

# PENNSYLVANIA

## *Collateral Punishments for Marijuana Offenses*

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

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

A criminal record check is required for all persons over the age of eighteen living in a foster home or seeking to adopt. 23 PA. CONS. STAT. ANN. § 6344(d) (2006). If the prospective adoptive or foster parent has been convicted of any marijuana or other drug-related felony within the five-year period preceding the application, the application will be denied. 23 PA. CONS. STAT. ANN. § 6344 (2006); 55 PA. CODE § 3490.123(d)(2) (2006). Furthermore, Child Protective Services has discretion to deny the application if any other person in the home over the age of 18 was convicted of a marijuana or other drug-related felony within the five-year period preceding the application. See 23 PA. CONS. STAT. ANN. § 6344 (2006).

Foster parents and any individual over 18 years of age residing in the foster home are required to submit criminal record information every 24 months following approval and failure to submit such information may result in removal of the child without a hearing. 23 PA. CONS. STAT. ANN. § 6344(d)(3)&(6) (2006). The statute is not clear on what sanctions may be imposed if one is convicted of a marijuana or other drug-related felony following the initial application approval.

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

The Philadelphia Housing Authority does consider arrests not leading to conviction and imposes a three-year application bar for persons evicted from their previous residence due to marijuana or other drug-related criminal activity. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, PENNSYLVANIA (hereinafter "LAC REPORT"), <http://www.lac.org/lac/main.php?view=profile&subaction1=PA> (last modified 2004). The bar can be overcome in individual circumstances upon proof of rehabilitation. *Id.*

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

Pennsylvania has opted out of the federal drug felon ban and will authorize cash or food stamps for individuals convicted of felony marijuana and other drug offenses. 62 PA. CONS. STAT. ANN. § 405.1(i) (2006). However, after approval of benefits, the Department of Public Welfare will refer all such aid recipients for assessment and treatment pursuant to the Pennsylvania Drug and Alcohol Abuse Control Act. *Id.*

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

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

Employers can both ask about and consider marijuana and other drug arrests not leading to conviction. Felony and misdemeanor convictions may be considered by the employer only to the extent to which they relate to the applicant's suitability for employment in the position for which he has applied, and the employer must notify in writing the applicant if the decision not to hire the applicant is based in whole or in part on criminal history record information. 18 PA. CONS. STAT. ANN. § 9125 (2006). Furthermore, boards, commissions or departments of the Commonwealth of Pennsylvania authorized to license, certify, register or permit the practice of trades, occupations or

professions may refuse to grant or renew, or may suspend or revoke any license, certificate, registration or permit where the applicant has been convicted of any drug-related felony or where the applicant has been convicted of a drug-related misdemeanor which relates to the trade, occupation or profession for which the license, certificate, registration or permit is sought. 18 PA. CONS. STAT. ANN. § 9124 (2006).

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

Students with drug convictions can receive aid and Pennsylvania does not take into account Question 31 on the FAFSA when determining state financial aid eligibility. 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 18 (Coalition for Higher Educ. Act Reform 2006), <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006). (CHEAR green state)

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

A misdemeanor or felony marijuana conviction for possession, sale, or delivery will result in a driver's license suspension. 75 PA. CONS. STAT. ANN. § 1532(c) (2006). The license will be suspended for 6 months for a first offense, 1 year for a second offense, and 2 years for third and subsequent offenses. *Id.*

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

#### **Right to Vote**

A felony marijuana conviction for which a person was sentenced to prison results in a five-year ban on the right to vote. 25 PA. CONS. STAT. ANN. § 1301(a) (2006).

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

A felony marijuana conviction results in a lifetime bar on serving as a juror. 42 PA. CONS. STAT. ANN. § 4502(a)(3) (2006).

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

A felony marijuana conviction results in a lifetime bar on possession of a firearm. 18 PA. CONS. STAT. ANN. § 6105 (2006).