

NEW YORK

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

New York's Office of Children and Family services *will* deny approval of foster or adoptive parent applicants if they have been convicted of a felony marijuana-related offense within the past five years. N.Y. SOC. SERV. LAW § 378-a (2006). All persons living in the home that are over eighteen years of age must submit to a criminal background check and any marijuana-related conviction that has occurred in the five years preceding the application for any of those persons will act as a bar. *Id.*

The state may lift a bar on an applicant at its discretion if it can be shown that such denial will create an unreasonable risk of harm to the physical or mental health of the child; and approval of the application will not place the child's safety in jeopardy and will be in the best interests of the child. *Id.*

Eligibility for Public Housing

The New York City Housing Authority (NYCHA) does not consider marijuana arrests. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, NEW YORK (hereinafter "LAC REPORT"), <http://www.lac.org/lac/main.php?view=profile&subaction1=NY> (last modified 2004).

A felony or misdemeanor marijuana-related conviction results in a ban on public housing for two to six years following completion of sentence, but NYCHA will consider rehabilitation and may remove or shorten the length of the ban. *Id.*

Eligibility for Food Stamps and other Public Assistance

New York has adopted the federal drug felon ban. N.Y. SOC. SERV. LAW § 95(10)(b)(i) (2006). A felony marijuana conviction results in a lifetime bar on receiving food stamps or public assistance.

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

Most private and public employers (except law enforcement) and occupational licensing agencies, are prohibited from asking about or considering marijuana arrests not leading to conviction. N.Y. EXEC. LAW § 296(16) (2006). Public employers, occupational licensing agencies, and private employers of more than ten employees may not bar employment to individuals who have a felony or misdemeanor marijuana conviction *and* who show evidence of rehabilitation, unless the applicant is found to pose a direct threat to public safety or property N.Y. CORRECT. LAW §§ 750-55 (2006).

Eligibility for Educational Loans

New York uses a student's taxable income rather than the FAFSA to determine eligibility for 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. Reform 2006), <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006). Students with marijuana convictions can receive financial aid. *Id.*

Driver's License

There is no effect on adult drivers. However, New York will suspend a driver's license for six months if one receives a youthful offender or other juvenile adjudication related to a range of drug-related convictions including simple possession of marijuana. N.Y. VEH. & TRAF. LAW § 510(2)(b)(v) (2006).

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION

Right to Vote

A felony marijuana conviction results in a ban on voting until the entire sentence, including probation or parole has been completed. N.Y. ELEC. LAW § 5-106 (2006).

Right to Sit on a Jury

A felony marijuana conviction results in a lifetime ban on jury service, unless restored by pardon or a Certificate of Relief from Disabilities or a Certificate of Good Conduct. N.Y. Jud. Law § 510 (2006).

MARGARET COLGATE LOVE, RELIEF FROM THE COLLATERAL CONSEQUENCES OF A CRIMINAL CONVICTION: A STATE-BY-STATE RESOURCE GUIDE: NEW YORK (hereinafter "LOVE REPORT"),

<http://www.sentencingproject.org/pdfs/rights-restoration/NewYork.pdf> (last modified Sept. 19, 2006).

Right to Possess a Firearm

A felony marijuana conviction results in a lifetime ban on possessing a firearm. N.Y. PEN. LAW § 265.01 (2006). The state also prohibits the possession of a firearm if an individual has been convicted of a marijuana-related misdemeanor (class A) within five years immediately preceding the commission of the offense. N.Y. PEN. LAW § 265.01 (2006).