507(A) [M]</p>	<p>The licensing board of physician’s assistants shall maintain, on the Internet, a profile of each individual with a physician’s assistant license. Along with civil requirements, the profile will also detail:</p> <ul style="list-style-type: none"> ▪ A description of any conviction of a felony or a misdemeanor involving moral turpitude within the last five years. § 32- 2507(A)(1) ▪ A description of any felony charges or misdemeanor charges involving moral turpitude within the last five years to which the licensee pled no contest. § 32- 2507(A)(2)

<p>Title 32. Professions and Occupations, Physician’s Assistant, Reinstatement of license § 32- 2558 [D, in part/M, in part]</p>	<p>If a PA’s license was revoked because of a criminal conviction, the board may reinstate the license if the licensee’s rights have been fully restored. The board must still find that the licensee is completely rehabilitated. <i>Id.</i> at § 32-2558(A) [D]</p> <p>If the revocation of a license was predicated on a felony conviction or crime of moral turpitude conviction that was later reversed on appeal, the board <i>shall</i> vacate the previous revocation upon request by the PA. <i>Id.</i> at § 32-2558(C) [M]</p>
<p>Title 32. Professions and Occupations, Security Guard, Agency License. § 32-2612(A)(3)-(4). [M]</p>	<p>Any individual seeking an agency license, and any organization (including the director, managers, and associates) seeking an application license shall not have been convicted of or currently be under indictment for a felony. Furthermore, the applicant(s) must not have been convicted of a misdemeanor involving: personal violence or force (or threats of either), misconduct with a deadly weapon, dishonesty or fraud, arson, theft, domestic violence, sexual misconduct.</p>
<p>Title 32. Professions and Occupations, Security Guard, Grounds for disciplinary action. § 32-2636(7)-(9), 12. [D]</p>	<p>The Board may take action if the licensee is: convicted of a felony, convicted of misconduct involving a weapon, convicted of using personal violence or force (or threatening to use such force), convicted of any act involving fraud.</p>
<p>Title 32. Professions and Occupations, Homeopathic Physicians, Unprofessional conduct. § 32-2933(3). [N/A]</p>	<p>Conviction of any felony or a misdemeanor involving moral turpitude is considered unprofessional conduct.</p>
<p>Title 32. Professions and Occupations, Private Postsecondary Education, Grounds for discipline. § 32-3051(2). [D]</p>	<p>“Conviction of a felony or any crime related to the operation of an educational institution” is grounds for discipline. <i>Id.</i></p>
<p>Title 32. Professions and Occupations, Occupational Therapy, Application. § 32-3423(1) [M]</p>	<p>An applicant for an occupation therapy license must demonstrate, “to the satisfaction of the board” that he or she has met a series of requirements, including a showing that he or she “is of good moral character and has not been convicted of a crime of moral turpitude.” <i>Id.</i></p>

<p>Title 32. Professions and Occupations, Respiratory Care, Denial of license/disciplinary action . § 32- 3552 [D]</p>	<p>An application for a license may be denied or disciplinary action may be taken against a licensee if the licensee is “convicted of a felony if the conviction has not been set aside by the court.” <i>Id.</i> at § 32-3552(A)(4)</p>
<p>Title 32. Professions and Occupation, State Board of Appraisal. § 32-3611 [M]</p>	<p>Applicant must state whether he or she has been convicted of a “felony or of forgery, theft, extortion or conspiracy to defraud or any other offense involving dishonesty or moral turpitude.” <i>Id.</i> at § 32-3611(D)(4).</p>
<p>Title 32. Professions and Occupations, State Board of Appraisal. § 32-3620 [D]</p>	<p>The board may deny a license or certificate if the applicant has been convicted of a felony.</p>
<p>Title 32. Professions and Occupations, State Board of Appraisal. § 32-3631 [D]</p>	<p>The board may investigate a licensee upon a finding of a conviction “of a crime which is substantially related to the qualifications, functions and duties of a person developing appraisals and communicating appraisals to others, or convicted of any felony involving moral turpitude.” <i>Id.</i> at § 32-3631(A)(4).</p>
<p>Title 32. Professions and Occupations, State Board of Appraisal, Property Tax Agents. § 32-3652(A). [M on the part of the applicant to file, but D on the part of the Board to determine whether or not to issue a license]</p>	<p>An applicant must disclose, and the board may deny on the grounds of any felony conviction or a misdemeanor of dishonesty or moral turpitude within in the last 10 years.</p>
<p>Title 32. Professions and Occupations, Acupuncture. § 32-3951(A)(1). [D]</p>	<p>The board may revoke, suspend, or deny a license if the licensee or applicant has been convicted of a felony or a misdemeanor of moral turpitude.</p>
<p>Title 32. Professions and Occupations, Court Reporters, Denial of certificate. § 32-4024 [D]</p>	<p>The board has the discretion to deny the issuance or renewal of a court reporter’s license in various instances, including when:</p> <ul style="list-style-type: none"> ▪ “The applicant has a record of conviction by final judgment of a felony offense or any other offense involving moral turpitude.” <i>Id.</i> at § 32-4024(A)(5) ▪ “The applicant is currently on probation, parole or community supervision for a felony offense or is named in an outstanding warrant.” <i>Id.</i> at § 32-4024(A)(6)
<p>Title 32. Professions and Occupations, Court Reporters, Revocation and Suspension. § 32-4041(A)(7). [D]</p>	<p>The board may revoke a certificate for conviction of a felony or a crime of moral turpitude.</p>

<p>Title 32. Professions and Occupations, Athletic Trainers, Grounds for disciplinary action. § 32-4153(6). [D]</p>	<p>Conviction of any felony or a misdemeanor of moral turpitude is grounds for disciplinary action.</p>
<p>Title 32. Professions and Occupations, Athletic Trainers, Substance Abuse Recovery. § 32- 4159 [M]</p>	<p>An athletic trainer may, in lieu of disciplinary action, be allowed by the board to undergo substance abuse recovery if the individual has not previously been convicted of a controlled substance-related felony. <i>Id.</i> at § 32-4159(2)</p>
<p>Title 32. Professions and Occupations, Massage Therapy, Qualifications. § 32-4222 (A)(7). [M]</p>	<p>Within the last 5 years, the applicant must not have been convicted of:</p> <ul style="list-style-type: none"> ▪ A class 1, 2, or 3 felony ▪ A class 4, 5, or 6 felony involving moral turpitude ▪ A misdemeanor involving prostitution or solicitation, or a similar offense involving moral turpitude. <i>Id.</i> at § 32-4222(A)(7)(c)
<p>Title 32. Professions and Occupations, Massage Therapy, License Renewal. § 32-4225(D). [M]</p>	<p>A licensee shall notify the board within 10 days of conviction of a felony or offense of moral turpitude, prostitution, or solicitation.</p>
<p>Title 32. Professions and Occupations, Massage Therapy, Disciplinary Actions. § 32-4253 [D]</p>	<p>This section details the situations in which the board can initiate disciplinary action against a licensee. Included in this list is the situation in which a licensee is “convicted of a felony or other offense involving moral turpitude or any conviction for prostitution, solicitation or another similar offense.” <i>Id.</i> at § 32-4253(A)(4)</p>
<p>Title 36. Public Health and Safety, Health Care Institutions, Disciplinary Action against a nursing care administrator. § 36-446.07(A)(1) [D]</p>	<p>The board may revoke or suspend the license of an individual convicted of a crime of moral turpitude or a felony.</p>
<p>Title 36. Public Health and Safety, Clinical Laboratories, Suspension/Revocation/Denial of a Clinical Laboratory License. § 36-473(A)(7) [D]</p>	<p>A clinical laboratory license may be denied, revoked, or suspended if the director determines that the licensee has “been convicted of a felony or of any crime involving moral turpitude under the laws of any state or of the United States arising out of or in connection with the operation of a laboratory.” <i>Id.</i></p>
<p>Title 36. Public Health and Safety, Environmental Labs, Suspension, Revocation, or denial of license. § 36-495.09(A) [D]</p>	<p>The Director may revoke, suspend, or deny the license of a laboratory if “owners, officers, agents, or employees” commit a felony related to the operation of a lab. <i>Id.</i> at § 36-495.09(A)(3).</p>

<p>Title 36. Public Health and Safety, Midwifery, Denial of license and discipline. § 36-756 [D]</p>	<p>The director may suspend, deny, or revoke the license of a licensee who “has been convicted of a felony or a misdemeanor involving moral turpitude.” <i>Id.</i> at § 36-756(A)(2)</p>
<p>Title 36. Public Health and Safety, Regulation of Hearing Aid Dispensers, Audiologists and Speech-language Pathologists. § 36-1934. [D]</p>	<p>Any license issued under this chapter of ARS (detailing the regulation of audiology and related practices) can be revoked upon a licensee’s conviction of a felony or a crime of moral turpitude.</p>
<p>Title 36. Public Health and Safety, Commission for the Deaf and Hard of Hearing, Denial of license. § 36-1975 [D]</p> <p><i>See also</i>, A.R.S. § 36-1976(A)(6), effective 10/01/2007.</p>	<p>The commission may deny a license or decline to renew a license if the “applicant was convicted of a felony offense or any other offense involving moral turpitude.” <i>Id.</i> at § 36-1975(2)</p> <p>**NOTE: This statute is not effective until 10/01/2007</p>
<p>Title 36. Public Health Services, Emergency Medical Services, grounds for revocation, suspension, denial of certificate. . § 36-2211(A)(2). [D]</p>	<p>Conviction of a felony, or a misdemeanor of moral turpitude while the licensee is a certified emergency medical technician is grounds for actions against the individual’s certificate.</p>
<p>Title 41. State Government, Notaries Public, Grounds for suspension/refusal/revocation. § 41-330. [D]</p> <p><i>See also</i> Ariz. Rev. Stat. § 41-368, which applies the same rules (as amended by 2005 Ariz. Legis. Serv. Ch. 124 (H.B. 2150)) to electronic notaries.</p>	<p>The secretary of state may refused to renew, revoke, or suspend the license of a notary public if the licensee is “convict[ed] of a felony unless restored to civil rights, or of a lesser offense involving moral turpitude or of a nature that is incompatible with the duties of a notary public.” <i>Id.</i> at § 41-330(A)(2)</p>
<p>Title 41. State Government, Personnel, Causes for dismissal or discipline. § 41-770(A)(10). [D]</p>	<p>A conviction of a felony or a misdemeanor of moral turpitude is grounds for dismissal or discipline.</p>
<p>Title 41. State Government, Arizona Rangers. § 41-951(A). [M]</p>	<p>Any individual that has served for more than 6 months as an Arizona Ranger and received and honorable discharge shall receive a pension of \$650/month, provided, among other requirements, he or she has not been convicted of a felony. <i>Id.</i></p>
<p>Title 41. State Government, Private Prisons. § 41-1682. [M]</p>	<p>Security officers shall not have felony convictions. <i>Id.</i> at § 41-1682(G).</p>
<p>Title 41. State Government, Public Safety. Causes for dismissal or discipline. § 41-1830.15(A)(10). [D]</p>	<p>Commission of a felony is an appropriate ground for dismissal or discipline.</p>

<p>Title 41. State Government, Child care home providers. § 41-1967.01(D)(1)(a)-(w) [M]</p>	<p>The applicant must disclose if he or she is awaiting trial or has been convicted of any of the following crimes (or similar crimes):</p> <ul style="list-style-type: none"> ▪ Sexual abuse of a minor ▪ Incest ▪ First or second degree murder ▪ Kidnapping ▪ Arson ▪ Sexual assault ▪ Sexual exploitation of a minor ▪ Felony offenses involving contributing to the delinquency of a minor ▪ Commercial sexual exploitation of a minor ▪ Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs ▪ Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs ▪ Burglary ▪ Aggravated or armed robbery ▪ Robbery ▪ A dangerous crime against children as defined in § 13-604.01 (the section of the criminal code that describes dangerous crimes against children) ▪ Child abuse ▪ Sexual conduct with a minor ▪ Molestation of a child ▪ Manslaughter ▪ Assault or aggravated assault ▪ Exploitation of minors involving drug offenses ▪ A violation of § 28-1381 (DUI), 28-1382 (extreme DUI) or 28-1383 (aggravated DUI) ▪ Offenses involving domestic violence
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<p>Title 41. State Government, Dept. of Building and Fire Safety, License Qualifications. § 41-2175. [M]</p>	<p>In the application for a manufacturer, dealer, broker, salesperson, or installer license, the individual or organization shall disclose: “Whether the owner, if the applicant is a sole proprietorship, all partners, if the applicant is a partnership, all officers, if the applicant is a corporation or other type of association, the general partner, if the applicant is a limited partnership, or the individual, if the applicant is a salesperson, has ever been charged or convicted of a felony” <i>Id.</i> at § 41-2175(D)(7).</p>
<p>Title 41. State Government, Dept. of Building and Fire Safety, Grounds for Disciplinary Action. § 41-2186(5). [D]</p>	<p>The assistant director may revoke or suspend the license of any licensed “any manufacturer, dealer, broker, salesperson or installer” convicted of a felony. <i>Id.</i> at § 41-2186(5).</p>

<p>Title 41. State Government, Department of Juvenile Corrections. § 41-2814(F)(1)-(23). [M]</p>	<p>Employees and contract employees who have direct contact with minors shall disclose if they are awaiting trial, have been convicted of, or committed any of the following crimes:</p> <ul style="list-style-type: none"> ▪ Sexual abuse of a minor ▪ Incest ▪ First or second degree murder ▪ Kidnapping ▪ Arson ▪ Sexual assault ▪ Sexual exploitation of a minor ▪ Felony offenses involving contributing to the delinquency of a minor ▪ Commercial sexual exploitation of a minor ▪ Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs ▪ Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs ▪ Burglary ▪ Aggravated or armed robbery ▪ Robbery ▪ A dangerous crime against children as defined in § 13-604.01 (the section of the criminal code that describes dangerous crimes against children) ▪ Child abuse ▪ Sexual conduct with a minor ▪ Molestation of a child ▪ Manslaughter ▪ Assault or aggravated assault ▪ Exploitation of minors involving drug offenses ▪ A violation of § 28-1381 (DUI), 28-1382 (extreme DUI) or 28-1383 (aggravated DUI) <p>Offenses involving domestic violence</p>
<p>Title 44. Trade and Commerce, Motor Vehicles, Denial, Suspension, or Revocation of Licenses. § 44-283(A)(5). [D]</p>	<p>The administrator may act against the license of a licensee who has been convicted of a felony or a misdemeanor involving breach of trust or dishonesty.</p>

<p>Title 44. Trade and Commerce, Registration of Telephone Solicitors. § 44-1272(C)(11). [M]</p>	<p>The registrant must disclose if a “principal or a manager” has been convicted of a felony or a misdemeanor of moral turpitude.</p>
<p>Title 44. Trade and Commerce, Registration of Telephone Solicitors, Exemptions. § 44-1273. [M in that, if the conviction exists, the exemption is lost]</p>	<p>Those businesses that solicit other businesses can avoid registration if, among other provisions, “neither the person nor any of the person's principals has within twenty years been convicted in any state of a felony or crime of moral turpitude, breach of trust, fraud, theft, dishonesty or violation of telephone solicitation laws, been subject to a final judgment in a civil action involving fraud, deceit or misrepresentation or been subject to an administrative order involving fraud, deceit, misrepresentation or any violation of telephone solicitations laws of any agency of this state, another state, the federal government, a territory of the United States or another country.” <i>Id.</i> at § 44-1273(A)(4).</p>

<p>Title 44, Trade and Commerce, Pawnbrokers, Licensing. § 44-1627. [M]</p>	<p>This section lists the requirements for a pawnbroker to get a license. The sheriff issues pawnbroker licenses, and is barred from issuing licenses in certain situations.</p> <ul style="list-style-type: none"> ▪ “The sheriff shall not issue to or renew a license of a person who, within five years before the application, has been convicted of a felony involving trafficking in stolen property, fraudulent schemes, forgery, theft, extortion or conspiracy to defraud or a felony involving moral turpitude.” <i>Id.</i> at § 44-1627(H) ▪ “The sheriff shall not issue to or renew a license of a corporation unless it has on file with the sheriff of the county in which the license is issued a list of its officers and directors and any stockholders who own ten per cent or more of the corporation.” <i>Id.</i> ▪ “The sheriff shall not issue to or renew a license of a corporation if any of its officers or directors or any stockholder who owns ten per cent or more of the corporation has within five years been convicted of a felony involving trafficking in stolen property, fraudulent schemes, forgery, theft, extortion or conspiracy to defraud or a felony involving moral turpitude.” <i>Id.</i>
<p>Title 44. Trade and Commerce, Pawnbrokers, Revocation and suspension. § 44-1628 [D]</p>	<p>The sheriff, the licensing authority for pawnbrokers, may revoke or opt to not renew pawnbroker licenses if the licensee is “convicted of a felony involving trafficking in stolen property, fraudulent schemes, forgery, theft, extortion or conspiracy to defraud or a felony involving moral turpitude.” <i>Id.</i> at § 44-1628(B)</p>

<p>Title 44. Trade and Commerce, Discount Buying Services, Disclosures. § 44-1797.04(A)(6)(a) [M]</p>	<p>“Each discount buying organization, immediately upon obtaining the signature of a buyer on any application or contract for discount buying services, shall provide to the buyer and shall allow the buyer to retain a copy of” certain disclosures, including if any officer, director, etc. or party that derives a beneficial interest from the organization has been convicted of a felony or a misdemeanor of moral turpitude.</p>
<p>Title 44, Trade and Commerce, Sales of Securities. § 44-1850(E), 44-1901(G) [M]</p>	<p>Certain felonies disqualify sellers of viatical or life settlement investment contracts from exemptions if key members of the organization have been convicted of particular felonies (fraud, organized crime, etc).</p>
<p>Title 44. Trade and Commerce, Sales of Securities, Application for registration as a salesman. § 44-1945(A)(6). [M]</p>	<p>Any individual that registers to be a salesman shall include: “a statement showing whether the applicant has, within the past ten years, been convicted of or charged with a felony or misdemeanor of which fraud is an essential element, or a felony or misdemeanor involving the purchase or sale of securities and, if so, a complete statement of the facts with respect to the conviction.” <i>Id.</i></p>
<p>Title 44. Trade and Commerce, Sales of Securities, Grounds for Denial, revocation, or suspension of dealer registration. § 44-1961(A)(8). [D]</p> <p><i>See also</i>, A.R.S. § 44-1962, which applies similar rules to salesmen of securities.</p>	<p>The board may suspend, deny, or revoke the license of an investment adviser if the individual has been convicted, in the ten years prior to registration “or at any time after the date of filing an application, of a felony or misdemeanor involving a transaction in securities, of which fraud is an essential element or arising out of the conduct of any business involving securities or any aspect of the securities business.” <i>Id.</i></p>

<p>Title 44. Trade and Commerce, Investment Management, Grounds for Denial, revocation, or suspension of dealer registration § 44-3201(A)(8). [D]</p>	<p>An investment manager license can be revoked upon a finding (after a hearing) that “the investment adviser or investment adviser representative has been convicted within ten years preceding the date of filing an application for licensure as an investment adviser or investment adviser representative, or at any time after the date of filing an application, of a felony or misdemeanor involving a transaction in securities, of which fraud is an essential element or arising out of the conduct of any business involving securities or any aspect of the securities business.” <i>Id.</i></p>
<p>Title 44. Trade and Commerce, Charitable Organizations. § 44-6552(H)(2). [D]</p>	<p>The secretary of state can revoke or deny the registration of a charitable organization upon a finding of a “conviction of a felony substantially related to solicitation by any employee, member, officer or director who has any solicitation responsibilities on behalf of the organization or any other person holding any proprietary or beneficial interest in the charitable organization, unless the civil rights have been restored.” <i>Id.</i></p>
<p>Title 44. Trade and Commerce, Registration of contracted fund raisers. § 44-6554(C)(2). [D]</p>	<p>The secretary of state can revoke or deny the registration of a contracted fund raiser upon a finding of a “conviction of a felony substantially related to solicitation by any employee, member, officer or director who has any solicitation responsibilities on behalf of the organization or any other person holding any proprietary or beneficial interest in the contracted fund raiser, unless the civil rights have been restored.” <i>Id.</i></p>
<p>Title 44. Trade and Commerce, Equipment Dealers, Dealer Agreements. § 44-6703(B)(6). [D, in that the supplier can chose to terminate or not]</p>	<p>Upon a showing of “cause”, a supplier can terminate, fail to renew, or substantially alter the terms of a dealership agreement. If a dealer is convicted of a felony, cause has been demonstrated.</p>

<p>Title 46. Welfare, Child Care Food Program. § 46-321(F)(1)(a)-(w) [M]</p>	<p>Sponsors receiving child food care aid, must certify that they have not been convicted of, admitted committing, or not awaiting trial for:</p> <ul style="list-style-type: none"> ▪ Sexual abuse of a minor. ▪ Incest ▪ First or second degree murder. ▪ Kidnapping ▪ Arson ▪ Sexual assault ▪ Sexual exploitation of a minor ▪ Felony offenses involving contributing to the delinquency of a minor ▪ Commercial sexual exploitation of a minor ▪ Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs ▪ Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs ▪ Burglary ▪ Aggravated or armed robbery ▪ Robbery ▪ A dangerous crime against children as defined in § 13-604.01 ▪ Child abuse ▪ Sexual conduct with a minor ▪ Molestation of a child ▪ Manslaughter ▪ Assault or aggravated assault ▪ Exploitation of minors involving drug offenses ▪ A violation of § 28-1381, 28-1382 or 28-1383. ▪ Offenses involving domestic violence.
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<p>Title 49. The Environment, Disclosure of violations. § 49-109(A)(1). [M]</p>	<p>“A person who is engaged in an activity subject to regulation under this title and who has been convicted of a felony involving laws related to solid waste, special waste, hazardous waste, water quality or air quality in any state or federal jurisdiction or for a violation of 42 United States Code § 9603 within the five year period immediately preceding execution of the certificate,” must file with the DEQ. A.R.S. § 49-109(A)(1).</p>
<p>Title 49-922. The Environment, Hazardous waste management. § 49-922(C)(2). [D]</p>	<p>The Director may refuse to issue a permit for storage, treatment, or disposal of hazardous waste if the individual has been convicted of a felony 5 years prior to the application. <i>Id.</i></p>
<p>Arizona Supreme Court Rule 53(h)</p>	

Arizona Administrative Code.

Disclosure Requirements for license examinations, applications & renewals.

<p>R2-12-1201 (Notary Public Application)</p>	<p>Mandatory disclosure for applicant with felony conviction and any lesser offense involving moral turpitude or of a nature that is incompatible with the duties of the employment.</p>
<p>R3-2-701(Equine Trader Permit)</p>	<p>The Department shall not issue a self-inspection certificate to an owner, agent, or operator of a ranch, dairy, or feedlot if that individual has been convicted of a felony under A.R.S. Title 3 within the three-year period before the date on the self-inspection application.</p>

R4-1-456 (Accountants)	Mandatory disclosure for applicants with felony convictions and/ or lesser offenses related to the type of employment sought.
R4-6-208 (Behavioral Health)	<p>The Board shall consider the following factors to determine whether a felony conviction or prior disciplinary action will result in imposing disciplinary sanctions on a licensee or an applicant, including refusing to renew the license of a licensee or refusing to issue a license to an applicant:</p> <ol style="list-style-type: none"> 1. The age of the licensee or applicant at the time of the felony conviction when the prior disciplinary action occurred; 2. The seriousness of the conviction or prior disciplinary action; 3. The factors underlying the conduct that led to conviction of the felony or imposition of disciplinary action; 4. The length of time since the felony conviction or prior disciplinary action; 5. The relationship between the practice of the profession and the conduct giving rise to the felony conviction or prior disciplinary action; 6. The licensee's or applicant's efforts toward rehabilitation; 7. The assessments and recommendations of qualified professionals regarding the licensee's or applicant's rehabilitative efforts; 8. The licensee's or applicant's cooperation or non-cooperation with the Board's background investigation regarding the felony conviction or prior disciplinary action

R4-7-502 (Chiropractors)	Any record of being convicted of, pleading guilty to or pleading nolo contendere to a misdemeanor or a felony, even if the record of the conviction or plea was sealed or expunged or the conviction was set aside or forgiven, and any record of an arrest, investigation, indictment, or charge within the last 12 months.
R4-12-202 (Funeral Directors, Embalmers, Interns)	Whether the applicant has ever been convicted of or entered into a plea of no contest to a class 1 or 2 felony, and whether the applicant, within five years from the date of the application, has been convicted of or entered into a plea of no contest to a felony or to a misdemeanor that is reasonably related to the applicant's proposed area of licensure
R4-15-201 (Massage Therapists)	Whether the applicant, within the five years before the date of the application, has been convicted of a felony or an offense involving moral turpitude or prostitution, solicitation, or a similar offense or entered into a plea of no contest

<p>R4-19-301(Nursing: Examination, License Application & Renewal)</p>	<p>Whether the applicant has: Pending disciplinary action by a nursing regulatory agency in the United States or its territories or current investigation of the applicant's nursing license in another state or territory of the United States; or a felony conviction or conviction of an undesignated or other similar offense</p>
<p>R4-19-513 (Registered Nurse Anesthetist) & R4-19-806 (Certified Nursing Assistants)</p>	<p>Applicant must disclose: Pending criminal charges; Prior misdemeanor or undesignated offense conviction; Prior felony conviction and date of absolute discharge of sentence; Use of a chemical substance; and Prior civil judgment resulting from malpractice or negligence in connection with practice in a health care profession;</p>
<p>R4-20-102 (Optician) R4-25-301 (Podiatrist) R9-16-203 (Audiologist & Speech Pathologist) R9-16-303 (Hearing Aid Dispenser)</p>	<p>A statement of whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude in any state;</p>

<p>R4-23-301 (Pharmacist Interns) R4-23-604 (Resident Drug Manufacturer) R4-23-605 (Resident Drug Wholesaler Permit) R4-23-606 (Pharmacy)</p>	<p>Whether the applicant (if an entity, then also must include background information for owner, any officer or active partner) has ever been convicted of an offense involving moral turpitude, a felony offense, or any drug-related offense or has any currently pending felony or drug-related charges, and if so, indicate charge, conviction date, jurisdiction, and location;</p>
<p>R4-26-203 (Psychologist)</p>	<p>Whether the applicant is currently under investigation for or has been found guilty of violating a code of conduct by any jurisdiction; Whether the applicant has ever been sanctioned or placed on probation by any jurisdiction; Whether the applicant has been convicted of a felony or a misdemeanor other than a minor traffic offense, or has ever entered into a diversion program instead of prosecution, including any convictions that have been expunged or deleted</p>

<p>R4-28-301 (Real Estate)</p>	<p>An applicant for or holder of any Department-issued license, renewal, or amended license, including, if an entity, any officer, director, member, manager, partner, owner, trust beneficiary holding 10% or more beneficial interest, stockholder owning 10% or more stock, or other person exercising control of the entity, shall submit the following information:</p> <ol style="list-style-type: none"> 1. A signed certification questionnaire disclosing any: <ol style="list-style-type: none"> a. Conviction for a misdemeanor or felony, or deferral of a judgment or sentencing for a misdemeanor or felony; b. Order, judgment, or adverse decision entered against the applicant involving fraud or dishonesty, or involving the conduct of any business or transaction in real estate, cemetery property, time-share intervals, membership camping contracts, or campgrounds
<p>R4-29-201(Pest Control)</p>	<p>For an original qualifying party or pest control advisor license:</p> <p>whether or not the applicant has ever been convicted of a felony, the nature of the felony, the jurisdiction where the offense occurred and final disposition of the conviction.</p>

<p>R4-30-201 (Technical Registration- architect, assayer, engineer, geologist, landscape architect, or land surveyor) & R4-30-202 (In-training Designation) R4-30-202.01(Remediation Specialist Cert.)</p>	<p>An applicant who wishes to sit for professional exam shall provide the following: Any pending disciplinary action in any state or jurisdiction on any professional or occupational registration, certification, or license held by the applicant: Any alias or other name used by the applicant; and Any conviction for a felony or misdemeanor, other than a minor traffic violation.</p>
<p>R4-30-247 (Home Inspector Certification) R4-30-271 (On-site Supervisor Certification and Renewal) R4-30-272 (On-site Worker Certification and Renewal)</p>	<p>The application shall contain the following: A detailed explanatory statement regarding: a. Any disciplinary action, including suspension and revocation, taken by any state or jurisdiction on any professional or occupational registration, license, or certification held by the applicant in any state or jurisdiction; b. Refusal of any professional or occupational registration, license, or certification by any state or jurisdiction; c. Any pending disciplinary action in any state or jurisdiction on any professional or occupational registration, license, or certification held by the applicant; d. Any alias or other name used by the applicant; e. Any conviction for a felony or misdemeanor, other than a minor traffic violation.</p> <p>Documentation of absolute discharge from sentence at least five years before the date of application if an applicant has been convicted of one or more felonies;</p>

<p>R4-33-201 (Nursing Care Institution Administrator License)</p>	<p>An applicant who has been convicted of a felony shall submit, with the application, evidence that the applicant is in compliance with all court imposed requirements. The evidence shall be issued by an appropriate court, Board of Parole, or equivalent agency.</p> <p>The evidence shall provide information on the specific type of felony offense and the related circumstances.</p>
<p>R4-39-303 (Private Postsecondary Education)</p>	<p>The Board shall not issue a license if an owner, beneficial owner, or other person having direct or indirect control over the program or institution has been convicted of a felony or misdemeanor of any state or federal law relating to education.</p>
<p>R9-16-402 (Sanitarian)</p>	<p>Whether the applicant has pled guilty to, been convicted of, or entered a plea of no contest to a misdemeanor related to the applicant's employment as a sanitarian or a felony</p>

<p>R9-20-103 (Behavioral Health Service Agency)</p>	<p>Application must contain:</p> <p>Whether the person applying for a license or a person with a 10 percent or greater interest in the agency has had a health care institution license suspended, denied, or revoked in any state or jurisdiction;</p> <p>Whether the person applying for a license or a person with a 10 percent or greater interest in the agency has had civil penalties assessed against a health care institution operated in any state by the person applying for a license or the owner;</p> <p>Whether the person applying for a license or a person with a 10 percent or greater interest in the agency has had a professional or occupational license, other than a driver license, denied, revoked, or suspended in any state or jurisdiction; and</p> <p>Whether the person applying for a license or a person with a 10 percent or greater interest in the agency has been convicted, in any state or jurisdiction, of any felony or misdemeanor involving moral turpitude, including conviction for any crime involving abuse, neglect, or exploitation of another</p>
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<p>R9-25-202 (Emergency Medical Services Provider, Ambulance Service, an ALS Base Hospital, or a Centralized Medical Direction Communications Center that provides administrative medical direction)</p>	<p>Notify the Department in writing no later than ten days after the date the emergency medical services provider, ambulance service, ALS base hospital, or centralized medical direction communications center providing administrative medical direction to an EMT becomes aware that the EMT:</p> <ul style="list-style-type: none"> a. Is incarcerated or is on parole, supervised release, or probation for a criminal conviction; b. Is convicted of a crime listed in R9-25-402(A)(2), a misdemeanor involving moral turpitude, or a felony in this state or any other state or jurisdiction; c. Is convicted of a misdemeanor identified in R9-25-403(A) in this state or any other state or jurisdiction; d. Has registration revoked or suspended by NREMT; or e. Has EMT certification, recertification, or licensure revoked or suspended in another state or jurisdiction.
<p>R10-1-104 (Dismissal of Assistant Attorneys General for cause)</p>	<p>After serving his or her two-year probationary period, an Assistant Attorney General may be dismissed only for cause.</p> <p>Cause for dismissal shall include the following:</p> <p>Conviction of a felony, or conviction of a misdemeanor an element of which is intentional, knowing or reckless conduct. A plea or verdict of guilty to a charge of a felony, or any misdemeanor an element of which is intentional, knowing or reckless conduct is deemed to be a conviction for purposes of this Section.</p>

<p>R13-4-105 (Peace Officers)</p>	<p>Before appointment or attending an academy, a person shall meet the following minimum qualifications:</p> <ol style="list-style-type: none"> 6. Not have been convicted of a felony or any offense that would be a felony if committed in Arizona; 7. Not have been dishonorably discharged from the United States Armed Forces; 8. Not have been previously denied certified status, have certified status revoked, or have current certified status suspended; 9. Not have illegally sold, produced, cultivated, or transported marijuana for sale; 10. Not have illegally used marijuana for any purpose within the past three years; 11. Not have ever illegally used marijuana other than for experimentation; 12. Not have ever illegally used marijuana while employed or appointed as a peace officer; 13. Not have illegally sold, produced, cultivated, or transported for sale any dangerous drug or narcotic, other than marijuana; 14. Not have illegally used a dangerous drug or narcotic, other than marijuana, for any purpose within the past seven years; 15. Not have ever illegally used a dangerous drug or narcotic other than for experimentation; 16. Not have ever illegally used a dangerous drug or narcotic while employed or appointed as a peace officer; 17. Not have a pattern of abuse of prescription medication; 18. Undergo a polygraph examination that meets the requirements of R13-4-106, unless prohibited by law; 19. Not have been convicted of or adjudged to have violated traffic regulations governing the movement of vehicles with a frequency within the past three years that indicates a disrespect for traffic laws or a disregard for the safety of other persons on the highway
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<p>R14-4-140 (Corporations, Public Service Corporations: Accredited Investor Exemption)</p>	<p>This exemption is not available to an issuer if it, or any of its predecessors, affiliates, directors, officers, general partners, beneficial owners of 10% or more of any class of its equity securities, promoters, or any underwriter of the securities or any partner, director, or officer of such underwriter:</p> <ol style="list-style-type: none"> 1. Has been convicted within the 10 years preceding the filing of the notice required by this Section, or at any time thereafter prior to the termination of the offering, of a felony or misdemeanor involving racketeering or a transaction in securities, or of which fraud is an essential element. 2. Is subject to an order, judgment, or decree of any court of competent jurisdiction entered within five years of the date of filing of the notice required by this Section, temporarily, preliminarily, or permanently enjoining or restraining any conduct or practice in connection with the sale or purchase of securities, or involving fraud, deceit, or racketeering. 3. Has been subject to any state or federal administrative order or judgment in connection with the purchase or sale of securities entered within five years preceding the filing of the notice required by this Section, or at any time thereafter prior to the termination of the offering.
<p>R14-6-209 (Financial and Disciplinary Information that Investment Advisers Must Disclose to Clients)</p>	<p>A legal or disciplinary event that is material to an evaluation of the investment adviser's or an investment adviser representative's integrity or ability to meet contractual commitments to clients.</p>

<p>R20-4-917 (Mortgage Brokers) R20-4-1806 (Mortgage Bankers) R20-4-1907 (Commercial Mortgage Bankers)</p>	<p><u>Recordkeeping Requirements</u></p> <p>If the licensee or anyone directly or indirectly owning more than 20% of the licensee has a felony conviction, a copy of the judgment or other record of conviction;</p> <p>If the licensee or anyone directly or indirectly owning more than 20% of the licensee has, in the previous seven years, been named a defendant in any civil suit, a copy of the complaint, any answer filed by the licensee, and any judgment, dismissal, or other final order disposing of the action</p>
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II. RESTORATION OF RIGHTS

Automatic Restoration of Rights: For a first felony offender (state or federal), civil rights, other than those pertaining to firearms, are automatically restored upon completion of the term of probation or upon an unconditional discharge from imprisonment and upon completion of payment of any fine or restitution. A.R.S. § 13-912. Repeat offenders must apply for judicial restoration or pardon (see below).

Discretionary Restoration Mechanisms:

A> Pardon:

- *Authority:* The Governor has the authority to grant pardons, except in cases of treason or impeachment, but his authority may be restricted by statute. Ariz. Const. Art. 5, § 5. Under A.R.S. § 31-402A, “no reprieve, commutation or pardon may be granted by the governor unless it has first been recommended by the [Board of Executive Clemency].” Governor is required to publish reasons for each grant, and must report to legislature. A.R.S. §§ 31-445, -446.
- Board of Executive Clemency consists of five persons appointed by the Governor to five-year terms, from lists developed by a selection committee consisting of the director of the department of public safety, the director of the state department of corrections and three other persons. A.R.S. § 31-401. Chairperson selected by Governor. Board members serve on a full-time basis, and must meet at least once a month. Three members constitute a quorum, ex. that the chairperson may designate two as a quorum. Id.

- *Eligibility:* At any time after discharge from prison, if conviction has not been vacated or set-aside. Persons convicted under federal law or convicted under the law of another state are ineligible for a Governor's pardon.
- *Effect:* A state pardon "absolves convicted person of all legal consequences of his crime." Op Arizona Att'y Gen. 68-17. Must still report, and conviction may be considered as predicate offense. Pardon may or may not restore firearms privileges.
- *Process:* Applicant submits form to Board, AAC R5-4-201(E)(2004), which asks court of conviction and county attorney to provide facts and recommendation. A.R.S. § 31-441. Under A.R.S. 31-402C(4), Board may also receive applications for pardon "in extraordinary cases." A.R.S. § 31-442 requires publication of notice of intention to apply. Board considers application at public hearing, at which it votes either to deny the request or to recommend a pardon. If denied, applicant may not reapply for three years. Majority writes up recommendation for Governor, dissents may be filed. R5-4-201(F).
- *Comments:* The number of pardon applications and favorable recommendation rate has increased steadily from FY 96 (3 applied, none recommended) to FY 2003 (of 40 applications, 22 recommended favorably). Until about ten years ago, Governor routinely granted most cases recommended by Board – since 1992, about 2/3 of those who are recommended for pardon by the Board are turned down by the Governor.

- *Commutations:* Inmates can apply for commutation once they are in the system for two years, or the sentencing judge can request the Board to have the inmate petition the Board within 90 days of being admitted. In the past two fiscal years, the Board has reviewed 430 commutation applications each year, and has forwarded 40 and 32 respectively each year to the Governor’s Office. In that timeframe, the Governor has approved only three in one year and one in the other year. Commutation applications have skyrocketed, from 67 in FY 96 to 708 in FY 03, and Board continues to recommend between 6% and 12% favorably despite the Governor’s continued refusal to grant more than a handful.

B. Judicial restoration and set-aside:

Restoration of rights: A person convicted under Arizona law of more than one felony and sentenced to a term of imprisonment may have his civil rights restored by the sentencing court two years after unconditional discharge from imprisonment. Ariz. Rev. Stat. Ann. § 13-906. A repeat offender completing a term of probation may have his rights restored by the court that discharges him from probation. Ariz. Rev. Stat. Ann. § 13-905(A). A person convicted of more than one federal felony may apply for restoration of civil rights, after the same two-year period, to the Superior Court of his county of residence. Ariz. Rev. Stat. Ann. §§ 13-909(A), 13-910. There are no provisions in Arizona law for restoration of Arizona rights lost as a result of a felony conviction in another state.

Firearms rights: The automatic restoration of civil rights provision for first offenders “does not apply to a person’s right to possess weapons as defined in § 13-3101,” Ariz. Rev. Stat. Ann. § 13-912(B); instead, the first offender must make an application to the

court pursuant to Ariz. Rev. Stat. Ann. § 13-906. Under § 13-906, firearms privileges are never restored to persons convicted of a “dangerous offense” (namely the discharge or use of a deadly weapon or the intentional infliction of serious physical injury upon another). Persons convicted of a “serious offense” (generally common law felonies, crimes against children, and sexual offenses) must wait ten years for restoration.

2. Set-aside - Arizona law also permits certain state offenders to have their convictions “set aside” by the sentencing court after successful completion of probation or sentence and discharge. This relief generally releases the person “from all penalties and disabilities resulting from the conviction,” but does not relieve the offender from having to report the conviction if asked. A.R.S. § 13-907(A). This procedure is unavailable to anyone convicted of a criminal offense involving the infliction of serious physical injury, the use of a deadly weapon or dangerous instrument, a victim less than 15 years old, or a violation of the state’s laws defining sexual offenses. A.R.S. § 13-907(B). For conviction records that have been set aside, a notation stating “vacated per ARS § 13-907” appears on the individual’s record. The conviction may not be used against the individual in the future, except as a prior offense in the prosecution of criminal offenses. Ariz. Rev. Stat. Ann. § 13-907(A) (West 2001); *Russell v. Royal Maccabees Life Ins. Co.*, 974 P.2d 443, 449 (Ariz. Ct. App. 1999).

Contact Information

Arizona Board of Executive Clemency
1645 West Jefferson, Suite 326
Phoenix, AZ 85007
Tel: (602) 542-5656
Fax: (602) 542-5680
Board Chair - Edith A Richardson
Exec Director Erin Warzecha
Erin.warzecha@aboec.state.az.us
<http://www.az.gov/webapp/portal/displaycontent.jsp?id=2242>

III. CONCLUSION

The purpose of this report is to further the discussion that the ABA began last summer when it adopted the ABA CRIMINAL JUSTICE STANDARDS ON COLLATERAL SANCTIONS AND DISCRETIONARY DISQUALIFICATION OF CONVICTED PERSONS. It sets forth some of the collateral consequences that result from criminal convictions in Arizona. Such consequences potentially affect every aspect of an ex-offender's life. However, as with those in other states, defendants in Arizona are unaware of most of these consequences at the time they enter guilty pleas. As a result, their pleas are generally uninformed.

At the very least, defendants should be provided notice of these potential consequences before they enter guilty pleas. This information would greatly aid their ability to assess fully the ramifications of entering their pleas, and would lead to truly informed decisions. The ABA Standards set forth a mechanism by which these changes can be implemented in Arizona. It is our hope that the criminal justice community will discuss these various issues and find ways to incorporate these standards into the criminal process.