

A MEMORIAL

REQUESTING THE NEW MEXICO SENTENCING COMMISSION TO COLLABORATE WITH THE PUBLIC DEFENDER DEPARTMENT, THE DISTRICT ATTORNEYS AND THE ADMINISTRATIVE OFFICE OF THE COURTS TO DEVELOP A PROCESS OF NOTIFICATION OF THE COLLATERAL CONSEQUENCES OF CRIMINAL CHARGES AND TO IDENTIFY REMEDIES TO EMPLOYMENT BARRIERS.

WHEREAS, collateral consequences are the results of arrest, prosecution or conviction for a crime and are not part of the sentence imposed; and

WHEREAS, these consequences may be unintended and unforeseen by the defendant or may be direct consequences intended by the judge; and

WHEREAS, beyond the terms of a sentence, a defendant may experience many far-reaching and unexpected effects, including employment barriers, disenfranchisement, loss of access to federal educational loans, loss of professional licenses and eviction from public housing; and

WHEREAS, the collective effect of these collateral consequences is to create substantial barriers to an individual's ability to reenter and become a productive member of society; and

WHEREAS, collateral consequences may result in punishment far beyond the sentence prescribed by law and more

severe than was intended or warranted; and

WHEREAS, the American bar association standards for criminal justice require a court to ensure, before accepting a plea of guilty, that the defendant has been informed of the collateral consequences of conviction and that failure of a court to inform a defendant of applicable collateral consequences shall not be a basis for withdrawing a plea of guilty; and

WHEREAS, a system of justice that is fair and equitable should provide adequate information to guide the courts and defendants prior to the entering of a plea;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that the New Mexico sentencing commission be requested to collaborate with the public defender department, the district attorneys and the administrative office of the courts to develop a process of notification of the collateral consequences of criminal charges and to identify remedies to employment barriers; and

BE IT FURTHER RESOLVED that a mechanism be recommended for developing and disseminating a current list of collateral consequences to the courts; and

BE IT FURTHER RESOLVED that the New Mexico sentencing commission explore actions taken by other states and existing programs available to convicted felons to assist them in obtaining employment and develop recommendations for potential

implementation in New Mexico; and

BE IT FURTHER RESOLVED that findings and recommendations regarding collateral consequences notification and remedies to employment barriers be presented to the appropriate interim legislative committee by November 1, 2009; and

BE IT FURTHER RESOLVED that a copy of this memorial be transmitted to the New Mexico sentencing commission.