

ARIZONA

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

Eligibility to Adopt a Child, or to Become a Foster Parent

Any person who is awaiting trial for, or who has ever been convicted of "possession, use or sale of marijuana, dangerous drugs or narcotic drugs," or a felony offense "involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana..." is precluded from receiving a fingerprint clearance card, which is a mandatory prerequisite to adopting a child or becoming a foster parent.¹ A.R.S. §§ 8-105(D), 8-509, 41-1758.03(C)(45),(61) (2006). The statutes are silent on the length of the ban on receiving a fingerprint clearance card. However, this obstacle can be overcome if the person qualifies for a good cause exception, which may be granted by the Board of Fingerprinting upon a showing "that the person is successfully rehabilitated and is not a recidivist," or a person likely to relapse into criminal activity. A.R.S. § 41-619.5(C) (2006).

Arizona also extends the length of the federal bar for felony convictions involving the manufacture or distribution of marijuana, barring adoption or foster parenting for ten years, which is five years more than the federal law requires.

Eligibility for Public Housing

On conviction of any [drug-related] offense [including possession of marijuana] . . . , the court may render the person who is convicted ineligible to receive any public benefits. The court shall determine the length of time that shall elapse before the person's eligibility is restored. "[P]ublic benefits" includes any money or services provided by this state for scholarships or tuition waivers granted for state funded universities or community colleges, welfare benefits, **public housing** or other subsidies but does not include benefits available for drug abuse treatment, rehabilitation or counseling programs." A.R.S. § 13-3418 (2006).

The Legal Action Center also reports that any criminal activity (regardless of arrest or conviction) can be considered by the Housing Authority in determining eligibility. A conviction of personal possession of marijuana results in a two year ban, or a three-year ban if the possession occurred on public housing grounds. A marijuana conviction for sales or distribution results in a five year ban. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY at <http://www.lac.org/lac/index.php>.

Eligibility for Food Stamps and other Public Assistance

On conviction of any [drug-related] offense [including possession of marijuana] . . . , the court may render the person who is convicted ineligible to receive any public benefits. The court shall determine the length of time that shall elapse before the person's eligibility is restored. "[P]ublic benefits" includes any money or services provided by this state for scholarships or tuition waivers granted for state funded universities or community colleges, **welfare benefits**, public housing or other subsidies

¹ The preclusion for foster parents also applies if any other adult member of the household is awaiting trial on, or has been convicted of, a marijuana offense. A.R.S. §§ 8-509, 41-1758.03 (2006).

but does not include benefits available for drug abuse treatment, rehabilitation or counseling programs.” A.R.S. § 13-3418 (2006).

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

Criminal records of all arrests and convictions are kept and maintained until death or the age of 99. A.A.C. § R13-1-102(B) (2006). Arrests that do not lead to conviction are recorded, but may be purged by the court upon petition. A.R.S. §§ 13-907 13-4051 (2006).

Eligibility for Educational Loans

According to the Coalition for Higher Education Reform, each educational institution makes its own state aid determination and decides whether or not drug convictions render a student ineligible. CHRIS MULLIGAN ET AL., FALLING THROUGH THE CRACKS: LOSS OF STATE-BASED FINANCIAL AID ELIGIBILITY FOR STUDENTS AFFECTED BY THE FEDERAL HIGHER EDUCATION ACT DRUG PROVISION (Coalition for Higher Educ. Reform 2006), at <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006). However, “On conviction of any [drug-related] offense [including possession of marijuana] . . . , the court may render the person who is convicted ineligible to receive any public benefits. The court shall determine the length of time that shall elapse before the person's eligibility is restored. “[P]ublic benefits” includes any money or services provided by this state for **scholarships or tuition waivers granted for state funded universities or community colleges**, welfare benefits, public housing or other subsidies but does not include benefits available for drug abuse treatment, rehabilitation or counseling programs.” A.R.S. § 13-3418 (2006).

Driver’s License

Arizona opted out of the federal ban. The state’s other license suspension statutes require involvement of a vehicle.

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION

Right to Vote

A felony marijuana conviction suspends the right to vote while incarcerated, or until discharged from probation or parole. ARIZ. CONST. art. 7, § 2(C); A.R.S. §§ 13-904(A)(1), 13-905, 13-906, 13-912, 16-101(A)(5), 21-201(3) (2006).

Right to Sit on a Jury

A felony marijuana conviction suspends the right to serve as a juror while incarcerated, or until discharged from probation or parole. A.R.S. §§ 13-904(A)(3), 13-905, 13-906, 13-912, 16-101(A)(5), 21-201(3) (2006).

Right to Possess a Firearm

A felony marijuana conviction indefinitely suspends the right to possess a firearm. A.R.S. §§ 13-904, 13-905, 13-906, 13-912(B) (2006). A person convicted of a non-dangerous, non-serious felony may file for restoration of their right to possess a firearm two years after released from prison, or discharged from probation or parole. A.R.S. § 13-905. Drug-related felonies are not considered “dangerous” or “serious” offenses. A.R.S. § 13-604(W)(4) (2006).