

HAWAII

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

A person's application to adopt a child may be denied if either of the prospective adoptive parents was convicted of a marijuana offense for which incarceration is a sentencing option, and if the department finds by reason of the nature and circumstances of the crime that either of the prospective adoptive parents poses a risk to the health, safety, or well-being of the child or children. HAW. REV. STAT. § 346-19.7(d)(2006).

Similarly, the Hawaii Department of Human Services may deny a certificate of approval to operate a foster care facility if an operator (i.e. foster parent), employee, or new employee of a facility was convicted of a crime and if the department finds that the criminal history record of an operator, employee, or new employee poses a risk to the health, safety, or well-being of the children in care. HAW. REV. STAT. § 346-17(k), 346-19.7 (2006).

Because the statutes are silent on the lengths of the bars for foster care and adoption they seem to operate as lifetime bans. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, HAWAII (hereinafter "LAC REPORT"), at <http://www.lac.org/lac/main.php?view=profile&subaction1=HI> (last modified 2004).

Eligibility for Public Housing

A misdemeanor or felony marijuana conviction results in a three year bar, but rehabilitation is considered. LAC REPORT.

Eligibility for Food Stamps and other Public Assistance

Hawaii has modified the federal ban. Persons who suffer a marijuana conviction but are undergoing drug treatment may not be denied food stamps and public assistance. HAW. REV. STAT. § 346-53.3 (2006); see 21 U.S.C. § 862a (2006).

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

Employers, both public and private, may not consider *arrest* records for hiring purposes. HAW. REV. STAT. § 378-2(1)(A). There is no time limit on the availability of conviction records for employment purposes. However, employers may only inquire about convictions occurring within the past ten years that are rationally related to the job, and may do so only after a conditional offer of employment has been made. HAW. REV. STAT. §§ 378.2, 378-2.5, 831-3.1 (2006).

Eligibility for Educational Loans

Hawaii does not have money for state financial aid, but tuition waivers are available based on need and merit. The *merit* based waivers do not take into account past drug convictions, but federal guidelines are followed for the *need* based waivers, and are therefore being denied to students with

past drug convictions. 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 14 (Coalition for Higher Educ. Reform 2006), *at* <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006).

Driver's License

Hawaii does not appear to suspend a person's driver's license for a nonvehicle related marijuana conviction.

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION

Right to Vote

A felony marijuana conviction results in a loss of the right to vote while incarcerated. The right to vote is automatically restored after release from incarceration, and while on probation or parole. HAW. REV. STAT. § 831-2 (2006).

Right to Sit on a Jury

A felony marijuana conviction results in a lifetime bar on jury service. HAW. REV. STAT. § 612-4(b)(2) (2006).

Right to Possess a Firearm

Right to possess a firearm or ammunition is revoked for life for: (1) any person who is being treated for, or has been treated for, marijuana dependence; or, (2) any person charged or convicted of a felony marijuana offence. HAW. REV. STAT. § 134-7 (2006).