



Minnesota Justice Monthly

Deciding Whether to Kiss It Goodbye – Considering Occupational Licensure in the Plea Bargain Process.

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Most people understand that criminal convictions come with certain penalties – a loss of liberty, financial obligations, and other sanctions that a judge may attach to a sentence. However, people are often surprised to discover the many collateral consequences that stem from criminal arrests and convictions.

One major cause for concern involves the loss of occupational licensure. Many regulated professions require a state license before a person can begin working. A brush with the law, even one that never leads to a conviction, can negatively impact a person's license status; a conviction almost always negatively impacts a person's license status. People who previously worked in law enforcement, real estate, health care, teaching, or any one of a number of common professions may find themselves unable to continue their career even after they finish their sentence.



Lawyers and judges often fail to alert people who stand accused of crimes of these collateral consequences. This is due in part to the fact that it is difficult to correctly anticipate all of the ways in which a criminal conviction may come back to haunt someone. Often the occupational licenses are contingent on a subjective determination about whether the criminal conviction affects the person's ability to lawfully perform the duties of the position. In these cases, attorneys and judges can offer vague advice about the effect of a conviction, but can offer little reassurance to the defendant of the actual employment repercussions he or she will face.

In some situations, however, the answers are clear. Minnesota Statute §245C.14 and §245C.15 offer direction about criminal convictions that will impact a person's ability to work with vulnerable populations – young people, old people, and sick people. Minnesota laws require that anyone who comes into regular contact with vulnerable people as a part of their work pass a Department of Human Services background check. If the Department of Human Services determines that the person seeking the record has a conviction for an offense listed in Minnesota Statute §245C.15, or that it is more likely than not that the person committed a prohibited offense, they must disqualify that person from employment. The disqualification period begins after the person seeking the license completes his or her involvement with the court, and lasts for a minimum of seven years.

The Council on Crime and Justice recently succeeded in persuading West Publishing to include Minnesota Statute §245C.14 and §245C.15 in their 2012 Criminal Law handbook, the tool used most often by prosecutors and criminal defense attorneys in court. We hope that the inclusion of these statutes will reduce the number of people surprised by the licensing implications of their criminal convictions. West Publishing reacted enthusiastically to the recommendation, agreeing with the Council that this is an important issue for those engaged in the practice of law in Minnesota.

Collateral consequences of criminal convictions are a reality. People need to understand these consequences in order to make an informed decision about how they want to proceed with a criminal case. Greater transparency allows for a fairer system, and decreases the likelihood that a person will find their careers cut short because of a criminal record.

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