

Presented:
20th Annual Rusty Duncan Advanced Criminal Law Course
June 7-9, 2007
San Antonio, Texas

**UNFORESEEN FEDERAL AND STATE
CONSEQUENCES OF CONVICTIONS**

Robert N. Udashen

Robert N. Udashen
SORRELS, UDASHEN & ANTON
2301 Cedar Springs Road
Ste. 400
Dallas, Texas 75201
(214) 468-8100 Phone
(214) 468-8104 Fax
www.sualaw.com
rnu@sualaw.com

Robert Udashen graduated from The University of Texas School of Law in 1977 where he received the Perry Jones Award as the school's most outstanding criminal law student. Following graduation, Mr. Udashen signed on with the Staff Counsel for Inmates at the Texas Department of Corrections. There he represented prisoners in all types of post-conviction proceedings.

In 1979 Mr. Udashen left the Staff Counsel for Inmates to become an associate with then United States Congressman and later Texas Attorney General Jim Mattox's law firm in Dallas, Crowder & Mattox. While there, Mr. Udashen partnered with Don Crowder to successfully defend Candy Montgomery, the so-called axe murderer. The axe murder defense was recreated in a book, *Evidence of Love*, and in an Emmy award-winning movie, *A Killing in a Small Town*. The case will be profiled this fall on the CourtTV series *Murder by the Book*.

In 2004 Mr. Udashen teamed up with another Crowder, this time Darlina, to represent Lisa Diaz on a charge of capital murder for drowning her two children. Once again the Crowder-Udashen team was successful. Ms. Diaz was found not guilty by reason of insanity.

Mr. Udashen is now a partner in the prominent Dallas criminal defense firm of Sorrels, Udashen & Anton where he handles state and federal criminal trials and appeals. In addition, Mr. Udashen is an adjunct professor of Texas Criminal Procedure at the Dedman School of Law at Southern Methodist University and he is the current president of the Dallas Criminal Defense Lawyers Association.

Mr. Udashen is Board Certified in Criminal Law. He is also listed in *The Best Lawyers in America*, the *Bar Register of Preeminent Lawyers*, *Who's Who in American Law*, and *Who's Who in America*. Mr. Udashen has been named a Texas Super Lawyer by *Texas Monthly Magazine* every year beginning in 2003.

Robert N. Udashen, P.C.
Sorrels, Udashen & Anton
2301 Cedar Springs Road
Suite 400
Dallas, Texas 75201
214-468-8100
214-468-8104 (fax)
rnu@sualaw.com

Introduction

More than ninety percent of all criminal prosecutions resolved on the merits result in conviction. See Gabriel J. Chin & Richard W. Holmes, Jr., *Effective Assistance of Counsel and the Consequences of Guilty Pleas*, 87 CORNELL L. REV. 697, 698 (2002). Of those, ninety percent are the result of guilty pleas. *Id.*

Many problems that the convicted offender will face are a result of the “collateral consequences” of his conviction. “The distinction between a collateral and a direct consequence of a criminal conviction, like many of the lines drawn in legal analysis, is obvious at the extremes and often subtle at the margin.” See, *Mitschke v. State*, 129 S.W.3d 130 (Tex. Crim. App. 2004). A collateral consequence of a conviction is a sanction that is not imposed explicitly as part of the sentencing process, but by legislative creation of penalties applicable by operation of law to persons convicted of particular crimes.

A very limited number of issues will cover the vast majority of collateral consequences. A criminal defense lawyer should always ask a client with pending charges the following three questions:

1. Are you an alien or a United States citizen?
2. Do you have any prior convictions ?
3. Do you have any government licenses, permits, employment, or benefits?

In addition to the above client information, a criminal defense lawyer would also want to know two other things:

1. What are the collateral consequences applicable to offenses in the jurisdiction?
2. And, if the case involves a drug- or sex-related offense, what are the special collateral consequences applicable to them?

Gabriel J. Chin and Richard W. Holmes, Jr., *Effective Assistance of Counsel and the Consequences of Guilty Pleas*, 87 CORNELL L. REV. 697 (2002).

The answers to these questions will arm the lawyer with information necessary to understand and explore virtually all of the collateral consequences that the client will face. The purpose of this paper is to provide a non-comprehensive overview of some collateral consequences of convictions under federal and Texas state law.

Federal Collateral Consequences of Convictions

Firearm possession

Those who have been convicted of a felony may not legally possess firearms. 18 U.S.C. § 922(g)(1) (2000).

Those who have been convicted of a “misdemeanor crime of domestic violence” may not legally possess firearms. 18 U.S.C. § 922(g)(9).

Voting disenfranchisement

Whether a felon may vote is an issue of state law. U.S. CONST. art. 1 § 2, cl. 1; art. I, § 4; art. II, § 1, cl. 2; amend. XVII; *see also* U.S. CONST. amend. XIV, § 2.

Forty-eight states, ***including Texas***, and the District of Columbia do not allow inmates convicted of a felony to vote while incarcerated. TEX. CONST. art. 6, § 1(a)(3); The Sentencing Project, *Felony Disenfranchisement Laws in the United States*, at [http:// www.sentencingproject.org/pdfs/1046.pdf](http://www.sentencingproject.org/pdfs/1046.pdf).

Thirty-three states prohibit felons from voting while on parole and twenty-nine also exclude felons on probation. *Id.* Once felons have completed their sentences, eight states continue to deny all ex-offenders the right to vote and four others deny the right to some ex-offenders. *Id.* In Texas, if a judge chooses to exercise judicial clemency, based upon successful completion of community supervision, a felony conviction can be wiped away, the indictment dismissed, and the defendant’s voting rights restored. TEX. CODE CRIM. PRO. art. 42.12, § 20(a).

In total, an estimated 3.9 million Americans currently cannot vote, either temporarily or permanently, due to a felony conviction.

Jury service

An individual is disqualified from serving on a federal grand or petit jury if he is convicted “in federal or state court of a crime punishable by imprisonment for more than one year,” and “his civil rights have not been restored.” 28 U.S.C. § 1865(b)(5) (2004).

Foster parents/adoption

The Adoption and Safe Families Act of 1997 prohibits individuals with certain criminal convictions from being approved as foster or adoptive parents. Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, 111 Stat. 2115 (1997). Those criminal convictions include the following:

- felony conviction for child abuse or neglect;
- felony conviction for spousal abuse;

felony conviction for a crime against children (including child pornography);
crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery; and
a felony conviction for physical assault, battery, or a drug-related offense.

42 U.S.C. § 671(a)(20)(A).

Collateral consequences of drug-related convictions

The collateral consequences for federal drug-related convictions far surpass those of most other felonies in both number and severity. *See* Nora V. Demleitner, “*Collateral Damage*”: *No Re-Entry for Drug Offenders*, 47 VILL. L. REV. 1027, 1033-34 (2002). For example, those who have been convicted of a drug-related felony within the last five years cannot be foster parents. 42 U.S.C. § 671(a)(20)(A)(ii) (2000).

Moreover, those who have been convicted of a drug-related felony can lose important federal benefits. The list of deniable benefits exceeds 750 benefits from approximately fifty federal agencies. Those federal benefits include the following:

Those who are convicted of a drug-related felony are ineligible for “any grant, contract, loan, professional license, or commercial license provided by an agency of the United States.” Denial of Federal Benefits Program, 21 U.S.C. § 862(d)(1) (2000).

Those who are convicted of a drug-related felony are excluded from **Medicare**. 42 U.S.C. § 1320a-7(a)(4) (2000).

Upon the first conviction for distribution of a controlled substance, an offender may be ineligible for federal benefits for up to five years; upon the second, for ten years; and upon the third, a mandatory permanent ineligibility applies. 21 U.S.C. § 862(a)(1)(A)-(C).

Upon the first conviction for possession, an offender may be ineligible for federal benefits for up to one year and upon second or subsequent convictions, for up to five years. 21 U.S.C. § 862(b)(1)(A)- (B).

An offender may be ineligible for federal grants, loans, work-study, and Upward Bound from the **Department of Education**. Students convicted of their first offense of possession are ineligible for education grants and loans for one year, second offense for two years, and third offense indefinitely. Students convicted of their first drug sales offense are ineligible for two years, and any subsequent offenses make them indefinitely ineligible. 20 U.S.C. § 1091(r)(1) (2000), *amended by* Deficit

Reduction Act of 2005, Pub. L. No. 171, §8021, 120 Stat. 4 (suspending, as of July 1, 2006, only those convicted of a drug offense while receiving federal student aid).

An offender may be ineligible for rural housing loans, conservation programs, and food stamps from the **Department of Agriculture**. 21 U.S.C. § 862(a), (b).

An offender may be ineligible for grants and contracts from the **Department of Defense**. 21 U.S.C. § 862(a), (b).

An offender may be ineligible for loans from the **Small Business Administration**. 21 U.S.C. § 862(a), (b).

An offender may be ineligible for disaster assistance from the **Federal Emergency Management Agency**. 21 U.S.C. § 862(a), (b).

An offender may be ineligible for at least **eighty-two federal licenses or permits**, such as pilots' licenses and commercial drivers' licenses.

Those who have been convicted of a drug-related felony are subject to **deportation**. Even immigrants holding permanent residency status can be deported for any conviction of a drug offense other than possession of thirty grams or less of marijuana for personal use. 8 U.S.C. § 1227(a)(2)(B)(i) (2000). After deportation, the immigrants are banned from re-entry for ten to twenty years. 8 U.S.C. § 1326(b)(1)-(2) (2000).

Those who have been convicted of a drug-related felony are subject to **termination of public housing leases** for “any drug-related criminal activity, on or off [public housing] premises, engaged in by a public housing tenant, any member of the tenant’s household, or any guest or other person under the tenant’s control.” 42 U.S.C. § 1437d(1)(6) (2000). Under this federal statute, an entire family can be removed from public housing because a friend, *who at one time slept on their couch*, was arrested for drug activity miles *away* from the housing premises.

Those who have been convicted of a drug-related felony are subject to termination of **public or government-assisted housing**. 42 U.S.C. §13661 (2000); 42 U.S.C.S. §1437f(d)(1)(B)(iii) (2006).

Those who have been convicted of a drug-related felony are subject to temporary or permanent **ineligibility for public benefits**. 21 U.S.C. §862a (2000).

Those who have been convicted of a drug-related felony are subject to **disqualification from military service**. 10 U.S.C.S. §504(a) (2006).

A **passport** may not be issued to a person convicted of a felony federal or state drug offense if he or she used the passport or otherwise crossed an international boundary in committing the offense. 22 U.S.C. §§ 2714(a)(1), (b)(1).

Deportation

Since passage of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the Antiterrorism and Effective Death Penalty Act, non-citizens who are convicted of criminal offenses, sometimes relatively minor in nature, often find themselves subject to deportation. *See* Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-546 (codified in various sections of 8 U.S.C. and 18 U.S.C.); Antiterrorism and Effective Death Penalty Act (AEDPA), Pub. L. No. 104-132, 110 Stat. 1214 (codified in various sections of 8, 18, 22, 28, 40, and 42 U.S.C.).

Specifically, an alien may be deported upon conviction of:

- (1) a crime involving moral turpitude committed within five years after the date of entry;
- (2) two or more crimes of moral turpitude not arising out of a single scheme;
- (3) an “aggravated felony”;
- (4) a drug offense (other than one involving possession for one’s own use of 30 grams or less of marijuana);
- (5) a specified firearms offense;
- (6) treason;
- (7) espionage; or
- (8) a domestic violence offense. 8 U.S.C. § 1227(a)(2).

Federal office or employment

A federal collecting or disbursing officer who has been convicted of trading in public funds or property is subject to removal from and ineligibility for any federal office. 18 U.S.C. § 1901.

Federal officers and employees who have been convicted of using federal money to finance lobbying a Member of Congress are subject to removal from office or employment. 18 U.S.C. § 1913.

A records custodian who has been convicted of unlawfully concealing, removing, falsifying, or mutilating public documents is subject to forfeiture of office and disqualification from any federal office. 18 U.S.C. § 2071.

An officer or employee of the United States who has been convicted of unlawfully disclosing to any unauthorized person a taxpayer return or return

information is subject to dismissal from office or discharge from employment. 26 U.S.C. §§ 7213(a)(1), (b).

Armed forces

An individual convicted of a felony is ineligible to enlist in any service of the armed forces. 10 U.S.C. § 504.

Federal licenses

Federal statutes provide that particular convictions may result in the loss of or ineligibility for numerous federal licenses, including the following:

Grain inspector's license (7 U.S.C. § 85)

License to import, manufacture, or deal in explosives or permit to use explosives (18 U.S.C. § 843(d))

Customs broker's license (19 U.S.C. § 1641(d)(1)(B))

License to export defense articles and services (22 U.S.C. § 2778(g)(4))

Merchant mariner's document, license, or certificate of registry (46 U.S.C. § 7503)

License or certification of locomotive engineer (49 U.S.C. § 20135(b)(4); 49 C.F.R. §§ 240.111, 240.115)

Commercial motor vehicle operator's license (49 U.S.C. § 31310)

Export license (50 U.S.C. App. § 2410(h)(1))

Banking and securities

A person who has been convicted of any criminal offense involving dishonesty or a breach of trust or money laundering may not:

- (1) become or continue as an institution-related party with respect to a **federally insured depository institution**;
- (2) own or control, directly or indirectly, an insured depository institution; or
- (3) otherwise participate, directly or indirectly, in the conduct of the affairs of such an institution. 12 U.S.C. §§ 1818(e), (g)(1)(C), 1829(a).

A person who has been convicted of a felony or certain enumerated misdemeanors—including securities violations, theft, forgery, counterfeiting, embezzlement, perjury, bribery, and mail fraud—is subject to having his or her **investment advisor registration** suspended or revoked. 15 U.S.C. §§ 80b-3(e)(20), (e)(3), (f).

Federal contracts or programs

Individuals convicted of fraud or any felony arising out of a contract with the **Department of Defense** are prohibited from:

- (1) working in a management or supervisory capacity for a defense contractor or first-tier subcontractor
- (2) serving on the board of directors or acting as a consultant for any company that is a defense contractor or subcontractor awarded a contract directly by the contractor. 10 U.S.C. § 2408(a); 48 C.F.R. § 252.203-7001.

A conviction for fraud, an antitrust violation, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or claims, receiving stolen property, obstructing justice, “a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction,” or “any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a person” may result in debarment from participation in contracts with the **Department of Housing and Urban Development**. 24 C.F.R. § 24.305.

Sex offender registration

Any person who is subject to a lifetime registration requirement under a state sex offender registration program is ineligible for federally assisted housing. 42 U.S.C. § 13663.

A sex offender registered in any state who moves to another state must notify the FBI and the new state of residence. 42 U.S.C. § 14072(g)(3), (i) (1).

Federal authorities must notify state law enforcement and registration authorities when a federal prisoner who is a sex offender is released to their areas or when a federal sex offender is sentenced to probation. 18 U.S.C. § 4042(c).

Federal sex offenders are required to register in the states in which they reside, are employed, carry on a vocation, or go to school. 42 U.S.C. §§ 14072(i)(3), (i)(4), and 18 U.S.C. §§ 3563(a)(8), 3583(d), 4209(a).

Texas Collateral Consequences of Convictions

A recent compilation by the Librarian of the Texas State Law Library identified over 200 Texas statutes restricting the rights of persons with criminal convictions, located in twenty-two different civil codes, ranging from the agriculture code to the water code. A sampling of the collateral consequences of convictions under Texas law are outlined below.

Firearm possession

A person convicted of a felony may not legally possess a firearm for five years after release from confinement, supervision, or parole. TEX. PEN. CODE § 46.04(a).

A person convicted of an offense under Section 22.01 of the Texas Penal Code, punishable as a Class A misdemeanor and involving a member of the person's family or household, may not legally possess a firearm for five years after release from confinement, supervision, or parole. TEX. PEN. CODE § 46.04(b).

Sex offender registration

"A person who has a reportable conviction or adjudication or who is required to register as a condition of parole, release to mandatory supervision, or community supervision shall register" TEX. CODE CRIM. PROC. ANN. art. 62.051.

DWI convictions

1. A first-time DWI results in a \$1,000 driver's license surcharge, paid annually for three years. A second-time DWI results in a \$1,500 surcharge, paid annually for three years. The charges are cumulative. For example a driver could pay \$1,000 as a result of their first DWI and an additional \$1,500 for their second DWI, paying a total of \$2,500 annually. TEX. TRANSP. CODE ANN. §708.102

Driver's license suspension

Convictions that result in driver's license suspension (of varying lengths) include the following:

Alcoholic Beverage Code Violation (TEX. ALCO. BEV. CODE ANN. § 106.071)
Breath/blood test failure (TEX. TRANSP. CODE ANN. §§ 524.022, 521.251(b), (c))
Breath/blood test refusal (TEX. TRANSP. CODE ANN. §§ 724.035, 521.251(b), (c))

Criminal mischief (TEX. TRANSP. CODE ANN. § 521.320)
Criminally negligent homicide (TEX. TRANSP. CODE ANN. §§ 521.341, .343)
Driver's license fraud (TEX. TRANSP. CODE ANN. §§ 521.346, .451, .453)
DUI (TEX. TRANSP. CODE ANN. § 521.343)
DWI (TEX. TRANSP. CODE ANN. § 521.344, .246, .251(d); TEX. CODE CRIM. PRO. 42.12, § 13(n))
Driving with suspended license (TEX. TRANSP. CODE ANN. § 521.343(c))
Evading arrest (TEX. TRANSP. CODE ANN. § 521.341, .343)
Fictitious plates, registration, inspection (TEX. TRANSP. CODE ANN. § 521.3465)
Fleeing (TEX. TRANSP. CODE ANN. §§ 521.292(a)(10), 545.421)
Failure to stop and render aid (TEX. TRANSP. CODE ANN. §§ 521.341, .343)
Intoxication assault (TEX. TRANSP. CODE ANN. § 521.344)
Intoxication manslaughter (TEX. TRANSP. CODE ANN. § 521.344)
Marijuana/controlled substance possession (TEX. TRANSP. CODE ANN. § 521.372)
Racing on highway (TEX. TRANSP. CODE ANN. § 521.350)
Tampering with government records (TEX. TRANSP. CODE ANN. §§ 521.3466, .343)
Suspended driving privilege in another state/jurisdiction (TEX. TRANSP. CODE ANN. § 521.201)
Habitual traffic violations (TEX. TRANSP. CODE ANN. § 521.292)
Two violations of driver's license restrictions (TEX. TRANSP. CODE ANN. § 521.292)
Unpaid traffic citation in another state (TEX. TRANSP. CODE ANN. § 521.294)
Conviction for drug offense *unrelated to operating a motor vehicle* (TEX. TRANSP. CODE ANN. § 521.372)
Commercial licensee receiving two serious violations or three violations within a three-year period (TEX. TRANSP. CODE ANN. § 522.081)
Two convictions for no liability insurance (TEX. TRANSP. CODE ANN. § 601.231)

Community Supervision

A defendant cannot file an application for community supervision from the jury if he or she has previously been convicted of a felony in Texas or any other state. TEX. CODE CRIM. PROC. ANN. art. 42.12, § 4(e).

A court may impose many different conditions of community supervision, some notables of which include:

Make one payment in an amount not to exceed \$50 to a crime stoppers

organization;

In any manner required by the judge, provide public notice of the offense for which the defendant was placed on community supervision in the county in which the offense was committed; and

Reimburse the county in which the prosecution was instituted for compensation paid to any interpreter in the case. TEX. CODE CRIM. PROC. ANN. art. 42.12, § 11(a).

Licensing

“A licensing authority may suspend or revoke a license, disqualify a person from receiving a license, or deny to a person the opportunity to take a licensing examination on the grounds that the person has been convicted of a felony or misdemeanor that directly relates to the duties and responsibilities of the licensed occupation.” TEX. OCC. CODE ANN. § 53.021(a).

Public office

A person convicted of a felony cannot hold public elective office. TEX. ELECT. CODE ANN. § 141.001(4).

Jury service

A person convicted of a felony cannot serve on a jury or grand jury. TEX. CONST. art. 16, § 2; TEX. CODE CRIM. PROC. ANN. art. 19.08; TEX. GOV'T CODE ANN. § 62.102. However, similarly to the right to vote, if a judge chooses to exercise judicial clemency, based upon successful completion of community supervision, a felony conviction can be wiped away, the indictment dismissed, and a defendant's eligibility to serve on a jury can be restored. TEX. CODE CRIM. PROC. art. 42.12, § 20(a).

Executor/administrator of an estate

A person convicted of a felony cannot serve as an executor or administrator of an estate in probate court unless he has been pardoned or had his civil rights restored. TEX. PROB. CODE ANN. §78(b)

Employment opportunities

A person convicted of a felony is banned from the following employment opportunities:

Labor union officer or organizer (TEX. LAB. CODE ANN. § 101.109)

Pesticide applicator (ineligible for five years) (TEX. AGRIC. CODE ANN. §

76.108)

Person who issue sparking tickets for disabled parking spaces (TEX. TRANSP. CODE ANN. § 681.0101)

Court interpreter (TEX. GOV'T CODE § 52.0295)

Meat and poultry inspection service (TEX. HEALTH & SAFETY CODE ANN. § 433.028)

Auctioneer (TEX. OCC. CODE ANN. § 1802.251)

Athletic trainer (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 451.251)

Insurance agent, counselor, or adjuster (at the discretion of the licensing agency) (Vernon's Annotated Texas Civil Statutes, Article 4641, 21.02-2, 3A; 4641, 21.14-1; 4641 21.49-3b, 3B)

Interior designer (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 1053.252)

Acupuncturist (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 205.351)

Midwife (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 203.404)

Mortgage broker (TEX. FIN. CODE ANN. § 156.208)

Distributor or manufacturer of medical devices (at the discretion of the licensing agency) (TEX. HEALTH & SAFETY CODE ANN. § 431.279)

Speech/language pathologist (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 401.453)

Hearing aid fitter or distributor (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 402.203)

Physical therapist (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 453.351)

Dental hygienist (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 263.001)

Marriage or family counselor (TEX. OCC. CODE ANN. § 502.252)

Monitor or aid on school bus (TEX. EDUC. CODE ANN. § 22.084)

Registered nurse (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 301.452)

Chiropractor (at the discretion of the licensing agency) (TEX. OCC. CODE ANN. § 201.502)

Physician assistant (TEX. OCC. CODE ANN. § 204.303)

Psychologist (TEX. OCC. CODE ANN. § 501.255)

Private security detection device salesperson (TEX. OCC. CODE ANN. § 1702.263)

Bingo worker, supply manufacturer or distributor, or service provider (ineligible for ten years) (TEX. OCC. CODE ANN. § 2001.105)

Coin-operated machine business license (TEX. OCC. CODE ANN. § 2153.302)

Business license holder (TEX. OCC. CODE ANN. § 53.021)

Vehicle storage facility operator (Vernon's Annotated Texas Civil Statutes, Article 6687-9a)

Liquor permit

A person convicted of a felony may be refused a liquor or alcohol permit for three years after release from confinement, supervision, or parole. TEX. ALCO. BEV. CODE ANN. § 11.46.

A person convicted of a felony while holding an original or renewal permit is subject to cancellation or suspension of the permit. TEX. ALCO. BEV. CODE ANN. § 11.61.

Business opportunities

A seller of a business opportunity must disclose to the purchaser whether any of the persons described by section 31.153 of the Texas Business and Commerce Code has been convicted of a felony, or pleaded nolo contendere to a felony charge, involving fraud, embezzlement, fraudulent conversion, or misappropriation of property within the previous seven fiscal years. TEX. BUS. & COMM. CODE ANN. § 41.161.

A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. TEX. EDUC. CODE ANN. § 44.034.

Civil damages

A claimant who has been convicted of a felony or misdemeanor may not recover damages for an injury sustained during the commission of the felony or misdemeanor if the injury would not have been sustained but for the commission of the felony or misdemeanor. TEX. CIV. PRAC. & REM. CODE ANN. § 86.002.

It is an affirmative defense to a civil action for damages for personal injury or death that the plaintiff, at the time the cause of action arose, was committing a felony, for which the plaintiff has been fully convicted, that was the sole cause of damages sustained by the plaintiff. TEX. CIV. PRAC. & REM. CODE ANN. § 93.001.

Scholarship

A prepaid higher education tuition scholarship terminates if the student to whom the scholarship is awarded is, among other things, convicted of, or adjudicated as having engaged in delinquent conduct constituting a felony or Class A misdemeanor. TEX. EDUC. CODE ANN. § 54.633.

Divorce and conservatorship

In a suit for dissolution of marriage, a court may grant a divorce in favor of one spouse if during the marriage the other spouse has been convicted of a felony. TEX. FAM. CODE ANN. § 6.004.

The presumption that the appointment of parents as joint managing conservators is in the best interest of the child is removed by a conviction of family violence. TEX. FAM. CODE ANN. § 153.131(b).

Banking and securities

Unless the banking commissioner consents in writing, a person convicted of a felony may not serve as director, manager, or managing participant of a state bank. TEX. FIN. CODE ANN. § 33.103.

The State Securities Commissioner may deny, revoke, or suspend a registration, place on probation a dealer, agent, or salesman whose registration has been suspended, or reprimand a person registered under this Act if the person has been convicted of a felony. Vernon's Annotated Texas Civil Statutes, Article 581-14.

Attorney

An attorney convicted of any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property is subject to suspension from practicing law pending the outcome of the appellate process. On proof of final conviction of any felony involving moral turpitude or any misdemeanor involving theft, embezzlement, or fraudulent misappropriation of money or other property is subject to disbarment. TEX. GOV'T CODE § 81.078.

Physician

The State Board of Medical Examiners shall suspend a physician's license on proof that the physician has been convicted of a felony. On final conviction for a felony, the board shall revoke the physician's license. TEX. OCC. CODE ANN. § 164.057.

Accountant

The State Board of Public Accountancy may suspend a certificate or firm license or suspend or refuse to renew a license on conviction of a person of an offense under the laws of any state or the United States that is a felony or that includes fraud or dishonesty as an element of the offense. TEX. OCC. CODE ANN. § 901.505.

Insurance

The Texas Department of Insurance may not issue a certificate of authority to act as an insurer if a corporate officer or member of the board of directors of the applicant has been convicted of a felony involving moral turpitude or the breach of fiduciary duty. TEX. INS. CODE § 801.151.

Sources

Gabriel J. Chin, *Race, the War on Drugs, and the Collateral Consequences of Criminal Conviction*, 6 J. GENDER RACE & JUST. 253, 259-61 (2002).

Friends of the State Law Library, *Statutory Restrictions on Convicted Felons in Texas* (2002).

5 Wayne LaFave et al., *Criminal Procedure* § 21.4(d), n.99-113 (2d ed.) (2004).

Robert W. Musser, Jr., *Denial of Federal Benefits to Drug Traffickers and Drug Possessors: A Broad-Reaching but Seldom Used Sanction*, 12 FED. SENTENCING REP. 252 (2000).

Michael Pinard, *An Integrated Perspective On the Collateral Consequences of Criminal Convictions and Reentry Issues Faced by Formerly Incarcerated Individuals*, 86 B.U. L. REV. 623 (2006).

Alicia Werning Truman, *Unexpected Evictions: Why Drug Offenders Should be Warned Others Could Lose Public Housing If They Plead Guilty*, 89 IOWA L. REV. 1753 (2004).

United States Department of Justice, *Federal Statutes Imposing Collateral Consequences Upon Conviction*, available at www.usdoj.gov/pardon/collateral_consequences.pdf.