

KENTUCKY

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

Background checks are required for prospective foster and adoptive parents. There is a 5-year bar for any marijuana felony conviction, both for adoption and foster parenting. KY. REV. STAT. ANN. § 199.462, 922 KY. ADMIN. REG. 1:490 (2006).

Eligibility for Public Housing

A misdemeanor or felony conviction results in a five-year ban from public housing. However, the Housing Authority may consider the facts of each case and can shorten the length of the ban if the applicant can demonstrate rehabilitation. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, KENTUCKY (hereinafter "LAC REPORT"), at <http://www.lac.org/lac/main.php?view=profile&subaction1=KY> (last modified 2004).

Eligibility for Food Stamps and other Public Assistance

A felony marijuana conviction results in a lifetime ban, but this is lifted upon proof of drug treatment, and for pregnant women. KY. REV. STAT. ANN. § 205.2005 (2006).

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

Employers are permitted to ask about and consider marijuana convictions and arrests within the past 12 months. However, criminal records are not released by the state except in limited circumstances. 502 KY. ADMIN. REGS. 30:010, 30:060 (2006).

Employers can ask about and consider marijuana convictions, and obtain conviction records from the state. 502 KY. ADMIN. REGS. 30:060 § 1(2)(b) (2006). Kentucky, however, employs a direct relationship test so that an applicant may not be denied a job in the public sector or an occupational license unless there is a direct relationship between the offense and the job or the license sought.¹ KY. REV. STAT. ANN. § 335B.020 (2006).

Eligibility for Educational Loans

Students with drug convictions remain eligible to receive state financial aid in Kentucky. 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 15 (Coalition for Higher Educ. Reform 2006), at <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006).

Driver's License

Pursuant to 201 KY. ADMIN. REGS. 40:040 (2006), a Kentucky commercial driver license training school must comply with drug testing of students in accordance with the United States Department of Transportation, Federal Motor Carrier Safety Administration Rule, 49 C.F.R. 382 (2006). Under federal law, no driver is permitted to drive a commercial motor vehicle if the driver uses any controlled substance (i.e. marijuana), except when the use is pursuant to the instructions of a

¹ However, note that KY. REV. STAT. ANN. § 335B.040 (2006) provides that a person may be denied a license on the grounds that he does not possess good moral character. In theory, a licensing board might consider an applicant's drug conviction as evidence that the applicant does not possess "good moral character".

licensed medical practitioner and the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle. 49 C.F.R. §§ 382.213, 382.501 (2006).

Kentucky does not appear to suspend a driver's license for nonvehicle related marijuana convictions. See Ky. Rev. Stat. Ann. § 186.560 (2006).

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION

Right to Vote

A felony marijuana conviction results in a lifetime loss of the right to vote, and can only be restored by executive pardon. Ky. Const. § 145.

Right to Sit on a Jury

A felony marijuana conviction results in a lifetime loss of the right to serve on a jury, and can only be restored by executive pardon. KY. REV. STAT. ANN. 29A.080 (2006).

Right to Possess a Firearm

A felony marijuana conviction after 1994 results in a lifetime ban on possession of any firearm, unless pardoned. KY. REV. STAT. ANN. § 527.040 (2006).