

# MARYLAND

## *Collateral Punishments for Marijuana Offenses*

### **COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE**

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

A felony marijuana conviction results in a five-year bar on adoption or foster parenting. MD. CODE ANN., FAM. LAW § 5-561(c) (2006); MD. REGS. CODE tit. 7, §§ 02.12.10(F)(2)(c), 05.02.13(A)(3)(d) (2006).

#### **Eligibility for Public Housing**

According to a report by the Ex-Offenders Clinic at the University of Maryland School of Law, the various housing authorities in Maryland all have different rules, with the harshest being a 7-year bar by the Prince George's County Housing Authority for any criminal conviction, (misdemeanor or felony). The Baltimore County Housing Office imposes a 5-year bar for any "drug related criminal activity," and will consider arrests not leading to conviction. Reentry of Ex-Offenders Clinic University of Maryland School of Law, "A Report on the Collateral Consequences of Criminal Convictions in Maryland," (Fall 2005).

#### **Eligibility for Food Stamps and other Public Assistance**

Maryland has modified the federal lifetime ban. A felony marijuana conviction results in a one-year bar on receiving cash assistance and food stamps, and requires that the person submit to two years of drug testing. MD. ANN. CODE art. 88A, §65A (2006). A positive drug test during that period, or a failure to comply with testing, results in a permanent ban. MD. ANN. CODE art. 88A, §§ 50A, 65A (2006).

### **COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS**

#### **Employment and Professional Licensing**

Employers are permitted to inquire about and consider marijuana-related convictions and arrests not leading to conviction. LAC REPORT. Criminal history information however is only released to employers upon a showing related to safety or security. MD. REGS. CODE tit. 12, § 15.01.13 (2006). There does not appear to be an bar on a licensing agency's use of a marijuana convictions as grounds for suspension or denial of an occupational license. LAC REPORT; See MD. REGS. CODE tit. 12, § 15.01.12 (2006). Most licensing statutes consulted contain requirements that the criminal offense be "directly related" to the occupation or license in order to deny the license based solely on a conviction. See, e.g., MD. ANN. CODE., PUB. UTIL. COS. §10-104(e) [Tax-driver's license].

On April 7, 1989, Maryland's Governor Schaefer issued Executive Order 01.01.1989.05, "State of Maryland Substance Abuse Policy." The preamble indicates that the executive order was intended in part to assure the State's compliance with the federal Drug-Free Workplace Act. However, the executive order goes beyond the requirements of the federal act, to reach **public employee (and any employment that is publicly funded)** drug activity that occurs away from the workplace. Under the order, "All employees on official business, **on or off the workplace**, are prohibited from purchasing, transferring, using, or possessing illegal drugs or from abusing alcohol or prescription drugs in any way that is illegal." Under the policy, "all employees must report any drug conviction to their supervisor within five (5) days of that conviction." This requirement exceeds that of the federal act, which requires reporting only convictions for drug offenses in the workplace. An attorney general report on the act noted; "To illustrate the application of the policy: If an [employee is arrested and convicted of possession of marijuana at a weekend party, for example, the employee is required by the policy to report that conviction to his or her supervisor within five days of the

conviction. If the employee is in a sensitive class, the agency is to institute termination proceedings. If the employee is not in a sensitive class, the agency may seek to impose any form of discipline authorized by law.” 1989 Md. AG LEXIS 23, Opinion No. 89-027, subsequently rescinded, but replaced with near identical Executive order No. 01.01.1991.16. (Emphasis added.)

### **Eligibility for Educational Loans**

Each institution in Maryland makes independent decisions in the dispersal of financial aid. 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), <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006). The University of Maryland is known to follow federal guidelines when determining eligibility for state aid. *Id.* Many students with drug convictions are being denied state aid. *Id.*

### **Driver’s License**

If an individual is convicted of any marijuana crime committed on or after January 1, 1991, and he or she holds a *commercial* driver's license, the Motor Vehicle Administration may disqualify the individual from driving a commercial motor vehicle. MD. ANN. CODE art. 41, § 1-506 (2006). There is no effect on non commercial driver’s licenses.

## **COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION**

### **Right to Vote**

Effective July 1, 2007, a felony marijuana conviction results in a prohibition on voting while incarcerated or on parole or probation. See, SB0488 VOTER REGISTRATION PROTECTION ACT, signed by Governor Martin O’Malley on April 24, 2007.

### **Right to Sit on a Jury**

Conviction of a marijuana-related offense punishable by a sentence exceeding six months (generally a felony) results in a lifetime bar on jury service. Jury service is also barred for any person currently *facing charges* for a crime punishable by imprisonment exceeding six months. MD. CODE ANN., CTS. & JUD. PROC. § 8-102(b)(4)(5) (2006).

### **Right to Possess a Firearm**

Any felony marijuana conviction results in a lifetime loss of the right to possess any regulated firearm. MD. CODE ANN., PUB. SAFETY §§ 5-101, 5-133 (2006).