

Pennsylvania House Transportation Committee
Majority Chairman: Representative Joseph F. Markosek

Transportation Hearing

October 13, 2009

House Bill 1323

Testimony and Exhibits prepared by:

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Neighborhood Legal Services Association

Good morning, my name is Nicole Scialabba, and I am an attorney at Neighborhood Legal Services Association in Pittsburgh. NLSA is a non-profit organization that receives state and federal funding and provides civil legal services to low income clients. I practice mainly in the realm of employment law. I am not here to advocate or lobby for either side of this issue. I am here today to offer information regarding the adverse consequences that first-time drug offenders face because they are not able to obtain an Occupational Limited License during their driver's license suspension.

A. What PA does

When an individual's license is suspended in PA, that person may be eligible to apply for an Occupational Limited License (OLL), also known as a "bread and butter" license, for the purpose of driving to work, school (including job training), or receiving medical treatment. PennDOT's Fact Sheet lists offenses for which an individual is ineligible to apply for an OLL. (Exhibit A). These include a mix of traffic and criminal offenses.

Generally, if an individual is convicted of a DUI charge or receives an underage drinking citation, he/she is ineligible to apply for an OLL. However, if the individual is a first-time DUI offender and has served 60 days of the suspension, then that individual is eligible to apply for an OLL. Similarly, individuals who receive a first underage drinking citation are also permitted to apply for an OLL.

First-time drug offenders are treated differently than first-time DUI offenders and underage drinkers in regard to being eligible for a limited license. Currently, there is no exception for an individual who is a first-time drug offender, hence the proposal (HB 1323) from Representative Wheatley.

PA law calls for the suspension of one's driver's license for six months when there is a conviction for a drug-related offense, regardless of whether that drug-related offense was connected to driving. 75 Pa.C.S.A. § 1532(c). (Exhibit B). This statute corresponds with a federal directive. Under 23 U.S.C.A. § 159, also known as Federal Highway Apportionment Act of 1992, federal highway funds will be withheld from any state failing to adopt a license suspension law for people convicted of drug offenses, suspending their license for at least six months. (Exhibit C). Nevertheless, states are not left without options. States are permitted to opt-out of this law, limit the suspension to driving related drug offenses, or offer restricted licenses to allow people with suspended

licenses to drive for such purposes as employment, education, or obtaining alcohol or drug treatment or other health care.

B. What Other States Do (based largely off Legal Action Center report)

In 2004, The Legal Action Center published a report called "After Prison: Roadblocks to Reentry." (Exhibit D). This report evaluated state legal barriers facing people with criminal records, including a section specifically examining drivers' licenses. Their findings show that 27 states automatically suspend or revoke licenses for some or all drug offenses. Conversely, 23 states either suspend or revoke licenses only for driving-related offenses or have opted out of the federal law. Lastly, while people have suspended licenses, 32 states currently offer restrictive licenses for individuals whose licenses would otherwise be suspended can go to work, attend drug treatment, or obtain an education while 18 do not offer any restrictive licenses. Pennsylvania does not currently offer a limited license to individuals with a drug-related conviction.

Maryland and Missouri offer two examples of how other states have addressed this issue. Maryland state law authorizes the revocation or suspension of licenses *only* when the offense is related to the ability to drive safely. It limits the length of revocation or suspension to not more than 60 days for a first offense and not more than 120 days for two or more offenses. (See Maryland Code: 16-205. Alcohol or drug offenses; revocation, Exhibit E).

Missouri's law on granting a limited license allows the court or the director of revenue discretion in granting limited licenses to individuals based on the strength of that individual's need. The court or director is to consider the individual's employment circumstances, medical treatment, educational activities, alcohol or drug treatment programs, or other circumstances which may create an undue hardship on the operator. (See Missouri Statutes, Section 302.309, Exhibit F).

C. Impact on First-Time Drug Offenders not being eligible to apply for an OLL

A first-time drug offender's access to an OLL may have a "trickle-down" effect for the offender. A first-time drug offender may have to satisfy conditions of their sentence including maintaining employment, attending a drug and alcohol facility, payment of court-imposed penalties, including fines, fees, and restitution. As such, access to an OLL can be critical for the offender to merely complete their sentence. For example, the inability to obtain an OLL during suspension may impact that

Individual's ability to maintain employment, which could, in turn, translate into the non-payment of fines or other court-related fees.

First-time offenders may also struggle with obtaining or maintaining employment. Employers often inquire into an applicant's driver's license status when making hiring decisions as an indicator of employee reliability; in some cases, a license is required to perform job duties, specifically in union jobs where a license is required to not only get to and from the work site, but also driving on the job.

Further, first-time drug offenders may struggle with obtaining drug and alcohol treatment or other necessary medical treatment because they are unable to obtain an OLL so that they can get to and from treatment locations.

Obtaining or continuing education opportunities may also be impeded. Individuals may be unable to attend college, other workforce development programs, or job-training, due to inability to find alternative transportation to and from those facilities.

While our office is not permitted to handle the criminal aspect of an individual's case, we do give advice to individuals regarding driver's license suspension problems as they relate to the individual's employment. Many clients are in need of a driver's license so that they are able to work. Individuals often get asked during the job application and interviewing process whether they have a license.

Ultimately, first-time drug DUI offenders, first-time underage drinkers, and first-time drug offenders face similar sentencing penalties and, thus, similar real-life barriers if they are unable to obtain a limited license. I hope that the information that I have provided will help illustrate the problems first-time drug offenders face and better enables you to decide on this issue. Thank you for offering me the opportunity to speak to this issue.



OCCUPATIONAL LIMITED LICENSE (OLL) FACT SHEET

Q: What is an Occupational Limited License?

A: An Occupational Limited License (OLL) is a limited driver's license issued to a driver whose Pennsylvania driving privilege has been suspended. If your driving privilege has been revoked, disqualified, cancelled or recalled, you are not eligible for an OLL. If you have never been licensed by this or any other state, you are also ineligible to apply. An OLL authorizes driving a designated motor vehicle, under certain conditions, only when it is necessary for the driver's occupation, work, trade, medical treatment or study.

Q: What types of suspensions are NOT eligible for an OLL?

A: If you are currently, or about to be suspended for any of these violations, you are not eligible for an OLL.

- | | |
|---|---|
| 3345 - Passing a School Bus | 1533 or 6146 - Failure to Respond to a Citation |
| 3367 - Racing on Highways | 1543 - Driving while Suspended
(possible exceptions see below) |
| 3732 - Homicide by Vehicle | 1547 - Refusal to Submit to Chemical Testing
(possible exceptions see below) |
| 3733 - Fleeing a Police Officer | 1786 - Failure to Maintain Financial Responsibility |
| 3734 - Driving Without Lights | ARD Ordered Suspension for DUI |
| 3735 - Homicide by Vehicle/DUI | Controlled Substance, Drug, Device & Cosmetic Act Violations |
| 3736 - Reckless Driving | Underage Alcohol Violations (possible exceptions see below) |
| 3742 - Accidents Involving Death or Injury | Any Serious Traffic Offense (Chapter 37) |
| 3743 - Leaving Scene of an Accident | Any Violations Relating to Accidents and Accident Reports |
| 3802 - Driving Under the Influence
(possible exceptions see below) | |

Q: Does a DUI violation qualify for an OLL?

A: A DUI conviction qualifies only if the violation is your first offense and given a one year suspension. However, the OLL cannot be issued until the 60 days have been served for the suspension of the DUI.

Q: Does a DUI violation which results in an 18 month suspension qualify for an OLL?

A: It qualifies only if you have no more than one prior DUI offense within the past ten years, have served 12 months of the 18 month suspension, have satisfied all restoration requirements and have the ignition interlock installed on your vehicle.

Q: Does a refusal to submit to chemical testing qualify for an OLL?

A: It qualifies only if it results in an 18 month suspension, have no more than one prior DUI offense within the past 10 years, have served 12 months of the 18 month suspension, have satisfied all restoration requirements and have the ignition interlock installed on your vehicle.

Q: Does an underage alcohol offense violation qualify for an OLL?

A: You qualify only if the violation is your first offense.

Q: Does a driving while under suspension violation qualify for an OLL?

A: If your driving record shows that this suspension occurred only as a result of a prior indefinite suspension due to an unpaid citation or non-payment of a judgement, failure to attend a Departmental hearing or failure to undergo a Special Point Examination, you may be eligible. However, the OLL cannot be issued until three (3) months have been served for the suspension for driving while under suspension.

Q: Can a suspended CDL driver get an OLL?

A: Yes, you would be eligible for a non-commercial OLL only.

Q: What are the first things I must do in order to qualify?

A: If your suspension is in effect, you must surrender your driver's license if you have not done so already. If your driver's license has expired, you must submit an application for renewal, along with the appropriate fee. All fines, costs and restoration fees must be paid at the time of petition.

Exhibit A

Q: How do I apply?

A: In order to apply, you must complete an Occupational Limited License Petition (*form DL-15*). Then send the form, along with a check or money order, proof of insurance (*copies only*) and the required Restoration Fee (if not previously paid) by mail to the Department (**address listed below**.)

Q: Will I have enough time to apply and receive the OLL prior to my suspension date?

A: If the DL-15 form is received and approved prior to the effective date of your suspension, one of two things will happen:

- 1) If the effective date of suspension is less than 15 days from the process date, the Department will delay the start of your suspension for 15 days and issue an interim license;
- 2) If the effective date is greater than 15 days from the process date, the Department will not delay the suspension but will issue an interim license. The interim license provides you with a continuous driving privilege while the surrender of your regular driver's license is used for the processing of your OLL.

Note: Credit toward your suspension will begin upon the new effective date or after, if you delay in submitting your license to the Department.

Q: What is the cost?

A: A fee for applying for an OLL is \$50.00 and is non-refundable.

Q: After I apply, what happens next?

A: Within 20 days of receiving your petition, the Department will inform you in writing whether or not you qualify for an OLL. If you qualify, you will receive an OLL camera card to obtain a photo OLL. You are to carry your photo OLL and DL-15A together at all times.

Q: When does my OLL expire?

A: The OLL is valid for the length of your suspension term. After your driving privilege has been restored, the Department will return your valid regular driver's license.

Q: Can the OLL be extended?

A: Maybe, if you are given a suspension due to the result of a Departmental Hearing or if you were convicted of a point related violation which resulted in an "add on" suspension. The Department will notify you and send you the application to extend your OLL. (DL-31OLL)

Q: What happens if I commit a violation while driving on an OLL or if a violation is placed on your record after receiving the OLL?

A: If you are convicted of an offense for which the penalty is a cancellation, disqualification, recall, suspension, or revocation of your driving privilege, the Department will recall your OLL and you must surrender the OLL to the Department.

Q: Can I apply for any permit after my OLL has been issued to me?

A: No, you may apply for any permit upon restoration of your regular driving privileges.

Q: Can I get another OLL if I am suspended again?

A: You may be issued only one (1) OLL every five (5) years.

Q: Can I take any action in the event that my OLL is recalled or my request is denied?

A: Yes. You may file with the Department a petition for an Administrative Hearing accompanied by a non-refundable processing fee of \$100.00. Additional information regarding this filing process will be provided upon request. "Hardship or extraordinary medical circumstances DO NOT qualify you to receive an OLL."

Q: Where do I write to get further information about an OLL or get a petition (Form DL-15)?

A: You may write to the following address:

PA Department of Transportation
Bureau of Driver Licensing
OLL/PL Unit
P.O. Box 68689
Harrisburg, PA 17106-8689

or visit the Driver Vehicle Services Web site at www.dmv.state.pa.us.

Note: You may submit one check or money order for all required fees made payable to: PennDOT

Westlaw.

75 Pa.C.S.A. § 1532

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Effective: May 9, 2005

Purdon's Pennsylvania Statutes and Consolidated Statutes Currentness

Title 75 Pa.C.S.A. Vehicles (Refs & Annos)

Part II. Title, Registration and Licensing

Chapter 15. Licensing of Drivers

Subchapter B. Comprehensive System for Driver Education and Control

→ § 1532. Suspension of operating privilege

(a) One-year suspension.--The department shall suspend the operating privilege of any driver for one year upon receiving a certified record of the driver's conviction of or an adjudication of delinquency based on any of the following offenses:

(1) Any felony in the commission of which a court determines that a vehicle was essentially involved.

(2) Deleted by 2002, Oct. 4, P.L. 845, No. 123, § 2, effective in 60 days.

(3) Any violation of the following provisions:

Section 3735.1 (relating to aggravated assault by vehicle while driving under the influence).

Section 3742 (relating to accidents involving death or personal injury).

Section 3742.1 (relating to accidents involving death or personal injury while not properly licensed).

Section 7111 (relating to dealing in titles and plates for stolen vehicles).

Section 7121 (relating to false application for certificate of title or registration).

Section 7122 (relating to altered, forged or counterfeit documents and plates).

(a.1) Three-year suspension.--The department shall suspend the operating privilege of any driver for three years upon receiving a certified record of the driver's conviction of or an adjudication of delinquency based on a violation of any of the following offenses:

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Exhibit B

- (1) Any violation of section 3732 (relating to homicide by vehicle).
- (2) Any violation of section 3735 (relating to homicide by vehicle while driving under influence).

(b) Suspension.--

(1) The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of the driver's conviction of or an adjudication of delinquency based on any offense under the following provisions:

Section 3367 (relating to racing on highways).

Section 3714(b) (relating to careless driving).

Section 3734 (relating to driving without lights to avoid identification or arrest).

Section 3736 (relating to reckless driving).

Section 3743 (relating to accidents involving damage to attended vehicle or property).

(2) The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of the driver's conviction of a subsequent offense under section 1501(a) (relating to drivers required to be licensed) if the prior offense occurred within five years of the violation date of the subsequent offense.

(3) The department shall suspend the operating privilege of any driver for 12 months upon receiving a certified record of the driver's conviction of section 3733 (relating to fleeing or attempting to elude police officer) or a substantially similar offense reported to the department under Article III of section 1581 (relating to Driver's License Compact), or an adjudication of delinquency based on section 3733. The department shall suspend the operating privilege of any driver for six months upon receiving a certified record of a consent decree granted under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) based on section 3733.

(4) The department shall suspend the operating privilege of any driver for three months upon receiving a certified record of the driver's conviction of section 1371 (relating to operation following suspension of registration) or 3718 (relating to minor prohibited from operating with any alcohol in system) or an adjudication of delinquency based on section 1371.

(5) The department shall suspend the operating privilege of any driver for three months upon receiving a certified record of the driver's conviction of or an adjudication of delinquency based on section 3714(c).

(c) Suspension.--The department shall suspend the operating privilege of any person upon receiving a certified record of the person's conviction of any offense involving the possession, sale, delivery, offering for sale, holding for sale or giving away of any controlled substance under the laws of the United States, this Commonwealth or any other state, or any person 21 years of age or younger upon receiving a certified record of the person's conviction or adjudication of delinquency under 18 Pa.C.S. § 2706 (relating to terroristic threats) committed on any school property, including any public school grounds, during any school-sponsored activity or on any conveyance providing transportation to a school entity or school-sponsored activity.

(1) The period of suspension shall be as follows:

(i) For a first offense, a period of six months from the date of the suspension.

(ii) For a second offense, a period of one year from the date of the suspension.

(iii) For a third and any subsequent offense thereafter, a period of two years from the date of the suspension.

(2) For the purposes of this subsection, the term "conviction" shall include any conviction or adjudication of delinquency for any of the offenses listed in paragraph (1), whether in this Commonwealth or any other Federal or state court.

(d) Additional suspension.--The department shall suspend the operating privilege of any person upon receiving a certified record of the driver's conviction, adjudication of delinquency or admission into a preadjudication program for a violation under 18 Pa.C.S. § 6307 (relating to misrepresentation of age to secure liquor or malt or brewed beverages), 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages) or 6310.3 (relating to carrying a false identification card). The duration of the suspension shall be as follows:

(1) For a first offense, the department shall impose a suspension for a period of 90 days.

(2) For a second offense, the department shall impose a suspension for a period of one year.

(3) For a third and subsequent offense, the department shall impose a suspension for a period of two years. Any multiple suspensions imposed shall be served consecutively.

Courts may certify the conviction, adjudication of delinquency or admission into the preadjudication program on the same form used to submit the order of suspension required under the provisions of 18 Pa.C.S. § 6310.4 (relating to restriction of operating privileges). Wherever practicable, the suspension imposed under this section shall be made concurrent with the suspension imposed under the provisions of 18 Pa.C.S. § 6310.4. All offenses committed on or after May 23, 1988, shall be included in considering whether an offense is a first, second, third or subsequent offense.

CREDIT(S)

1976, June 17, P.L. 162, No. 81, § 1, eff. July 1, 1977. Amended 1982, Dec. 15, P.L. 1268, No. 289, § 2, effective in 30 days; 1990, May 30, P.L. 173, No. 42, § 3; 1990, July 10, P.L. 356, No. 83, § 6, effective Nov. 1, 1990; 1993, June 28, P.L. 137, No. 33, § 3, effective in 60 days; 1993, July 2, P.L. 408, No. 58, § 4, effective in 60 days; 1994, Feb. 10, P.L. 20, No. 3, § 5, effective in 60 days; 1994, Dec. 12, P.L. 1048, No. 143, § 1, effective in nine months; 1994, Dec. 27, P.L. 1337, No. 154, § 3, effective in 180 days; 1998, Dec. 21, P.L. 1126, No. 151, § 14, imd. effective; 1999, June 25, P.L. 164, No. 23, § 4, effective in 180 days; 2002, Oct. 2, P.L. 801, No. 114, § 1, imd. effective; 2002, Oct. 4, P.L. 845, No. 123, § 2; 2003, Sept. 30, P.L. 120, No. 24, § 7, effective Feb. 1, 2004; 2004, Dec. 8, P.L. 1791, No. 237, § 1, effective in 150 days [May 9, 2005].

HISTORICAL AND STATUTORY NOTES

2006 Main Volume

Act 1976-81 legislation

Subsections (a), (c) and (d) of section 2 of Act 1976, June 17, P.L. 162, No. 81, effective July 1, 1977, creating the new Title 75, Vehicles, of the Pennsylvania Consolidated Statutes, provide as follows:

“(a) Suspensions.--All suspensions ordered by the Secretary of Transportation under former section 618(b)(2) of the act of April 29, 1959 (P.L. 58, No. 32) known as ‘The Vehicle Code,’ are rescinded as of the effective date of the point system as set forth in section 8 of this act [June 17, 1976] and the secretary shall not order any further suspensions under former section 618(b)(2) for violations committed prior to such effective date.”

“(c) Return of suspended licenses.--The department shall return the licenses of all drivers who are serving suspensions under former sections 618(b)(2) or 619.1 of ‘The Vehicle Code.’ Such drivers shall not drive until they have received their licenses.

“(d) Purge of records.--

“(1) All suspensions and convictions under former sections 618(b)(2) and 619.1 of ‘The Vehicle Code’ which occurred prior to July 1, 1973, shall be purged from the records of licensees on June 30, 1976.

“(2) All other suspensions and convictions under former sections 618(b)(2) and 619.1 of ‘The Vehicle Code’ shall be purged from the records of licensees on June 30, 1979.

“(3) No suspensions and convictions under former sections 618(b)(2) or 619.1 of ‘The Vehicle Code’ shall constitute prior suspensions for the purpose of determining the length of suspensions under 75 Pa.C.S. § 1539 (relating to suspension of operating privilege on accumulation of points).”

Act 1982-289 legislation

Westlaw

23 U.S.C.A. § 159

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C**Effective: June 9, 1998**

United States Code Annotated Currentness

Title 23. Highways (Refs & Annos)

Chapter 1. Federal-Aid Highways (Refs & Annos)

→ § 159. Revocation or suspension of drivers' licenses of individuals convicted of drug offenses

(a) Withholding of apportionments for noncompliance.--

(1) Beginning in fiscal year 1994.--For each fiscal year the Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) on the first day of each fiscal year which begins after the second calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on such date.

(2) Beginning in fiscal year 1996.--The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) on the first day of each fiscal year which begins after the fourth calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

(3) Requirements.--A State meets the requirements of this paragraph if--

(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception--

(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of--

(I) any violation of the Controlled Substances Act, or

(II) any drug offense; and

(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not

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Exhibit C

have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted; or

(B) the Governor of the State--

(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the effective date of this section a written certification stating that the Governor is opposed to the enactment or enforcement in the State of a law described in subparagraph (A), relating to the revocation, suspension, issuance, or reinstatement of drivers' licenses to convicted drug offenders; and

(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i).

(b) Period of availability; effect of compliance and noncompliance.--

(1) Period of availability of withheld funds.--

(A) Funds withheld on or before September 30, 1995.--Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

(i) If such funds would have been apportioned under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

(ii) If such funds would have been apportioned under section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(iii) If such funds would have been apportioned under paragraph (1), (3), or (5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

(B) Funds withheld after September 30, 1995.--No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

(2) Apportionment of withheld funds after compliance.--If, before the last day of the period for which

funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

(3) Period of availability of subsequently apportioned funds.--Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

(A) Funds which would have been originally apportioned under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

(B) Funds which would have been originally apportioned under paragraph (1), (3), or (5)(B) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

(4) Effect of noncompliance.--If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

(c) Definitions.--For purposes of this section--

(1) Driver's license.--The term "driver's license" means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

(2) Drug offense.--The term "drug offense" means any criminal offense which proscribes--

(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act; or

(B) the operation of a motor vehicle under the influence of such a substance.

(3) **Convicted.**--The term "convicted" includes adjudicated under juvenile proceedings.

CREDIT(S)

(Added Pub.L. 102-143, Title III, § 333(a), Oct. 28, 1991, 105 Stat. 944, and amended Pub.L. 102-388, Title III, § 327(a), Oct. 6, 1992, 106 Stat. 1547; Pub.L. 105-178, Title I, § 1103(l)(3)(E), June 9, 1998, 112 Stat. 126.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports

1998 Acts. House Conference Report No. 105-550 and Statement by President, see 1998 U.S. Code Cong. and Adm. News, p. 64.

References in Text

The effective date of this section, referred to in subsec. (a)(1), (2) and (3)(B)(i), is Nov. 5, 1990, see section 327(b) of Pub.L. 102-388, set out as a note under this section.

The date of enactment of the Transportation Equity Act for the 21st Century, referred to in subsecs. (a)(1), (2), (b)(1)(A), (3), and (4), is the date of enactment of Pub.L. 105-178, which was approved June 9, 1998.

The Controlled Substance Act, referred to in subsecs. (a)(3)(A)(i)(I) and (c)(2)(A), is Title II of Pub.L. 91-513, Oct. 27, 1970, 84 Stat. 1242, as amended, which is classified principally to subchapter I (section 801 et seq.) of chapter 13 of Title 21, Food and Drugs. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 21 and Tables.

Amendments

1998 Amendments. Subsec. (a)(1), (2). Pub.L. 105-178, § 1103(l)(3)(E)(i), substituted "(5) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) of" for "(5) of" in pars. (1) and (2).

Subsec. (b)(1)(A)(i). Pub.L. 105-178, § 1103(l)(3)(E)(ii)(I), substituted "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century)" for "section 104(b)(5)(A)".

Subsec. (b)(1)(A)(ii). Pub.L. 105-178, § 1103(l)(3)(E)(ii)(II), substituted "section 104(b)(5)(B) (as in effect on



AFTER PRISON: ROADBLOCKS TO REENTRY
A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS

A REPORT BY THE LEGAL ACTION CENTER

Exhibit D

AFTER PRISON: ROADBLOCKS TO REENTRY
A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS

A Report by the Legal Action Center
www.lac.org/roadblocks.html

Acknowledgments

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AFTER PRISON: ROADBLOCKS TO REENTRY

A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS

This report summarizes the findings of an exhaustive two-year study by the Legal Action Center (LAC) of the legal obstacles that people with criminal records face when they attempt to reenter society and become productive, law-abiding citizens. Our research found that people with criminal records seeking reentry face a daunting array of counterproductive, debilitating and unreasonable roadblocks in almost every important aspect of life.

The study is in three parts. **What's the Law** is a comprehensive catalogue of each state's legal barriers to employment, housing, benefits, voting, access to criminal records, parenting, and driving. The **Report Card** grades each state on whether its laws and policies help or hurt those seeking reentry. **Vision for the Future** outlines how federal and state policymakers can help reintegrate people with criminal records into society in ways that better promote public safety. A complete compilation of our findings including statutory citations and an explanation of methodology are available on our web site, www.lac.org/roadblocks.html. For those who do not have Internet access, please contact the Legal Action Center with specific requests for information.

OVERVIEW

More than 630,000 people are released from state and federal prisons every year, a population equal to that of Baltimore or Boston, and hundreds of thousands more leave local jails. Rather than helping them successfully transition from prison to community, many current state and federal laws have the opposite effect, interfering with the rights and obligations of full citizenship in nearly every aspect of people's lives. These laws diminish public safety and undermine the nation's commitment to justice and fairness, creating roadblocks to basic necessities for hundreds of thousands of individuals who are trying to rebuild their lives, support their families, and become productive members of communities.

Here are some startling facts about existing legal barriers:

- Most states allow employers to deny jobs to people who were arrested but never convicted of a crime.
- Most states allow employers to deny jobs to anyone with a criminal record, regardless of how long ago or the individual's work history and personal circumstances.
- Most states ban some or all people with drug felony convictions from being eligible for federally funded public assistance and food stamps.
- Most states make criminal history information accessible to the general public through the Internet, making it extremely easy for employers and others to discriminate against people on the basis of old or minor convictions, for example to deny employment or housing.
- Many public housing authorities deny eligibility for federally assisted housing based on an arrest that never led to a conviction.
- All but two states restrict the right to vote in some way for people with criminal convictions.

In the past 20 years, the federal government and many states have dramatically increased the number, range, and severity of civil penalties for those with criminal convictions – and, in some cases, even applied them to people never convicted of a crime. Congress and state legislatures created new restrictions on eligibility for food stamps, public assistance, public housing, student loans, and drivers' licenses, while further expanding bars to employment, parenting, and voting.

As a result of the explosive growth of legal roadblocks in the last three decades, successful reentry into society is much more difficult for people who have been arrested or convicted of crimes, many of whom are fully qualified to work and

participate in society and can demonstrate they are rehabilitated. Because African-Americans and Latinos are arrested and convicted at significantly higher rates than Caucasians, individuals and whole communities of color are disproportionately harmed by these policies, leading to widespread economic and political disenfranchisement.

Today, the good news is that there appears to be increasing support in Congress and in the states for the repeal of these counterproductive laws and policies. A number of initiatives are currently underway that will help people with criminal records who have paid their debt to society become independent, law-abiding citizens, thereby strengthening community safety. The Legal Action Center hopes that this study will help advance efforts to reform those laws and policies that endanger public safety by excluding people with criminal records from mainstream society and opportunities to lead law-abiding lives.

WHAT'S THE LAW: ROADBLOCKS TO REENTRY

This report presents the most comprehensive picture to date of the legal roadblocks that confront people with criminal records in each state, and in the nation as a whole. LAC studied roadblocks created by both state and federal law. Since many states are re-examining these issues and there may have been changes that have not yet come to our attention, we advise our readers to verify the information before relying on it as the basis of legal action.



EMPLOYMENT

Employers in most states can deny jobs to people who were arrested but never convicted of any crime.

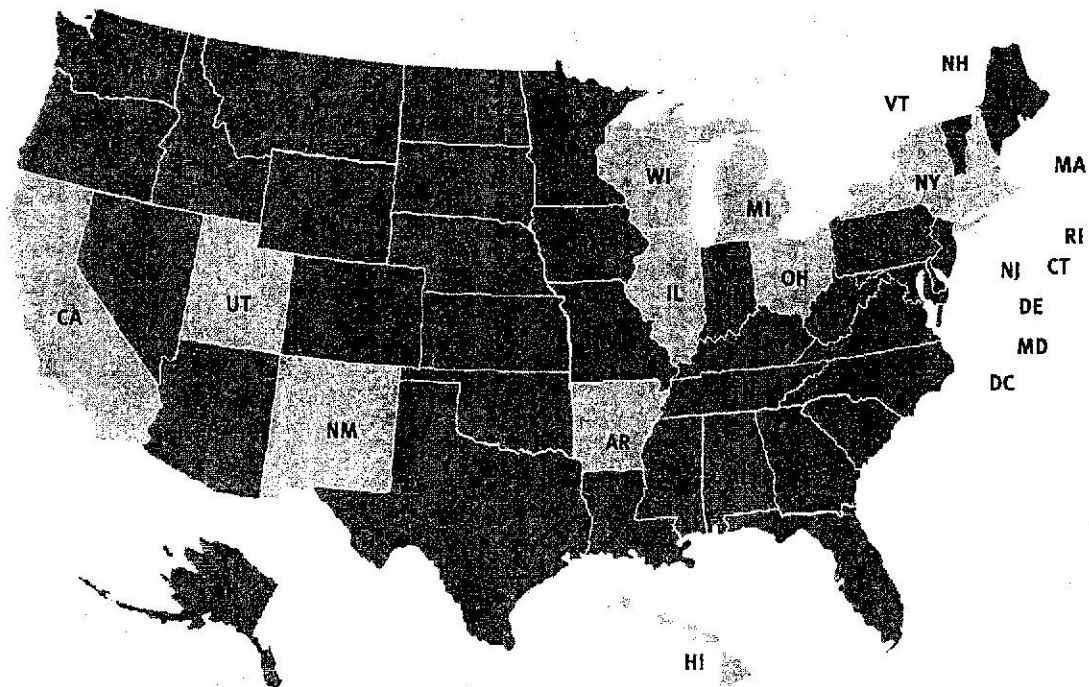
- * 37 states have laws permitting all employers and occupational licensing agencies to ask about and consider arrests that never led to conviction in making employment decisions.
- * Only 10 states prohibit all employers and occupational licensing agencies from considering arrests if the arrest did not lead to conviction, and 3 states prohibit **some** employers and occupational licensing agencies from doing so.




Employers in most states can deny jobs to – or fire – anyone with a criminal record, regardless of individual history, circumstance, or “business necessity.”

- * 29 states have no standards governing the relevance of conviction records of applicants for occupational licenses. That means occupational licensing agencies can deny licenses based on any criminal conviction, regardless of history, circumstance or business necessity. 21 states do have standards that require a “direct,” “rational,” or “reasonable” relationship between the license sought and the applicant’s criminal history to justify the agency’s denial of license.
- * 36 states have no standards governing public employers’ consideration of applicants’ criminal records; 14 do.
- * 45 states have no standards governing private employers; 5 do.

States have the power to offer certificates of rehabilitation but few issue them. Employers in a growing number of professions are barred by state licensing agencies from hiring people with a wide range of criminal convictions, even convictions which are unrelated to the job or license sought. All states have the power to lift those bars to employment by offering certificates of rehabilitation, but only 6 states - Arizona, California, Illinois, Nevada, New Jersey and New York – offer them.

INQUIRIES ABOUT ARRESTS



-  STATES PROHIBITING ALL EMPLOYERS AND OCCUPATIONAL LICENSING AGENCIES FROM CONSIDERING ARRESTS NOT LEADING TO CONVICTION
-  STATES PROHIBITING SOME EMPLOYERS AND OCCUPATIONAL LICENSING AGENCIES FROM DOING SO
-  STATES PERMITTING ALL EMPLOYERS AND OCCUPATIONAL LICENSING AGENCIES TO ASK ABOUT ARRESTS NOT LEADING TO CONVICTION



PUBLIC ASSISTANCE AND FOOD STAMPS

The 1996 federal welfare law prohibits anyone convicted of a drug-related felony from receiving federally funded food stamps and cash assistance (also known as TANF - Temporary Assistance for Needy Families). This is a lifetime ban -- even if someone has completed his or her sentence, overcome an addiction, been employed but got laid off, or earned a certificate of rehabilitation. States have the option of passing legislation to limit the ban or eliminate it altogether.

Most states restrict at least some people with drug felony convictions from being eligible for federally funded public assistance and food stamps.

- 17 states have adopted the federal drug felon ban without modification. They permanently deny benefits, even if a crime occurred years before or the person has been treated and rehabilitated.
- 21 states have limited the ban in some way to enable those with drug felony convictions to get public assistance if they meet certain conditions, such as participating in alcohol or drug treatment, meeting the waiting period, having a "possession only" conviction, or satisfying other conditions.
- Only 12 states have eliminated the ban entirely.

DRUG FELON BAN ON TANF AND FOOD STAMPS

ADOPTED FEDERAL BAN	OPTED OUT OF FEDERAL BAN ENTIRELY	OPTED OUT OF FOOD STAMPS AND MODIFIED BAN ON TANF	MODIFIED BAN BY REQUIRING TREATMENT	MODIFIED BAN BY REQUIRING COMPLETION OF SENTENCE OR TREATMENT	OTHER MODIFICATIONS *
Alabama Alaska Arizona California Georgia Indiana Kansas Mississippi Missouri Montana Nebraska North Dakota South Dakota Texas Virginia West Virginia Wyoming	Alabama Alaska Arizona California Georgia Indiana Kansas Mississippi Missouri Montana Nebraska North Dakota South Dakota Texas Virginia West Virginia Wyoming	Illinois Massachusetts		Connecticut	

* Limiting ban to distribution or sale offenses or requiring submission to drug testing.

**The new statute opting out specifically requires the department to follow pre-existing procedures for referral for assessment and treatment if available and appropriate.

VOTING

States have absolute power to decide whether someone with a criminal record can vote.

All but two states place some restrictions on the right to vote for people with felony convictions.

- 12 states have lifetime bans on voting for some or all people convicted of crimes, 5 states prohibit voting for life by those convicted of certain classes of crimes; 7 states have a lifetime bar that may be lifted only if the state grants a formal "restoration of civil rights."
- 18 states bar people from voting while they are incarcerated or serving parole or probation sentences.
- 6 states bar people from voting while they are incarcerated or on parole.
- 12 states deny voting rights to people only while they are incarcerated.

NO RESTRICTIONS	CANNOT VOTE WHILE INCARCERATED	CANNOT VOTE WHILE INCARCERATED OR ON PAROLE	CANNOT VOTE UNTIL COMPLETION OF SENTENCE	LIFETIME BAR THAT CAN BE LIFTED	LIFETIME BAR
Maine Vermont	Alabama Arizona Arkansas Florida Georgia Idaho Illinois Indiana Iowa Kansas Kentucky Louisiana Maryland Massachusetts Michigan Minnesota Missouri Montana Nebraska Nevada New Hampshire New Jersey New Mexico New York North Carolina North Dakota Oklahoma Oregon Pennsylvania Rhode Island South Carolina South Dakota Tennessee Texas Utah Virginia Washington West Virginia Wisconsin Wyoming	Alaska California Colorado Connecticut New York Wisconsin	Arizona Arkansas Florida Georgia Idaho Illinois Indiana Iowa Kansas Kentucky Louisiana Maryland Massachusetts Michigan Minnesota Missouri Montana Nebraska Nevada New Hampshire New Jersey New Mexico New York North Carolina North Dakota Oklahoma Oregon Pennsylvania Rhode Island South Carolina South Dakota Tennessee Texas Utah Virginia Washington West Virginia Wisconsin Wyoming	Alabama Iowa Nebraska Nevada Virginia Washington Wyoming	Alabama Arizona Arkansas Florida Georgia Idaho Illinois Indiana Iowa Kansas Kentucky Louisiana Maryland Massachusetts Michigan Minnesota Missouri Montana Nebraska Nevada New Hampshire New Jersey New Mexico New York North Carolina North Dakota Oklahoma Oregon Pennsylvania Rhode Island South Carolina South Dakota Tennessee Texas Utah Virginia Washington West Virginia Wisconsin Wyoming



ACCESS TO CRIMINAL RECORDS

States have the right to permit the sealing or expungement of arrests that never led to conviction and conviction records after an appropriate period of time has elapsed.

Most states never expunge or seal conviction records but do allow arrest records to be sealed or expunged when the arrest did not lead to a conviction.

- * 33 states do not permit the expungement or sealing of any conviction records.
- * 17 states allow some conviction records to be expunged or sealed, such as first-time offenses.
- * 40 states allow people to seal or expunge records of some or all arrests that did not lead to conviction.
- * 30 states allow you to deny the existence of a sealed or expunged arrest record when it did not lead to a conviction, if asked on employment applications or similar forms.

Virtually anyone with an Internet connection can find information about someone's conviction history online without his or her consent or any guidance on how to interpret or use the information.

- * 28 states allow Internet access to criminal records or post records on the Internet.
- * 14 of these states make all conviction records available on the Internet.
- * 6 make available on the Internet records of people who are incarcerated and those on probation or parole.
- * 8 post on the Internet only records of people currently incarcerated.



PUBLIC HOUSING

Federal laws give local housing agencies leeway in most situations to decide whether to bar individuals with criminal records from public housing premises and whether to consider the individual circumstances and history of applicants or arrests that never led to conviction. The primary exceptions are for people convicted of the production of methamphetamine on public housing premises and people who are required to be registered under a state's lifetime sex offender registry program. Public housing agencies must deny admission to housing to households with family members with these types of convictions. Since local housing agencies set these policies, LAC examined self-reported policies of the local housing agency of the largest city in each state.

In a majority of states, public housing authorities make individualized determinations about an applicant's eligibility that include considering the person's criminal record, as well as evidence of rehabilitation.

- In 47 states, public housing policies provide for individualized determinations.
- In 3 states, housing authorities do not make individualized determinations but instead flatly ban applicants with a wide range of criminal records.

Many public housing authorities consider arrest records that did not lead to conviction in determining eligibility for public housing.

- 27 housing authorities surveyed make decisions about eligibility for public housing based on arrests that never led to a conviction; 23 do not.



DRIVERS' LICENSES

In 1992, Congress passed a law withholding 10 percent of certain highway funds unless a state enacts a law revoking or suspending driver's licenses of anyone convicted of any drug offense for at least six months after the time of conviction. States can opt out of the law, limit it to drug convictions related to driving such as driving under the influence of a controlled substance, and impose a longer period than six months. Restricting the ability to drive makes it harder to be employed, participate in addiction treatment or healthcare, or get education or job training.

27 states automatically suspend or revoke licenses for some or all drug offenses; 23 states either suspend or revoke licenses only for driving-related offenses or have opted out of the federal law.

• Of the 27 states that automatically suspend or revoke licenses for some or all drug convictions, 21 limit the revocation or suspension of licenses to six months for a first offense.

• 4 states – Colorado, Delaware, Massachusetts, and South Carolina – revoke or suspend drivers' licenses for longer than six months for drug convictions unrelated to driving.

Many states make restrictive licenses available so individuals whose licenses would otherwise be suspended can go to work, attend drug treatment, or obtain an education.

• 32 states offer restrictive licenses; 18 do not.



ADOPTIVE AND FOSTER PARENTING

The federal Adoption and Safe Families Act of 1997 (ASFA) bars people with certain convictions from being foster or adoptive parents. States may follow these standards or adopt their own policies.

Most states make individualized determinations about an applicant's suitability to be an adoptive or foster parent that considers the person's criminal record, as well as evidence of rehabilitation.

* 35 states consider the relevance of an applicant's criminal record in making a determination about an applicant's suitability to be an adoptive or foster parent.

* 15 states have flat bars against people with criminal records becoming adoptive or foster parents.



STUDENT LOANS

The Higher Education Act of 1998 makes students convicted of drug-related offenses ineligible for any grant, loan or work assistance. This federal legal barrier cannot be altered by the states. No other class of offense, including violent offenses, sex offenses, repeat offenses, or alcohol-related offenses, results in the automatic denial of federal financial aid eligibility.

Financial aid is suspended on the date of conviction for varying lengths of time, depending on the type of offense and whether or not it is a repeat offense. This restriction applies even if the person is not receiving financial assistance at the time of conviction. A person convicted of a drug-related offense who is in school may become eligible for a student loan before the end of the suspension period if he or she completes substance abuse treatment approved by the Secretary of Education and passes two unannounced drug tests. Eligibility for financial aid may also be reinstated if the conviction is reversed.

REPORT CARD

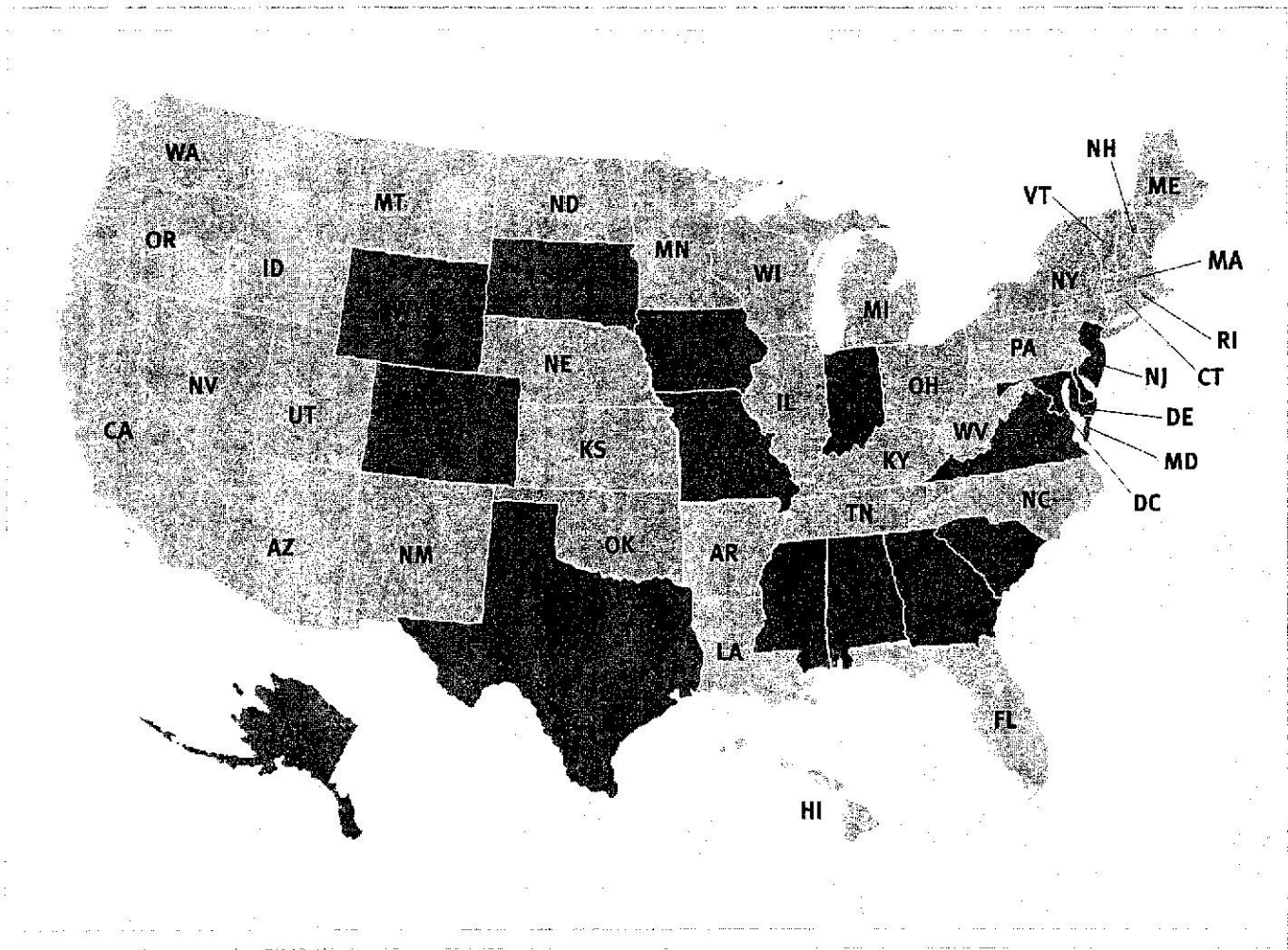
LAC's Report Card grades every state based on to what extent its laws and policies create roadblocks to reentry – unfair or counterproductive barriers - in the areas of employment, public assistance and food stamps, access to criminal records, voting, public housing, adoptive and foster parenting, and drivers' licenses.

Society has an important interest in protecting the safety of the public by promoting the successful reentry of people with criminal records. This Report Card distinguishes between policies that may serve legitimate ends, such as enabling employers to screen out individuals whose criminal behavior demonstrates they pose an unreasonable risk to public safety, and roadblocks that unfairly prevent those who do not pose a threat to public safety from successfully reentering society.

LAC developed the criteria for grading the states in close consultation with a diverse panel of experts from around the country, including attorneys, criminal justice policymakers, victim advocates, people with criminal records, and housing officials. Two overarching principles emerged as key criteria in the grading system (with 0 being best and 10 the worst):

- State and federal laws should require individualized determinations about the suitability of someone with a criminal conviction for the opportunity, benefit or right sought that takes into consideration the nature of the conviction(s), the time that has elapsed since the conviction(s), the age of the person at the time of the conviction(s) and any evidence of rehabilitation.
- State and federal laws should prohibit government agencies, public and private employers, and others from considering information about arrests that did not lead to conviction when making decisions about a person's eligibility for employment, housing, or other services.

RANKING THE STATES



BEST		AVERAGE		WORST	
RANK	STATE	RANK	STATE	RANK	STATE
1	NY 10	1	AZ 26	50	
2	HI 12	2	ID 28	49	
3	CA 14	3	WI 28	48	
4	ME 15	4	LA 30	47	
5	OR 16	5	WV 31	46	
6	NH 16	6	MN 31	45	
7	UT 17	7	CT 31.5	44	
8	VT 18	8	KS 32	43	
9	MI 19	9	AR 33	42	
10	OH 19.5	10	ND 33	41	
11	KY 22	11	FL 33	40	
12	NV 22	12	MT 33	39	
13	MA 22	13	NC 35	38	
14	IL 22.5	14	NE 35	37	
15	OK 23	15	PA 35	36	
16	NM 24			35	
17	RI 25			34	
18	TN 25			33	
19	WA 25			32	

HOW WE GRADED THE STATES

States were assigned a maximum of ten points for each roadblock category.

Therefore, the fewer the points, the better the score.

A Report Card for each state can be found on our website at:

www.lac.org/roadblocks/reportcardstates.html

A full description of the criteria and methodology we used to develop the Report Card can be found at: www.lac.org/roadblocks/reportcardcriteria.html

VISION FOR THE FUTURE

To promote and guarantee the public's safety, the U.S. government and the 50 states should adopt policies and practices that facilitate the successful reintegration into society of people with criminal records. Each person should be judged on his or her merits and not on stereotypes, prejudice, or stigma, and have a second chance to establish him or herself in a law-abiding life with the privileges and responsibilities of citizenship.

The state and federal governments should enact legislation that protects public safety by making sure that people with past criminal records are able to re-integrate successfully. LAC recommends the following principles and reforms:

- Maximizing the chance that people with criminal records can successfully assume the responsibilities of independent, law-abiding citizens is a critical component of guaranteeing and reinforcing the community's legitimate interest in public safety.
- An arrest alone should never bar access to rights, necessities, and public benefits. Doing so denies the presumption of innocence – the core value of our legal system – to millions of Americans. Employers, housing authorities, and other decision-makers should not be permitted to consider arrest records.
- A conviction should never bar access to a citizen's right to vote or to basic necessities such as food, clothing, housing, and education.
- Eligibility for employment, housing, adoptive and foster parenting, or a driver's license should be based on the community's legitimate interest in public safety and the particulars of an individual's history and circumstances. Blanket bans of entire categories of people, such as everyone convicted of a felony, are neither wise nor fair; they do not take into account such important factors as the nature or circumstances of the conviction and what the person has done since the commission of the offense, including receiving an education, acquiring skills, completing community service, maintaining an employment history, or earning awards or other types of recognition.
- States should enact legislation to provide for the automatic sealing or expungement of any arrest that never led to conviction, and of conviction records after an appropriate amount of time has elapsed. States also should issue certificates to qualified people with criminal records that acknowledge rehabilitation and lift automatic bars.
- Given the potential for misuse, conviction information should not be publicly accessible on the Internet. Access should be restricted to those agencies, such as law enforcement, that need to retrieve criminal records to perform their duties.

CONCLUSION

People with criminal records face a daunting array of challenges. Without a job, it is impossible to provide for oneself and one's family. Without a driver's license, it is harder to find or keep a job. Without affordable housing or food stamps or federal monies to participate in alcohol or drug treatment, it is harder to lead a stable, productive life. Without the right to vote, the ability to adopt or raise foster children, or access to a college loan, it is harder to become a fully engaged citizen in the mainstream of society. These roadblocks block the reintegration of people with criminal records, which in turn compromises everyone's safety and the well-being of our communities.

But recent actions in a number of state legislatures and the Congress give us great hope that the tide has turned and major reform is on the way. We hope this report will help concerned Americans all over the country take action to facilitate the ability of people with criminal records to live productive and law-abiding lives.

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AFTER PRISON: ROADBLOCKS TO REENTRY

A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS

Report Card

PENNSYLVANIA

Roadblocks are defined as unfair and counterproductive barriers to the reentry into society of people with criminal records, so the fewer the roadblocks, the better the score. Each of the 7 categories has a maximum of 10 roadblocks, so the highest (and worst) possible score is 70 roadblocks.

EMPLOYMENT: 5 ROADBLOCKS

Employers can ask about and use arrests that never led to conviction in hiring decisions. Public and private employers may not automatically bar someone from a job and may only consider job-related felony and misdemeanor convictions. Occupational licensing agencies may consider any felony but only job-related misdemeanor convictions in hiring decisions. No opportunity for people with criminal records to obtain restoration of civil rights/certificates of rehabilitation for employment purposes.

PUBLIC ASSISTANCE AND FOOD STAMPS: 5 ROADBLOCKS

Pennsylvania modified the federal drug felony ban to prohibit individuals convicted of a drug-related felony or misdemeanor offense from receiving food stamps and cash assistance until they have completed their sentence.

ACCESS TO CRIMINAL RECORDS: 8 ROADBLOCKS

Records of arrests that never led to conviction can be expunged. Individuals may not deny the existence of an expunged record. Records of convictions for the most part cannot be expunged. Records are available on the Internet.

VOTING: 3 ROADBLOCKS

Bars individuals who are incarcerated for a felony from voting

PUBLIC HOUSING: 5 ROADBLOCKS

The Philadelphia Public Housing Authority makes individual eligibility determinations based on relevance of criminal history, but considers arrests that never led to conviction.

ADOPTIVE AND FOSTER PARENTING: 10 ROADBLOCKS

No individualized determinations about suitability to be an adoptive or foster parent.

DRIVERS' LICENSES: 5 ROADBLOCKS

Licenses are automatically revoked or suspended for at least 6 months when individuals are convicted for a wide range of drug or alcohol offenses, not just those related to driving. No opportunity to obtain restricted licenses to attend work, school, or treatment.

TOTAL ROADBLOCKS: 41

Rank: 47th best out of 51

MARYLAND

MARYLAND CODE: 16-205. Alcohol or drug offenses; revocation

(a) The Administration may revoke the license of any person who:

(1) Is convicted under § 21-902(a) or (d) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol, while under the influence of alcohol per se, or while impaired by a controlled dangerous substance; or

(2) Within a 3-year period, is convicted under § 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle while impaired by alcohol or while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely and who was previously convicted of any combination of two or more violations under:

(i) § 21-902(a) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol or while under the influence of alcohol per se;

(ii) § 21-902(b) of this article of driving or attempting to drive a motor vehicle while impaired by alcohol;

(iii) § 21-902(c) of this article of driving or attempting to drive a motor vehicle while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely; or

(iv) § 21-902(d) of this article of driving or attempting to drive a motor vehicle while impaired by a controlled dangerous substance.

(b) The Administration:

(1) Shall revoke the license of any person who has been convicted, under Title 2, Subtitle 5 of the Criminal Law Article, of homicide by a motor vehicle while under the influence of alcohol, impaired by alcohol, or impaired by any drug, any combination of drugs, a combination of one or more drugs and alcohol, or a controlled dangerous substance; and

(2) May not issue a temporary license to drive for any person whose license has been revoked under item (1) of this subsection during an administrative appeal of the revocation.

(c) The Administration may suspend for not more than 60 days the license of any person who is convicted under § 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle while impaired by alcohol or while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a vehicle safely.

(d) The Administration may suspend for not more than 120 days the license of any person who, within a 3-year period, is convicted under § 21-902(b) or (c) of this article of driving or attempting to drive a motor vehicle while impaired by alcohol or while so far impaired by any drug, any combination of drugs, or a

Exhibit E

combination of one or more drugs and alcohol that the person cannot drive a motor vehicle safely and who was previously convicted of a violation under:

(1) § 21-902(a) of this article of driving or attempting to drive a motor vehicle while under the influence of alcohol or while under the influence of alcohol per se;

(2) § 21-902(b) of this article of driving or attempting to drive a motor vehicle while impaired by alcohol;

(3) § 21-902(c) of this article of driving or attempting to drive a motor vehicle while so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that the person cannot drive a motor vehicle safely; or

(4) § 21-902(d) of this article of driving or attempting to drive a motor vehicle while impaired by a controlled dangerous substance.

MISSOURI

MISSOURI STATUTES Section 302.309. Return of license, when--limited hardship licenses, when granted-- limited driving privileges under revoked license

3. (1) All circuit courts or the director of revenue shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs; or
- (e) Any other circumstance the court or director finds would create an undue hardship on the operator;

the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for that vehicle.

(4) The court order or the director's grant of the limited driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. A

Exhibit F

copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. The director shall notify by ordinary mail the driver whose privilege is so terminated.