

WEST VIRGINIA

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

The state requires background checks for licensure of prospective foster or adoptive parents. W. VA. CODE ANN. §§ 49-2B-8, -2B-2 (2006). There do not appear to be any automatic bars.¹

Eligibility for Public Housing

According to the Legal Action Center, the Huntington Housing Authority will impose a 5-year bar on anyone arrested or convicted of any drug-related offense. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, WEST VIRGINIA, <http://www.lac.org/lac/main.php?view=profile&subaction1=WV> (last modified 2004).

Eligibility for Food Stamps and other Public Assistance

West Virginia adopted the federal drug felon ban on food stamps. W. VA. CODE ANN. § 9-2-3 (2006). A felony marijuana conviction results in a lifetime bar on food stamps and other public assistance.

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

Employers can both ask about and consider arrests not leading to conviction. The state has no standards prohibiting employment discrimination by private or public employers. Occupational licensing agencies may consider convictions unless expunged. W. VA. CODE ANN. § 5-1-16a(b).

Eligibility for Educational Loans

West Virginia closely follows the federal guidelines for awarding student financial aid and will deny aid to students with past drug convictions. CHRIS MULLIGAN ET AL., COALITION FOR HIGHER EDUCATION ACT REFORM, FALLING THROUGH THE CRACKS: LOSS OF STATE-BASED FINANCIAL AID ELIGIBILITY FOR STUDENTS AFFECTED BY THE FEDERAL HIGHER EDUCATION ACT DRUG PROVISION 20 (Coalition for Higher Educ. Act Reform 2006), <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006).

Driver's License

A nonvehicle related misdemeanor or felony marijuana conviction does not result in a driver's license suspension.

¹ As of 2004, if an employee providing child care services is convicted of a drug-related felony or misdemeanor, that person is suspended during the indictment and terminated if convicted. W. VA. CODE ST. R. § 78-2-7(7.2.g) (2004). The regulatory language suggests that the bar is indefinite. Application of this statute hinges on whether a prospective adoptive parent/foster parent is considered an "employee" for purposes of the code.

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION

Right to Vote

Individuals who are convicted of a felony regain the right to vote after the completion of their sentence, including probation or parole. W. VA. CODE ANN. § 3-2-2(b) (2006)

Right to Sit on a Jury

The right to serve on a jury is lost to convicted felons, but is automatically restored upon completion of the sentence, included probation or parole. W. VA. CODE ANN. § 52-1-8(b)(5) (2006).

Right to Possess a Firearm

Any felony conviction results in the loss of the right to possess a firearm. W. VA. CODE ANN. § 61-7-7(a) (2006). However, any person prohibited from possessing a firearm may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law. *Id.* at (c).