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Distilling the Language of the Law

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Stacey A. Tovino, JD, PhD*

TABLE OF CONTENTS.....	259
INTRODUCTION	260
I. ON LANGUAGE AND STIGMA	266
II. ON LANGUAGE AND ALCOHOL.....	270
A. Criminal Law.....	271
B. Education Law	274
C. Employment Law	276
D. Family Law.....	277
E. Firearms Law	279
F. Health and Social Services Law	280
G. Insurance Law	284
H. Liquor Control Law.....	285
I. Military and Veterans Law	286
J. Occupational Licensure Law	288
K. Probate Courts; Fiduciaries	291
L. Property Law	292
M. Public Officer and Civil Servant Law.....	293
N. Tax Law	295
O. Tort Law.....	295
P. Vehicle and Transportation Law	296
Q. Miscellaneous Law.....	298
R. Summary and Findings	298
III. PROPOSALS	302
A. New Language Going Forward.....	302
B. Deletion of Unnecessary and Inappropriate Language	303
C. Amendment of Otherwise Helpful Language.....	305
D. Constitutional Challenge	307
CONCLUSION	308

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INTRODUCTION

“Addict.” “Alcoholic.” “Common drunk.” “Drunkard.” “Habitual inebriate.” “Pathological intemperate.” “Wastrel.” These are the terms used by an overwhelming number of state statutes to refer to individuals with alcohol use disorder (AUD), defined by the American Psychiatric Association as a “problematic pattern of alcohol use leading to clinically significant impairment or distress.”² AUD “is a major public health” concern “in the United States”³ due to its association with premature morbidity, mortality, and disability.⁴ AUD also is associated with negative social events, including partner violence, child abuse and neglect, lost productivity, traffic accidents, and other injuries.⁵ The cost to society of these health and social impacts is approximately \$250 billion each year.⁶

According to a recent survey by the Substance Abuse and Mental Health Services Administration, 14.5 million Americans aged twelve or older had AUD over the past year.⁷ AUD increased during the COVID-19 pandemic, leading addiction medicine experts to characterize treatments for AUD as critical and essential humanitarian services.⁸ Despite the availability of effective pharmacological and psychosocial

² AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 490–91 (5th ed. 2013) [hereinafter DSM-5] (providing this definition as well as eleven diagnostic criteria two of which must be met within a twelve-month period for a diagnosis of AUD); see *infra* note 96 (listing the eleven diagnostic criteria).

³ AM. PSYCHIATRIC ASS’N, PRACTICE GUIDELINE FOR THE PHARMACOLOGICAL TREATMENT OF PATIENTS WITH ALCOHOL USE DISORDER 215 (2018) [hereinafter APA PRACTICE GUIDELINE] (stating that AUD “is a major public health problem”).

⁴ See, e.g., Seung Ha Park & Dong Joon Kim, *Global and Regional Impacts of Alcohol Use on Public Health: Emphasis on Alcohol Policies*, 26 CLINICAL & MOLECULAR HEPATOLOGY 652, 652 (2020) (explaining the health consequences of alcohol use disorder); Jürgen Rehm, Gerhard Gmel, Christopher T. Semplos & Maurizio Trevisan, *Alcohol-Related Morbidity and Mortality*, 27 ALCOHOL RSCH. & HEALTH 39, 39 (2002) (same).

⁵ See, e.g., U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, ALCOHOL USE AND YOUR HEALTH 2 (2020) (referencing illustrative social impacts, including injuries and violence); DONNA M. BUSH & RACHEL N. LIPARI, NATIONAL SURVEY ON DRUG USE AND HEALTH: SUBSTANCE USE AND SUBSTANCE USE DISORDER BY INDUSTRY 1 (2015) (referencing additional social impacts, including lost productivity, absenteeism, and accidents); Gerhard Gmel & Jürgen Rehm, *Harmful Alcohol Use*, 27 ALCOHOL RSCH. & HEALTH 52, 52 (2003) (referencing “decreased worker productivity, increased unintentional injuries, aggression and violence against others, and child and spouse abuse”).

⁶ Jeffrey J. Sacks, Katherine R. Gonzales, Ellen F. Bouchery, Laura E. Tomedi & Robert D. Brewer, 2010 *National and State Costs of Excessive Alcohol Consumption*, 49 AM. J. PREVENTIVE MED. e73, e75 tbl.1 (2015) (quantifying the health and social consequences of excessive alcohol use).

⁷ SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., U.S. DEP’T HEALTH & HUM. SERVS., PUB. NO. PEP21-07-01-00, KEY SUBSTANCE USE AND MENTAL HEALTH INDICATORS IN THE UNITED STATES: RESULTS FROM THE 2020 NATIONAL SURVEY ON DRUG USE AND HEALTH 28 (2021).

⁸ See, e.g., William D.S. Killgore, Sara A. Cloonan, Emily C. Taylor, Daniel A. Lucas & Natalie S. Dailey, *Alcohol Dependence During COVID-19 Lockdowns*, PSYCHIATRY RSCH., Feb. 2021, at 1, 1 (investigating whether COVID-19-related lockdowns, stay-at-home orders, and social isolation were associated with changes in high-risk alcohol use; finding that “alcohol use and likely dependence increased month-by-month” during a six-month period in 2020 “for those under lockdowns compared to those not under restrictions”); Tanya Calvey, Florian Scheibin, Noha Ahmed Saad, Tomohiro Shirasaka, Lisa Dannatt, MJ Stowe, Bigya Shah, Venkata Lakshmi Narasimha, Angelo Bruschi, Eric Peyron, Joy Louise Gumikiri-Onoria, Abhishek Ghosh, Sagun Ballav Pant, Anne Yee, Woraphat Rattapha, Ramyadarshni Vadivel, Kristiana Siste, Tanay Maiti, Saïd Boujraf, Paolo Grandinetti, Nirvana Morgan & Sidharth Arya, *The Changing Landscape of Alcohol Use and Alcohol Use Disorder during the COVID-19 Pandemic - Perspectives of Early Career Professionals in 16 Countries*, 14 J. ADDICT MED. e284, e284 (2020) (explaining that “[e]xamples of [alcohol-related changes during the COVID-19 pandemic include] changes in alcohol

interventions, however, AUD remains undertreated.⁹ Fewer than eight percent of Americans with past-year AUD received any type of treatment, and less than four percent were prescribed a government-approved pharmacological intervention.¹⁰ The stigma associated with AUD was found to be an important reason why individuals do not seek treatment.¹¹

Stigma may be described as an attribute, behavior, mark, or reputation that is shameful, disgraceful, or socially discrediting.¹² Individuals who experience stigma are viewed as less worthy,¹³ and individuals with AUD were found to be particularly susceptible to stigma.¹⁴ Stigma is a dynamic, multi-level phenomenon that functions at different levels of society.¹⁵ At the structural level, laws and policies describe and define a variety of alcohol-related activities, states, and conditions and attach legal consequences thereto.¹⁶ At the public level, individuals and groups hold certain

consumption patterns, increases in cases of alcohol withdrawal syndrome, disruptions in access to medical care for alcohol use disorder and increases in illegal production of alcohol”; urging that “treatment for acute and severe conditions due to substance use should be considered as essential services in times of humanitarian crises like COVID-19”).

⁹ See, e.g., APA PRACTICE GUIDELINE, *supra* note 3, at 4 (“Despite its high prevalence and numerous negative consequences, AUD remains undertreated.”), 5 (recommending pharmacological treatments, including naltrexone, acamprosate, and disulfiram); AM. PSYCH. ASS’N, UNDERSTANDING ALCOHOL USE DISORDERS AND THEIR TREATMENT 5 (2012) (recommending psychosocial interventions, including cognitive behavioral therapy and motivational enhancement therapy).

¹⁰ NAT’L INSTT. ON ALCOHOL ABUSE & ALCOHOLISM, ALCOHOL FACTS AND STATISTICS 2 (2021) (stating that only 7.2% of individuals ages twelve and older with past-year AUD “received any treatment” and that less than 4% of individuals with AUD were prescribed a government-approved medication “to treat their” condition).

¹¹ See Katherine M. Keyes, M. L. Hatzenbuehler, K. A. McLaughlin, B. Link, M. Olsson, B. F. Grant & D. Hasin, *Stigma and Treatment for Alcohol Disorders in the United States*, 172 AM. J. EPIDEMIOLOGY 1364, 1370 (2012) (discussing the stigma associated with AUD and explaining that such stigma is “associated with a decreased likelihood of service use”).

¹² See, e.g., Janet Zwick, Hannah Appleseth & Stephan Arndt, *Stigma: How it Affects the Substance Use Disorder Patient*, 15 SUBSTANCE ABUSE TREATMENT, PREVENTION, & POL’Y 1, 1 (2020) (defining stigma as “a mark of disgrace connected to a situation or quality of a person”).

¹³ *Id.* (stating, “a person who experiences stigma is seen as less than others”). Although *Black’s Law Dictionary* does not define “stigma,” the legal dictionary does define “stigma damages” as damages resulting from harm to property that causes the property to be “less valuable” after the harm and produces a “permanent loss of value.” BRYAN A. GARNER, BLACK’S LAW DICTIONARY 474 (10th ed. 2014).

¹⁴ See Georg Schemers, Michael Lucht, Anita Holzinger, Herbert Matschinger, Mauro G. Carta & Matthias C. Angermeyer, *The Stigma of Alcohol Dependence Compared with Other Mental Disorders: A Review of Population Studies*, 46 ALCOHOL & ALCOHOLISM 105, 105 (2011) (concluding that AUD “is a particularly severely stigmatized mental disorder”); Jerome M. Adams & Nora D. Volkow, *Ethical Imperatives to Overcome Stigma Against People With Substance Use Disorders*, 22 AMA J. ETHICS 702, 702 (2020) (recognizing the “overwhelming stigma against people with . . . substance use disorders”); Robin Room, T. Bedirhan Üstün, Somnath Chatterji, Jerome E. Bickenbach, Robert T. Trotter II, *Cross Cultural Views on Stigma Valuation Parity and Societal Attitudes Towards Disability, in DISABILITY AND CULTURE: UNIVERSALISM AND DIVERSITY* 227 (Jürgen Rehm & Shekhar Saxena eds., 2001) (identifying “alcohol problems” as one of three most stigmatizing attributes in a cross-cultural study).

¹⁵ Deepa Rao, Ahmed Elshafei, Minh Nguyen, Mark L. Hatzenbuehler, Sarah Frey and Vivian F. Go, *A Systematic Review of Multi-Level Stigma Interventions: State of the Science and Future Directions*, 17 BMC MED. 1 (2019) (“Researchers have long recognized that stigma is a global, multi-level phenomenon requiring intervention approaches that target multiple levels including individual, interpersonal, community, and structural levels.”); NAT’L ACADES. OF SCI., ENG’G, & MED., ENDING DISCRIMINATION AGAINST PEOPLE WITH MENTAL AND SUBSTANCE USE DISORDERS: THE EVIDENCE FOR STIGMA CHANGE 4 (2016) (explaining the dynamic, multi-level phenomenon of stigma).

¹⁶ See Schomerus, Lucht, Holzinger, Matschinger, Carta & Angermeyer, *supra* note 14, at 105 (referencing policies limiting insurance coverage of AUD as an example of structural stigma).

attitudes and beliefs towards individuals with AUD.¹⁷ At the level of the self, the individual with AUD may internalize negative stereotypes.¹⁸

To see how this multi-level phenomenon works in the context of AUD, first consider the shame associated with an individual's inability to stop drinking¹⁹ and guilt related to past alcohol-related behaviors (*i.e.*, self-stigma).²⁰ Further consider others' (including health care providers') negative beliefs regarding the individual, including that the individual is blameworthy, untrustworthy, and dangerous (*i.e.*, public stigma).²¹ Now assume the individual attempts to seek treatment from a health care provider but perceives the provider's negative attitudes towards the individual, exacerbating the individual's own sense of shame and guilt (*i.e.*, reinforced self-stigma).²² As a result, the individual does not return to treatment, continues to drink, and then drives while impaired, behaves violently towards a partner, abuses or neglects a child, misses work, and/or fails to pay child support.²³ When the individual participates in legal proceedings relating to these behaviors, the individual learns that the relevant motor vehicle, criminal, family, employment, and child support statutes refer to the individual as an "addict," "alcoholic," "common drunk,"

¹⁷ See Angela M. Parcesepe & Leopoldo J. Cabassa, *Public Stigma of Mental Illness in the United States: A Systematic Literature Review*, 40 ADMIN. & POL'Y IN MENTAL HEALTH 384, 384 (2013) (defining public stigma as "a set of negative attitudes and beliefs that motivate individuals to fear, reject, avoid, and discriminate against people").

¹⁸ See R. Hammerlund, L. Luce, L. Mulligan & K.M. Ward, *Review of the Effects of Self-Stigma and Perceived Social Stigma on the Treatment-Seeking Decisions of Individuals with Drug- and Alcohol-Use Disorders*, 9 SUBSTANCE ABUSE & REHAB. 115, 116 (2018) (explaining that "perceived social stigma may become internalized and result in self-stigma (*i.e.*, the personal endorsement of stereotypes about oneself and the resulting prejudice and self-discrimination)").

¹⁹ "Unsuccessful efforts to cut down or control alcohol use" is the second of AUD's eleven diagnostic criteria. DSM-5, *supra* note 2, at 490-91; *infra* note 96 (listing all eleven diagnostic criteria).

²⁰ See, e.g., Barbara S. McCrady, Elizabeth E. Epstein & Kathryn F. Fokas, *Treatment Interventions for Women with Alcohol Use Disorder*, 40 ALCOHOL RESCH 1, 1 (2020) (identifying shame and guilt as barriers to seeking treatment by women with AUD); Elena Bilevicius, Tyler Kempe, Lily Pankratz, Jeffrey D. Wardell, Edward A. Johnson & Matthew T. Keough, *Shame's Associations with Depression and Problem Drinking: An Ecological Momentary Study*, SUBSTANCE USE & MISUSE, July 12, 2021, at 6 (reporting that shame is predictive of AUD and is important for understanding AUD).

²¹ See, e.g., Schomerus, Lucht, Holzinger, Matschinger, Carta & Angermeyer, *supra* note 16, at 106-09 (reporting study findings showing that individuals with AUD are viewed as blameworthy, unpredictable, and dangerous); Leonieke C. van Boekel, Evelien P.M. Brouwers, Jaap van Weeghel & Henk F.L. Garretsen, *Stigma Among Health Professionals Towards Patients with Substance Use Disorders and its Consequences for Healthcare Delivery: Systematic Review*, 131 DRUG & ALCOHOL DEPENDENCE 23, 23 (2013) (reporting that health care professionals perceive individuals with substance use disorders to be violent, manipulative, and poorly motivated and that "[n]egative attitudes of health professionals diminished patients' feelings of empowerment and subsequent treatment outcomes"); Kathleen Crapanzano, Richard J. Vath & Dixie Fisher, *Reducing Stigma Towards Substance Users Through an Educational Intervention: Harder Than It Looks*, 38 ACAD. PSYCHIATRY 420, 420 (2014) (reporting the extent to which health care professional students continued to harbor stigmatizing attitudes towards individuals with substance use disorders even after an educational intervention designed to reduce stigma).

²² Crapanzano, Vath & Fisher, *supra* note 21, at 420 ("As a result of this public stigma, people with substance use disorders also stigmatize themselves.").

²³ See DSM-5, *supra* note 2, at 496 (identifying major areas of life functioning that are impaired in individuals with AUD including driving, work, inter-personal relationships, and health; explaining that AUD contributes to absenteeism, job-related accidents, and low employee productivity; further stating that AUD is associated with a significant increase in the risk of accidents, violence, and suicide).

“drunkard,” “habitual inebriate,” “pathological intemperate,” or “wastrel”²⁴ (*i.e.*, structural stigma), further reinforcing the individual’s shame, guilt, lack of desire to seek treatment, and overall hopelessness.²⁵

Stigma can be established and nurtured “by various sources.”²⁶ Language—including the words and phrases that we used to communicate—is one important source of stigma.²⁷ Language is capable of minimizing or endorsing stigma through the representation of common attitudes, perceptions, and beliefs.²⁸ This Article focuses on structural sources of stigma, analyzing particular words and phrases used in state statutes that reference alcohol-related activities, alcohol-related states, and alcohol-related health conditions.²⁹ The goal of this Article is to determine whether

²⁴ See *infra* Part II (collecting and cataloguing more than four hundred state statutes across a variety of practice areas that use these exact words and phrases).

²⁵ Georg Schomerus & Matthias C. Angermeyer, *Stigma and Its Impact on Help-Seeking for Mental Disorders: What Do We Know?*, 17 EPIDEMIOLOGY & PSYCHIATRIC SCI. 31, 31 (2008) (“Anticipated individual discrimination and discrimination qua self-stigmatization are associated with a reduced readiness to seek professional help for mental disorders.”); AM. PSYCHIATRIC ASS’N, STIGMA, PREJUDICE, AND DISCRIMINATION AGAINST PEOPLE WITH MENTAL ILLNESS 2–3 (2021) (explaining the different types of stigma and showing how they interact in the context of an individual with a mental health condition; further explaining that “reduced hope” and “reduced likelihood of staying with treatment” are consequences of stigma).

²⁶ Zwick, Appleseth & Arndt, *supra* note 12, at 1 (“Stigma can be cultivated by various sources.”).

²⁷ See Nora D. Volkow, Joshua A. Gordon & George F. Koob, *Choosing Appropriate Language to Reduce the Stigma around Mental Illness and Substance Use Disorders*, NEUROPSYCHOPHARMACOLOGY, July 19, 2021, at 1 (explaining the relationship between words and stigma in the context of mental illness and substance use disorders).

²⁸ CANADIAN CTR. ON SUBSTANCE USE & ADDICTION, OVERCOMING STIGMA THROUGH LANGUAGE: A PRIMER 5 (2019) [hereinafter CCSUA] (“Stigma often emerges in the form of derogatory language that shames and belittles people. Such language can lead to a cycle of behaviours and attitudes that isolate and marginalize people who use substances.”); Zwick, Appleseth & Arndt, *supra* note 12, at 1 (“Language, which we use to communicate, represents shared values, history, beliefs, and customs. Moreover, language can be used to promote stigma or decrease it”).

²⁹ State statutes frequently blur the concepts of alcohol-related activities, alcohol-related states, and alcohol-related health conditions. That said, an example of a statute that may be said to reference an alcohol-related activity (*e.g.*, driving) is N.Y. VEH. & TRAF. LAW § 1192(1) (McKinney 2021). This statute prohibits a person from “operat[ing] a motor vehicle while . . . impaired.” An example of a statute that may be said to reference an alcohol-related state (*e.g.*, the state of being impaired) is ALA. CODE § 17-17-51 (2021), which makes it an offense to be “drunk or intoxicated” around a polling place. Finally, an example of a statute that references an alcohol-related health condition (*e.g.*, AUD, sometimes referred to as “alcoholism” by non-medically trained individuals) is HAW. REV. STAT. ANN. § 353G-4(a)(4) (West 2021). This statute requires certain individuals in certain contexts who admit to “alcoholism” to undergo certain screenings and treatments. Not everyone who engages in an alcohol-related activity or is in an alcohol-related state will have a diagnosable alcohol-related health condition. Consider a small woman who rarely drinks and does not meet diagnostic criteria for AUD. See *infra* note 96 (listing AUD’s diagnostic criteria). If the woman has not eaten that day, the woman may quickly become intoxicated after a few drinks. This woman would be in an alcohol-related state (*i.e.*, she is impaired) and, if she drives, she would be engaging in an alcohol-related activity (*i.e.*, driving while impaired) but she would not meet diagnostic criteria for an alcohol-related health condition (*i.e.*, AUD). Moreover, not everyone who has an alcohol-related health condition will be in an alcohol-related state or will be engaging in an alcohol-related activity. Consider a man who meets diagnostic criteria for AUD; however, on a particular day at a particular time, the man is not drinking alcohol and may (or may not) be driving. The man would have an alcohol-related health condition (*i.e.*, AUD) but he would not be in an alcohol-related state (*i.e.*, his blood alcohol content is .00% and he is not impaired) and he would not be engaging in an alcohol-related activity (*i.e.*, he may be driving but he is not driving while impaired by alcohol). Although the Author (who specializes in health law) is primarily interested in statutory language used to refer to individuals with AUD (*i.e.*, a medically recognized health condition), individuals with AUD may engage in alcohol-related activities (*e.g.*, driving while impaired) and may be in alcohol-related states (*e.g.*, alcohol intoxication or alcohol withdrawal). Thus, this Article examines words and phrases referring to all three; that is, alcohol-related activities, states, and conditions.

state statutes may be diminishing, neutralizing, promoting, or perpetuating stigma against individuals with AUD.

This Article proceeds as follows: Part I carefully reviews research studies investigating the relationship between language and stigma in the context of substance use disorders, including AUD. This research shows that non-person-first and slang terms can invite negative judgments about individuals with AUD.³⁰ Both lay community members and health care professionals regard individuals described in these terms as blameworthy, untrustworthy, and dangerous.³¹ Part I further reviews the current alcohol-related language recommendations of medical researchers, health care providers, government agencies, and professional associations.³² These guidelines explain that non-person-first words and slang terms, when spoken or written by others about individuals with AUD, can be implicitly and explicitly stigmatizing and should be removed from public discourse.³³

Part II of this Article carefully collects and catalogues more than four hundred illustrative state statutes³⁴ that contain references to alcohol-related activities, alcohol-related states, and alcohol-related health conditions.³⁵ Part II shows that a startling number of state statutes contain language that does not conform to the recommendations described in Part I.³⁶ In particular, Part II shows that statutes in all fifty states and the District of Columbia routinely use terms such as “abuse,” “addict,” “alcoholic,” “alcoholism,” “alcohol abuser,” “alcohol user,” “common drunkard,” “drunk,” “drunkard,” “drunkenness,” “habitual drunkard,” “habitual inebriate,” “habitual intemperate,” “inebriate,” “inebriated,” “intemperate,” “the chemically dependent,” “wasted,” and “wastrel” to refer to various alcohol-related activities, states, and conditions (hereinafter alcohol-related language).³⁷ Part II also shows that alcohol-related language is sourced in a variety of subject matter areas, including criminal law, education law, employment law, family law, firearms law, health and social services law, insurance law, liquor control law, military and veterans law, occupational licensure law, probate and fiduciary law, property law, public officer and civil servant law, tax law, tort law, and vehicle and transportation law.³⁸

³⁰ See *infra* Part I.

³¹ See *infra* Part I.

³² See *infra* Part I.

³³ See, e.g., Robert D. Ashford, Austin M. Brown, Jessica McDaniel & Brenda Curtis, *Biased Labels: An Experimental Study of Language and Stigma among Individuals in Recovery and Health Professionals*, 54 *SUBSTANCE USE & MISUSE* 1376, 1376, 1382 (2019) (“Labels such as ‘addict’ and ‘substance abuser’ have been found to elicit implicit and explicit stigma among the general public.”; further recommending the “removal of the term ‘substance abuser’ from common jargon and discourse”); Volkow, Gordon & Koob, *supra* note 27, at 1 (recognizing the “persistence of implicitly stigmatizing words like ‘addict,’ ‘alcoholic,’ ‘abuser’ and so on”).

³⁴ Due to law journal word-count limitations, the Article is limited to collecting, analyzing, synthesizing, and proposing amendments to illustrative, not exhaustive, state statutes. Future research in the context of federal statutes, state regulations, and federal and state judicial opinions, among other primary and secondary legal authorities, is encouraged.

³⁵ See *supra* note 29 (providing context for the scope of this Article).

³⁶ See *infra* Part II.

³⁷ See *infra* Part II.

³⁸ See *infra* Part II.

Part II concludes by synthesizing the alcohol-related language and reporting seven original research findings. These findings relate to: (i) the use of alcohol-related language by all states and the District of Columbia regardless of geographic location or political mapping; (ii) the prevalence of alcohol-related language in particular subject matter areas, including health and social services law as well as occupational licensing law; (iii) the inconsistency in the use of alcohol-related language within, between, and among statutes in specific states; (iv) the variety of positive and negative legal consequences assigned to particular alcohol-related activities, states, and conditions by particular jurisdictions; (v) the contrary legal consequences that different jurisdictions attach to the same alcohol-related activity, state, or condition; (vi) the multiple means by which statutory language permeates public discourse, both tempering and perpetuating stigma against individuals with AUD; and (vii) the prevalence of statutory associations between alcohol restrictions and public morals and between alcohol use and immorality.³⁹

Part III of this Article recognizes that some legal restrictions on specific alcohol-related activities are appropriate and necessary to safeguard public health, safety, and welfare.⁴⁰ Illustrative, but not exhaustive, examples of these restrictions include motor vehicle statutes that prohibit individuals from driving while impaired by alcohol and military statutes that prohibit sentinels and lookouts from standing guard and keeping watch while impaired by alcohol.⁴¹ Part III also recognizes that some references to alcohol-related states and health conditions can be helpful. Statutory language mandating health insurers to cover treatments and services for alcohol-related conditions is one example.⁴² Statutory language steering individuals with alcohol-related conditions to publicly available diagnostic, treatment, and rehabilitative services is a second example.⁴³ More importantly, however, the language used in these statutes certainly can be improved so as not to perpetuate stigma against individuals with AUD.⁴⁴

To this end, Part III makes four, non-mutually exclusive proposals that are designed to promote the autonomy, dignity, and just treatment of individuals with AUD. These proposals involve drafting scientifically precise and respectful legislative language on a going-forward basis, deleting unnecessary and inappropriate language, amending otherwise helpful language, and challenging the constitutionality of vague or ambiguous language.⁴⁵ Part III offers sample language implementing the first three proposals and identifies caselaw relevant to the fourth proposal.⁴⁶ If implemented by state lawmakers and pursued by litigants, these four proposals will diminish structural, or law-based, stigma in the context of individuals with AUD.

³⁹ See *infra* Part II(R).

⁴⁰ See *infra* Part III.

⁴¹ See *infra* Part III.

⁴² See *infra* Part III.

⁴³ See *infra* Part III.

⁴⁴ See *infra* Part III.

⁴⁵ See *infra* Part III.

⁴⁶ See *infra* Sections III(A)–III(D).

I. ON LANGUAGE AND STIGMA

Several research teams have investigated whether particular words and phrases perpetuate or diminish stigmatizing attitudes towards individuals with substance use disorders, including AUD. In 2010, for example, researchers affiliated with the Center for Addiction Medicine within the Department of Psychiatry at Massachusetts General Hospital (MGH) published a study investigating whether references to an individual as a “substance abuser” (versus “having a substance use disorder”) invited different judgments about the individual’s personal culpability, ability to self-regulate substance use, and level of social threat, as well as the appropriateness of punishment versus treatment.⁴⁷ Five hundred and sixteen research participants, all of whom were clinicians “attending two mental health conferences,” volunteered to participate in the MGH study, which involved reading vignettes describing an individual using the language of either “substance abuser” or “having a substance use disorder.”⁴⁸ Exposure to the different phrases was not found by the researchers to evoke different judgments about whether the individual described in the vignette was a social threat or should receive treatment.⁴⁹ The different language, however, did trigger different judgments about whether the individual described in the vignette was culpable and should be punished.⁵⁰ The study authors formally concluded that, “[e]ven among highly trained mental health professionals, exposure to these two commonly used terms evokes systematically different judgments. The commonly used ‘substance abuser’ term may perpetuate stigmatizing attitudes.”⁵¹

The study authors specifically warned that “[r]eferring to an individual as a ‘substance abuser’ may” provoke or perpetuate thinking that the individual is behaving recklessly and willfully and, therefore, is more deserving of punishment.⁵² The study authors also explained that an individual with a substance use disorder may internalize the stigma, leading to an increased “sense of shame and anxiety,” a decreased willingness to admit or share the substance use disorder, and a diminished “likelihood of seeking treatment.”⁵³ The study authors recommended that lawmakers “and criminal justice systems,” among other organizations, reconsider the use of the terms “abuse” and “abuser,” choosing instead language that is consistent with organizational goals.⁵⁴

In a follow-up study, the MGH researchers again “tested whether referring to an individual as ‘a substance abuser’ versus ‘having a substance use disorder’” might evoke different judgments about the extent of social threat and the appropriateness of treatment versus punishment among lay as well as professional community

⁴⁷ John F. Kelly & Cassandra M. Westerhoff, *Does it Matter how We Refer to Individuals with Substance-Related Conditions?*, 21 INT’L J. DRUG POL’Y 202, 202–04 (2010).

⁴⁸ *Id.* at 203–04.

⁴⁹ *Id.* at 205.

⁵⁰ *Id.*

⁵¹ *Id.* at 202.

⁵² *Id.* at 205.

⁵³ *Id.*

⁵⁴ *Id.* at 206.

members.⁵⁵ Three hundred and fourteen research participants with a variety of non-professional and professional backgrounds completed an online assessment comparing two individuals described by these phrases.⁵⁶ The study authors found that, compared to the individual who had a substance use disorder, the “substance abuser” “was perceived as engaging in willful misconduct, a greater social threat, and more deserving of punishment.”⁵⁷ The study authors concluded that “use of, and exposure to, the ‘abuser’ label may elicit or perpetuate stigmatizing attitudes, increase perceptions of the need for punitive action, and decrease perceptions of a need for treatment.”⁵⁸ The study authors recommended using the “having a ‘substance use disorder’” language, reasoning that, “the less stigmatized these conditions are, the more likely individuals will be to enter and remain in treatment.”⁵⁹

In 2019, researchers affiliated with universities in Pennsylvania and Georgia sought to investigate the extent to which the terms “addict” and “substance abuser” evoked different levels of bias among individuals in recovery from substance use disorders as well as health care professionals.⁶⁰ Research participants “were randomly placed into groups representing” different word pair options (*i.e.*, “substance abuser” versus “person with a substance use disorder” in one trial; and “addict” versus “person with a substance use disorder” in a second trial).⁶¹ Then, the research participants were asked to evaluate the words and phrases and classify them as either “good” or “bad.”⁶² Although “individuals in recovery” were not found to have significantly “lower negative associations with either term,” health care professionals had significantly “greater negative associations with the term ‘substance abuser.’”⁶³

This finding was a source of concern for the study authors, causing them to strongly recommend the removal of “substance abuser” from medical records as well as other professional- and patient-facing communications and materials.⁶⁴ The study authors reasoned that health care professionals are “a vital component of the” substance use disorder treatment system and may be the only accessible resource for individuals who desire support.⁶⁵ The study authors further recommended that “language directives from national organizations such as the American Society of Addiction Medicine not only be adhered to, but also perhaps adopted by individual healthcare systems and regional associations to improve the potential to mitigate elicited bias from language in all medical settings.”⁶⁶ The study authors also

⁵⁵ John F. Kelly, Sara J. Dow & Cara Westerhoff, *Does Our Choice of Substance-Related Terms Influence Perceptions of Treatment Need? An Empirical Investigation with Two Commonly Used Terms*, 40 J. DRUG ISSUES 805, 805, 809 (2010).

⁵⁶ *Id.* at 805, 809.

⁵⁷ *Id.* at 805, 815.

⁵⁸ *Id.* at 815.

⁵⁹ *Id.* at 815–16.

⁶⁰ Ashford, Brown, McDaniel & Curtis, *supra* note 33, at 1376.

⁶¹ *Id.* at 1377–78.

⁶² *Id.* at 1378.

⁶³ *Id.* at 1376.

⁶⁴ *Id.* at 1382.

⁶⁵ *Id.*

⁶⁶ *Id.*

clarified, however, that their language recommendations applied only to third parties' communications about individuals with AUD.⁶⁷ Individuals with AUD, on the other hand, "should retain the autonomy to self-identify however they choose."⁶⁸ Individuals who seek peer support, including individuals who participate in twelve-step programs to overcome denial of their conditions, may wish to identify as an "alcoholic" or other term for purposes of self-identity, identity reformation, and/or catharsis.⁶⁹ According to the study's authors, a distinction should be drawn between how a third party with no knowledge of how a particular individual self-identifies refers to that individual, on the one hand, and how the individual self-refers, on the other.⁷⁰ This distinction is central to the proposals set forth in Part III of this Article.

Also in 2019, a pair of New England researchers published a study investigating the language preferences of individuals with opioid use disorder.⁷¹ As part of this research project, 263 research participants with opioid use disorder completed a survey asking about language they used to identify themselves as well as language they preferred to be (and never wanted to be) called by others.⁷² The study authors found that "fewer than 15%" of the research participants reported using the word "user" "or slang terms" like "junkie" when referring to themselves.⁷³ The study authors also found that most of the research participants preferred to be called a "person who uses drugs" and that they "never wanted to be called" a "heroin misuser" or "heroin dependent" by other people.⁷⁴ Interestingly, more than 70% of the research participants used the word "addict" to refer to themselves but 17% said they never wanted others to call them a "heroin addict."⁷⁵ This latter finding suggests, again, that there may be differences in how individuals think about themselves compared to how individuals want others to refer to them.⁷⁶

Based on these and other similar studies, many researchers and health care professionals recommend the use of neutral, "person-first" language when a third party that has no knowledge of how a particular individual self-identifies wishes to refer to the individual in the context of the individual's substance use disorder. "Person-first" language places the person before the person's attribute, characteristic, or health condition in a sentence, clause, or phrase.⁷⁷ The goal of person-first language is to communicate that a substance use disorder is just "one aspect of a person's life, not the defining characteristic."⁷⁸ An example of person-first language would be "individual with AUD" or "individual with

⁶⁷ See *id.*

⁶⁸ *Id.* at 1381.

⁶⁹ See *id.*

⁷⁰ See *id.*

⁷¹ Ekaterina Pivovarova & Michael D. Stein, *In Their Own Words: Language Preferences of Individuals Who Use Heroin*, 114 ADDICTION 1785, 1785 (2019).

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* at 1787.

⁷⁶ *Id.* at 1789.

⁷⁷ See Volkow, Gordon & Koob, *supra* note 27, at 2231.

⁷⁸ *Id.*

addiction” but not “addict,” “alcoholic,” “alcohol abuser,” “alcohol user,” “common drunkard,” “habitual inebriate,” “pathological intemperate,” or “wastrel.”⁷⁹

Researchers and health care professionals also discourage the use of the word “alcoholic” as an adjective.⁸⁰ For example, “alcohol-associated liver disease” is recommended over “alcoholic liver disease” because the latter phrase could increase the stigma associated with having liver disease or being recommended for liver transplant.⁸¹ Researchers and health care professionals further encourage neutral language over language that implies negative value judgements.⁸² For example, the word “use” is considered preferable to the word “abuse” because the latter can imply malintent, cruelty, and violence.⁸³ Some researchers and professionals have appealed to the editors of medical journals and other academic publications to publish language that “respects the worth and dignity of all persons,” “focuses on the medical nature of substance use disorders and treatment,” and “avoids perpetuating negative stereotypes and biases through the use of slangs and idioms.”⁸⁴ Still other researchers and professionals have pushed for formal terminology consensus; that is, an “addiction-ary.”⁸⁵

Although language preferences still vary within and across the health care professions, several government agencies, professional organizations, citation and style manuals, and manuscript preparation guidelines have issued formal language recommendations for use by third parties who refer to individuals with substance use disorders when such reference is necessary. The National Institute on Drug Abuse, for example, specifically recommends use of the phrase “person with alcohol use disorder” over “addict,” “alcoholic,” “drunk,” or “user.”⁸⁶ The Office of National Drug Control Policy, by further example, requests administrative agencies to use language comporting with the most recent edition of the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* (DSM),⁸⁷ which uses the phrase “alcohol use disorder” but not the words “abuse,” “addict,” “alcoholic,” “dependence,” or “habit.”⁸⁸ In Canada, the Centre on Substance Use and Addiction also recommends using person-first language such as “individual with alcohol use disorder” and opposes use of the words “abuse” and “addict.”⁸⁹ In its instructions and guidelines for research submitted to the *Journal of Addiction Medicine*, the American Society of Addiction Medicine (ASAM) similarly

⁷⁹ See *id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

⁸³ See *id.*

⁸⁴ Lauren M. Broyles, Ingrid A. Binswanger, Jennifer A. Jenkins, Deborah S. Finnell, Babalola Faseru, Alan Cavaola, Marianne Pugatch & Adam J. Gordon, *Confronting Inadvertent Stigma and Pejorative Language in Addiction Scholarship: A Recognition and Response*, 35 SUBSTANCE ABUSE 217, 217 (2014).

⁸⁵ John F. Kelly, Richard Saitz & Sarah Wakeman, *Language, Substance Use Disorders, and Policy: The Need to Reach Consensus on an “Addiction-ary”*, 34 ALCOHOLISM TREATMENT Q. 116, 116 (2016).

⁸⁶ NAT’L INST. ON DRUG ABUSE, WORDS MATTER: TERMS TO USE AND AVOID WHEN TALKING ABOUT ADDICTION 2 (2021).

⁸⁷ OFF. OF NAT’L DRUG CONTROL POL’Y, CHANGING THE LANGUAGE OF ADDICTION 2 (2017).

⁸⁸ DSM-5, *supra* note 2, at 490–97.

⁸⁹ See CCSUA, *supra* note 28, at 7.

recommends using person-first language instead of “addict” or “alcoholic.”⁹⁰ ASAM also requests precise, medical language rather than non-medical language such as “drunk,” “smashed,” or “bombed.”⁹¹ Since 1992, the American Psychological Association (APA) *Style Guide* has recommended that APA journals avoid using language that diminishes “the integrity of individuals as whole human beings” such as “disabled person” and, by extension, “alcoholic person.”⁹² The *Style Guide* also discourages the use of language that has “superfluous, negative overtones” such as “stroke victim” and, by extension, “alcohol sufferer.”⁹³ In Part II, this Article assesses whether state statutes follow these guidelines.

II. ON LANGUAGE AND ALCOHOL

Hundreds of current state statutes contain alcohol-related language.⁹⁴ Some of these statutes conform to the language recommendations described in Part I. For example, the Nevada Legislature states in one of its statutes that “the handling of persons with an alcohol use disorder within the criminal justice system is ineffective, whereas treating an alcohol use disorder as a health problem allows its prevention and treatment”⁹⁵ The Nevada Legislature’s use of the phrase “persons with an alcohol use disorder” is person-first; that is, it places the person before the person’s health condition. In addition, the term “alcohol use disorder” is the formal (not slang) name given by the American Psychiatric Association to certain forms of alcohol use that lead to clinically significant impairment or distress.⁹⁶ This Article does not

⁹⁰ *Instructions and Guidelines: Language and Terminology Guidelines for Journal of Addiction Medicine (JAM) Manuscripts*, AM. SOC’Y OF ADDICTION MED. (July 31, 2021), <https://journals.lww.com/journaladdictionmedicine/Pages/Instructions-and-Guidelines.aspx#languageandterminologyguidance> [https://perma.cc/ATL7-Q3RM].

⁹¹ *Id.* (“[T]he use of humanizing, non-stigmatizing, medically-defined, precise, and professional consensus-driven terminology is important.”).

⁹² See *APA Style: Guidelines for Non-Handicapping Language in APA Journals*, AM. PSYCH. ASS’N (1992), <https://apastyle.apa.org/6th-edition-resources/nonhandicapping-language> [https://perma.cc/4SHA-LVRJ].

⁹³ See *id.*

⁹⁴ See, e.g., *infra* notes 99–421 (referencing more than 400 illustrative statutes that contain alcohol-related language).

⁹⁵ NEV. REV. STAT. ANN. § 458.250 (West 2021).

⁹⁶ The DSM-5 lists eleven diagnostic criteria for AUD: (1) “Alcohol is often taken in larger amounts or over a longer period than was intended”; (2) “There is a persistent desire or unsuccessful efforts to cut down or control alcohol use”; (3) “A great deal of time is spent in activities necessary to obtain alcohol, use alcohol, or recover from its effects”; (4) “Craving, or a strong desire or urge to use alcohol”; (5) “Recurrent alcohol use resulting in a failure to fulfill major role obligations at work, school, or home”; (6) “Continued alcohol use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of alcohol”; (7) “Important social, occupational, or recreational activities are given up or reduced because of alcohol use”; (8) “Recurrent alcohol use in situations in which it is physically hazardous”; (9) “Alcohol use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by alcohol”; (10) “Tolerance, as defined by either of the following: (a) A need for markedly increased amounts of alcohol to achieve intoxication or desired effect; (b) A markedly diminished effect with continued use of the same amount of alcohol”; and (11) “Withdrawal, as manifested by either of the following: (a) The characteristic withdrawal syndrome for alcohol[]; (b) Alcohol (or a closely related substance, such as a benzodiazepine) is taken to relieve or avoid withdrawal symptoms.” The presence of at least two of these eleven criteria “within a 12-month period” indicates an individual has AUD. An individual’s AUD shall be classified as mild if two to three criteria are met, moderate if four to five criteria are met, or severe if six or more criteria are met. DSM-5, *supra* note 2, at 490–97 (defining and characterizing AUD).

propose to amend this Nevada statute or others like it. However, an overwhelming number of state statutes do not conform to the language recommendations described in Part I. Illustrative examples of non-conforming statutes are presented below.

A. Criminal Law

Criminal law⁹⁷ is a rich source of alcohol-related language. For example, many states make it a crime for a person to appear in public in an alcohol-related state.⁹⁸ Georgia and Pennsylvania label this offense “[p]ublic drunkenness.”⁹⁹ Mississippi refers to the crime as “[p]ublic profanity or drunkenness.”¹⁰⁰ Missouri uses the word “[d]runkenness.”¹⁰¹ Florida has an entire chapter of criminal offenses organized under the partial title “[d]runkenness.”¹⁰² In Pennsylvania, “[a] police officer may, without warrant and upon view,” arrest an individual for “drunkenness.”¹⁰³

Some states take a different approach. That is, some states view alcohol-related conditions that may result in an individual being in an alcohol-related state as a public health issue deserving of treatment, not punishment. Statutes in these states frequently incorporate language such as “addicts,” “alcoholics,” “alcoholism,” “chronic alcoholics,” “common drunkards,” and “drunkenness.” In its “Uniform Alcoholism and Intoxication Treatment Act,” for example, Alaska states its policy that “alcoholics and intoxicated persons” should be treated instead of “criminally prosecuted for their consumption of alcoholic beverages.”¹⁰⁴ Colorado, by further example, has an official policy that “alcoholics” may not be subject to “criminal prosecution because of their consumption of alcohol” and that they should be treated instead.¹⁰⁵ The District of Columbia has an entire statutory chapter devoted to the “Rehabilitation of Alcoholics.”¹⁰⁶ The chapter directs all public officials in the District to alleviate chronic “alcoholism,” to handle public intoxication as a “public health problem rather than as a criminal offense,” and to recognize “that a chronic alcoholic is a sick person who needs, is entitled to, and shall be provided appropriate medical, psychiatric, institutional, advisory, and rehabilitative treatment services of the highest caliber for his illness.”¹⁰⁷ Idaho has a similar policy set forth in an “[a]lcoholism” statute that provides that “alcoholics, intoxicated persons or drug

⁹⁷ See generally JOSHUA DRESSLER & STEPHEN P. GARVEY, CASES AND MATERIALS ON CRIMINAL LAW xxv-xxxviii (8th ed. 2019) (including materials addressing principles of punishment, the modern role of criminal statutes, actus reus, mens rea, causation, homicide, rape and related sexual offenses, defenses to crimes, inchoate offenses, liability for the conduct of another, and theft).

⁹⁸ See *supra* note 29 (explaining the use of the phrase “alcohol-related state” in this Article).

⁹⁹ GA. CODE ANN. § 16-11-41 (West 2021); 18 PA. STAT. AND CONS. STAT. ANN. § 5505 (West 2021).

¹⁰⁰ MISS. CODE ANN. § 97-29-47 (West 2021).

¹⁰¹ MO. ANN. STAT. § 574.075(1) (West 2021).

¹⁰² FLA. STAT. ANN. tit. XLVI, Ch. 856 (West 2021).

¹⁰³ 11 PA. STAT. AND CONS. STAT. § 12005(1)(iv) (West 2021).

¹⁰⁴ ALASKA STAT. ANN. § 47.37.010 (West 2021).

¹⁰⁵ COLO. REV. STAT. ANN. § 44-3-503(1)(e) (West 2021).

¹⁰⁶ D.C. CODE ANN. § 24-601 (West 2021).

¹⁰⁷ *Id.*

addicts” should not be subject to criminal prosecution “solely because of their consumption of alcoholic beverages” or substance use.¹⁰⁸

Minnesota specifies that “drunkenness” and “public drunkenness” are not crimes, although an individual still may be charged with driving a motor vehicle while impaired by alcohol.¹⁰⁹ Political subdivisions in Idaho, Kansas, Montana, Nebraska, New Mexico, Rhode Island, and Tennessee are not permitted to adopt or enforce laws that include “being a common drunkard” as an element of an offense.¹¹⁰ Nevada also provides that “the use of alcohol, the status of drunkard, and the fact of being found in an intoxicated condition” cannot be elements of a criminal offense.¹¹¹ It is the policy of Vermont that: (1) “alcoholism and alcohol abuse” are “perceived as health and social problems rather than criminal transgressions”; (2) “alcoholics and alcohol abusers shall no longer be subjected to criminal prosecution solely because of their consumption of alcoholic beverages”; and (3) “alcoholics and alcohol abusers shall be treated as persons with the condition of alcoholism and shall be provided . . . [with] humane rehabilitative services.”¹¹² Delaware takes a slightly different approach. Specifically, Delaware makes “chronic alcoholism” an affirmative defense to the crime of public intoxication.¹¹³ North Carolina also makes an individual’s “alcoholism” “a defense to a charge of being intoxicated and disruptive in a public place.”¹¹⁴

Several states have additional crimes that use words and phrases such as “abusers,” “alcoholics,” “common drunkard,” “drug abusers,” “drunk,” “drunken,” and “habitual drunkard.” For example, Alabama makes it an offense for any person to be “drunk or intoxicated” around a polling place.¹¹⁵ Alabama also makes it an offense for a person to “deliver a pistol to any person who he or she has reasonable cause to believe is . . . an habitual drunkard.”¹¹⁶ In California, an individual “who sells or furnishes . . . intoxicating liquors to any habitual or common drunkard” is guilty of a misdemeanor.¹¹⁷ Georgia has an offense titled “Substance Abuse Patient Brokering,” which is a form of health care fraud engaged in by “substance abuse providers.” These providers are defined to include facilities that diagnose and treat “alcoholics, drug dependent individuals, or drug abusers.”¹¹⁸ Mississippi has a crime applicable to physicians whose patients die during surgery when the surgeon

¹⁰⁸ IDAHO CODE ANN. § 39-301 (West 2021).

¹⁰⁹ See MINN. STAT. ANN. § 340A.902 (West 2021).

¹¹⁰ IDAHO CODE ANN. § 39-310(1) (West 2021); KAN. STAT. ANN. § 65-4059 (West 2021); MONT. CODE ANN. § 53-24-106(1) (West 2021); NEB. REV. STAT. ANN. § 53-1,119(1) (West 2021); N.M. STAT. ANN. § 43-2-4(A) (West 2021); 23 R.I. GEN. LAWS ANN. § 23-1.10-16(a) (West 2021); TENN. CODE ANN. § 33-10-203(b) (West 2021). But see 45 R.I. GEN. LAWS ANN. § 45-6-1(a) (West 2021) (permitting Rhode Island towns and city councils to enact ordinances “against habitual drunkenness”).

¹¹¹ NEV. REV. STAT. ANN. § 458.260(1) (West 2021).

¹¹² VT. STAT. ANN. tit. 18, § 4801 (West 2021).

¹¹³ DEL. CODE ANN. tit. 11, § 4210(c) (West 2021).

¹¹⁴ N.C. GEN. STAT. ANN. § 14-445(a) (West 2021).

¹¹⁵ ALA. CODE § 17-17-51 (2021).

¹¹⁶ *Id.* § 13A-11-76(a).

¹¹⁷ CAL. PENAL CODE § 397 (West 2021). See *infra* notes 273-281 for additional discussion of liquor control laws containing alcohol-related language.

¹¹⁸ GA. CODE ANN. § 26-5-80(a)(5)(A) (West 2021).

operating was impaired by alcohol. The crime is named, in part, “drunken medical treatment.”¹¹⁹ Ohio has a specific criminal provision governing the “[c]ommitment of alcoholics and intoxicated persons.”¹²⁰ Rhode Island makes it a crime for persons “having the custody or control of” a child to: (1) allow the person’s home to be unfit for a child by reason of “drunkenness”; and (2) permit the home “to be the resort of . . . drunken . . . persons.”¹²¹

Some states clarify that alcohol use does not negate the intent necessary to form a crime. These states frequently use the word “drunkenness.” For example, Alaska’s violent crimes compensation law explains that “a person is considered to have intended an act notwithstanding” that, by “drunkenness,” “the person was legally incapable of forming a criminal intent.”¹²² Connecticut, similarly, deems a person “to have intended an act notwithstanding that,” by reason of “drunkenness,” “such person was legally incapable of forming” intent.¹²³ Hawaii, Louisiana, New Mexico, Rhode Island, and Tennessee also have crime victim reparation laws pursuant to which awards may be made to crime victims notwithstanding the fact that an individual may not have been legally capable of committing the crime by reason of “drunkenness.”¹²⁴

Many states have criminal statutes that reference alcohol-related assessments, examinations, initiatives, funds, services, and programs. Some of these statutes use the words “abuse,” “addicts,” “alcoholic,” “alcoholism,” “chronic alcoholics” and “drunk.” For example, California requires \$50 of each fine collected for certain criminal violations to be deposited in a special account for exclusive use by county “alcoholism” programs.¹²⁵ The District of Columbia permits its public defender service to represent persons subject to commitment due to being “chronic alcoholics.”¹²⁶ In Hawaii, certain individuals who admit to “alcohol abuse or alcoholism” are required to undergo certain assessments.¹²⁷ Indiana has a “minimum security release program” pursuant to which eligible individuals can be “temporarily released from custody” to obtain, among other things, “treatment for drug addiction or alcoholism.”¹²⁸ Minnesota’s form for use in felony guilty pleas inquires whether the individual pleading guilty was “so drunk” that the individual did not know what the individual “was doing at the time of the crime.”¹²⁹ New Jersey’s probation guidelines explain that “[m]any probationers are ‘addicts’ when sentenced.”¹³⁰ Oregon requires its Director of the Department of Corrections to maintain a directory

¹¹⁹ MISS. CODE ANN. § 97-3-39 (West 2021).

¹²⁰ OHIO REV. CODE ANN. § 2935.33 (West 2021).

¹²¹ 11 R.I. GEN. LAWS ANN. § 11-9-5(a) (West 2021).

¹²² ALASKA STAT. ANN. § 18.67.080(b) (West 2021).

¹²³ CONN. GEN. STAT. ANN. § 54-208(b) (West 2021).

¹²⁴ HAW. REV. STAT. ANN. § 351-31(b) (West 2021); LA. STAT. ANN. § 46:1805(C) (2021); N.M. STAT. ANN. § 31-22-7(B) (West 2021); 12 R.I. GEN. LAWS ANN. § 12-25-19(c) (West 2021); TENN. CODE ANN. § 29-13-109(d) (West 2021).

¹²⁵ CAL. PENAL CODE § 1463.16(a) (West 2021).

¹²⁶ D.C. CODE ANN. § 2-1602(a)(1)(F) (West 2021).

¹²⁷ HAW. REV. STAT. ANN. § 353G-4(a)(4) (West 2021).

¹²⁸ IND. CODE ANN. § 11-10-8-2(a)(4) (West 2021).

¹²⁹ MINN. R. CRIM. P. 15, App. A, Question 10 (2021).

¹³⁰ N.J. REV. STAT. DIR. 7-08(II)(8) (2021).

of rehabilitation programs that treat “drug or alcohol abuse.”¹³¹ South Carolina requires its Department of Corrections to develop and adopt standards for “alcohol and drug abuse counseling.”¹³² Utah includes as a permitted condition of release treatment for “drug or alcohol abuse or dependency.”¹³³ Virginia has detoxification programs for “public inebriates” as an alternative to arrest and jail.¹³⁴

Many states have treatment court provisions that allow certain individuals charged with or convicted of certain crimes to request treatment instead of prosecution. The statutes governing these treatment courts may use language such as “abuse,” “abusers,” “alcoholics,” and “dependency.” In its prefatory treatment court provisions, for example, Alabama explains that the “problems of alcohol and drug abuse” among Alabama residents are “extensive and exist at an unacceptable level” and that “alcohol . . . abuse or dependency [has] been identified as contributing factors in the commission of many crimes.”¹³⁵ Louisiana’s treatment court statute refers to “alcohol and drug abuse programs,” “alcohol and drug abusers,” and “alcoholic or drug addicts.”¹³⁶ Mississippi’s treatment court statute points to the expertise of, among other individuals, “substance abuse” professionals.¹³⁷ As discussed in more detail below, the language used by lawmakers in the context of treatment courts—courts in which individuals with AUD must request to participate and during which such individuals are encouraged to enter recovery—are critical in terms of supporting an individual’s belief in the ability to change.

Some states also have industrial farms and workhouses to which individuals charged with or convicted of certain crimes can be committed. For example, Pennsylvania allows its courts to commit persons charged with “drunkenness” to an industrial farm or workhouse.¹³⁸ In a separate provision, Pennsylvania gives its county commissioners the authority to build and improve an “inebriate asylum.”¹³⁹

B. Education Law

Education law¹⁴⁰ also is an abundant source of alcohol-related language. For example, some state statutes establish educational programs that are designed to prevent, diagnose, or treat AUD. However, these statutes use the words “abuse,” “alcoholics,” “alcoholism,” “drunkenness,” or “habitual drunkard.” Alabama, for example, encourages the prevention of “alcohol and drug abuse among children in

¹³¹ OR. REV. STAT. ANN. § 135.980(1) (West 2021).

¹³² S.C. CODE ANN. § 24-13-1940(4) (2021).

¹³³ UTAH R. CRIM. P. 27(c)(12) (West 2021).

¹³⁴ VA. CODE ANN. §§ 9.1-176(A), 18.2-388 (West 2021).

¹³⁵ ALA. CODE § 12-23-2 (2021).

¹³⁶ LA. STAT. ANN. §§ 13:5303(1), (3), (4) (2021).

¹³⁷ MISS. CODE ANN. § 9-23-5(c) (West 2021).

¹³⁸ 61 PA. STAT. AND CONS. STAT. § 1789(b)(2) (West 2021).

¹³⁹ 16 PA. STAT. AND CONS. STAT. § 5528 (West 2021).

¹⁴⁰ See generally MICHAEL J. KAUFMAN & SHERELYN R. KAUFMAN, EDUCATION LAW, POLICY, AND PRACTICE (4th ed. 2017) (including legal materials relating to early childhood education, public education, school governance, school boards, equal educational opportunities, students with disabilities, and faculty and student rights and responsibilities); AMY GAJDA & MICHAEL A. OLIVAS, THE LAW AND HIGHER EDUCATION (4th ed. 2015) (covering similar topics in the context of higher education).

the public schools.”¹⁴¹ Alaska has designated the “month of March . . . as Sobriety Awareness Month,” during which schools may engage in activities designed to help prevent and treat “alcoholism [and] drug abuse.”¹⁴² Arkansas requires a state medical school to establish a “Chair on Alcoholism and Drug Abuse Prevention.”¹⁴³ The Ohio State University’s College of Medicine is required by state statute to have a research program on “alcoholism” and establish facilities for the care of “alcoholics.”¹⁴⁴ Michigan requires certain schools to provide instruction on “substance abuse,” including the “abusive use of tobacco, alcohol, and drugs.”¹⁴⁵ Minnesota provides grants to certain recovery programs, defined as those programs that offer a course of instruction “to students recovering from substance abuse or dependency.”¹⁴⁶ New York has a policy to promote comprehensive education for children and youth on “the risks associated with alcoholism and substance abuse.”¹⁴⁷

North Carolina requires comprehensive, age-appropriate, health education for students in kindergarten through ninth grade on “[d]rug and alcohol abuse prevention.”¹⁴⁸ Oklahoma has an “Alcohol and Drug Abuse Prevention and Life Skills Education Act,” the purpose of which is to encourage school districts to develop and implement a “drug and alcohol abuse” prevention curriculum.¹⁴⁹ Oregon Health and Science University is required to have an integrated medical school curriculum that teaches medical students “drug and alcohol abuse assessment and treatment procedures and practices.”¹⁵⁰ In Utah, certain school districts require school nurses to complete annual continuing education on “alcohol and substance abuse.”¹⁵¹ Vermont requires an “alcohol and drug abuse” prevention curriculum to be developed “for elementary and secondary schools.”¹⁵² Virginia requires public schools to provide instruction on “alcohol abuse, underage drinking, and drunk driving.”¹⁵³ In the context of higher education, Washington requires its state colleges, universities, and community colleges to make available “educational materials on the abuses of alcohol.”¹⁵⁴ Wyoming requires “professional counselor[s], marriage and family therapist[s], clinical social worker[s], and] addiction[] therapist[s]” to complete hundreds of hours of education and training in “alcoholism and drug abuse” or related topics.¹⁵⁵ As discussed in more detail in Part III, education statutes that establish curricular content for primary, secondary, post-secondary, and professional students as well as practicing professionals are critical. The goal of education should

¹⁴¹ ALA. CODE § 16-40A-1(b)(2) (2021).

¹⁴² ALASKA STAT. ANN. § 44.12.165 (West 2021).

¹⁴³ ARK. CODE ANN. § 6-64-412 (West 2021).

¹⁴⁴ OHIO REV. CODE ANN. § 3335.151 (West 2021).

¹⁴⁵ MICH. COMP. LAWS ANN. § 380.1170(1) (West 2021).

¹⁴⁶ MINN. STAT. ANN. § 124D.695(1) (West 2021).

¹⁴⁷ N.Y. MENTAL HYG. LAW § 19.01 (McKinney 2021).

¹⁴⁸ N.C. GEN. STAT. ANN. § 115C-81.25(c)(2) (West 2021).

¹⁴⁹ OKLA. STAT. ANN. tit. 70, § 1210.229-2 (West 2021).

¹⁵⁰ OR. REV. STAT. ANN. § 430.930 (West 2021).

¹⁵¹ UTAH CODE ANN. § 53F-2-519(2)(b)(iv) (West 2021).

¹⁵² VT. STAT. ANN. tit. 16, § 909(a) (West 2021).

¹⁵³ VA. CODE ANN. § 22.1-206(B) (West 2021).

¹⁵⁴ WASH. REV. CODE ANN. § 28B.10.295 (West 2021).

¹⁵⁵ WYO. STAT. ANN. § 33-38-106(n)(i) (West 2021).

be to eliminate, not perpetuate, students' and professionals' pre-existing prejudices against individuals with substance use disorders, including AUD.¹⁵⁶ For this reason, Part III of this Article prioritizes the amendment of education statutes containing alcohol-related language.

Some states also have statutes that prohibit certain individuals' admission, employment, or retention based on alcohol-related states or alcohol-related health conditions. Some of these statutes use the language of "alcohol abuse," "drunkenness," and "habitual drunkard." For example, Alabama prohibits its Marion Military Institute from admitting students with "a history of drug/alcohol abuse."¹⁵⁷ Louisiana allows the removal of permanent school bus drivers based on "drunkenness while on duty."¹⁵⁸ Mississippi requires schools that teach students how to be gaming employees to investigate the students to ensure that they are not "habitual drunkard[s]."¹⁵⁹ Mississippi also allows the removal of school superintendents for "drunkenness."¹⁶⁰ Missouri board of regents at state teachers colleges have "the power to suspend, or expel," students for "drunkenness or immoral conduct."¹⁶¹ Missouri also provides that a president, professor, or teacher of a state college or university may be removed for "drunkenness or immoral conduct."¹⁶² North Dakota school board members may be removed from office for "habitual drunkenness."¹⁶³ In Ohio, the contracts of non-teaching school district employees may be terminated for "drunkenness."¹⁶⁴ South Carolina teachers may lose their teaching certificates for "drunkenness."¹⁶⁵

C. Employment Law

Employment law¹⁶⁶ is a moderate source of alcohol-related language. Some employment statutes permit employers to hold employees with an alcohol-related condition to the same standards of job performance as employees without an

¹⁵⁶ See Crapanzano, Vath & Fisher, *supra* note 21, at 420 (investigating the extent to which graduate health care professional students held stigmatizing beliefs towards individuals with substance use disorders even after an educational intervention designed to lessen such stigma).

¹⁵⁷ ALA. CODE § 16-60-337(a) (2021).

¹⁵⁸ LA. STAT. ANN. § 17:493(A)(1) (2021).

¹⁵⁹ MISS. CODE ANN. § 75-76-34(2)(k)(iii) (West 2021).

¹⁶⁰ *Id.* § 37-1-7.

¹⁶¹ MO. ANN. STAT. § 174.120 (West 2021).

¹⁶² *Id.* § 174.150.

¹⁶³ See N.D. CENT. CODE ANN. § 44-10-02 (West 2021).

¹⁶⁴ OHIO REV. CODE ANN. § 3319.081(C) (West 2021).

¹⁶⁵ S.C. CODE ANN. § 59-25-160(5) (2021).

¹⁶⁶ Employment law, sometimes referenced as part of work law, may be characterized as a patchwork of statutory and common law interventions relating to the law governing union organizing and collective bargaining, individual rights at work, and workplace discrimination. See generally MARK ROTHSTEIN, LANCE LIEBMAN, KIMBERLY A. YURACKO & CHARLOTTE GARDEN, *EMPLOYMENT LAW CASES AND MATERIALS* vii-xxii (9th ed. 2020) (including materials on the employment relationship, the terms and conditions of employment, employee health benefits, employee liberty, occupational safety and health, employee disability, employee discharge, and retirement); *Preface* to MARION G. CRAIN, PAULINE T. KIM & MICHAEL SELMI, *WORK LAW: CASES AND MATERIALS* xi (3d ed. 2015) (including materials on job security, employee mobility, employee voice, employee discrimination, diverse workplaces, wages and hours, health and pension plans, and health and safety).

alcohol-related condition. These statutes sometime use the words “alcoholic” or “alcoholism.” For example, Illinois permits an employer to “hold an employee . . . who is an alcoholic to the same” standards of job performance that the “employer holds other employees, even if” the subject employee’s poor performance or behavior is related to “alcoholism.”¹⁶⁷ Indiana also allows an employer to “[h]old an employee . . . who is an alcoholic to the same qualification” and performance standards as other employees even if any substandard performance or behavior is related to “alcoholism.”¹⁶⁸

Some employment statutes establish substance-free workplace programs and/or substance use disorder prevention, diagnosis, and treatment programs. Some of these statutes incorporate the language of “abuse,” “alcoholics,” and “alcoholism.” Alabama, for example, has a “Drug-Free Workplace Program” statute that references “work related accidents resulting from substance abuse,” where “substance” is defined to include “alcohol.”¹⁶⁹ In the District of Columbia, the Mayor is “responsible for developing and maintaining . . . programs for the prevention and treatment of alcoholism and the rehabilitation of alcoholics among” District employees.¹⁷⁰ A Minnesota statute addressing the confidentiality of employee alcohol and drug test results contains an exception for disclosures to “substance abuse treatment facilit[ies] for the purpose of” employee evaluation or treatment.¹⁷¹ In South Carolina, state employees who have an “alcoholism problem” or a “drinking problem” are “encouraged to seek diagnosis” and treatment.¹⁷² In Vermont, an employer may require an employee to submit to a drug test if, among other requirements, “[t]he employer has available . . . a bona fide rehabilitation program for alcohol or drug abuse.”¹⁷³

Some employment statutes identify negative consequences for alcohol-related activities or alcohol-related states that occur at work. In Ohio, for example, employees of the Department of Rehabilitation and Correction can be fired due to “drunkenness.”¹⁷⁴ Indiana, by further example, permits the superintendent of a county home to terminate the employment of any assistant, nurse, farmer, laborer, or other employee who is “guilty of drunkenness.”¹⁷⁵

D. Family Law

Family law¹⁷⁶ contains ample alcohol-related language, especially in the context of divorce. State divorce statutes frequently use phrases such as “habitual drunkard,”

¹⁶⁷ 775 ILL. COMP. STAT. ANN. 5/2-104(C)(3)(d) (West 2021).

¹⁶⁸ IND. CODE ANN. § 22-9-5-24(a)(4) (West 2021).

¹⁶⁹ ALA. CODE §§ 25-5-330, 25-5-331(15) (2021).

¹⁷⁰ D.C. CODE ANN. § 24-610(a) (West 2021).

¹⁷¹ MINN. STAT. ANN. § 181.954(3) (West 2021).

¹⁷² S.C. CODE ANN. § 8-11-110 (2021).

¹⁷³ VT. STAT. ANN. tit. 21, § 513(c)(2) (West 2021).

¹⁷⁴ OHIO REV. CODE ANN. § 5120.382 (West 2021).

¹⁷⁵ IND. CODE ANN. § 12-30-2-9(c) (West 2021).

¹⁷⁶ Family law focuses on the legal obligations and consequences that flow from certain intimate relationships. Family law includes, but is certainly not limited to, the law governing marriage, non-marital families, divorce, parenting, child custody, child support, and child adoption. *See generally* JUDITH AREEN, MARC SPINDELMAN, PHILOMILA

“habitual drunkenness,” “habitual gross drunkenness,” and “habitual intoxication.” Alabama, for example, lists “habitual drunkenness” as a cause for divorce.¹⁷⁷ “Habitual drunkenness” also is a ground for divorce in Mississippi, New Jersey, Ohio, Oklahoma, South Carolina, Tennessee, Utah, and West Virginia.¹⁷⁸ Other states use slightly different language. Alaska, for example, permits a divorce based on “habitual gross drunkenness.”¹⁷⁹ New Hampshire allows divorce “[w]hen either party is an habitual drunkard.”¹⁸⁰ In Georgia, the language used is “habitual intoxication.”¹⁸¹ In Idaho and South Dakota, it is “habitual intemperance.”¹⁸² In Rhode Island, it is “continued drunkenness.”¹⁸³

Child support, child placement, child supervision, child adoption, and consent to treatment for child laws also may refer to the alcohol-related condition of a parent. These laws sometimes use the words and phrases “abuse,” “addict,” “alcoholism,” “habitual drunkard” and “habitual drunkenness.” For example, the District of Columbia Board of Public Welfare is charged with the care and supervision of the children of “habitually drunken” parents.¹⁸⁴ In Georgia, if a child is found neglected due to the “habitual drunkenness” of the child’s parents or guardians, a court may order the parents or guardians to lose custody of the child.¹⁸⁵ Indiana permits a dependent spouse to bring an action to obtain support for the dependent and any children if the other spouse is a “habitual drunkard.”¹⁸⁶ In the context of adoption, Illinois includes within the definition of an unfit adoptive parent a person who has “[h]abitual drunkenness.”¹⁸⁷ In Kentucky, a child may be committed to a county children’s home if the child’s parents “are in constant habits of drunkenness.”¹⁸⁸ In Mississippi, an imminently necessary “medical or surgical treatment” may be provided to a minor even without the consent of a family member or legally authorized representative if, among other facts, “[t]here has been filed with” a court “a pleading seeking the adjudication of [the minor] as a . . . drug addict, habitual drunkard or neglected child.”¹⁸⁹ For purposes of its child custody statutes, New

TSOUKALA & SOLANGEL MALDONADO, *FAMILY LAW, CASES AND MATERIALS* xix–xxxvi (7th ed. 2019) (including materials on these topics); Martha Albertson Fineman, *The Neutered Mother*, 46 U. MIA. L. REV. 653, 655 (1992) (describing the field of family law); Jana B. Singer, *The Privatization of Family Law*, 1992 WIS. L. REV. 1443, 1445 (1992) (identifying illustrative focus areas within family law, including marriage and consensual alternatives to marriage, divorce and financial consequences of divorce, adoption, surrogate parenting, and child custody).

¹⁷⁷ ALA. CODE § 30-2-1(a)(6) (2021).

¹⁷⁸ MISS. CODE ANN. § 93-5-1 (West 2021); N.J. STAT. ANN. § 2A:34-2(e) (West 2021); OHIO REV. CODE ANN. § 3105.17(A)(7) (West 2021); OKLA. STAT. ANN. tit. 43, § 101(8) (West 2021); S.C. CODE ANN. § 20-3-10(4) (2021); TENN. CODE ANN. § 36-4-101(a)(10) (West 2021); UTAH CODE ANN. § 30-3-1(3)(e) (West 2021); W. VA. CODE ANN. § 48-5-207(a) (West 2021).

¹⁷⁹ ALASKA STAT. ANN. § 25.24.050(6) (West 2021).

¹⁸⁰ N.H. REV. STAT. ANN. § 458:7(VII) (2021).

¹⁸¹ GA. CODE ANN. § 19-5-3(9) (West 2021).

¹⁸² IDAHO CODE ANN. § 32-603(5) (West 2021); S.D. CODIFIED LAWS § 25-4-2(5) (2021).

¹⁸³ 15 R.I. GEN. LAWS ANN. § 15-5-2(5) (West 2021).

¹⁸⁴ D.C. CODE ANN. § 4-116(2) (West 2021).

¹⁸⁵ GA. CODE ANN. § 19-7-4 (West 2021).

¹⁸⁶ IND. CODE ANN. § 31-16-14-1(a)(3) (West 2021).

¹⁸⁷ 750 ILL. COMP. STAT. ANN. 50/1(D)(k) (West 2021).

¹⁸⁸ KY. REV. STAT. ANN. § 201.090(5) (West 2021).

¹⁸⁹ MISS. CODE ANN. § 41-41-9(b) (West 2021).

Jersey defines “mentally incapacitated” as a parent’s inability to care for and support a child due to “the effects of drug, alcohol, or substance abuse.”¹⁹⁰ In Rhode Island, all cases in which “an habitual drunkard” is accused of neglecting or refusing to support the person’s family are required to be referred to the family court.¹⁹¹ In Vermont, a preplacement evaluation of a prospective adoptive parent shall include a “history of abuse of alcohol or drugs.”¹⁹² Washington requires persons who conduct child abuse and neglect investigations to be trained to identify “indicators of abuse of alcohol or controlled substances.”¹⁹³ In West Virginia, a parent may be required to “complete a program of intervention . . . for drug or alcohol abuse” as part of custody allocation determination.¹⁹⁴

Community property laws also may refer to the alcohol-related condition of one spouse, sometimes using the language of “habitual drunkard.” In Hawaii, for example, one spouse may petition to have real and personal community property that would otherwise be under the management and control of the second spouse placed under the control of the first spouse if the second spouse “is an habitual drunkard.”¹⁹⁵ Michigan has a law that is similar to Hawaii’s.¹⁹⁶ When a spouse in Missouri, “from worthlessness, drunkenness or other cause fail[s] to make sufficient provision” for the second spouse’s support, the circuit court may authorize the second spouse to sell the first spouse’s real estate.¹⁹⁷

E. Firearms Law

Firearms law¹⁹⁸ is a moderate source of alcohol-related language. Some state firearms statutes use words and phrases such as “addict,” “alcoholic,” “alcoholism,” “drunk,” “habitual drunkard,” and “habitual drunkenness.” For example, Illinois prohibits the issuance of a firearm license to an individual who has “been in residential or court-ordered treatment for alcoholism” within five years of the date of the application for the firearm license.¹⁹⁹ Maryland prohibits the issuance of a handgun permit to “an alcoholic” or “addict.”²⁰⁰ Massachusetts prohibits the issuance of a firearm license to a person who “is or has been under treatment or confinement for drug addiction or habitual drunkenness” unless the person “is deemed to be cured of such condition by a licensed physician” and the person presents an affidavit from the physician stating that the person “is deemed cured.”²⁰¹ Under Michigan law,

¹⁹⁰ N.J. STAT. ANN. § 9:2-13(e) (West 2021).

¹⁹¹ 8 R.I. GEN. LAWS ANN. § 8-10-4 (West 2021).

¹⁹² VT. STAT. ANN. tit. 15A, § 2-203(d)(4) (West 2021).

¹⁹³ WASH. REV. CODE ANN. § 26.44.170(2) (West 2021).

¹⁹⁴ W. VA. CODE ANN. § 48-9-209(b)(9) (West 2021).

¹⁹⁵ HAW. REV. STAT. ANN. § 510-6(a) (West 2021).

¹⁹⁶ MICH. COMP. LAWS ANN. § 557.211 (West 2021).

¹⁹⁷ MO. ANN. STAT. § 452.190 (West 2021).

¹⁹⁸ See generally NICHOLAS J. JOHNSON, DAVID B. KOPEL, GEORGE A. MOCSARY & MICHAEL P. O’SHEA, FIREARMS LAW AND THE SECOND AMENDMENT: REGULATION, RIGHTS, AND POLICY (2d ed. 2017) (including historical and present-day material on firearms rights, duties, control, and regulation).

¹⁹⁹ 430 ILL. COMP. STAT. ANN. 66/25(5) (West 2021).

²⁰⁰ MD. CODE ANN., PUB. SAFETY § 5-306(a)(4) (West 2021).

²⁰¹ MASS. GEN. LAWS ANN. ch. 140, § 131F(iii) (West 2021).

“[a]ny person who shall be drunk . . . while hunting with a firearm . . . shall be deemed to be a disorderly person.”²⁰² Pennsylvania will not issue a license to carry a firearm to an “habitual drunkard.”²⁰³ Rhode Island will not grant a hunting license to any person adjudicated or “under treatment or confinement as a drug addict” or “habitual drunkard.”²⁰⁴ South Carolina prohibits the sale, offer to sell, delivery, or lease of a handgun to a person who is an “habitual drunkard.”²⁰⁵

F. Health and Social Services Law

Health law and social services law²⁰⁶ contain an extraordinary amount of alcohol-related language, perhaps more than any other areas of the law. Relevant statutes may be broken down into those that: (1) identify and define key health care and social services terms; (2) establish programs through which health care and social services may be delivered; and (3) create policy boards, advisory boards, commissions, and funds relevant to the provision of health care and social services. Each class of statutes—and the alcohol-related language therein—will be discussed in turn.

State statutes identifying and defining key health care and social services terms are an abundant source of alcohol-related language. Many of these statutes use the language of “abuse,” “abusers,” “addicts,” “alcoholics,” “alcoholism,” “alcohol users,” “drunkards,” “habitual,” “habitually,” and “habitual drunkenness.” For example, Alabama law governing hospitals and other health care facilities defines “health services” to include “alcohol [and drug] abuse” services.²⁰⁷ Delaware titles a relevant act the “Substance Abuse Treatment Act” and uses the phrase “substance abuse,” defined as the “chronic, habitual, regular, or recurrent use of alcohol.”²⁰⁸ Georgia has an entire statutory chapter devoted to the “Hospitalization and Treatment of Alcoholics, Drug Dependent Individuals, and Drug Abusers.”²⁰⁹ The chapter uses the term “alcoholic,” defined as “a person who habitually lacks self-control as to the use of alcoholic beverages or who uses alcoholic beverages to the extent that his health is substantially impaired or endangered or his social or economic function is substantially disrupted.”²¹⁰

²⁰² MICH. COMP. LAWS ANN. § 750.167a (West 2021).

²⁰³ 18 PA. STAT. AND CONS. STAT. § 6109(e)(1)(vii) (West 2021).

²⁰⁴ 20 R.I. GEN. LAWS ANN. § 20-13-5(a)(3) (West 2021).

²⁰⁵ S.C. CODE ANN. § 16-23-30(A)(1) (2021).

²⁰⁶ Health law includes the regulation of health care access, delivery, cost, quality, liability, organization, finance, and reform, as well as related bioethics issues and social justice topics. *See generally* BARRY R. FURROW, ELIZABETH A. PENDO, THOMAS L. GREANEY, SANDRA H. JOHNSON, TIMOTHY STOLTZFUS JOST, ROBERT L. SCHWARTZ, BRIETTA R. CLARK, ERIN C. FUSE BROWN, ROBERT GATTER & JAIME S. KING, *HEALTH LAW: CASES, MATERIALS, AND PROBLEMS* (8th ed. 2018) (presenting materials on these and other topics). Social services law includes the regulation of public services (such as health care, housing, welfare, and social security) provided by federal, state, and local governments. *See generally* FRANK S. BLOCH & JON C. DUBIN, *SOCIAL SECURITY LAW, POLICY, AND PRACTICE* (2016) (presenting materials on some of these topics).

²⁰⁷ ALA. CODE § 22-21-260(8) (2021).

²⁰⁸ DEL. CODE ANN. tit. 16, Ch. 22 (West 2021); *id.* tit. 16, § 2203(16).

²⁰⁹ GA. CODE ANN. § 37-7 (West 2021).

²¹⁰ *Id.* § 37-7-1(1).

Idaho, in its “Alcoholism and Intoxication Treatment Act,” uses the term “alcoholic,” defined in relevant part as “a person who has the disease of alcoholism.”²¹¹ Maine defines a “drug treatment center” to include residential facilities designed for the treatment of “alcohol users.”²¹² Michigan uses the word “drunkard,” defined to include “all persons who use alcoholic, spirituous, malt, brewed, fermented or vinous liquors . . . to such an extent as to deprive him or her of a reasonable degree of self-control.”²¹³ Mississippi has an entire statutory chapter devoted to the civil commitment of “alcoholics and drug addicts.”²¹⁴ In this chapter, “alcoholic” is defined as “any person who chronically and habitually uses alcoholic beverages to the extent that he has lost the power of self-control with respect to the use of such beverages, or any person who, while chronically under the influence of alcoholic beverages, endangers public morals, health, safety or welfare.”²¹⁵

New Hampshire has a “Substance Use Disorder Services System” that defines “clients” as certain persons who voluntarily seek “substance abuse treatment.”²¹⁶ In its mental health statutes, North Carolina uses the phrase “substance abuse,” defined in relevant part as “[t]he pathological use or abuse of alcohol.”²¹⁷ Ohio’s mental health statutes use the term “alcoholic,” defined as “a person suffering from alcoholism.”²¹⁸ Rhode Island, too, has an entire statutory chapter devoted to “alcoholism” that relies on a range of defined terms, including “alcoholic.”²¹⁹ Vermont defines “alcoholic” as “a person with . . . alcoholism” and defines “alcoholism” with reference to the “chronic absence of control . . . over the frequency or volume of . . . alcohol intake” and the inability of the individual “to moderate consistently his or her drinking practices in spite of the onset of a variety of consequences deleterious to his or her health.”²²⁰ West Virginia defines an “inebriate” as certain individuals who are incapable of conducting themselves “by reason of periodical, frequent or constant drunkenness, induced . . . by the use of alcoholic or other liquors.”²²¹

In addition to statutes identifying and defining relevant terms, statutes establishing programs through which health care and social services may be accessed also contain plentiful alcohol-related language. Many of these statutes use words and phrases such as “abuse,” “abusers,” “addicts,” “alcoholics,” “alcoholism,” “drunkard,” “habitual drunkard” and “the chemically dependent.” For example, Alabama makes certain health and social services available to some children, including “[a]lcohol . . . abuse treatment” services.²²² Within a statutory chapter devoted to “alcohol and drug abuse,” by further example, Arkansas has a subchapter

²¹¹ IDAHO CODE ANN. § 39-302(2) (West 2021).

²¹² ME. REV. STAT. ANN. tit. 22, § 8001 (West 2021).

²¹³ MICH. COMP. LAWS ANN. § 404.203 (West 2021).

²¹⁴ MISS. CODE ANN. § 41-31 (West 2021).

²¹⁵ *Id.* § 41-31-1(a).

²¹⁶ N.H. Rev. Stat. Ann. § 172:1(IX-a) (2022).

²¹⁷ N.C. GEN. STAT. ANN. § 122C-3(36) (West 2021).

²¹⁸ OHIO REV. CODE ANN. §§ 5119.01(A)(4), (5) (West 2021).

²¹⁹ 23 R.I. GEN. LAWS ANN. § 23-1.10-2(1) (West 2021).

²²⁰ VT. STAT. ANN. tit. 18, §§ 4802(1), (2) (West 2021).

²²¹ W. VA. CODE ANN. § 27-1-4 (West 2021).

²²² ALA. CODE § 12-15-701(h)(6) (2021).

devoted to “alcoholism.”²²³ The laudable purpose of the chapter is to recognize AUD as a treatable illness and to provide access to such treatment; however, the statutory language repeatedly refers to “alcoholics” and “alcoholism.”²²⁴ Arizona permits “an alcoholic” to “apply for evaluation and treatment” at certain approved facilities.²²⁵ Connecticut prioritizes preventing and treating “drug abuse and alcoholism” in its community social services programs.²²⁶ Illinois supports the development and implementation of community action programs, including programs for “the rehabilitation of narcotics addicts and alcoholics.”²²⁷ Illinois also affords recipients of public aid the opportunity to receive services “for the treatment and prevention of alcoholism and substance abuse.”²²⁸ Indiana has community action programs designed to rehabilitate “narcotic addicts and alcoholics.”²²⁹ Indiana’s Division of Mental Health and Addiction also is responsible for “approving and certifying facilities and services for . . . alcoholics [and] drug abusers.”²³⁰

Michigan has a law titled “Indigent Addicts” (in the statutory table of contents) and “Indigent Liquor or Drug Addict” (in the title of the statutory provision) that permits any inhabitant of Michigan who is “addicted to the excessive use of any intoxicating liquors . . . to such an extent as to become an habitual drunkard” to petition the county for treatment.²³¹ Missouri has civil detention procedures pertaining to individuals with “alcohol and drug abuse.”²³² Montana has an entire statutory chapter relating to “Alcoholism and Drug Dependence.”²³³ In that chapter, there is a provision devoted to “[t]reatment of the chemically dependent.”²³⁴ New Jersey’s North Princeton Development Center is charged with caring for “acute alcoholics [and] drug addicts.”²³⁵ New York has an “Alcoholism and Substance Abuse Act” that is implemented by the Commissioner of New York’s “Office of Alcoholism and Substance Abuse” on the advice of the “advisory council on alcoholism and substance abuse.”²³⁶ Pennsylvania authorized its Department of Health “to establish a Program of Alcoholic Studies and Rehabilitation” to study, among other issues, “the problems of alcoholism.”²³⁷

South Carolina created a Division on Alcohol and Drug Addiction within the State Department of Mental Health that is responsible for treating “alcohol and drug addicts.”²³⁸ South Dakota has an entire statutory chapter on the “Treatment and

²²³ ARK. CODE ANN. § 20-64-701 (West 2021).

²²⁴ See *id.* §§ 20-64-701(a)-(f).

²²⁵ ARIZ. REV. STAT. ANN. § 36-2024 (2021).

²²⁶ CONN. GEN. STAT. ANN. § 17b-890(7) (West 2021).

²²⁷ 20 ILL. COMP. STAT. ANN. 625/4(b)(6) (West 2021).

²²⁸ 305 ILL. COMP. STAT. ANN. 5/9-1(f) (West 2021).

²²⁹ IND. CODE ANN. §§ 12-14-23-4(a)(6)(A), (B) (West 2021).

²³⁰ *Id.* § 12-23-1-6(4).

²³¹ MICH. COMP. LAWS ANN. § 404.201 (West 2021).

²³² See MO. ANN. STAT. § 631.005 (West 2021).

²³³ MONT. CODE ANN. tit. 53, Ch. 24 (West 2021).

²³⁴ *Id.* § 53-24-301.

²³⁵ N.J. STAT. ANN. § 30:4-177.14 (West 2021).

²³⁶ N.Y. MENTAL HYG. LAW § 19.15 (McKinney 2021).

²³⁷ 50 PA. STAT. AND CONS. STAT. § 2101 (West 2021).

²³⁸ S.C. CODE ANN. §§ 44-9-10, 44-9-50 (2021).

Prevention of Alcohol and Drug Abuse.”²³⁹ Tennessee has a board of “Alcohol and Drug Abuse Counselors” that oversee licensed alcohol and drug abuse counselors in the state.²⁴⁰ Tennessee also has an “Alcohol Abuse Prevention” program that authorizes counties to provide funds for services furnished to “alcoholics” and to help treat “alcoholics.”²⁴¹ Utah gives its cities the authority to “provide for treatment of alcoholics, narcotic addicts, and other individuals who are addicted to the use of drugs or intoxicants.”²⁴² Wisconsin charges its Department of Health Services with executing laws relating to the treatment of “inebriates and drug addicts”²⁴³ and allows certain sized counties to have a mental health complex devoted to the care of “drug addicts” and “alcoholics.”²⁴⁴ As discussed in Part III, the language used to refer to these health care and social services programs, as well as the language used by these programs in their outreach to individuals, is critical. Lawmakers who use stigmatizing statutory language that permeates public discourse may unintentionally deter individuals who would benefit from services from applying for or otherwise accessing such services.

In addition to statutes identifying and defining relevant terms and statutes establishing programs through which health care and social services may be accessed, statutes establishing relevant policy boards, advisory boards, commissions, and funds also are fertile ground for alcohol-related language. The statutes governing these boards, commissions, and funds sometimes use the words “abuse,” “abusers,” “alcoholics,” “alcoholism,” and “chronic alcoholics.” Alaska, for example, has created an “Advisory Board on Alcoholism and Drug Abuse” that is responsible for advising the Alaska government on, among other things, “legal processes that affect the treatment and rehabilitation of alcoholics and drug abusers.”²⁴⁵ Kansas established a fund for the “purchase, establishment, maintenance or expansion of services” for “alcoholism and drug abuse” and to treat “persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers.”²⁴⁶ Massachusetts has a “Substance Abuse Prevention and Treatment Fund.”²⁴⁷ Oklahoma has enacted the “Oklahoma Drug and Alcohol Abuse Policy Board Act.”²⁴⁸ As discussed in Part III, the language used by boards that are charged with advising lawmakers, policymakers, health care providers, and/or social services providers is especially important. To the extent this language filters down to potential service recipients, either through online or printed materials or through written communications or verbal conversations, potential service recipients may be discouraged from applying for or otherwise accessing services.

²³⁹ S.D. CODIFIED LAWS tit. 34, Ch. 34-20a (2021).

²⁴⁰ TENN. CODE ANN. §§ 68-24-601, 68-24-602 (West 2021).

²⁴¹ *Id.* §§ 33-10-405(1), (3).

²⁴² UTAH CODE ANN. § 10-8-47(2)(b) (West 2021).

²⁴³ WIS. STAT. ANN. § 46.03(5)(a) (West 2021).

²⁴⁴ *Id.* § 51.08.

²⁴⁵ ALASKA STAT. ANN. § 44.29.140(a)(1)(D) (West 2021).

²⁴⁶ KAN. STAT. ANN. § 65-4060(c) (West 2021).

²⁴⁷ MASS. GEN. LAWS ANN. ch. 29, § 2BBBB (West 2021).

²⁴⁸ OKLA. STAT. ANN. tit. 74, § 30 (West 2021).

G. Insurance Law

Insurance law²⁴⁹ is a not insignificant source of alcohol-related language, including “abuse,” “addicts,” “alcoholic,” “alcoholism,” “drunk,” “habitual,” and “habitual drunkard.” Most of the statutes containing these words are designed to help individuals with substance use disorders, including AUD, obtain insurance coverage of relevant treatments and services. Arizona requires group disability insurers to cover “drug abuse or alcoholism services . . . without regard to whether the covered services are rendered in a psychiatric . . . or general hospital.”²⁵⁰ California unemployment insurance law references “alcoholic recovery home[s].”²⁵¹ Delaware requires certain large group health plans to cover “drug and alcohol dependencies,” defined to include “substance abuse disorder or the chronic, habitual, regular, or recurrent use of alcohol.”²⁵² Georgia requires accident and sickness insurers that cover “alcoholism or drug addiction” to cover care provided in facilities that “specialize[] in the treatment of alcoholics or drug addicts.”²⁵³ Illinois requires certain group health plans that cover “alcoholism or other drug abuse or dependency” to cover certain “substance use disorder treatment” providers.²⁵⁴

Kansas requires individual and small group health plans that issue health insurance to offer minimum insurance benefits for individuals with “alcoholism, drug abuse, and substance use disorders.”²⁵⁵ Louisiana requires group health plans that cover “alcoholism” and “drug abuse” in hospitals to also cover treatments provided in non-hospital “chemical dependency” units.²⁵⁶ Minnesota requires certain group accident and health insurers to cover treatments for “alcoholism, chemical dependency or drug addiction.”²⁵⁷ Missouri requires all individual and family health plans that provide hospital coverage to cover treatments for “alcoholism,” regardless of whether the treatments are provided in a hospital, in a residential facility, or in certain non-residential facilities.²⁵⁸ In Nevada, a policy for health insurance may not be issued unless it covers “alcohol or substance abuse disorder.”²⁵⁹ New Hampshire requires health maintenance organizations (HMOs) and accident and health insurance policies to cover treatments and services “for chemical dependency, including alcoholism.”²⁶⁰ North Carolina also requires HMOs to cover treatments and services for “chemical dependency,” defined in part as the “pathological use or

²⁴⁹ See generally ROBERT H. JERRY & DOUGLAS R. RICHMOND, UNDERSTANDING INSURANCE LAW (6th ed. 2018) (including materials on the nature of insurance, sources of insurance law, insurable interests, persons protected, risks covered, premiums, claims presentation, and insurer non-performance).

²⁵⁰ ARIZ. REV. STAT. ANN. § 20-1406(C) (2021).

²⁵¹ CAL. UNEMP. INS. CODE § 2626(b)(3) (West 2021).

²⁵² DEL. CODE ANN. tit. 18, §§ 3578(a)(3), (b) (West 2021).

²⁵³ GA. CODE ANN. § 33-24-28.3 (West 2021).

²⁵⁴ 215 ILL. COMP. STAT. ANN. 5/367d.1 (West 2021).

²⁵⁵ KAN. STAT. ANN. § 40-2,105(a) (West 2021).

²⁵⁶ LA. STAT. ANN. § 1025(A) (2020).

²⁵⁷ MINN. STAT. ANN. § 62A.149(1) (West 2021).

²⁵⁸ MO. ANN. STAT. § 376.779(1) (West 2021).

²⁵⁹ NEV. REV. STAT. ANN. § 689A.030(9) (West 2021).

²⁶⁰ N.H. REV. STAT. ANN. §§ 420-B:8-b(III), 420-B:8-b(I)(a), 415:18-a(I)(c) (2021).

abuse of alcohol.”²⁶¹ Ohio requires all “group sickness and accident insurance” policies to provide insureds certain “alcoholism” benefits.²⁶² In Vermont, health insurers shall cover “alcohol and substance abuse” treatments if they are provided by certain individuals, including “substance abuse counselors,” in certain facilities.²⁶³ In West Virginia, insurance provided to public employees shall include incentives designed to discourage “alcohol and chemical abuse.”²⁶⁴

As noted above, most insurance statutes that contain alcohol-related language are designed to help individuals with substance use disorders obtain coverage of treatments and services. Some of these statutes, however, cancel or limit coverage in circumstances involving an alcohol-related activity, alcohol-related state, or alcohol-related health condition. For example, Delaware permits an insurer to “cancel a motor vehicle liability policy” if the insured is an “habitual drunkard.”²⁶⁵ Florida permits health insurance policies to include a statement exempting the insurer from liability for losses resulting when the insured is “drunk.”²⁶⁶ Florida workers’ compensation law excludes from compensable accidents disabilities and diseases “due to habitual use of alcohol.”²⁶⁷ Georgia also excludes both “alcoholism” and “drug addiction” from compensable injuries under state workers’ compensation law.²⁶⁸ Hawaii requires long-term care insurance to include services for certain conditions, although “alcoholism and drug addiction” are notable exceptions.²⁶⁹ In Massachusetts, “drunkenness while at work” makes an individual ineligible for unemployment insurance benefits.²⁷⁰ In South Carolina, HMOs are required to cover “basic health care services,” although “services for alcohol or drug abuse” are excepted from the definition thereof.²⁷¹ In Utah, public long-term disability insurance is “not payable for . . . alcoholism” or “substance abuse.”²⁷²

H. Liquor Control Law

It is not surprising that liquor control law contains numerous alcohol-related references. What is surprising is the extent to which these references contain language that conforms to the recommendations described in Part I of this Article. That said, a few liquor control laws employ words and phrases such as “common drunkards,” “defectives,” “drunken,” “drunkenness,” “drunken persons,” and “habitual drunkards.” Alaska’s liquor control law, for example, permits the adoption of regulations addressing the “possession of alcoholic beverages by drunken

²⁶¹ N.C. GEN. STAT. ANN. §§ 58-67-70(a), (b) (West 2021).

²⁶² OHIO REV. CODE ANN. § 3923.29(A)(1) (West 2021).

²⁶³ VT. STAT. ANN. tit. 8, § 4089b(f)(2)(A) (West 2021).

²⁶⁴ W. VA. CODE ANN. § 5-16-8(9) (West 2021).

²⁶⁵ DEL. CODE ANN. tit. 21, § 2906(b)(4) (West 2021).

²⁶⁶ FLA. STAT. ANN. § 627.629 (West 2021).

²⁶⁷ *Id.* § 440.02(1).

²⁶⁸ GA. CODE ANN. § 34-9-1(4) (West 2021).

²⁶⁹ HAW. REV. STAT. ANN. § 431:10H-203(a)(3) (West 2021).

²⁷⁰ MASS. GEN. LAWS ANN. ch. 151A, § 25(k)(iii) (West 2021).

²⁷¹ S.C. CODE ANN. § 38-33-20(1) (2021).

²⁷² UTAH CODE ANN. § 49-21-405(2), (3) (West 2021).

persons”²⁷³ and prohibits liquor licensees from “sell[ing], giv[ing], or barter[ing] alcoholic beverages to a drunken person.”²⁷⁴ Arkansas prohibits the “sell[ing], giv[ing] away, or dispos[ing] of intoxicating liquor to an habitual drunkard.”²⁷⁵ Similar provisions prohibiting certain beer and/or liquor sales to “habitual drunkards” exist in Colorado, Idaho, Maryland, Mississippi, Missouri, New York, Pennsylvania, Texas, Utah, and West Virginia.²⁷⁶ California makes it unlawful for any person to sell, furnish, or give an “alcoholic beverage to any habitual or common drunkard.”²⁷⁷ Washington spirit sale licensees shall prevent “sales to or pilferage by inebriated persons.”²⁷⁸ New Jersey permits the promulgation of regulations addressing the sale of liquor to “defectives and habitual drunkards.”²⁷⁹ In Ohio, tavern keepers shall not permit “drunkenness” on the premises.²⁸⁰ In Idaho, the “[d]runkenness or apparent drunkenness, within or without the state of Idaho” of the liquor licensee (not the liquor consumer) is grounds for revocation or suspension of the license.²⁸¹

I. Military and Veterans Law

Military law²⁸² is a moderate source of three particular words: “drunk,” “drunken,” and “drunkenness.” For example, Alabama provides that certain persons subject to its military code “who [are] found drunk on duty[] shall be punished as a court-martial may direct.”²⁸³ The same prohibition against being “drunk” on duty, applicable to certain persons subject to state military codes, is present in the body of the codes of Arizona, Connecticut, Hawaii, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Missouri, Nevada, New Mexico, New York, Ohio, Rhode

²⁷³ ALASKA STAT. ANN. § 04.06.100(b)(12) (West 2021).

²⁷⁴ *Id.* § 04.16.030(a)(1).

²⁷⁵ ARK. CODE ANN. § 3-3-209 (West 2021).

²⁷⁶ COLO. REV. STAT. ANN. § 44-3-901(1)(a) (West 2021); IDAHO CODE ANN. § 23-615(3) (West 2021); MD. CODE ANN., ALCOHOLIC BEVERAGES §§ 22-2704(b), 27-2705(b) (West 2021); MISS. CODE ANN. § 67-3-53(b) (West 2021); MO. ANN. STAT. § 311.310(1) (West 2021); N.Y. ALCO. BEV. CONT. LAW § 65(3) (McKinney 2021); 47 PA. STAT. AND CONS. STAT. § 4-493(1) (West 2021); TEX. ALCO. BEV. CODE ANN. § 101.63(a) (West 2021); UTAH CODE ANN. § 32B-5-306(1)(d) (West 2021); W. VA. CODE ANN. §§ 11-16-18(a)(2), 60-3-22(a)(2) (West 2021).

²⁷⁷ CAL. BUS. & PROF. CODE § 25602(a) (West 2021).

²⁷⁸ WASH. REV. CODE ANN. § 66.24.630(3)(a) (West 2021).

²⁷⁹ N.J. STAT. ANN. § 33:1-39 (West 2021).

²⁸⁰ OHIO REV. CODE ANN. § 4399.16 (West 2021).

²⁸¹ IDAHO CODE ANN. § 23-519(a) (West 2021).

²⁸² See generally GREGORY E. MAGGS & LISA M. SCHENCK, MODERN MILITARY JUSTICE: CASES AND MATERIALS (2d ed. 2015) (providing materials on the military justice system, judge advocate professional responsibility, alternatives to adversary criminal trial by courts-martial, military crimes, military defenses, and a wide range of pre-trial, trial, sentencing, and post-trial procedural matters).

²⁸³ ALA. CODE § 31-2A-112 (2021).

Island, South Dakota, Tennessee, and Wisconsin.²⁸⁴ In Texas, the word “drunk” is in the title of the statute but not in the body of the statute.²⁸⁵

In addition to the prohibition against being “drunk” on duty, several states also prohibit the “drunk” operation of a military vehicle. Arizona, for example, provides that any person subject to its military code “who operates any vehicle while drunk . . . shall be punished as a court-martial may direct.”²⁸⁶ The same prohibition against operating a vehicle while “drunk” is present in the military codes of Georgia, Nevada, New Mexico, New York, and Rhode Island.²⁸⁷ Maryland is similar in that the title of a military code provision refers to the “drunken” operation of a vehicle.²⁸⁸ Tennessee makes “[a]ny member of the national guard who operates a vehicle while drunk . . . guilty of a misdemeanor.”²⁸⁹

Additional, miscellaneous military provisions also use the words “drunk” or “drunkenness.” Alaska provides that a “member of the militia who, while a prisoner, is drunk” may be punished.²⁹⁰ Alabama gives “[t]he commanding officer of” a troop in “active service . . . the power to incarcerate and detain” persons “guilty of drunkenness.”²⁹¹ Florida is similar to Alabama in that Florida gives “[t]he commanding officer of troops on . . . active duty” the power to “incarcerate and detain . . . any person guilty of drunkenness . . . within [one] mile of a camp, garrison, or station.”²⁹² “Common drunkards” are excepted from the general District of Columbia requirement that “[e]very able-bodied male citizen resident” between the ages of eighteen and forty five be enrolled in the militia.²⁹³ In Oklahoma, military judges can be removed from office or be forced to retire for “habitual drunkenness.”²⁹⁴

A few laws applicable to veterans’ homes contain alcohol-related language. These laws use words and phrases such as “habitually inebriated,” “inebriate,” or “acute inebriate.” Florida, for example, prohibits the receipt or retention in a veterans’ home of a veteran who is “habitually inebriated.”²⁹⁵ Iowa prohibits

²⁸⁴ ARIZ. REV. STAT. ANN. § 26-1112 (2021); CONN. GEN. STAT. ANN. § 27-250 (West 2021); HAW. REV. STAT. ANN. § 124A-146 (West 2021); IOWA CODE ANN. § 29B.107 (West 2021); KAN. STAT. ANN. § 48-3035 (West 2021); KY. REV. STAT. ANN. § 35.650 (West 2021); LA. STAT. ANN. § 29:212 (2020); MD. CODE ANN., PUB. SAFETY § 13A-1022(a) (West 2021); MASS. GEN. LAWS ANN. ch. 33A, art. 113 (West 2021); MO. ANN. STAT. § 40.380 (West 2021); NEV. REV. STAT. ANN. § 412.538 (West 2021); N.M. STAT. ANN. § 20-12-48 (West 2021); N.Y. MIL. LAW § 130.107 (McKinney 2021); OHIO REV. CODE ANN. §§ 5924.112, 5924.113 (West 2021); 30 R.I. GEN. LAWS ANN. § 30-13-111 (West 2021); S.D. CODIFIED LAWS § 33-10-280 (2021); TENN. CODE ANN. § 58-1-627 (West 2021); WIS. STAT. ANN. §§ 322.112, 322.113 (West 2021).

²⁸⁵ TEX. GOV’T CODE ANN. § 432.156 (West 2021).

²⁸⁶ ARIZ. REV. STAT. ANN. § 26-1111 (2021).

²⁸⁷ GA. CODE ANN. § 38-2-1111(2) (West 2021); NEV. REV. STAT. ANN. § 412.536 (West 2021); N.M. STAT. ANN. § 20-12-47 (West 2021); N.Y. MIL. LAW § 130.106 (McKinney 2021); 30 R.I. GEN. LAWS ANN. § 30-13-110 (West 2021).

²⁸⁸ MD. CODE ANN., PUB. SAFETY § 13A-1042 (West 2021).

²⁸⁹ TENN. CODE ANN. § 58-1-625 (West 2021).

²⁹⁰ ALASKA STAT. ANN. § 26.05.860(b) (West 2021).

²⁹¹ ALA. CODE § 31-2-126 (2021).

²⁹² FLA. STAT. ANN. § 250.33 (West 2021).

²⁹³ D.C. CODE ANN. § 49-401 (West 2020).

²⁹⁴ OKLA. STAT. ANN. tit. 44, § 866(D)(1) (West 2021).

²⁹⁵ FLA. STAT. ANN. § 296.07 (West 2021).

veterans' homes from receiving or retaining a person who is an "acute inebriate."²⁹⁶ South Dakota denies an "inebriate" admission to a veterans' home.²⁹⁷

J. Occupational Licensure Law

Occupational licensure²⁹⁸ law is an abundant source of alcohol-related language. Statutes in this area typically identify the negative consequences of an alcohol-related activity or alcohol-related condition of a license applicant or license holder, including license non-issuance, license suspension, license revocation, and/or licensee disciplinary action. Occasionally, proof of an alcohol-related condition has a positive effect; that is, the condition serves as a mitigating factor in terms of administrative discipline. Occasionally, too, the fact of alcohol-related treatment can open the door to license reinstatement. As discussed in more detail below, a range of terminology is used to trigger both positive and negative legal consequence for license applicants and holders who work in a variety of occupations.

In Alabama, Mississippi, Oklahoma, and South Carolina, for example, a polygraph examiner license may not be issued or may be revoked if the polygraph examiner has been determined to be an "habitual drunkard."²⁹⁹ Delaware and West Virginia nurses may be sanctioned for being "habitually intemperate."³⁰⁰ Florida prohibits an individual from practicing as a paramedic due to "drunkenness."³⁰¹ Idaho "may refuse to issue" or may revoke a genetics counselor's license based on "[h]abitual drunkenness."³⁰² In Iowa, a veterinarian's license may be revoked or suspended if the veterinarian is unable "to practice . . . with reasonable skill and safety by reason of . . . drunkenness."³⁰³ Iowa and Texas dentists may be disciplined for the inability to practice dentistry "with reasonable skill and safety" due to "drunkenness" and "habitual intempera[n]ce," respectively.³⁰⁴ In Kansas, Texas, Vermont, and Wyoming, a podiatrist's license may be denied, suspended, or revoked if the podiatrist is unable to practice with reasonable skill and safety to patients by reasons of "alcoholism," "drunkenness," "habitual or excessive use or abuse of drugs or alcohol," or "[a]lcoholism or habitual use of a controlled substance," respectively.³⁰⁵

²⁹⁶ IOWA CODE ANN. § 35D.2(2) (West 2021).

²⁹⁷ S.D. CODIFIED LAWS § 33A-4-34 (2021).

²⁹⁸ See generally Ryan Nunn, *Occupational Licensing and American Workers*, BROOKINGS, June 21, 2016, at 1, 1–9 (defining and discussing the role of occupational licensing); Nick Robinson, *The Multiple Justifications of Occupational Licensing*, 93 WASH. L. REV. 1903, 1904, 1907–08 (2018) (noting that approximately twenty to twenty-nine percent of American workers work in an occupation that requires legal permission to work; that is, a license; identifying important justifications for occupational licensing).

²⁹⁹ ALA. CODE § 34-25-32(10) (2021); MISS. CODE ANN. § 73-29-31(1)(j) (West 2021); OKLA. STAT. ANN. tit. 59, § 1468(A)(10) (West 2021); S.C. CODE ANN. § 40-53-180(j) (2021).

³⁰⁰ DEL. CODE ANN. tit. 24, § 1922(a)(4) (West 2021); W. VA. CODE ANN. § 30-7-11(a)(4) (West 2021).

³⁰¹ FLA. STAT. ANN. § 401.411(1)(k) (West 2021).

³⁰² IDAHO CODE ANN. § 54-5614(1)(h) (West 2021).

³⁰³ IOWA CODE ANN. § 169.13(1)(h) (West 2021).

³⁰⁴ *Id.* § 153.34(13); TEX. OCC. CODE ANN. § 263.002(a)(7) (West 2021).

³⁰⁵ KAN. STAT. ANN. § 65-2006(a)(10) (West 2021); TEX. OCC. CODE ANN. § 202.253(a-1)(15) (West 2021); VT. STAT. ANN. tit. 26, § 375(c)(8) (West 2021); WYO. STAT. ANN. § 33-9-110(a)(iv) (West 2021).

Louisiana may “refuse to grant, or may suspend or revoke,” a sanitarian’s license based on the sanitarian’s “[h]abitual drunkenness.”³⁰⁶ The same is true for Louisiana barbers, chiropractors, cosmetologists, electrologists, and podiatrists.³⁰⁷ A Louisiana private investigator shall not be a “practicing alcoholic or drug addict.”³⁰⁸ “Habitual drunkenness” is grounds for revocation of a barber’s license in, among other states, Massachusetts, Mississippi, Montana, Nebraska, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, and Tennessee,³⁰⁹ while “drunkenness” is grounds for revocation of a barber’s license in South Dakota.³¹⁰ In Minnesota, the adjudication of a physician assistant “as a chemically dependent person” or the inability of a physician assistant to safely practice due to “drunkenness” is grounds for license revocation and other disciplinary action.³¹¹ Oklahoma chiropractors can lose their license if they are “habitually drunk” and Vermont chiropractors can lose their license for “habitual drunkenness.”³¹² Physical therapists in Missouri who are unable to safely practice by reason of “drunkenness” may be subject to license non-issuance or non-renewal.³¹³ New Hampshire “pharmacists impaired by substance abuse” may be reported to the New Hampshire Board of Pharmacy for possible disciplinary action.³¹⁴

Nevada identifies “[h]abitual drunkenness” as a ground for refusing to grant a license to, or suspending or revoking the license of, a marriage and family therapist.³¹⁵ Both North Carolina and Texas physicians risk discipline and/or loss of licensure for being unable to safely practice medicine by reason of “drunkenness.”³¹⁶ A North Carolina fee-based pastoral counselor also can lose an occupational certificate for being an “habitual drunkard.”³¹⁷ Oklahoma radiology assistants may not be “habitually intemperate.”³¹⁸ Pennsylvania chiropractors, dentists, massage therapists, physicians, psychologists and speech-language pathologists³¹⁹ can lose their licenses due to “drunkenness,” and Pennsylvania boxers can lose their boxing licenses if they are “habitual drunkard[s].”³²⁰ In Rhode Island, acupuncturists,

³⁰⁶ LA. STAT. ANN. § 37:2114(3) (2020).

³⁰⁷ *Id.* §§ 37:372(6), 37:2816(A)(3), 37:600(A)(7), 37:3075(A)(3), 37:624(A)(3).

³⁰⁸ *Id.* § 37:3507(A)(5).

³⁰⁹ MASS. GEN. LAWS ANN. ch. 112, § 87EE (West 2021); MISS. CODE ANN. § 73-5-25(1)(c) (West 2021); MONT. CODE ANN. § 37-31-331(1)(e) (West 2021); NEB. REV. STAT. ANN. § 71-217(6) (West 2021); N.M. STAT. ANN. § 61-17A-21(A)(5) (West 2021); N.Y. GEN. BUS. LAW § 441(a)(3) (McKinney 2021); N.C. GEN. STAT. ANN. § 86A-18(4) (West 2021); N.D. CENT. CODE ANN. § 43-04-40(4) (West 2021); OHIO REV. CODE ANN. § 4709.13(A)(2) (West 2021); OKLA. STAT. ANN. tit. 59, § 199.11(A)(5) (West 2021); TENN. CODE ANN. § 62-3-121(a)(5) (West 2021).

³¹⁰ S.D. CODIFIED LAWS § 36-14-32(6) (2021).

³¹¹ MINN. STAT. ANN. §§ 147A.13(1), (9), (11) (West 2021).

³¹² OKLA. STAT. ANN. tit. 59, § 161.12(B)(2) (West 2021); VT. STAT. ANN. tit. 26, § 541(11) (West 2021).

³¹³ MO. ANN. STAT. § 334.613(2)(24) (West 2021).

³¹⁴ N.H. REV. STAT. ANN. § 318:29-a(II) (2021).

³¹⁵ NEV. REV. STAT. ANN. § 641A.310(2) (West 2021).

³¹⁶ N.C. GEN. STAT. ANN. § 90-14(a)(5) (West 2021); TEX. OCC. CODE ANN. § 164.051(a)(4)(B) (West 2021).

³¹⁷ N.C. GEN. STAT. ANN. § 90-390(a)(4) (West 2021).

³¹⁸ OKLA. STAT. ANN. tit. 59, § 541.8(3) (West 2021).

³¹⁹ 63 PA. STAT. AND CONS. STAT. §§ 625.506(a)(8), 123.1(a)(11), 627.9(a)(11), 271.15(a)(5), 1208(a)(8), 1710(7) (West 2021).

³²⁰ 5 PA. STAT. AND CONS. STAT. § 1304(a)(6) (West 2021).

dentists and dental hygienists, pharmacists, physician assistants, podiatrists, private detectives, private security guard business owners, veterinarians, and even unlicensed health care practitioners who have “habitual drunkenness” may lose their licenses and/or be subject to disciplinary action, as appropriate.³²¹ In South Carolina, a physician’s license may be suspended or revoked if the physician engages “in the habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability.”³²² In South Dakota and Wisconsin, an optometrist’s certificate may be lost for “[h]abitual drunkenness” and being “habitually drunk,” respectively.³²³ In Tennessee, private investigator license applicants must not be in a state of “habitual drunkenness.”³²⁴ In Vermont, tattooists and body piercers shall not be in the state of “habitual drunkenness.”³²⁵ In Washington, limousine chauffeurs can be sanctioned if they are “intemperate or addicted to narcotics.”³²⁶ By final illustrative example, Wyoming professional counselors, clinical social workers, marriage and family therapists, and addiction therapists can lose their licenses for “[h]abitual intemperate use of alcohol or a controlled substance.”³²⁷

In addition to setting forth negative legal consequences for the alcohol-related activity or alcohol-related state of an occupational license applicant or holder, some occupational licensing laws allow an alcohol-related condition to mitigate the degree of discipline that might otherwise be imposed on the licensee. Arkansas, for example, allows the “chemical dependency[,] including alcohol or drug abuse” of a licensed attorney to be considered as a mitigating factor in determining sanctions for professional responsibility violations.³²⁸ Georgia, by further example, allows certain individuals who produce “evidence of having been successfully treated and cured of alcoholism, drug addiction, or mental illness” to obtain a private detective license.³²⁹ Nevada, by still further example, identifies the “chemical dependency including alcoholism or drug abuse” of an attorney as a mitigating circumstance in certain situations.³³⁰

In addition to establishing legal consequences for alcohol-related activities and states, occupational licensure laws also define the scopes of practice of different occupations and professions. In the health professions context, these laws sometimes use the phrase “alcoholism and substance abuse.” Florida’s clinical social worker licensing law, for example, defines the practice of clinical social work as including treatment of “alcoholism[] and substance abuse.”³³¹ Delaware’s psychologist licensing law, by further example, defines the practice of psychology to include

³²¹ 5 R.I. GEN. LAWS §§ 5-37.2-15(6), 5-31.1-10(5), 5-19.1-21(4), 5-54-2(11)(v), 5-29-16(5), 5-5-3(5), 5-5.1-8(a)(6), 5-25-14(2), 23-74-4(7) (West 2021).

³²² S.C. CODE ANN. § 40-47-110(B)(4) (2021).

³²³ S.D. CODIFIED LAWS § 36-7-24(5) (2021); WIS. STAT. ANN. § 449.07(1)(c) (West 2021).

³²⁴ TENN. CODE ANN. § 62-26-207(a)(4) (West 2021).

³²⁵ VT. STAT. ANN. tit. 26, § 4108(b)(2) (West 2021).

³²⁶ WASH. REV. CODE ANN. § 46.72A.100 (West 2021).

³²⁷ WYO. STAT. ANN. § 33-38-110(c)(vii) (West 2021).

³²⁸ ARK. R. PROF. COND. § 19(C)(9) (2021).

³²⁹ GA. CODE ANN. § 43-38-11(a)(6) (West 2021).

³³⁰ NEV. SUP. CT. R. 102.5(2)(i) (2021).

³³¹ FLA. STAT. ANN. § 491.003(7) (West 2021).

“diagnosis and treatment of . . . alcoholism and substance abuse.”³³² The psychologist licensing laws of Hawaii, Mississippi, Nebraska, New Mexico, Pennsylvania, Utah, Virginia, and Wyoming also define the practice of psychology to include the diagnosis and treatment of “alcoholism and substance abuse.”³³³ As discussed in more detail in Part III, stigmatizing practice scope language is particularly concerning. One purpose of occupational licensure law is to identify permitted occupations and to encourage state residents who would benefit from relevant services to seek services from licensed (and therefore carefully screened) service providers, not unlicensed individuals. In the context of health care, using stigmatizing language to describe the health conditions for which an individual may wish to seek diagnosis and treatment may only exacerbate existing barriers to care.

K. Probate Courts; Fiduciaries

State statutes governing the jurisdiction of, and fees charged by, probate courts³³⁴ occasionally use alcohol-related language. For example, Arkansas establishes probate and miscellaneous fees (\$25.00) for “alcoholics and insane persons.”³³⁵ In the District of Columbia, the United States District Court for the District of Columbia has jurisdiction over, among other actions, actions “relating to the appointment of committees for alcoholics and addicts.”³³⁶ In Florida, the involuntary hospitalization of “alcoholics and drug addicts” is the responsibility of the probate division of the circuit court.³³⁷ In certain Kansas districts, the probate department has jurisdiction over “alcoholism . . . and all related matters.”³³⁸ In Michigan, probate courts have jurisdiction in certain proceedings involving minors, including minors whose “drunken[]” parents make their homes an unfit place in which to live.³³⁹ In Virginia, however, it is the district courts that have jurisdiction over “the adjudication and commitment of . . . drug-addicted and inebriate persons.”³⁴⁰

State statutes governing the appointment, powers, and duties of fiduciaries³⁴¹ more frequently contain alcohol-related language. Indiana’s guardianship law, for

³³² DEL. CODE ANN. tit. 24, § 3502(5) (West 2021).

³³³ HAW. REV. STAT. § 465-1 (West 2021); MISS. CODE ANN. § 73-31-3(d)(ii)(3) (West 2021); NEB. REV. STAT. ANN. § 38-3108(2) (West 2021); N.M. STAT. ANN. § 61-9-3(f) (West 2021); 63 PA. STAT. AND CONS. STAT. § 1202(i) (West 2021); UTAH CODE ANN. § 58-61-102(9)(a)(v) (West 2021); VA. CODE ANN. § 54.1-3600(2) (West 2021); WYO. STAT. ANN. § 33-27-113(a)(iii)(F) (West 2021).

³³⁴ Probate courts may handle matters such as wills, estates, conservatorships, and guardianships, as well as the commitment of individuals to certain health care institutions. *See, e.g.*, ROBERT H. SITKOFF & JESSE DUKEMINIER, WILLS, TRUSTS, AND ESTATES 40–50 (10th ed. 2017) (discussing both probate and non-probate matters); Karen S. Gerstner, *A Message to Clients . . . Avoiding Probate Court Litigation*, 22 PROB. & PROP., Mar./Apr. 2008, at 56, 56–57 (discussing both routine and contested matters handled by probate courts).

³³⁵ ARK. CODE ANN. § 21-6-413(a)(13) (West 2021).

³³⁶ D.C. CODE ANN. § 11-501(2)(E) (West 2021).

³³⁷ *See, e.g.*, FL. ST. 11TH JUD. CIR. R-1-9(6) (2021).

³³⁸ KAN. R. 18 DIST. RULE 500 (2020).

³³⁹ MICH. COMP. LAWS ANN. § 712A.2(b)(2) (West 2021).

³⁴⁰ VA. CODE ANN. § 16.1-69.28 (West 2021).

³⁴¹ A fiduciary may be defined as a person who acts on behalf of another person and who has a legal and ethical responsibility to place the other person’s interests ahead of the fiduciary’s own interests. Examples of fiduciaries include,

example, defines “incapacitated person” as a person who is unable to manage the person’s property and/or to provide self-care due to “habitual drunkenness.”³⁴² In Maryland, by further example, a guardian may be appointed if a disabled person “is unable to manage effectively the person’s property and affairs” due to “habitual drunkenness” or “addiction to drugs.”³⁴³ In Nevada, an individual is not qualified to serve as an executor if, “at the time the will is probated,” the individual is disqualified due to “drunkenness.”³⁴⁴ In New Hampshire, “[i]f a parent’s substance abuse or dependence is the basis for a guardianship petition, the court shall give a preference to any grandparent of the minor who seeks appointment as guardian.”³⁴⁵ The burden, however, is on the grandparent to prove “by a preponderance of the evidence that” the guardianship would be in the minor’s best interests.³⁴⁶ In New York, fiduciaries may have their letters of authority suspended or revoked for reasons of “drunkenness.”³⁴⁷ In Ohio, fiduciaries may have their letters of authority revoked for “habitual drunkenness.”³⁴⁸ Texas guardianship law defines an “incapacitated person” to include an “habitual drunkard.”³⁴⁹ Washington guardianship law is similar. It defines “incompetent person” with reference to the person’s “habitual drunkenness.”³⁵⁰ West Virginia shall consider whether any proposed guardian habitually “abuses alcohol.”³⁵¹

L. Property Law

State statutory provisions governing the property rights³⁵² of individuals in alcohol-related states and individuals with alcohol-related health conditions occasionally use the language of “abuse,” “drunkenness” or “habitual drunkard.” In cases where title to real estate is held by a married person whose spouse is an “habitual drunkard,” for example, Pennsylvania law authorizes the married person “to sell, mortgage, lease,” or convey the real estate if such “sale, mortgage, lease,” or conveyance is in the interest of the married person.³⁵³ In Ohio, a guardian has the

but are not limited to, executors, trustees, guardians, attorneys, and agents under durable powers of attorney. *See, e.g., SITKOFF & DUKEMINIER, supra* note 334, at 587–691 (including materials regarding fiduciaries and their duties).

³⁴² IND. CODE ANN. § 29-3-1-7.5(2) (West 2021).

³⁴³ MD. CODE ANN., EST. & TRUSTS § 13-201(c)(1) (West 2021).

³⁴⁴ NEV. REV. STAT. ANN. § 138.020(1)(c) (West 2021).

³⁴⁵ N.H. REV. STAT. ANN. § 463:10(V) (2021).

³⁴⁶ *Id.* § 463:8(III)(b).

³⁴⁷ N.Y. SURR. CT. PROC. ACT § 711(2) (McKinney 2021).

³⁴⁸ OHIO REV. CODE ANN. § 2109.24 (West 2021).

³⁴⁹ TEX. EST. CODE ANN. § 1001.003(5) (West 2021).

³⁵⁰ WASH. REV. CODE ANN. § 11.88.010(1)(e) (West 2021).

³⁵¹ W. VA. MINOR GUARDIANSHIP PROC. RULES, R. 10(5) (West 2021).

³⁵² *See, e.g.,* JO JO CARRILLO & GAIL BOREMAN BIRD, CASES AND MATERIALS ON CALIFORNIA COMMUNITY PROPERTY LAW (11th ed. 2017) (including California materials on community property, separate property, commingled assets, and management and control, among other topics); SHELDON F. KURTZ, HERBERT HOVENKAMP, CAROL NECOLE BROWN & CHRISTOPHER K. ODINET, CASES AND MATERIALS ON AMERICAN PROPERTY LAW (7th ed. 2019) (including materials on a wide variety of American property law topics).

³⁵³ 50 PA. STAT. AND CONS. STAT. § 797 (West 2021).

power to sell a ward's real estate if the ward is a "habitual drunkard" and the sale is "necessary for the education, support, or payment of the just debts of the ward."³⁵⁴

M. Public Officer and Civil Servant Law

Several statutes applicable to public officers and civil servants³⁵⁵ establish legal consequences, including impeachment, removal from office, termination of employment, or loss or re-direction of pension, for certain alcohol-related activities, states, and conditions. Some of these statutes use the language of "alcoholism," "drunkenness," "habitual drunkard," "habitual drunkenness," and "intemperance." In Florida, for example, "[d]runkenness" is a ground for removal from office "of elected municipal officials."³⁵⁶ Idaho similarly provides that civil servants may be removed or discharged from office for a variety of reasons, including "[d]runkenness."³⁵⁷ Texas, too, uses "drunkenness" as a reason for "[c]ounty judges, county attorneys, clerks of the District and County Courts, justices of the peace, constables, and other county officers" to be removed from office.³⁵⁸

The language of "habitual drunkard" or "habitual drunkenness," rather than "drunkenness," is used by other states. For example, Illinois provides that "[n]o person shall be appointed to the police or fire department" if the person is an "habitual drunkard."³⁵⁹ Kentucky prohibits an individual who "[s]uffers from habitual drunkenness" from serving as a "special law enforcement officer."³⁶⁰ In Louisiana, certain civil servants may be removed from office based on, among other reasons, "habitual drunkenness."³⁶¹ In Minnesota, the "habitual drunkenness of any person holding office" is "good cause for removal from" such office.³⁶² Mississippi requires public officers to be removed from office if they are "guilty of habitual drunkenness" or if they are "drunk while in the actual discharge of [their] duties."³⁶³ In Missouri, all judges and elected officials may be impeached for "habitual drunkenness . . . or any offense involving moral turpitude."³⁶⁴ In Oklahoma, "[t]he governor and other elected state officers" can be impeached for "habitual drunkenness," and classified employees can also be discharged, suspended, or demoted for "habitual drunkenness."³⁶⁵ In Oregon, judges "may be removed or

³⁵⁴ OHIO REV. CODE ANN. § 2127.05 (West 2021).

³⁵⁵ A public officer may be defined as a person who has been legally elected or appointed to office and who exercises governmental functions. A civil servant may be defined as a person employed in the public sector by a governmental department or agency. See generally Ethan J. Leib & Andrew Kent, *Fiduciary Law and the Law of Public Office*, 62 WM. & MARY L. REV. 1297, 1305–42 (2021) (extending the historical record governing the law of public office); Jennifer Nou, *Civil Servant Disobedience*, 94 CHI.-KENT L. REV. 349, 354–58 (2019) (discussing the characteristics of civil servants and providing examples of civil servant disobedience).

³⁵⁶ FLA. STAT. ANN. § 100.361(2)(d)(4) (West 2021).

³⁵⁷ IDAHO CODE ANN. § 50-1604(4)(e) (West 2021).

³⁵⁸ TEX. CONST. art. 5, § 24.

³⁵⁹ 65 ILL. COMP. STAT. ANN. 5/10-2.1-6(j) (West 2021).

³⁶⁰ KY. REV. STAT. ANN. § 61.906(1)(e) (West 2021).

³⁶¹ LA. STAT. ANN. § 33:2536(H) (2021).

³⁶² MINN. STAT. ANN. § 351.07 (West 2021).

³⁶³ MISS. CODE ANN. § 97-11-23 (West 2021).

³⁶⁴ MO. ANN. STAT. § 106.020 (West 2021).

³⁶⁵ OKLA. STAT. ANN. tit. 51, § 51; tit. 74, § 840-6.5 (West 2021).

suspended” for “[h]abitual drunkenness.”³⁶⁶ In Pennsylvania, firepersons and policepersons who become “habitual drunkard[s]” may have their pensions revoked or re-directed to their families.³⁶⁷ In South Carolina, certain public officers who are “guilty of . . . habitual drunkenness” will be fined up to \$1,000 “and imprisoned [for]not more than one year.”³⁶⁸ In Texas, public officers and employees may be removed from office for “habitual drunkenness.”³⁶⁹ The pension of a Washington policeperson can be lost or re-directed to the person’s family if the person becomes an “habitual drunkard.”³⁷⁰ West Virginia includes “habitual drunkenness” as a ground for removing a public officer from office.³⁷¹

Other states use words and phrases besides “drunkenness,” “habitual drunkard,” and “habitual drunkenness.” In Alabama, for example, judges, district attorneys, sheriffs, “tax collectors, tax assessors, county treasurers, coroners, notaries public, [and] constables” may be removed from office due to “[i]ntemperance in the use of intoxicating liquors.”³⁷² In Iowa, “unrehabilitated alcoholism” may result in the removal of a seated judge.³⁷³ Iowa executive branch employees also may be discharged, suspended, or reduced in “job classification or pay grade” for “[u]nrehabilitated alcoholism or narcotics addiction.”³⁷⁴ Wyoming firepersons are not permitted “to draw a disability pension if the primary cause” of disability is “alcoholism, substance abuse or addiction.”³⁷⁵

Although the implication of alcohol-related language in a state statute typically has negative legal consequences for the public officer or civil servant, the past occurrence of an alcohol-related activity or the presence of an alcohol-related condition occasionally can be helpful. In determining the nature and extent of judicial misconduct, for example, Idaho examines the culpability of the accused judge, including whether the judge may have been “impaired by alcoholism or drug abuse.”³⁷⁶ Massachusetts, by further example, prohibits certain civil service applicants from being required to furnish information in an application regarding arrests for “drunkenness” if the disposition “occurred five years or more” before the date of the application.³⁷⁷

³⁶⁶ OR. CONST. art. VII, § 8(1)(f) (amended 1976).

³⁶⁷ 53 PA. STAT. AND CONS. STAT. §§ 23618, 23663 (West 2021).

³⁶⁸ S.C. CODE ANN. § 8-1-80 (2021).

³⁶⁹ TEX. GOV’T CODE ANN. § 665.052(a)(3) (West 2021).

³⁷⁰ WASH. REV. CODE ANN. § 41.20.110 (West 2021).

³⁷¹ W. VA. CODE ANN. § 6-6-1(c) (West 2021).

³⁷² ALA. CODE § 36-11-1(b)(4) (2021).

³⁷³ IOWA CODE ANN. § 602.1218 (West 2021).

³⁷⁴ *Id.* § 8A.413(19)(a)(7).

³⁷⁵ WYO. STAT. ANN. § 15-5-204(d) (West 2021).

³⁷⁶ IDAHO JUD. COUNCIL R. 36(c)(3)(iii) (2021).

³⁷⁷ MASS. GEN. LAWS ANN. ch. 31, § 20 (West 2021).

N. Tax Law

State tax law³⁷⁸ is a modest source of alcohol-related words, including “abuse,” “alcoholic,” and “alcoholism.” Typically, these state tax statutes establish beer or liquor taxes, a portion of which shall be spent on alcohol-related prevention, education, and treatment services. Occasionally, however, these statutes exempt certain activities that occur in substance use disorder treatment facilities from taxation.

Kansas, for example, has established an alcoholic beverage tax which, depending on the size of the city, shall be expended on “alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers.”³⁷⁹ Like Kansas, Montana requires a certain percentage of taxes imposed on alcoholic beverage sales to be spent on “alcoholism” programs.³⁸⁰ Montana also has a separate wholesale beer tax, a portion of the funds of which must be allocated to “alcoholism and chemical dependency” treatment and prevention services.³⁸¹ In North Carolina, a percentage of the taxes collected from liquor sales shall be spent on “the treatment of alcoholism [and] substance abuse, or for research or education on alcohol or substance abuse.”³⁸² In South Carolina, a percentage of relevant tax revenues must be used “for the prevention and control of alcohol and drug abuse.”³⁸³ In Utah, a percentage of beer tax revenues must be deposited into an “Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account,” which may be used for the treatment of individuals “convicted of offenses in which alcohol or substance abuse is a contributing factor.”³⁸⁴ California, on the other hand, exempts from taxation receipts for food and meals furnished to and consumed by individuals in “alcoholism” and “drug abuse” treatment or recovery facilities.³⁸⁵

O. Tort Law

Tort law³⁸⁶ is a modest source of alcohol-related language, occasionally incorporating phrases such as “alcoholic or drug addict,” “habitually addicted,” and “habitually intoxicated.” Most of these statutes allow the imposition of civil liability

³⁷⁸ See generally WALTER HELLERSTEIN, KIRK J. STARK, JOHN A. SWAIN & JOAN M. YOUNGMAN, *STATE AND LOCAL TAXATION: CASES AND MATERIALS* (11th ed. 2020) (including materials on major state and local income taxes, including sales taxes).

³⁷⁹ KAN. STAT. ANN. § 79-41a04(d) (West 2021).

³⁸⁰ MONT. CODE ANN. § 53-24-108(1)(a) (West 2021).

³⁸¹ *Id.* § 16-1-406(3)(a).

³⁸² N.C. GEN. STAT. ANN. §§ 18B-805(b)(3), (h) (West 2021).

³⁸³ S.C. CODE ANN. § 61-12-20(b) (2021).

³⁸⁴ UTAH CODE ANN. § 32B-2-403(1)–(2) (West 2021).

³⁸⁵ CAL. REV. & TAX. CODE §§ 6363.6(e)–(f) (West 2021).

³⁸⁶ See generally VICTOR E. SCHWARTZ, KATHRYN KELLY & DAVID F. PARTLETT, PROSSER, WADE AND SCHWARTZ'S *TORTS, CASES AND MATERIALS* (14th ed. 2020) (including a wide variety of torts materials and defining a tort as a civil wrong outside the context of breach of contract for which the law provides a remedy).

on persons who sell liquor to certain other individuals, causing damages to result. Colorado, for example, provides that any individual whose person or property is injured by a “habitually intoxicated” person has a cause of action against any third party who sold or gave alcohol to the “habitually intoxicated” person.³⁸⁷ Florida allows the imposition of liability on persons “who willfully and unlawfully” serve “a person habitually addicted” to alcohol.³⁸⁸ Pennsylvania waives sovereign immunity and allows the imposition of liability on the state for damages that result when a state liquor store employee sells liquor to a “person known as an habitual drunkard, or of known intemperate habit.”³⁸⁹ Rhode Island permits a family member or employer of a “person who has the habit of drinking intoxicating beverages” to request a liquor licensee not to sell the person liquor.³⁹⁰ If the liquor licensee sells liquor to the person within twelve months of the request, a cause of action may be brought for resulting damages.³⁹¹

Although many tort statutes containing alcohol-related language allow the imposition of civil liability on persons who sell liquor to certain other individuals, causing damages to result, occasionally a tort statute will offer immunity in an alcohol-related situation. Illinois, for example, provides tort immunity to individuals who participate in certain interventions involving an “alcoholic or drug addict.”³⁹² Virginia, by further example, offers civil immunity to health care professionals involved in certain peer review processes and who, as part of such processes, investigate complaints that “alcoholism or drug addiction has impaired the ability of” another health care professional to practice.³⁹³

P. Vehicle and Transportation Law

Many states have vehicle and transportation statutes that identify negative legal consequences (e.g., arrest, driver restrictions, and non-issuance of drivers’ licenses) that follow from alcohol-related activities and alcohol-related states. Some of these statutes use terms such as “abuse,” “alcoholics,” “chronic alcoholism,” “drunk,” “habitual drunkard,” and “persistent drunk drivers.” In Arkansas, for example, conductors of running trains are authorized to arrest “drunk” passengers.³⁹⁴ Colorado imposes certain requirements, including “interlock-restricted license[s],” on “persistent drunk drivers.”³⁹⁵ North Carolina has a similar interlock requirement for persons who “abuse[] alcohol.”³⁹⁶ Delaware prohibits the issuance of a motor vehicle “operator’s or chauffeur’s license to any” person who is determined to be “an

³⁸⁷ COLO. REV. STAT. ANN. § 13-21-103 (West 2021).

³⁸⁸ FLA. STAT. ANN. § 768.125 (West 2021).

³⁸⁹ 42 PA. STAT. AND CONS. STAT. § 8522(b)(7) (West 2021).

³⁹⁰ 3 R.I. GEN. LAWS ANN. § 3-11-2 (West 2021).

³⁹¹ *Id.*

³⁹² 745 ILL. COMP. STAT. ANN. 35/2 (West 2021).

³⁹³ VA. CODE ANN. § 8.01-581.13(A) (West 2021).

³⁹⁴ ARK. CODE ANN. § 23-12-708(b) (West 2021).

³⁹⁵ COLO. REV. STAT. ANN. §§ 42-1-102(68.5)(a), 42-2-132.5(1)(a)(I) (West 2021).

³⁹⁶ N.C. GEN. STAT. ANN. § 20-28(c4) (West 2021).

habitual drunkard.”³⁹⁷ Florida also prohibits the issuance of a driver’s license “[t]o any person who is an habitual drunkard.”³⁹⁸ So too do Idaho, Kansas, Maryland, Mississippi, Missouri, North Carolina, Rhode Island, South Dakota, Tennessee, and West Virginia.³⁹⁹ Indeed, North Carolina has an entire statutory provision devoted to the “[r]evocation of [drivers’] license[s] of mental incompetents, alcoholics and habitual users of narcotic drugs.”⁴⁰⁰

Some state vehicle and transportation laws use alcohol-related language to specify the education or treatment that must take place before license reinstatement can occur. These statutes favor the word “alcoholism.” Alaska, for example, requires “a person whose driver’s license has been revoked” and who requests reinstatement to submit proof to the court that the person has met “alcoholism screening, evaluation, referral, and program requirements.”⁴⁰¹ Massachusetts has a driving under the influence provision that allows, “as a condition of probation,” a driver to “be assigned to . . . an alcohol or controlled substance abuse treatment or rehabilitation program or to both.”⁴⁰² New Hampshire permits a court to require a person to successfully complete an “alcohol or substance abuse education program in lieu of” revoking the person’s driver’s license.⁴⁰³ Vermont requires its Department of Corrections to provide “alcohol and substance abuse treatment” to certain persons who violate the state’s motor vehicle laws.⁴⁰⁴ Virginia requires the development of driver improvement curricula that “shall include instruction” on “alcohol and drug abuse.”⁴⁰⁵ Washington will “not issue a driver’s license to” “an alcoholic, drug addict, alcohol abuser, or drug abuser” unless the individual participates in or “complete[s] an alcohol or drug abuse treatment program.”⁴⁰⁶

Finally, many states have campaigns against “drunk driving,” funds to prevent “drunk driving,” funds to help victims of “drunk driving,” and prohibitions against hiring “drunken” drivers. Iowa, for example, has an “ongoing public education campaign” regarding “driving drunk.”⁴⁰⁷ Massachusetts refers to “victims of drunk driving.”⁴⁰⁸ Michigan prohibits the expiration of a snowmobile non-operation order until the operator pays an administrative processing fee, a portion of which is deposited in the “drunk driving prevention” fund.⁴⁰⁹ Missouri has a “Drunk Driving Risk Reduction Awareness Program” that includes the placement of highway signs

³⁹⁷ DEL. CODE ANN. tit. 21, § 2707(b)(3) (West 2021).

³⁹⁸ FLA. STAT. ANN. § 322.05(7) (West 2021).

³⁹⁹ IDAHO CODE ANN. § 49-303(6) (West 2021); KAN. STAT. ANN. § 8-237(d) (West 2021); MD. CODE ANN., TRANSP. § 16-103.1(2) (West 2021); MISS. CODE ANN. § 63-1-9(1)(c) (West 2021); MO. ANN. STAT. § 302.060(1)(4) (West 2021); N.C. GEN. STAT. ANN. § 20-9(c) (West 2021); 31 R.I. GEN. LAWS ANN. § 31-10.3-15(a)(3) (West 2021); S.D. CODIFIED LAWS § 32-12-31 (2021); TENN. CODE ANN. § 55-50-303(a)(3) (West 2021); W. VA. CODE ANN. § 17B-2-3(a)(4) (West 2021).

⁴⁰⁰ See generally N.C. GEN. STAT. ANN. § 20-17.1 (West 2021) (noting specific statutory provisions).

⁴⁰¹ ALASKA STAT. ANN. § 28.15.211(d) (West 2021).

⁴⁰² MASS. GEN. LAWS ANN. ch. 90, § 24D (West 2021).

⁴⁰³ N.H. REV. STAT. ANN. § 263:56-b(1) (2021).

⁴⁰⁴ VT. STAT. ANN. tit. 23, § 1210(c)(2) (West 2021).

⁴⁰⁵ VA. CODE ANN. § 46.2-490(A) (West 2021).

⁴⁰⁶ WASH. REV. CODE ANN. § 46.20.031(3)(b) (West 2021).

⁴⁰⁷ IOWA CODE ANN. § 321J.1A(1) (West 2021).

⁴⁰⁸ MASS. GEN. LAWS ANN. ch. 10, § 66 (West 2021).

⁴⁰⁹ MICH. COMP. LAWS ANN. § 324.82155 (West 2021).

memorializing “drunk driving” victims.⁴¹⁰ New Hampshire motor vehicle law outlaws “drunken driving”⁴¹¹ and New York motor vehicle law refers to “drunk” driving.⁴¹² New Jersey has declared the entire month of December “Drunk Driving Awareness Month.”⁴¹³ By final illustrative but not exhaustive example, Wisconsin has a statutory provision designed to prohibit the employment of “drunken” “commercial motor vehicle” operators.⁴¹⁴

Q. Miscellaneous Law

Miscellaneous state laws also employ terms such as “alcoholism,” “drunk,” “drunkenness,” and “habitual drunkard.” In Mississippi, for example, an individual may not serve as a juror if the individual is a “common gambler or habitual drunkard.”⁴¹⁵ In Nebraska, that fact that a person is a “habitual drunkard” is good cause to challenge that person’s service as a juror or alternate juror.⁴¹⁶ In Alabama, a court is required to examine an individual “alleged to be [an] incompetent” witness due to “drunkenness” and to decide whether the individual has capacity to serve as a witness.⁴¹⁷ Michigan and Nevada prohibit second-hand and junk dealers from purchasing or receiving an article from any person who is an “habitual drunkard.”⁴¹⁸ Nevada also prohibits pawnbrokers from “receiv[ing] property from a . . . common drunkard.”⁴¹⁹ Maine prohibits “innkeeper[s], hotelkeeper[s], boardinghouse keeper[s], lodging house keeper[s], [and] campground operator[s]” from allowing “drunkenness or excess in the inn, hotel, boardinghouse, lodging house, restaurant, shop or other premises.”⁴²⁰ As a final illustrative example, Rhode Island prohibits keepers of taverns, cookshops, and oyster houses from allowing their buildings to be “frequented by any common drunkard or person addicted to the intemperate use of spirituous or intoxicating liquors” as well as “wastrels.”⁴²¹

R. Summary and Findings

This Part has carefully collected and catalogued more than four hundred illustrative state statutes containing alcohol-related language. These statutes are sourced in a variety of subject matter codes, including those relating to criminal law, education law, employment law, family law, firearms law, health and social services law, insurance law, liquor control law, military and veterans’ law, occupational

⁴¹⁰ MO. ANN. STAT. § 227.295 (West 2021).

⁴¹¹ N.H. REV. STAT. ANN. § 265-A:21(1) (2021).

⁴¹² N.Y. VEH. & TRAF. LAW § 1197(7)(a) (McKinney 2021).

⁴¹³ N.J. STAT. ANN. § 36-2-120 (West 2021).

⁴¹⁴ WIS. STAT. ANN. § 346.64 (West 2021).

⁴¹⁵ MISS. CODE ANN. § 13-5-1 (West 2021).

⁴¹⁶ NEB. REV. STAT. ANN. § 29-2006(8) (West 2021).

⁴¹⁷ ALA. CODE § 12-21-165(b) (2021).

⁴¹⁸ MICH. COMP. LAWS ANN. § 445.407 (West 2021); NEV. REV. STAT. ANN. § 647.140(8) (West 2021).

⁴¹⁹ NEV. REV. STAT. ANN. § 646.060(8) (West 2021).

⁴²⁰ ME. REV. STAT. ANN. tit. 30-a, § 3834(1) (2021).

⁴²¹ It appears that a “wastrel” is a person who is “wasting his or her property or earnings or means of supporting himself or herself and family.” 5 R.I. GEN. LAWS ANN. § 5-24-4 (West 2021).

licensure law, probate and fiduciary law, property law, public officer and civil servant law, tax law, tort law, and vehicle and transportation law. Seven key findings may be drawn from the alcohol-related language presented in this Part.

First, *all* states as well as the District of Columbia use significant alcohol-related language. The Author expected the occasional use of outdated alcohol-related terms but did not expect the routine statutory incorporation of explicitly and implicitly stigmatizing language. The prevalence of alcohol-related language did not appear to the Author to dramatically cut across South-versus-North, red-versus-blue, or other geographical or political lines.

Second, health and social services law as well as occupational licensure law contain more alcohol-related language compared to other areas of the law, such as employment law or firearms law, regardless of state.⁴²² This second finding is not surprising given that health and social services are delivered to individuals with a variety of physical and mental health conditions, including AUD, and that some alcohol-related language would be necessary to ensure that individuals with AUD can access such services. This finding is also not surprising given that the activities of health care professionals, including mental health professionals who treat AUD, are heavily regulated by state licensure laws. It is somewhat ironic, however, that more thoughtful and respectful language was not selected by lawmakers (and the legislative counselors and commissions that provide drafting services thereto)⁴²³ for use in health and social services law and professional licensing law. After all, these practice areas were designed to encourage individuals to seek such services from licensed (versus unlicensed) practitioners with specific training and expertise and to ensure the quality of such services. To be fair, some of these statutes were drafted decades ago,⁴²⁴ before the publication and dissemination of research showing that alcohol-related language can elicit negative judgments.⁴²⁵ Many of these statutes, however, have been re-opened for substantive amendment numerous times since enactment.⁴²⁶ Linguistic amendments could and should have been incorporated at that time.

Third, a variety of positive and negative⁴²⁷ legal consequences flow from alcohol-related language. Examples of positive legal consequences include

⁴²² See *supra* Parts II(F) and (J).

⁴²³ See, e.g., *Welcome*, CONN. GEN. ASSEMBLY LEGIS. COMM'RS OFFICE (July 21, 2021), <https://www.cga.ct.gov/lco/> [<https://perma.cc/R52N-WSF8>] (including within the mission of the Legislative Commissioners' Office "drafting legislation that expresses legislative intent in clear, concise and constitutionally sound language").

⁴²⁴ See *infra* note 426 (referencing statutes enacted in 1974 and 2003, almost five decades and eighteen years ago, respectively).

⁴²⁵ See *supra* Part I (citing research studies published since 2010).

⁴²⁶ See, e.g., MISS. CODE ANN. § 41-30-3 (West 2021) (enacted in 1974 but amended in 2016 and 2017); *id.* § 9-23-5 (West 2021) (enacted in 2003 but amended in 2014 and 2019).

⁴²⁷ The in-text sentences that follow this footnote classify certain legal outcomes as positive or negative. Of course, such classifications depend on the perspective of the person involved. For example, a family member may view a loved one's guardianship or conservatorship positively while the loved one may view it negatively. A statute authorizing the provision of health and social services to an individual with AUD may be viewed positively by the state but negatively by the individual who does not want treatment. Divorce, too, may be viewed positively from the perspective of the individual filing for divorce but negatively from the perspective of the individual receiving the divorce petition. Loss of child custody also may be viewed positively from the perspective of the state but negatively from the perspective of the parent losing custody. This Article recognizes that the desirability of a legal consequence

eligibility for AUD prevention, treatment, and recovery services; eligibility for treatment courts; eligibility for crime victim recognition and compensation; access to employer-provided assistance; availability of mitigating factors in professional discipline; mandatory insurance coverage; and tort immunity.⁴²⁸ Examples of negative legal consequences include criminal prosecution in the civilian and military contexts; divorce; loss of child custody; loss of employment; termination of student, teacher, or other education-related status; revocation of professional licensure; professional discipline; loss of ability to serve on a jury; loss of ability to run for or hold public office; loss or re-direction of pension; denial of admission to a veterans' home; exclusion from insurance coverage; and tort liability.

Fourth, different jurisdictions attach different legal consequences to the same or similar alcohol-related activities, states, or conditions. For example, some states make public "drunkenness" an offense while other states clarify that being a "drunkard" cannot be an element of a crime.⁴²⁹ Some states require insurance coverage of alcohol-related conditions while other states limit or cancel insurance coverage when an alcohol-related activity or state is present.⁴³⁰ Some states tie care, treatment, services, and even facility admission to the presence of an alcohol-related condition while other states limit access to certain facilities based on the presence of an alcohol-related condition.⁴³¹ One possible explanation is that these statutes were enacted at different times, written by different lawmakers, and/or approved by different legislative counsel. A second explanation is that different states simply have different policies, goals, and views regarding alcohol-related activities, alcohol-related states, and alcohol-related health conditions.

Fifth, alcohol-related language use is inconsistent within each state and, even, within individual statutes. For example, a state may use recommended language in one statute and non-recommended language in another statute.⁴³² Or, a state may use non-recommended language in the title of a statute but recommended language in the body of the same statute. Too, a state may use both recommended and non-recommended language in the body of the same statute.⁴³³ Inconsistencies *between* statutes that were authored by different lawmakers at different times for different purposes may be explained that way. Inconsistencies *within* statutes suggest, perhaps, inattention to detail or lack of awareness on the part of the lawmaker regarding terminology.

This Article's sixth finding is, perhaps, the most important. That is, there are multiple means by which statutory language permeates public discourse, creating

depends on the perspective of the individual assessing the consequence and that the positive and negative classifications ascribed herein are over-simplified for purposes of gross description.

⁴²⁸ See *supra* Part II.

⁴²⁹ See *supra* Part II(A).

⁴³⁰ See *supra* Part II(G).

⁴³¹ Compare *supra* Part II(F) (making available certain health and social services to individuals with certain alcohol-related conditions), with *supra* Part II(I) (excluding individuals with AUD from veterans' homes).

⁴³² See, e.g., *supra* note 95 (Nevada statute using person-first language such as "persons with an alcohol use disorder"); *supra* note 111 (Nevada statute using non-person-first language, including "drunkard").

⁴³³ See, e.g., N.J. STAT. ANN. § 26:2B-33 (West 2021) (using the American Psychiatric Association-recognized phrase "alcohol use disorder" as well as the non-medically recognized word "alcoholism" in the body of the same statute (in part because the name of a relevant state council includes the word "alcoholism")).

opportunities to neutralize or perpetuate stigma against individuals with AUD. For example, many of the statutes referenced in Part II create or establish educational programs, academic chairs, health and social services programs, boards, funds, curricula, billboards, signs, forms, pamphlets, and other materials (hereinafter programs and materials).⁴³⁴ These programs and materials are distributed to, seen by, read by, accessed by, and/or required to be used by students, employees, patients, insureds, drivers, taxpayers, and community members who interact with the civil and criminal justice systems as well as teachers, employers, health care providers, insurers, lawyers, prosecutors, courts, and government agencies. These programs and materials establish a direct line between alcohol-related statutory language and a variety of legal rights, benefits, privileges, obligations, duties, and penalties applicable to individuals with AUD. The statutes referenced in Part II are not simply outdated laws that have no bearing on present-day society. These statutes play a direct, active, and important role in assembling and regulating public life.

Finally, a variety of statutes associate alcohol restrictions with the need to uphold public morals and tie alcohol use to moral failure. Alabama's liquor control law, for example, was enacted in part to protect the "morals" of state residents.⁴³⁵ Alabama also classifies certain substance-related offenses resulting in the suspension of a driver's license as offenses involving not just public health but also "morals."⁴³⁶ In Mississippi, the offense of "[p]ublic profanity or drunkenness" is classified as a "crime against public morals and decency."⁴³⁷ Elsewhere in Mississippi law, in a chapter devoted to the civil commitment of "alcoholics and drug addicts," the state defines "alcoholic" as "any person who, while chronically under the influence of alcoholic beverages, endangers public morals."⁴³⁸ Missouri board of regents at "state teachers college[s]" have "the power to suspend or expel" students for "drunkenness or immoral conduct."⁴³⁹ Missouri also provides that a "president, professor or teacher" of a state college or university may be removed for "drunkenness or immoral conduct."⁴⁴⁰ In addition, Missouri judges and elected officials may be

⁴³⁴ See, e.g., *supra* note 143 (Arkansas statute requiring a state medical school to establish "a Chair on Alcoholism and Drug Abuse Prevention"); *supra* note 144 (Ohio statute requiring Ohio State University's College of Medicine to establish a research program on alcoholism); *supra* note 237 (authorizing the Pennsylvania Department of Health "to establish a Program of Alcoholic Studies and Rehabilitation"); *supra* note 245 (assigning the Alaska "Advisory Board on Alcoholism and Drug Abuse" responsibility for advising the Alaska government on "legal processes that" impact "the treatment and rehabilitation of alcoholics and drug abusers"); *supra* note 241 (authorizing a Tennessee fund to pay for "services . . . furnished to alcoholics"); *supra* notes 141–155 (referencing statutes that establish curricula for a variety of primary, secondary, post-secondary, and professional students); TENN. CODE ANN. §§ 6-54-145(c), (d) (West 2021) (Tennessee sober living statute requires "sober living homes," city halls, and municipality websites to post certain language about the purpose and regulation (or lack thereof) of sober living homes; required posted language includes "alcohol . . . abuse"); *supra* note 410 (Missouri statute authorizing highway signs memorializing "drunk driving" victims); *supra* note 129 (establishing the form to be used in Minnesota felony guilty pleas that asks whether the individual pleading guilty is "so drunk"); IOWA CODE ANN. § 321J.1A(2) (West 2021) (requiring the "wide distribution" of pamphlets on "drunk driving").

⁴³⁵ ALA. CODE § 28-3-2(a) (2021).

⁴³⁶ *Id.* § 13A-12-290.

⁴³⁷ MISS. CODE ANN. § 97-29-47 (West 2021).

⁴³⁸ *Id.* § 41-31-1(a).

⁴³⁹ MO. ANN. STAT. § 174.120 (West 2021).

⁴⁴⁰ *Id.* § 174.150(1).

impeached for “habitual drunkenness . . . or any offense involving moral turpitude.”⁴⁴¹ New Jersey permits “[t]he governing body of every municipality” to “[p]revent vice, drunkenness, and immorality.”⁴⁴² Tennessee devotes part of a statutory chapter to “Public Morals.” In that part, Tennessee authorizes public officers to “maintain and enforce” laws relating to “drunkenness.”⁴⁴³

III. PROPOSALS

This Article has presented research findings investigating the relationship between language and stigma (Part I) and has collected and catalogued an overwhelming number of illustrative state statutes containing significant alcohol-related language that could perpetuate stigma against individuals with AUD (Part II). This final Part identifies and justifies four, non-mutually exclusive, statutory proposals designed to promote the autonomy, dignity, and just treatment of individuals with AUD. These proposals involve drafting scientifically precise and respectful legislative language on a going-forward basis, deleting unnecessary and inappropriate language, amending otherwise helpful language, and challenging the constitutionality of vague and ambiguous language. Each proposal will be discussed in turn.

A. New Language Going Forward

First, lawmakers should use scientifically precise and respectful language in new legislation introduced from this point forward. For example, a lawmaker who drafts a new bill prohibiting an alcohol-related activity should incorporate precise language relating to blood alcohol percentage or ethanol concentration (e.g., “.08% blood alcohol content (BAC)”) rather than lay language (“drunk driving”). Current medical studies that investigate the relationship between alcohol consumption and health uniformly reference precise BAC percentages or precise milligrams of ethanol per deciliter but do not use words like “drunk.”⁴⁴⁴ Lawmakers should follow this convention too. Lawmakers who do so would be preserving state prohibitions against driving while impaired, which have the laudable purpose of protecting the health, safety, and welfare of other drivers and passengers, while not further stigmatizing individuals with AUD. Legal precedent for this proposal is found in Mississippi law, which prohibits an individual from driving with a certain BAC percentage based on grams of alcohol per milliliter but does not otherwise refer to “drunk driving.”⁴⁴⁵

Along the same lines, a lawmaker who drafts a new bill referencing an alcohol-related condition could use person-first language that incorporates current

⁴⁴¹ *Id.* § 106.020.

⁴⁴² N.J. STAT. ANN. § 40:48-1(6) (West 2021).

⁴⁴³ TENN. CODE ANN. § 6-54-401 (West 2021).

⁴⁴⁴ See, e.g., Giorgia Spaggiari, Angelo Cignarelli, Andrea Sansone, Matteo Baldi & Daniele Santi, *To Beer or Not to Beer: A Meta-analysis of the Effects of Beer Consumption on Cardiovascular Health*, PLOS ONE (June 3, 2020), <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0233619> [<https://perma.cc/65G8-94QB>] (referring to precise numerical measurements; not using words like “drunk”).

⁴⁴⁵ MISS. CODE ANN. § 63-11-30(1)(d) (West 2021).

medical terminology. Thus, a bill proposing publicly funded detoxification and rehabilitation services could highlight the availability of such services for “individuals with alcohol use disorder,” but not “common drunkards” or “habitual inebriates.” This language makes clear that individuals with alcohol-related conditions have access to such services without further stigmatizing them.

New legislation requiring legislative counsel to ensure the use of scientifically precise and respectful language also could be enacted. There is legal precedent for this proposal. In 2019, Nevada passed legislation requiring its Legislative Counsel to ensure that statutory language referencing individuals with alcohol-related health conditions use words that are “commonly viewed as respectful” as well as “sentence structure that refers to the person before referring to [the person’s] disorder.”⁴⁴⁶ The Nevada legislation specifies that “[w]ords and terms that are preferred for use in [statutes] include, without limitation, ‘addictive disorder,’ ‘persons with addictive disorders,’ ‘person with an addictive disorder,’ ‘person with an addictive disorder related to gambling’ and ‘substance use disorder.’”⁴⁴⁷ The Nevada legislation further clarifies that “[w]ords and terms that are not preferred for use in [statutes] include, without limitation, ‘addict,’ ‘alcoholic,’ ‘alcohol abuse,’ ‘alcohol abuser,’ ‘alcohol and drug abuser,’ ‘drug abuse,’ ‘drug addict,’ ‘problem gambler,’ ‘substance abuse’ and ‘substance abuser.’”⁴⁴⁸ This Article encourages other states to follow Nevada’s lead by enacting legislation specifying preferred and non-preferred statutory language.

B. Deletion of Unnecessary and Inappropriate Language

Second, lawmakers should also delete unnecessary and inappropriate alcohol-related and morals language in existing statutes. In terms of alcohol-related language, many of the statutes presented in Part II reference alcohol-related health conditions that are associated with impaired behavior when other, not-referenced health conditions also are associated with impairment. For example, Delaware has a statutory provision that prohibits the issuance of a motor vehicle operator’s license to any person who is determined to be an “habitual drunkard.”⁴⁴⁹ Delaware does not have additional provisions prohibiting the issuance of licenses to individuals with chronic vision impairments, seizure disorders, or narcolepsy, all of which can affect an individual’s ability to safely operate a vehicle. Delaware does have, however, a catch-all provision that prohibits the issuance of a license to any person who has a “physical or mental disability or disease [that prevents] such person from exercising reasonable and ordinary control over a motor vehicle while operating the same upon the highways.”⁴⁵⁰ AUD is a disease that, when active, can be associated with a person not exercising reasonable and ordinary control over a motor vehicle.⁴⁵¹ The Delaware

⁴⁴⁶ Ann. B. 367, 80th Leg. (Nev. 2019).

⁴⁴⁷ NEV. REV. STAT. ANN. § 220.125(2)(a) (West 2021).

⁴⁴⁸ *Id.* § 220.125(2)(b).

⁴⁴⁹ DEL. CODE ANN. tit. 21, § 2707(b)(3) (West 2021).

⁴⁵⁰ *Id.* § 2707(b)(4).

⁴⁵¹ DSM-5, *supra* note 2, at 496 (identifying major areas of life functioning that are impaired in individuals with AUD, including driving).

catch-all thus includes AUD. The additional reference to “habitual drunkard” is legally unnecessary and serves only to exemplify individuals with AUD. This Article argues that the Delaware statute should be improved by deleting the reference to persons who are “habitual drunkards”⁴⁵² but keeping the catch-all language referring to physical and mental conditions that prevent persons from safely controlling their vehicles.⁴⁵³ Precedent for this proposal exists. In 2015, the North Dakota Legislature deleted a provision prohibiting the issuance of a license to “habitual drunkard[s]”⁴⁵⁴ but kept a more general provision prohibiting the issuance of licenses to individuals who are incompetent by reason of mental disabilities and diseases.⁴⁵⁵

In terms of morals language, note that many of the statutes referenced in Part II associate alcohol restrictions with the need to uphold public morals and tie alcohol use and alcohol-related conditions to moral failure. Mississippi, for example, defines “alcoholic” as “any person who, while chronically under the influence of alcoholic beverages, endangers public morals.”⁴⁵⁶ Mississippi’s language is inconsistent with the current medical literature, which views AUD as a treatable medical condition, not a fixed moral or character trait.⁴⁵⁷ This Article argues that the Mississippi statute (and others like it)⁴⁵⁸ should be amended to refer to “individuals with alcohol use disorder” and then should define “alcohol use disorder” with reference to the most current edition of the DSM,⁴⁵⁹ which will result in the deletion of the reference to “public morals.” This proposal has the added benefit of automatically incorporating DSM updates into state law, thus preventing state law from becoming medically and scientifically outdated. This Article further argues that states should consider going one step further by enacting legislation explaining that AUD and other substance use disorders are treatable medical conditions, not moral failures. Substantive support for this proposal may be found in the scientific literature, which associates public recognition of disease treatability with reductions in stigma and discrimination towards individuals with the disease.⁴⁶⁰ Legal precedent for this proposal may be found in Vermont law, which characterizes AUD as a “health and social problem”

⁴⁵² DEL. CODE ANN. tit. 21, § 2707(b)(3) (West 2021).

⁴⁵³ *Id.* § 2707(b)(4).

⁴⁵⁴ N.D. CENT. CODE ANN. § 39-06-03 at Historical and Statutory Notes (West 2021).

⁴⁵⁵ *Id.* § 39-06-03(3).

⁴⁵⁶ MISS. CODE ANN. § 41-31-1(a) (West 2021).

⁴⁵⁷ See, e.g., Yngvild Olsen & Joshua M. Sharfstein, *Confronting the Stigma of Opioid Use Disorder—and Its Treatment*, 311 JAMA 1393, 1393 (2014) (challenging the notion that substance use disorders are evidence of moral weakness); Robert A. Matano & Stanley F. Wanat, *Addiction Is a Treatable Disease, Not a Moral Failing*, 172 WEST. J. MED. 63, 63 (2000) (arguing that substance use disorders are treatable diseases, not moral failings).

⁴⁵⁸ See *supra* notes 435–443 (referencing state statutes associating alcohol and morals).

⁴⁵⁹ See DSM-5, *supra* note 2; *supra* note 96 (listing the DSM-5’s diagnostic criteria for AUD).

⁴⁶⁰ See, e.g., Emma E. McGinty, Howard H. Goldman, Bernice Pescosolido & Colleen L. Barry, *Portraying Mental Illness and Drug Addiction as Treatable Health Conditions: Effects of a Randomized Experiment on Stigma and Discrimination*, 126 SOC. SCI. & MED. 73, 73 (2015) (“Portrayal of persons with successfully treated mental illness and drug addiction is a promising strategy for reducing stigma and discrimination toward persons with these conditions and improving public perceptions of treatment effectiveness.”); Colleen L. Barry, Emma E. McGinty, Bernice A. Pescosolido & Howard H. Goldman, *Stigma, Discrimination, Treatment Effectiveness, and Policy: Public Views About Drug Addiction and Mental Illness*, 65 PSYCHIATRIC SERVS. 1269, at Conclusion (2014) (explaining the relationship between public understanding of disease treatability and stigma reduction).

rather than a “criminal transgression[] against the welfare and morals of the public.”⁴⁶¹

C. Amendment of Otherwise Helpful Language

In addition to using precise and respectful language in new legislation and deleting unnecessary and inappropriate language in existing legislation, a third proposal is to amend otherwise helpful alcohol-related language. Some statutes reference individuals with alcohol-related conditions so that these individuals can avail themselves of services, benefits, privileges, and/or rights. Consider the insurance statutes presented in Part II(G). A Louisiana statute referenced therein requires certain health insurers to offer coverage for the treatment of “alcoholism or drug abuse.”⁴⁶² This statute is helpful because it gives insureds a legal right to insurance coverage of treatments and services for alcohol-related conditions. The statute should not be deleted but could be amended to specify “individuals with alcohol use disorder or other substance use disorders.” Along the same lines, a Georgia statute currently prohibits insurers from refusing to cover services provided in a facility that specializes in the treatment of “alcoholics or drug addicts.”⁴⁶³ This statute should not be deleted but could be amended to specify “individuals with alcohol use disorder or other substance use disorders.” Precedent exists for these types of linguistic amendments. Georgia, for example, passed a new testamentary capacity law explaining that changes from the prior law were “not intended to change the [legal] standard . . . but rather to eliminate from [Georgia law] language that was merely . . . outdated.”⁴⁶⁴

This Article expresses grave concern with the retention of potentially stigmatizing language in existing (both positive- and negative-consequence) statutes for two main reasons. First, individuals with AUD must be willing to accept a stigmatizing label to benefit from a positive-consequence statute. For example, an individual with AUD must be willing to identify as an “indigent addict” or “habitual drunkard” to receive free alcohol-related treatment (technically, a positive legal consequence) under Michigan health law.⁴⁶⁵ By further example, an individual with AUD must be willing to identify as an “alcoholic” or “drug addict” to be eligible to participate in a Louisiana treatment court⁴⁶⁶ (which may be viewed as a favorable alternative to incarceration). Some individuals do self-identify with these terms. Some individuals, however, who struggle with the denial that frequently accompanies AUD may be discouraged from pursuing positive legal consequences, such as treatment, if doing so requires submission to language that evokes negative judgment.

⁴⁶¹ VT. STAT. ANN. tit. 18, § 4801(a) (West 2021).

⁴⁶² See *supra* note 256.

⁴⁶³ GA. CODE ANN. § 33-24-28.3 (West 2021).

⁴⁶⁴ *Id.* § 53-4-11 at Editors’ Notes & Comment (West 2021).

⁴⁶⁵ See *supra* text accompanying note 231 (discussing Michigan law offering treatment to certain individuals).

⁴⁶⁶ LA. STAT. ANN. §§ 13:5303(1), (3), (4) (2021).

Lawmakers who introduce statutes to state legislatures, attorneys who reference statutes in legal arguments, and judges who rely on statutes in legal decisions must use professional language that respects the autonomy and dignity of the individuals who are governed by these statutes. Autonomy may be defined as an individual's quality or state of being self-governing and morally independent.⁴⁶⁷ Dignity may be defined as the state or quality of being worthy of honor and respect.⁴⁶⁸ In a situation in which a particular individual self-identifies as an "alcoholic," for example, an attorney who represents the individual in a legal proceeding may be respecting and dignifying the individual by stating during a hearing that the individual "self-identifies as an alcoholic and wishes to [e.g., plead guilty and defer adjudication or enter treatment court]." In the context of individuals who do not self-identify using these terms and/or do not want others using these terms to refer to them,⁴⁶⁹ however, it is neither respectful nor dignifying for a third party to use such language. Law and policies—primary sources of structural stigma—must not reinforce medical misconceptions about individuals with AUD. To the contrary, our legal system must actively work to combat these misconceptions.

Second, and in the context of negative-consequence statutes, prosecutors, judges, insurers, federal and state agency representatives, and other individuals may negatively assess an individual who is described by a statute containing bias-prone language. Recall the studies presented in Part I of this Article in which health care professionals as well as other third parties reported negative value judgments associated with non-person-first and slang terms used to refer to individuals with substance use disorders. Inviting negative judgments by individuals who are supposed to be fair and impartial when assessing or prosecuting an individual or otherwise ruling on or determining the applicability of a negative-consequence statutes is simply unjust. For these reasons, this Article argues that lawmakers need to be extraordinarily mindful of not using labels (e.g., "addict," "alcoholic," "common drunkard," or "habitual inebriate") that suggest stereotypes (e.g., dangerous, blameworthy, untrustworthy, or unworthy) in the context of negative-consequence statutes.

Part II references more than 400 illustrative state statutes containing alcohol-related language. Where should lawmakers begin in terms of their linguistic amendments? This Article suggests that lawmakers begin with education laws, health and social services laws, and occupational licensure laws. Education laws that specify alcohol-related curricula directly and immediately impact individuals' (including future health care professionals') knowledge, understanding, and beliefs regarding AUD and other substance use disorders. Educational curricula must be designed carefully so as not to perpetuate stereotypes about individuals with AUD.

⁴⁶⁷ See, e.g., John Collier, *What is Autonomy?* (2002), https://www.researchgate.net/publication/28763485_What_is_Autonomy [https://perma.cc/5T29-7V6W] (defining autonomy).

⁴⁶⁸ See, e.g., Doron Shultziner, *Human Dignity - Functions and Meanings*, 3 GLOB. JURIST TOPICS 1, 8–10 (2003) (identifying "honor" and "respect" as permissible meanings of human dignity).

⁴⁶⁹ See, e.g., *supra* text accompanying notes 74–75 (reporting the results of a research study in which some individuals with opioid use disorder stated that they never wanted others to call them "heroin dependent" or a "heroin addict").

In addition, the public should be affirmatively educated about the existence and effects of stigma as well as means to combat it.⁴⁷⁰ Legal precedent for this proposal exists in New York, which requires the development and implementation of “statewide public education campaigns to reduce stigma against individuals with substance use disorders,” and in Illinois, which requires law enforcement officers and first responders to be trained regarding “eliminating stigma for people with substance-use disorders.”⁴⁷¹

Health and social services statutes that provide access to diagnostic, treatment, and rehabilitative care also must be carefully written. Individuals with AUD should not be deterred from seeking or staying in treatment by statutory language containing negative labels and stereotypes. In addition, occupational licensure laws that specify the scopes of practice of health care professionals also must be drafted with care. These laws must encourage—not discourage—individuals to seek care from licensed health care professionals with expertise in addiction medicine, psychology, social work, marriage and family therapy, and alcohol counseling, among other health care professions. Once language in education law, health and social services law, and occupational licensure law has been addressed, lawmakers should move on to other subject matter areas.

D. Constitutional Challenge

To the extent lawmakers in particular states do not implement the first three proposals identified above, a fourth proposal involves constitutional challenge. That is, litigants can and should challenge the constitutionality of state statutes that contain vague, uncertain, or ambiguous alcohol-related language. Precedent for constitutional challenge in alcohol-related contexts exists. For example, a California criminal law enacted in 1907 made it a misdemeanor for any person to be “habitually drunk in the presence of any child in [the person’s] care, custody, or control.”⁴⁷² In 1960, however, a California Superior Court affirmed a lower court’s ruling that the criminal law was unconstitutional, reasoning that the phrase “habitually drunk” was “vague, uncertain and ambiguous.”⁴⁷³

By further example, a Virginia law authorized the civil interdiction of individuals who were “habitually drunk” in public.⁴⁷⁴ The Virginia law neither defined the phrase “habitually drunk” nor set forth the elements that must be satisfied before an individual would be considered to be “habitually drunk.”⁴⁷⁵ Instead, courts were left to interpret and apply the phrase.⁴⁷⁶ A group of Virginians challenged the “habitual drunkard” statute on a number of grounds, including vagueness. Although the United

⁴⁷⁰ See Lawrence Yang, Liang Y. Wong, Margaux M. Grivel & Deborah S. Hasin, *Stigma and Substance Use Disorders: An International Phenomenon*, 30 CURRENT OP. IN PSYCHIATRY 378, 378 (2017) (“Public education that reduces stigma and provides information about treatment is needed.”).

⁴⁷¹ N.Y. MENTAL HYG. LAW § 25.18(a)(ii) (McKinney 2021); 5 ILL. COMP. STAT. ANN. 820/21(e) (West 2021).

⁴⁷² CAL. PENAL CODE § 273g, at Editor’s Notes, Validity (West 2021).

⁴⁷³ *People v. Perreault*, 5 Cal. Rptr. 849, 849–50 (Cal. App. Dep’t Super. Ct. 1960).

⁴⁷⁴ *Manning v. Caldwell*, 930 F.3d 264, 268 (4th Cir. 2019).

⁴⁷⁵ *Id.*

⁴⁷⁶ *Id.*

States District Court for the Western District of Virginia granted the defendants' motion to dismiss for failure to state a claim,⁴⁷⁷ the United States Court of Appeals for the Fourth Circuit vacated the decision and remanded the case, ruling in part that the phrase "habitually drunk" was unconstitutionally vague.⁴⁷⁸ The Fourth Circuit pointed to the "lack of any guidelines or standards regarding who qualifies as an 'habitual drunkard'"⁴⁷⁹ and explained that "[g]eneral definitions of the term 'drunkard' do not identify how much alcohol a person must consume before such consumption is considered 'excessive' or . . . what frequency of behavior constitutes a 'habit.' Thus, such definitions fail to impart any standards for determining whether a given individual is a 'drunkard.'"⁴⁸⁰

CONCLUSION

This Article presents research examining the relationship between language and stigma and collects and catalogues hundreds of illustrative state statutes containing significant alcohol-related language from a wide variety of subject matter codes.⁴⁸¹ After carefully synthesizing these statutes and identifying seven original research findings, this Article makes four non-mutually exclusive proposals. These proposals include drafting scientifically precise and respectful legislative language on a going-forward basis, deleting unnecessary and inappropriate language, amending otherwise helpful language, and challenging the constitutionality of statutes that contain vague and ambiguous language. This Article also offers sample language that may be used to implement the first three proposals and pinpoints caselaw relevant to the fourth proposal. If implemented by state lawmakers and pursued by litigants, these four proposals will diminish structural, or law-based, stigma in the context of individuals with AUD. Although prior scholarship has identified potentially problematic language within particular substantive areas, such as criminal law,⁴⁸² disability law,⁴⁸³ and immigration law,⁴⁸⁴ few scholars have attempted cross-disciplinary language studies as comprehensive and detailed as that presented in this Article.

⁴⁷⁷ *Hendrick v. Caldwell*, 232 F. Supp. 3d 868, 875–76 (W.D. Va. 2017).

⁴⁷⁸ *Manning*, 930 F.3d at 265, 274.

⁴⁷⁹ *Id.* at 274.

⁴⁸⁰ *Id.* at 275.

⁴⁸¹ See, e.g., *supra* text accompanying notes 99–421 (discussing and referencing more than 400 state statutes).

⁴⁸² See, e.g., Erica Bryant, *Words Matter: Don't Call People Felons, Convicts, or Inmates*, VERA (Mar. 31, 2021), <https://www.vera.org/news/words-matter-dont-call-people-felons-convicts-or-inmates> [<https://perma.cc/U2C4-ZSHN>] (arguing that certain words and phrases used in criminal law, including "convict," "criminal," "felon," "inmate," and "prisoner," are not only outdated but harmful); Lawrence Bartley, Lisette Bamenga, Adria Watson, Rahsaan Thomas & Wilbert L. Cooper, *The Language Project*, THE MARSHALL PROJECT (Apr. 12, 2021), <https://www.themarshallproject.org/2021/04/12/the-language-project> [<https://perma.cc/ZAD2-3CMR>] (same).

⁴⁸³ See, e.g., Paul K. Longmore, *A Note on Language and the Social Identity of Disabled People*, 28 AM. BEHAV. SCIENTIST 419, 419 (1985) (focusing on phrases used in disability discourse, including "the handicapped," "the disabled," "the deaf," "the blind," "the mentally retarded," and "the developmentally disabled").

⁴⁸⁴ See, e.g., Andrew Tae-Hyun Kim, *Penalizing Presence*, 88 GEO. WASH. L. REV. 76, 87 (2020) (addressing the stigma associated with immigration status and examining judgments associated with particular words such as "illegals," "rapists," "criminals," "aliens," and "animals").