

SOUTH CAROLINA

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

An application to become a foster parent will be denied if the person has been convicted of a felony drug-related offense. S.C. CODE ANN. § 20-7-1642 (2006); *see also* 114 S.C. CODE ANN. REGS. 550 (2005). This operates as a lifetime bar and the only way to lift the bar is to obtain a pardon. S.C. CODE ANN. § 20-7-1642 (2006). Note, however, that the evaluating agency can still consider “all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited to provide foster care services.” *Id.*

Prospective adoptive parents and all persons over the age of eighteen living in the home are also subject to a criminal background check, but no automatic bars exist. 114 S.C. CODE ANN. REGS. 4980 (2005).

Eligibility for Public Housing

The Charleston Public Housing Authority will consider felony arrests not leading to conviction. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, SOUTH CAROLINA (hereinafter “LAC REPORT”), <http://www.lac.org/lac/main.php?view=profile&subaction1=SC> (last modified 2004). Any felony arrest or conviction may bar an applicant for 3-5 years, depending on the severity of the crime. *Id.*

Eligibility for Food Stamps and other Public Assistance

South Carolina has modified the federal drug felon ban. Persons convicted of a substance abuse crime may be eligible for public assistance if they submit to random drug tests and/or participate in a treatment program. S.C. CODE ANN. § 43-5-1190 (2006). It does not appear that South Carolina has opted out of the federal food stamp ban pursuant to section 115 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. *See* 114 S.C. Code Ann. Regs. 1300(A)(1) (2005).

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

Public and private employers can both ask about and consider arrests not leading to conviction as well as convictions. LAC REPORT. There are no standards prohibiting private or public employers in most employment sectors from discriminating against employers based on their criminal record. *Id.* However, a person may not be refused an authorization to practice, pursue, or engage in a *regulated* profession or occupation solely because of a prior criminal conviction unless the criminal conviction directly relates to the profession or occupation for which the authorization to practice is sought. S.C. CODE ANN. § 40-1-140 (2006). Furthermore, a board may refuse an authorization to practice if, based upon all information available, including the applicant's record of prior convictions, it finds that the applicant is unfit or unsuited to engage in the profession or occupation. *Id.*

Eligibility for Educational Loans

South Carolina does not allow students with drug-related offenses to receive state 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 17 (Coalition for Higher Educ. Act Reform 2006), <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006); see also S.C. CODE ANN. § 59-149-90 (2006) (rendering students that have been adjudicated delinquent or that have been convicted or pled guilty or nolo contendere to any felonies or drug-related offenses under South Carolina law or any other state or federal law ineligible for a LIFE Scholarship for one academic year from the date of the adjudication, conviction, or plea). (CHEAR red state). South Carolina also denies students a tax credit if they have been convicted of a drug-related felony or misdemeanor. S.C. Code Ann. § 12-6-3385 (2006).

Driver's License (#)

The state will suspend a person's driver's license for six months for any controlled substance violation involving hashish or marijuana. S.C. CODE ANN. § 56-1-745 (2006).

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION

Right to Vote

Incarcerated individuals may not vote. S.C. CODE ANN. § 7-5-120 (2006). For misdemeanors, the right appears to be restored after that person has been released from confinement. *Id.* For felonies, the person must have completed his or her sentence, including probation and parole, in order to have his or her voting rights restored. *Id.*

Right to Sit on a Jury

Persons convicted in a state or federal court of a crime punishable by imprisonment for more than one year, including any drug-related felony, and who have not had their civil rights restored by pardon or amnesty will not qualify as a juror. S.C. CODE ANN. § 14-7-810 (2006).

Right to Possess a Firearm

Firearms are prohibited only to those convicted of a violent crime. Also "Drug addicts" may not possess a firearm. S.C. CODE ANN. § 16-23-30 (2006). However, it is unclear how one might be adjudicated a "drug addict" per se.