

## Explanatory Note: Scope & Methodology

The goal of this study was to identify, catalog, and rate (across the 50 states and the District of Columbia) the collateral sanctions that attend a marijuana conviction, both misdemeanor and felony. Our research was aided by a number of recent studies on the collateral sanctions associated with criminal convictions in general. In the last several years, a number of excellent comprehensive studies have been completed, most notably by The Sentencing Project, The Campaign Against the Higher Education Act, the Legal Action Center, and by Margaret Colgate Love, a former US pardon attorney now in private practice. (See *Bibliography*). Building upon these reports, our study examined the various collateral sanctions *as specifically applicable to marijuana offenders*. The result is the most comprehensive study so far, on the often unrecognized, severe, and long-lasting sanctions that befall people who are convicted of, and in some cases merely arrested for, possessing, growing, or selling marijuana.

Legislators who seek to craft rational marijuana laws, and public policy makers working in the field of drug policy should find this report an important component of crafting legislation and analyzing drug policy. The direct punishment associated with marijuana offenses is often only the tip of the iceberg, yet it is where the vast majority of reform efforts have been focused. By conducting our study across all 50 states and the District of Columbia, and rating the severity of the various sanctions across the states, legislators and policy makers will be able to compare their state's sanctions with those in other states and thus find new ideas and models for refining their own state's sanctions.

Likewise, attorneys and judges who are involved in a marijuana case should find our study a handy guide to the collateral sanctions that will be triggered by a misdemeanor or felony marijuana-related conviction. Awareness of these collateral sanctions should lead to more informed plea bargains and fairer dispositions. As recently noted by the National Conference of Commissioners on Uniform State Laws (NCCUSL), one major problem with the legal system's administration of collateral sanctions "is that in most jurisdictions, no one knows what they are...sanctions have proliferated unsystematically." (NCCUSL, 2005).<sup>1</sup> Without knowledge of the collateral sanctions attendant to a marijuana-related conviction, defense attorneys,

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<sup>1</sup> The National Conference of Commissioners on Uniform State Laws, is currently at work on a "Uniform Collateral Sanctions and Disqualifications Act," which seeks to collect and codify the various collateral sanctions triggered by a criminal conviction. <<Online at: [<<http://www.nccusl.org/update/CommitteeSearchResults.aspx?committee=242>>](http://www.nccusl.org/update/CommitteeSearchResults.aspx?committee=242)>>

prosecutors, judges, and defendants are all operating in the dark. Our study should bring some light to this area.

In terms of scope, our study focuses on the collateral sanctions related to marijuana-related convictions suffered by adult citizens. We do not survey juvenile law, nor do we catalog the often very serious immigration consequences of a marijuana-related conviction. Our study also does not examine state procedures for petitioning for an expungement or a pardon. In some cases, an expungement or a pardon may partially or completely relieve a person of the ongoing collateral sanctions of a marijuana conviction. Unfortunately, not all states have such procedures, and when they do exist, they are expensive, unpredictable in outcome, and under-utilized. Readers seeking an outline of available remedies in any given state are encouraged to consult Margaret Colgate Love's book *Relief from the Collateral Consequences of a Criminal Conviction: A State-by-State Resource Guide*. (Love, 2006).

As noted above, one of the problems with researching and cataloging the myriad of collateral punishments that attend a marijuana-related conviction is that these sanctions are scattered across the state codes, and vary widely from state to state. In order to organize our research and make our findings more understandable and useful, we examined three categories of collateral sanctions:

- 1) Those that hinder family life;**
- 2) Those that impact professional life; and**
- 3) Those that limit civic participation.**

Within these three categories,<sup>2</sup> we identified, researched, and ranked a range of collateral sanctions relevant to marijuana-related convictions.<sup>3</sup> The ranking of each sanction's severity was done *across the 50 states and District of Columbia*, with each particular state's sanction assigned a severity level of between 0 and 5. In some cases, a few states stood out from the others with an exceptionally harsh treatment of a

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<sup>2</sup> We recognize that these organizational categories are imperfect because any given sanction can impact multiple aspects of a person's life. Additionally, while we have done everything possible to eliminate errors, a study of this detail and scope is bound to contain some errors and oversights. Readers who spot such errors are invited to email the principal author.

<sup>3</sup> **Family Disabilities** are comprised of: 1) Right to Adopt a Child or to Serve as a Foster Parent, 2) Eligibility for Public Housing, 3) Eligibility for Food Stamps and other Public Assistance. **Professional Disabilities** are comprised of: 1) Restrictions on Employment and Professional Licensing, 2) Eligibility for Educational Loans and Assistance 3) Driver's Licenses. **Civic Disabilities** are comprised of: 1) The Right to Vote, 2) The Right to Serve on a Jury, 3) Right to Possess a Firearm.

sanction, and in those cases, they were assigned a severity ranking above 5.<sup>4</sup> A state's overall severity level was then determined by summing all the individual sanction ratings for that state.

In the end, this process resulted in an overall severity level for each state, as well as sub-rankings both on the categorical level (i.e., family, professional, civic), and on the level of each specific sanction. The state of Florida emerged as the state with the most severe collateral sanctions with regard to marijuana-related offenses, and New Mexico emerged as the least harsh. (See Appendix A).

Any ranking system is imperfect and over-simplified by its very nature. Nevertheless, we are confident that our study provides a reliable reflection of the scope and degree of collateral sanctions associated with marijuana offenses, and provides a meaningful ranking in terms of severity across the 50 states and the District of Columbia.

Our findings are detailed in 4 Appendices:

- **Appendix A** lists the *states according to the severity of their collateral sanctions for marijuana convictions*, showing Florida as the most severe, and New Mexico as the least severe.
- **Appendix B** lists the states in *alphabetical order*, noting their overall level of severity, and a further breakdown according to the three categories of Family Life, Professional Life, and Civic Life.
- **Appendix C** provides a *summary of each state's sanctions in column format* according to a misdemeanor conviction versus a felony conviction. This table is a very useful reference for judges, prosecutors, and defense attorneys seeking a summary of the collateral sanctions triggered by a misdemeanor or felony marijuana conviction.
- **Appendix D**, the final appendix, is a *detailed explanation* of each state's collateral sanctions, including legal citations.

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<sup>4</sup> For example, with respect to public housing, Utah was assigned a severity level of 7, because it is the only state that bars public housing *for life* as a result of a marijuana-related *misdemeanor* conviction.