

DELAWARE

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

Delaware requires criminal background checks for all prospective adoptive and foster parents. 31 Del. C. § 309. Any marijuana conviction by a parent or other adult member of the household bars eligibility for becoming a foster parent, as does any "indictment or substantial evidence of involvement in any criminal activity involving ... possession, sale or distribution of illegal drugs." Del. CDR 9-200-201, subd. 3.2.8.1 (Rule 148). The Agency may, at its own discretion, make exceptions to the above requirement when the Agency documents that the health, safety and well-being of children would not be endangered. Del. CDR 9-200-201, subd. 3.2.8.1.1.

Any marijuana conviction bars adoption, but arrests not leading to conviction do not. Del. CDR 9-200-201, subd. 4.1.1.7.1.3. The Agency may, at its own discretion, make exemptions to the above requirement when the Agency documents that the health, safety and well-being of children would not be endangered. Del. CDR 9-200-201, subd. 4.1.1.7.1.3.1.

Eligibility for Public Housing

According to the Legal Action Center, conviction of any drug-related offense results in a three year bar on public housing. The Sussex County Housing Authority considers all criminal history in determining an applicant's eligibility. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY at <http://www.lac.org/lac/index.php>.

Eligibility for Food Stamps and other Public Assistance

A felony marijuana conviction "which has as an element the possession, use or distribution of" marijuana results in a lifetime ban. However, eligibility can be restored for persons convicted of marijuana possession, or use, who are participating in or have completed treatment. 31 Del. C. § 605.

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

All misdemeanor and felony marijuana convictions are recorded on a person's criminal history record. Arrests not leading to conviction are not recorded, and may not be asked about or considered by employers. 11 Del. C. §§ 8502, 8513. Delaware permits many licensing boards to deny a license for a felony marijuana conviction. For example, a license to sell insurance may be suspended, revoked or refused for any felony conviction. 18 Del. C. § 1712 (2006).

Eligibility for Educational Loans

The Delaware Higher Education Commission follows the federal guidelines and mandates that state aid be denied to students with any marijuana conviction. 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).

Driver's License

Any marijuana conviction results in a driver's license suspension for six months to three years. After one year a felon can apply for a conditional license, a misdemeanor may apply after six months. 21 Del. C. § 4177K, 16 Del. C. §4764(b)(1).

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION**Right to Vote**

The right to vote is lost for five years upon conviction of a felony marijuana offense. 15 Del. C. tit. 15 §6103 (2007).

Right to Sit on a Jury

A felony marijuana conviction results on a lifetime bar on jury service. The bar can only be removed if the person's civil rights are restored. 10 Del. C. § 4509(b)(6).

Right to Possess a Firearm

Conviction of a misdemeanor marijuana offense involving unlawful use, possession or sale, results in a five year ban on possessing a firearm. A felony marijuana offense results in a lifetime ban. 11 Del. C. § 1448.