

# VIRGINIA

## Collateral Punishments for Marijuana Offenses

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

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

The state may deny the application of a prospective foster or adoptive parent if convicted of any felony involving marijuana or other controlled substances. VA. CODE ANN. §§ 63.2-1719, 1722 (2006). "A child-placing agency may approve as an adoptive or foster parent an applicant convicted of felony *possession* of drugs, who has had his [or her] civil rights restored by the Governor, provided 10 years have elapsed following the conviction." VA. CODE ANN. § 63.2-1721 (2006).

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

According to the Legal Action Center, the Norfolk Redevelopment and Housing Authority does not consider *arrests*; however, a marijuana or other drug-related conviction will result in a bar from public housing ranging from five to ten years depending upon the offense.<sup>1</sup> LEGAL ACTION CENTER, AFTER PRISON: ROADBLOCKS TO REENTRY: A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS, VIRGINIA (hereinafter "LAC REPORT"), <http://www.lac.org/lac/main.php?view=profile&subaction1=VA> (last modified 2004).

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

A misdemeanor or felony marijuana conviction does not result in ineligibility provided the applicant is complying with, or has already complied with, all obligations imposed by the criminal court, is actively engaged in or has completed a substance abuse treatment program, participates in periodic drug screenings, and accedes to any other obligations as determined by the Department of Social Services, the applicant will not be deemed ineligible for food stamps. VA. CODE ANN. § 63.2-505.2 (2006). There do not appear to be any other bars to public assistance vis-à-vis marijuana or other drug-related felony convictions. See VA. CODE ANN. § 63.2-602 (2006)(outlining eligibility standards for TANF).

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

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

Employers can ask about and consider arrests not leading to conviction. Public employers and licensors may not deny employment or a license solely on the basis of a criminal conviction unless it "directly relates" to the occupation or profession, or if person is found to be unfit. Va. Code. Ann. §

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<sup>1</sup> Per the Legal Action Center, the respective offenses and corresponding temporal bars related to public housing assistance are as follows: 7 years: Drug-related evictions from public housing; 10 years: Intent to distribute drugs (permanent if 2 such convictions); 3 years: Possession of drugs (5 years if 2 such convictions within 5 years from application review date, or 10 years if 4 or more convictions within 10 years of application review date); 3 years: Other felonies (1 conviction within 3 years of application review date); 5 years: Other felonies (2 convictions within 5 years of application review date) 10 years: Other felonies (3 convictions within 10 years of application review date) Permanent: Other felonies (4 or more convictions).

54.1-204. See also Va. Code Ann. §§ 2.2-3706, 19.2-389 (2006).<sup>2</sup>

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

The state does not deny financial aid to students with past drug convictions, but individual institutions may and do. CHRIS MULLIGAN ET AL., COALITION FOR HIGHER EDUCATION ACT REFORM, 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. Act Reform 2006), <http://www.raiseyourvoice.com/statereport/fallingthrough.pdf> (last modified February 7, 2006).

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

A misdemeanor or felony marijuana conviction results in a six-month driver's license suspension. VA. CODE ANN. § 46.2-390.1 (2006).<sup>3</sup>

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

#### **Right to Vote**

A felony marijuana conviction results in a lifetime bar on voting. VA. CONST. art II, § 1.

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

A felony marijuana conviction results in a lifetime bar on jury service VA. CODE ANN. § 8.01-338 (2006).

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

A felony marijuana conviction results in a lifetime prohibition on possessing a firearm. VA. CODE ANN. § 18.2-308.2 (2006).

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<sup>2</sup> VA. CODE ANN. § 19-2-389(C) (2006) reads: "No criminal justice agency or person shall confirm the existence or nonexistence of criminal history record information for employment or licensing inquiries except as provided by law." While there are many authorized criminal history inquiries that certain employers can request, the statute does not provide for a general roving inquiry into an applicant's criminal history for general, private employment purposes.

<sup>3</sup> VA. CODE ANN. § 46.2-390.1(A) (2006) reads: "Except as otherwise ordered . . ., the Commissioner shall forthwith revoke, and not thereafter reissue for six months from the later of (i) the date of conviction or deferral of proceedings under § 18.2-251 (deferred adjudication statute for first offenses) or (ii) the next date of eligibility to be licensed, the driver's license, registration card, and license plates of any resident or nonresident on receiving notification of (i) his conviction, (ii) his having been found guilty in the case of a juvenile or (iii) the deferral of further proceedings against him under § 18.2-251 for any violation of . . . [§ 18.2-247 *et seq.*] (Virginia's functional equivalent of the Controlled Substances Act) . . ., or of any state or federal law or valid county, city or town ordinance, or a law of any other state substantially similar to provisions of such Virginia laws. Such license revocation shall be in addition to and shall run consecutively with any other license suspension, revocation or forfeiture in effect against such person."