

# NEBRASKA

## *Collateral Punishments for Marijuana Offenses*

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

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

Criminal background checks are required of all prospective adoptive parents, but there are no automatic bars. NEB. REV. STAT. § 43-107(b)(vii) (2006); NEB. ADMIN CODE title 390, ch. 7, § 7-004.02 (2005).

For foster care, each household member age 18 or older is subject to a criminal history check. NEB. ADMIN CODE title 474, ch.6, § 003.25B1 (2005). A foster care license will be denied if the applicant has ever been convicted of a marijuana-related felony or if (s)he has been convicted of a marijuana-related misdemeanor in the past five years. NEB. ADMIN CODE title 474, ch.6, §§ 003.25B1(a)(12), .003.25B1(b)(3) (2006). The law is unclear, but seems to prohibit a person if any household members are disqualified. See NEB. REV. STAT. § 43-107(1)(b)(vii); see *also* NEB. ADMIN CODE title 474, ch.6, §§ 003.25B1 (2005).

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

The Omaha Housing Authority ("OHA") does not consider arrests in its application process. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, NEBRASKA (hereinafter "LAC REPORT"), <http://www.lac.org/lac/main.php?view=profile&subaction1=NE> (last modified 2004). In order to determine if an applicant is barred from public housing, the OHA uses the following point system: (1) Felony or any drug conviction = 4 points; (2) First degree misdemeanor = 4 points; (3) Second degree misdemeanor = 2 points; (4) Any other misdemeanor = 1 point. *Id.* Applicants will be denied admission for three (3) years if their total points exceed four (4). *Id.*

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

Nebraska has opted out of the federal statutory scheme as it relates to food stamps. NEB. REV. STAT. § 68-1017.02 (2006). A person is ineligible for food stamp benefits if (s)he (a) has had three (3) or more felony convictions for the possession or use of marijuana, or (b) has been convicted of a felony involving the sale or distribution of marijuana or possession with intent to sell or distribute a marijuana. *Id.* A person with one or two felony convictions for the possession or use of marijuana shall only be eligible to receive food stamp benefits if (s)he is participating in or has completed a state-licensed or nationally accredited substance abuse treatment program since the date of conviction. *Id.* The determination of such participation or completion shall be made by the treatment provider administering the program. *Id.*

A felony marijuana conviction that has as an element the possession, use, or distribution of marijuana results in a lifetime ban on receiving Aid to Dependent Children ("ADC") cash assistance. NEB. ADMIN CODE title 468, ch. 2, § 022.03 (2005).

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

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

All criminal conviction information, and arrests within the past year, is available to the public, and

may be considered by employers. NEB. REV. STAT. §§ 29-3506, 29-3520, 29-3523 (2006). Misdemeanor and felony marijuana convictions may be grounds to deny certain occupational licenses. See, e.g., Neb. Admin Code title 172.

#### **Eligibility for Educational Loans**

Decisions regarding state aid are decentralized, so each institution follows independent guidelines. 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 16 (Coalition for Higher Educ. Reform 2006), <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006). The University of Nebraska follows federal guidelines when distributing aid, so students with past drug convictions may not receive aid. *Id.*

#### **Driver's License**

A nonvehicle-related marijuana conviction does not result on a driver's license suspension.

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

#### **Right to Vote**

A felony marijuana conviction results in a prohibition on voting which lasts for two years following completion of the sentence including any parole term. NEB. REV. STAT. § 29-112 (2006).

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

A felony marijuana conviction results in a lifetime ban on jury service, unless restored by a "warrant of discharge" issued by the Board of Pardons. MARGARET COLGATE LOVE, RELIEF FROM THE COLLATERAL CONSEQUENCES OF A CRIMINAL CONVICTION: A STATE-BY-STATE RESOURCE GUIDE: NEBRASKA, <http://www.sentencingproject.org/pdfs/rights-restoration/Nebraska.pdf> (last modified January 29, 2006) (citing NEB. REV. STAT. § 29-112 (2006)). A warrant of discharge is issued by the Board of Pardons once it receives a certificate showing satisfaction of the judgment and sentence entered against such person from the sentencing court. NEB. REV. STAT. § 29-112.01 (2006).

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

A felony marijuana conviction results in a lifetime loss of the right to possess a firearm, restored only by pardon. Neb. Rev. Stat. §§ 1206, 83-1, 130 (2006).