

GEORGIA

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

Prospective adoptive and foster parents and other adult members of the household must undergo a criminal records check, but there does not appear to be any mandatory bar based on marijuana convictions. O.C.G.A. §§ 49-5-69.1, 19-8-16, 19-8-17 (2006).

Eligibility for Public Housing

According to the Legal Action Center, arrests and convictions for drug-related offenses are always considered, but do not appear to result in a mandatory bar on receiving public housing benefits. 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 results in a lifetime ban on receiving food stamps and TANF. Ga. Comp. R. & Regs. r.290-2-28-.14, subd. (e) (2006).

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

All marijuana arrests and convictions are permanently recorded. They are available to employers with the consent of the employee, and to government licensing agencies without consent. O.C.G.A. §§ 35-3-30, 35-3-34 (2006). A misdemeanor marijuana conviction may not be considered by a licensing agency. Any marijuana felony may be grounds for revocation or denial of a license. O.C.G.A. § 43-1-19 (2006).

Eligibility for Educational Loans

In 1990 the Georgia legislature passed the Georgia Drug-Free Postsecondary Education Act of 1990, noting that "the manufacture, distribution, sale, possession, or use of marijuana... is a serious threat to the public health, safety, and welfare and to the academic achievement of students enrolled in the public and nonpublic colleges, universities, and postsecondary technical institutes of this state. It is declared to be a primary purpose and goal of this state, of all of its agencies and instrumentalities, and of all of its public officials and employees to take all reasonable steps possible to eradicate the unlawful manufacture, distribution, sale, possession, and use of marijuana, controlled substances, and dangerous drugs. With this purpose in mind, the General Assembly declares that the public and nonpublic colleges, universities, and postsecondary technical institutes in this state must be absolutely free of any person who would knowingly manufacture, distribute, sell, possess, or use marijuana, a controlled substance, or a dangerous drug in an unlawful manner. O.C.G.A. § 20-1-21 (2006).

Under the Act, "[a]ny student of a public educational institution who is convicted...of any felony offense involving the manufacture, distribution, sale, possession, or use of marijuana ... shall as of the date of conviction be suspended from the public educational institution in which such person is enrolled." O.C.G.A. § 20-1-23 (2006). Further, any student of a private college who is convicted of

any felony offense involving the manufacture, distribution, sale, possession, or use of marijuana must be denied state funds for any loans, grants, or scholarships. O.C.G.A. § 20-1-24 (2006).

Driver's License

With one important exception noted below, a misdemeanor or felony marijuana conviction for "possession, distribution, manufacture, cultivation, sale, transfer of, the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer," results in a driver's license suspension for 180 days. Upon a second conviction, the license is suspended for three years, but may be reinstated after one year upon proof of completing a Drug Use Risk Reduction Program. A third conviction results in a five year suspension, but may be reinstated at the end of two years upon proof of treatment and meeting other criteria. O.C.G.A. § 40-5-75 (2006).

Georgia has a special exception for misdemeanor convictions for unlawful possession of less than an ounce of marijuana. For this offense, the person's driver's license is not suspended if the person presents proof within 120 days of completing a Drug Use Risk Reduction Program. O.C.G.A. § 40-5-75, subd. (c) (2006).

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION

Right to Vote

A misdemeanor marijuana conviction does not bar voting. A felony marijuana conviction that involves "moral turpitude," bars voting until the sentence has been successfully completed. O.C.G.A. § 21-2-216 (2006), Ga. Const. art. II, § 1, para. III(a).) Felony possession of marijuana has been held to be a crime of moral turpitude. *Hall v. State* (1990) 396 S.E.2d 271. In light of the holding in *Hall*, it is likely that any felony marijuana conviction would be considered a crime of moral turpitude and thus result in the bar on voting.

Right to Sit on a Jury

A misdemeanor marijuana conviction does not bar sitting on a jury. A felony marijuana conviction that involves "moral turpitude," results in a lifetime bar on jury service. 1983 Ga. Op. Att'y Gen. 69 (No. 83-33) (1983). Felony possession of marijuana has been held to be a crime of moral turpitude. *Hall v. State* (1990) 396 S.E.2d 271. In light of the holding in *Hall*, it is likely that any felony marijuana conviction would be considered a crime of moral turpitude and thus result in a lifetime bar on jury service.

Right to Possess a Firearm

A felony *or misdemeanor* marijuana conviction results in a lifetime bar on possessing a firearm. O.C.G.A. §§ 16-11-129, 16-11-131(c), 1997 Op. Att'y Gen. U97-29.

NOTES

A person facing a first offense for marijuana possession may be granted conditional discharge. O.C.G.A. § 16-13-2 (2006). Also, under Georgia's First Offender Program, the judge has discretion to grant a conditional discharge for both first-time misdemeanor and felony marijuana offenses. O.C.G.A. § 42-8-60 (2006). Under either provision, a conditional discharge is not considered a criminal conviction and thus does not trigger any collateral punishments.