

ALABAMA

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

"No home can be approved where any adult . . . in the household has been convicted of a crime (felony or misdemeanor) in this or another state at any time involving . . . [the] manufacture, sale, distribution, use or possession of . . . marijuana." Ala. Admin. Code r. 660-5-22-.03(6)(d)(1)(vi) (2006).

With evidence of "rehabilitation," an exception is possible after 5 years have passed for a misdemeanor marijuana conviction, and after 10 years for a felony conviction. Ala. Admin. Code r. 660-5-22-.03(2. Exceptions)(ii) (2006).

Alabama follows the same rules for foster parents as for adoption. Ala. Admin. Code r. 660-5-42-.06. (2006).

Eligibility for Public Housing

A conviction for selling or distributing marijuana results in a mandatory 10-year bar on eligibility for public housing. Marijuana-related arrests may also be considered if more than one. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY at <http://www.lac.org/lac/index.php>.

Eligibility for Food Stamps and other Public Assistance

Alabama has adopted the federal lifetime ban for any felony drug conviction "which has as an element the possession, use or distribution of a controlled substance." Ala. Admin. Code r. 660-2-2.36(3)(g), 660-4-1-.03(1)(m).

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

Marijuana arrests, and convictions that are felonies or misdemeanors escalating to felonies, are recorded on a person's criminal record. Code of Ala. § 41-9-622(1). There is no limitation on how long marijuana offenses remain on a person's criminal record. Code of Ala. § 41-9-622(1). A person's criminal record is available only to criminal justice agencies, government offices, and certain licensing boards. Ala. Admin Code. r. 265-X-2-.02.

A person convicted of the sale or distribution of marijuana or any other controlled substance is "not suitable" for public employment. Code of Ala. § 38-13-2 (2005).

No general law prohibits occupational licensing boards from considering a marijuana conviction as a basis for license denial. But, for some specific licenses there must be a direct relationship between the offense and the license. Code of Ala. § 34-1A-5 (2005).

Eligibility for Educational Loans

"The Alabama Commission on Higher Education (ACHE) follows federal eligibility guidelines in determining eligibility for state financial aid programs. Applicants with drug convictions in Alabama are therefore being denied 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 12 (Coalition for Higher Educ. Reform 2006), at <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006).

Driver's License

Any marijuana conviction will result in a driver's license suspension for six months. Code of Ala. §§ 13A-12-290, 13A-12-291 (2005).

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION**Right to Vote**

A felony marijuana conviction (with the exception of possession) results in a lifetime bar on the right to vote. Only a pardon will restore the right. Ala. Const. art. VIII, § 196A (2006), Code of Ala. §§ 15-22-36.1, 17-3-10 (2005), *Neary v. State*, 469 So. 2d 1321 (Ala. Crim. App. 1985), *Jones v. State*, 527 So. 2d 795 (Ala. Crim. App. 1988), see also, Ala. Op. Atty. Gen No. 2005-092 (March 18, 2005), 2005 WL 1121853 (Ala. A.G.).

Right to Sit on a Jury

A felony marijuana conviction (with the exception of possession) results in a lifetime bar on the right to serve on a jury. Only a pardon will restore the right. Code of Ala. §§ 12-16-60(a)(4), 15-22-36.1, 17-3-10 (2005).

Right to Possess a Firearm

Under Alabama law the right to possess a firearm is lost only upon conviction for a crime of violence. Code of Ala. § 13A-11-72(a) (2005). Possession of marijuana has been held not to be a violent crime. Code of Ala. § 13A-11-70(2) (2005), *United States v. Nix*, 438 F.3d 1284 (11th Cir. 2006).