

SOUTH DAKOTA

Collateral Punishments for Marijuana Offenses

COLLATERAL PUNISHMENTS THAT HINDER FAMILY LIFE

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

South Dakota requires background checks for everyone in the home if an individual wishes to become a foster or adoptive parent. S.D. CODIFIED LAWS §§ 26-6-14.3, -14.4 (2006). For prospective adoptive parents, any conviction for a crime that would indicate “harmful” behavior towards children would result in denial of the application. S.D. ADMIN. R. 67:14:32:11.01, 67:14:32:05.05 (2006).

For prospective foster care providers, any felony conviction that occurred within the five years preceding the application will act as a bar. S.D. CODIFIED LAWS § 26-6-14.10 (2006). Outside of that, if it is found that the prospective foster care provider has been convicted of a crime specified by the rules of the Department of Social Services, the application will be denied. S.D. CODIFIED LAWS § 26-6-14.10 (2006). Our research did not uncover any specific drug-related crime bars.

Eligibility for Public Housing

The Rapid City Public Housing Authority will consider arrests not leading to conviction. LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, SOUTH DAKOTA (hereinafter “LAC REPORT”), <http://www.lac.org/lac/main.php?view=profile&subaction1=SD> (last modified 2004). Applicants with drug-related convictions are barred for three years. *Id.*

Eligibility for Food Stamps and other Public Assistance

South Dakota adopted the drug felon ban. S.D. CODIFIED LAWS § 28-12-1 (2006); S.D. ADMIN. R. 67:10:01:13 (2006). A felony marijuana conviction results in a lifetime bar on receiving public assistance, including food stamps.

COLLATERAL PUNISHMENTS THAT HINDER PROFESSIONAL SUCCESS

Employment and Professional Licensing

Employers can both ask about and consider arrests not leading to conviction. LAC REPORT. The state has no standards prohibiting employment discrimination by private or public employers, or by occupational licensing agencies based on a conviction record. *Id.*

Eligibility for Educational Loans

South Dakota denies state aid to students with past drug- or alcohol-related convictions. 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 19 (Coalition for Higher Educ. Act Reform 2006), <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006).

Driver’s License

South Dakota will revoke a driver’s license for a range of drug-related offenses that are committed while in a vehicle including simple possession. S.D. CODIFIED LAWS § 32-12-52.3 (2006). Note that the statute does not require that one be driving in order to have his or her license suspended. For

the first offense, the period of suspension is 90 days. *Id.* For any subsequent offense, the period of suspension is one year. *Id.* In certain cases, a hardship license may be obtained. *Id.*

COLLATERAL PUNISHMENTS THAT HINDER CIVIC PARTICIPATION

Right to Vote

A felony conviction results in a bar on voting while incarcerated, and while on probation or parole. S.D. CONST. art. 7, § 2; S.D. CODIFIED LAWS § 23A-27-35 (2006).

Right to Sit on a Jury

A felony conviction results a bar on voting while incarcerated, and while on probation or parole. S.D. CODIFIED LAWS §§ 16-13-10, 23A-27-35 (2006). This right is restored only after the inmate has been discharged. S.D. CODIFIED LAWS §§ 24-5-2, 24-15A-2 (2006).

Right to Possess a Firearm

The right to possess a firearm is lost for fifteen years if the individual is convicted of a marijuana-related felony. In South Dakota, firearms are restricted only for violent felonies and drug-related felonies. S.D. CODIFIED LAWS § 22-14-15, 22-42-7 (2006).