

ALBUQUERQUE CRIMINAL LAWYER BLOG

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Collateral Employment Consequences of Criminal Convictions

The collateral consequences of a criminal conviction can often outweigh the criminal penalties. The employment consequences can be particularly problematic. The impact of a criminal conviction on employment can be difficult to determine because the laws and regulations are often industry specific and are therefore found in the industry codes and regulations.

However, it is clear that many convictions will impact future employment. Most employers (80% of large corporations and 69% of small businesses) conduct background checks on all employees. It is estimated that two-thirds of employers will not hire a former offender. Due to the widespread practice of background checks along with the reluctance to hire those convicted of crimes, chances are a conviction will have serious consequences for your future employment.

In fact, there are many occupations where employment is barred completely by a variety of offenses, not all of which are felonies. Most professions and occupations will bar licensure in cases of felony convictions. In addition, many also bar licensure in cases of dishonesty or fraud. These categories cover a lot of ground, not unlike the crimes of moral turpitude classification critical to immigration cases. Those professions involving fiduciary responsibilities such as banking and financial services also carry bans for convictions involving breach of trust and money laundering.

Even where a conviction does not create an absolute bar, licensing agencies often may refuse licensing on the grounds of moral character. Those offenses reflecting on moral character can be quite broad ranging from failure to pay child support, domestic violence/battery on a household member, crimes of dishonesty, fraud and certainly any felony conviction.

There a number of professions that bar employment for controlled substance offenses including the medical profession, law enforcement, and private security. And of course, convictions for controlled substance offenses can be used in judging moral character. The problem with the controlled substance conviction is that by statute in New Mexico, marijuana remains classified as a controlled substance. As such, a marijuana conviction can potentially harm potential employment opportunities in the future.

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Finally, many occupations and professions will have occupation specific bars. The most obvious case is daycare and teaching for those convicted of sex crimes. Again, charges for sex crimes can sometimes involve what would appear to rational people to be relatively innocent behavior. The most egregious abuse of sex crime statutes involves prosecution of young men and women, and even children, for sexual exploitation for carrying or transmitting explicit pictures of friends/classmates on their mobile phones. A conviction for even this can carry lifetime registration as a sex offender with all the employment consequences of said registration.

It is important to know the employment consequences of a conviction as you move forward in your case. Unfortunately, some charges are so severe that there is little room to maneuver or avoid the possible employment consequences without taking even greater risks of criminal consequences. However, it is important that you understand all of the collateral consequences of a conviction which often go well beyond punishment by the courts.

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