

# WISCONSIN

## Collateral Punishments for Marijuana Offenses

### COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

Wisconsin requires background checks for all prospective foster and adoptive parents. WIS. STAT. ANN. § 48.685 (2006). There do not appear to be any automatic bars for either, but the law is confusing.<sup>1</sup> See *id.*

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

The Milwaukee Housing Authority considers arrests not leading to conviction and will bar an applicant for five years for a drug-related conviction. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, WISCONSIN (hereinafter "LAC REPORT"), <http://www.lac.org/lac/main.php?view=profile&subaction1=WI> (last modified 2004).

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

Wisconsin Works, a state aid and employment program, provides benefits after a felony marijuana conviction, but recipient must submit to a drug test. WIS. STAT. ANN. § 49.148(4) (2006). If the test results are positive, the Wisconsin works agency shall decrease the "presanction benefit amount" for that participant by not more than 15% for not fewer than twelve months, or for the remainder of the participants period of participation in a community service job or transitional placement, if less than twelve months. *Id.* If, at the end of twelve months, the individual is still a participant in a community service job or transitional placement and submits to another test for use of a controlled substance and if the results of the test are negative, the Wisconsin works agency shall discontinue the reduction. *Id.*

Similarly, the Wisconsin Department of Social Services requires an applicant for, or recipient under, the food stamp program to state in writing whether the applicant or recipient or any member of the applicants or recipients household has been convicted, in any state or federal court of a felony that has as an element possession, use or distribution of a controlled substance. WIS. STAT. ANN. § 49.79(5) (2006). Furthermore, the Department of Social Services requires an applicant or recipient, or member of the applicant's or recipient's household to submit to a test for use of a controlled substance as a condition of continued eligibility if, after August 22, 1996, but not more than five years prior to the date the written statement is made, the applicant or recipient or the

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<sup>1</sup> While no crime listed under the Controlled Substances Act is included in the definition of a "serious crime" which would act as a bar to adoption, Wis. Stat. Ann. § 48.685(5)(bm)(4) (2006) confusingly provides: "For purposes of licensing a foster home or treatment foster home, no person who has been convicted of any of the following offenses may be permitted to demonstrate that he or she has been rehabilitated: . . . an offense under ch. 961 (the Controlled Substances Act) that is a felony, if committed not more than 5 years before the date of the investigation under sub. (2) (am)."

member of the applicant's or recipient's household was convicted in any state or federal court of a felony that had as an element possession, use or distribution of a controlled substance. *Id.* If the test results are positive with respect to any individual, the Department of Social Services may not consider the needs of that individual in determining the household's eligibility for the food stamp program for at least twelve months from the date of the test. *Id.* The department shall, however, consider the income and resources of that individual to be available to the household. *Id.*

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

### **Employment and Professional Licensing**

Generally, no employer, labor organization, employment agency, licensing agency or other person may engage in any act of employment discrimination against any individual on the basis of one's arrest record or conviction record, unless the offense was substantially related to the job or license. WIS. STAT. ANN. §§ 111.321, .322, .355(b) (2006).

### **Eligibility for Educational Loans**

Wisconsin processes FAFSA applications without considering the drug conviction question. 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). Therefore, students will not be denied state financial aid based on past drug convictions. *Id.*

### **Driver's License**

For any violation of the Wisconsin Uniform Controlled Substances Act including possession, Wisconsin will suspend a driver's license for anywhere from six months to five years. WIS. STAT. ANN. § 961.50 (2006). "[E]ven for first-time [marijuana] offenders, Wisconsin law provides for mandatory suspension of operating privileges for a maximum of five years." (*State v. Hughes* (2000) 607 N.W.2d 621.) The statute does not specify how the length of the suspension is determined.

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

### **Right to Vote**

Individuals who are convicted of a felony lose the right to vote until they have completed their sentence, including parole or probation. WIS. STAT. ANN. §§ 6.03(1)(b), 304.078 (2006).

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

Individuals who are convicted of a felony lose the right to serve on a jury until they have completed their sentence, including parole or probation. WIS. STAT. ANN. §§ 756.02, 304.078 (2006).

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

A felony marijuana conviction results in a lifetime bar on possessing a firearm. WIS. STAT. ANN. § 941.29 (2006).