

Collateral Consequences and Ohio's "Going Home to Stay" Reentry Initiative

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Reentry of ex-offenders back into the community continues to be a critical criminal justice issue on the national, state, and local level as the number of prisoners released into communities continues to grow. Between 1990 and 2001 there was a 46% increase in the number of offenders released from state prisons. The surge is even greater in Ohio, with an almost 63% increase in annual prison releases since 1997.

A key policy concern emerging from this tremendous growth is how to help former prisoners successfully reintegrate back into their communities and reduce recidivism rates that are over 50% nationally and just under 40% in Ohio. While reentry strategies encompass a broad systems approach to managing offenders as they transition from the prison system back to society, socioeconomic reintegration plays a critical role in whether reentry in Ohio meets the Ohio Department of Rehabilitation and Correction's goal of "Going Home to Stay."

Ex-offender unemployment is a primary concern of reentry policy. Unemployment rates among this group are estimated at 25 to 40 percent, well above Ohio's general unemployment rate of 9.5 percent. While factors such as limited education, job skills, and employment experience influence post-release employment opportunities, collateral consequences also pose a significant barrier to employment and thus successful reintegration.

Collateral consequences are penalties and disabilities that are imposed on convicted persons, often automatically, in addition to a sentence imposed by a court. There are two types of collateral consequences – collateral sanctions and discretionary disqualifications. The American Bar Association defines a collateral sanction as "a legal penalty, disability or disadvantage...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 the sentence." The term discretionary disqualification means "a penalty, disability or disadvantage...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". These consequences impact a variety of rights and opportunities for ex-offenders including employment, financial aid, firearm ownership, jury service, parental rights, public housing, and voting. While ex-offenders are expected to "fulfill the duties of citizenship...their conviction status effectively denies their rights to participate in social life."

Collateral consequences in the form of employment sanctions are particularly restrictive given that stable employment is one of the best predictors of post-release success. A stable job reduces the possibility of re-offending, rebuilds self-esteem, provides attachment to a conventional lifestyle, and allows the opportunity for economic attainment. Of the 404 collateral consequences under Ohio law, employment rights comprise 72 percent of all consequences and consist of any punishment that affects employment eligibility, including licensing rights. The vast majority of these employment consequences do not permit restoration of rights. These consequences, compounded by substance abuse, mental health issues, and the depressed Ohio economy, create a bleak employment landscape for ex-offenders in Ohio, making "Going Home to Stay" a difficult reality to achieve.

The impact of collateral consequences goes beyond its influence on individual offenders and their ability to successfully reintegrate into society. There are deep societal implications related to offender unemployment as well. Increased crime, criminal justice system costs, health care expenses, welfare needs, and the degradation of family and community life are all potential consequences of employment sanctions that restrict the ability of former felons to find a job. As noted by Ewald & Smith (2008), "The moment a felony conviction is announced in the U.S., a set of reverberations pushes out from the courtroom. The labor market, the jury pool, and, in most states, the voter roll are all changed, and the cumulative effects of these policies on the American polity and on particular communities are now substantial."¹ Because of their extensive personal and societal influence, Federal and State initiatives have begun to reassess sanctions that influence offender rights and focus on reintegration strategies that promote employability and economic attainment of former felons.

On the Federal level, the Second Chance Act of 2007: Community Safety Through Recidivism Prevention is first-of-its kind legislation that authorizes federal grants to government agencies and nonprofit organizations to provide employment assistance, substance abuse treatment, housing, family programming, mentoring, victims support, and other services to offenders reentering the community. The primary focus of the initiative is to promote successful community reintegration, as evidenced by reduced recidivism. In fiscal year 2009, \$15 million was available for reentry demonstration projects under the Second Chance Act, which included a solicitation for adult

reentry demonstration projects that provided educational, literacy, vocational, and job placement services to facilitate reentry into the community. In June 2009 the House of Representatives approved an appropriations bill for the Department of Justice for fiscal year 2010 that provides \$114 million for prisoner reentry, including \$100 million for Second Chance Act programs and nearly \$14 million for reentry initiatives in the federal Bureau of Prisons. Equally important are Federal initiatives to better understand collateral consequences, as they have a direct impact on the success of reentry projects.

In February 2009 the National Justice Institute sought applications to fund a national study that will provide a comprehensive compilation of Federal and State collateral consequences for criminal convictions, an important first step toward reducing recidivism and maintaining public safety. Ohio has also begun to take a proactive approach to addressing the issue of offender reentry and collateral consequences with the passage of Ohio House Bill 130 on January 6, 2009. This bill removes collateral sanctions to employment for certain professions and provides that conviction of a felony does not by itself constitute grounds for denying employment. The bill also calls for the formation of a State Agency Ex-Offender Reentry Coalition that will serve as conduit for Ohio's reentry efforts, better positioning the state to receive future funding under the Second Chance Act of 2007.

While it is critical to consider offender reentry in the context of public safety, collateral consequences have a significant impact on

the life trajectory of offenders and society. In fact, the effect of these sanctions may be as profound as those imparted by the formal sentence. As the number of released offenders continues to grow, it is imperative for legislators, the judicial system, and communities to examine collateral consequences and reflect on whether such sanctions truly promote public safety or impose unnecessary restrictions that prevent former felons from fully reintegrating into communities, becoming productive members of society, and "Going Home to Stay."

¹. Ewald & Smith, Justice System Journal (2008)



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