

# TENNESSEE

## *Collateral Punishments for Marijuana Offenses*

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

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

Tennessee conducts background checks on both prospective foster and adoptive parents. TENN. CODE ANN. § 71-3-507 (2006). Applicants are barred for abuse, neglect, violence or any “threat to the health, safety or welfare of children.” *Id.*

A foster parent will be denied a license if convicted of any offense involving the manufacture, sale, distribution or possession of marijuana or any other drug. TENN. COMP. R. & REGS. 1240-4-4-.03(6)(vii)(I) (2005).

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

The Nashville Public Housing Authority will not 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, TENNESSEE (hereinafter “LAC REPORT”), <http://www.lac.org/lac/main.php?view=profile&subaction1=TN> (last modified 2004). They will impose a 3-year bar on applicants with marijuana or other drug-related convictions, but they will also consider rehabilitation to lift the bar. *Id.*

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

Tennessee modified the federal drug felon ban. See TENN. COMP. R. & REGS. 1240-1-2-.02(6)(b)(11) (2005). So long as the underlying offense was not classified as a “Class A” felony or its equivalent (marijuana offenses do not appear to be Class A felonies) and the individual is going to participate in, is participating in, or has completed a, substance abuse treatment, he or she may apply for food stamps and Families First Assistance. TENN. COMP. R. & REGS. 1240-1-2-.02(6)(b)(11) (2005)<sup>1</sup>; LAC

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<sup>1</sup> Tenn. Comp. R. & Regs. 1240-1-2-.02(6)(b)(11) (2005):

An individual convicted under federal or state law of a felony offense which occurred after August 22, 1996 and which involved the possession, use or distribution of a controlled substance, unless the individual is complying with or has already complied with all obligations (including any substance abuse treatment requirements) imposed by the criminal court, and

- (i) the conviction was not classified as a Class A felony or its equivalent, if the offense occurred outside of Tennessee; and
- (ii) is currently participating in a substance abuse treatment program approved by the Department of Human Services; or
- (iii) if not actively participating in a substance abuse treatment program approved by the Department of Human Services, is currently enrolled in such a program, but is on a waiting list for participation, and enters the treatment program at the first opportunity; or
- (iv) has satisfactorily completed a substance abuse program approved by the Department of Human Services; or
- (v) a treatment provider licensed by the Department of Health, Division of Alcohol and Drug Abuse Services, has determined that the individual does not need substance abuse treatment according to TennCare guidelines.

REPORT.

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

### **Employment and Professional Licensing**

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

### **Eligibility for Educational Loans**

Tennessee uses only the FAFSA to determine 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 19 (Coalition for Higher Educ. Act Reform 2006), <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006). Students with marijuana and other drug convictions are denied state aid. *Id.* (CHEAR red state).

### **Driver's License**

Tennessee does not appear to revoke or suspend driver's license for nonvehicle related marijuana convictions.

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

### **Right to Vote**

A felony marijuana conviction results in a lifetime loss of the right to vote. TENN. CONST. art I, § 5; Tenn. Code Ann. § 40-20-112 (2006). After the sentence or probation has been completed, the person may petition for a restoration of the right. TENN. CODE ANN. §§ 40-29-101, 2-2-139 (2006).

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

Persons convicted of certain felony "infamous crimes" cannot serve as a juror. TENN. CODE ANN. § 22-1-102 (2006). It is unclear, but it appears that no marijuana offenses are categorized as "infamous crimes." If a drug-related felony is a disqualifier, the individual may petition the district court to have his or her full rights of citizenship restored after the expiration of the maximum sentence imposed for said crime. TENN. CODE ANN. § 40-29-101 (2006).

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

A felony marijuana conviction results in a lifetime bar on possessing a firearm. TENN. CODE ANN. § 39-17-1307 (2006).

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