



The Civil Consequences of Criminal Convictions in New Jersey: An Overview

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Civil Consequences: Employment

- **Some jobs have statutory bars excluding those with criminal records**
 - All public employment or office holding, if convicted while in public employment or holding office
 - Some jobs have absolute, lifetime bar for certain convictions. These include:

Airport employees	paid public school employees
School bus drivers & crossing guards	bank employees
Bartenders/waiters where liquor served	Parking enforcement officers
Housing Authority and municipal police	NJ Turnpike Authority staff
Liquor retail, wholesale & distribution	paid firefighters
Child care center employees	Centers for people with developmental disabilities
Armored car crew member	Private detectives
Racetrack employees	Union employees (not members)
Limousine drivers	



Civil Consequences: Employment

- **Some jobs have mandatory background checks**

- Require disclosure of convictions but may also require employers to consider evidence of rehabilitation

- These include:

Alcohol and drug counselors

Residential child care staff

Domestic violence shelter staff

Homemaker, home health aides

and personal care assistants

Solid & hazardous waste disposal

State correctional facility employees

New Jersey Highway Authority

Non-civil service municipal employees

Day care sponsoring organizations

casino employees

children's group home staff

social workers

insurance adjusters

real estate sales personnel &

appraisers

Facilities for mentally ill

Housing Authority employees

Nursing homes



Civil Consequences: Employment

- **Occupational Licensing**

- General licensing statute allows licensing boards to refuse to admit a person or to suspend or revoke a license upon proof that a person has been convicted of or is engaged in:
 - Acts constituting a “crime of moral turpitude”
 - Acts relating adversely to the regulated activity
- More than 50 professions in NJ subject to the statute
- **BUT:** Rehabilitation of Convicted Offenders Act overrides in part:
 - Can’t disqualify solely on the basis of a conviction unless convicted while a public employee of an offense relating to the office or convicted of a crime relating to the license sought.
 - If license agency or board wants to disqualify, must explain in writing how various factors have been considered
 - Parolees can get “Certificates of Rehabilitation” which preclude a licensing board from denying the license



Civil Consequences: Employment

- **Drivers' Licenses**

- Comprehensive Drug Reform Act requires suspension for 6 to 24 months for any drug-related convictions
- Other non-driving related grounds for suspension include: failure to appear in court; failure to pay insurance surcharges, child support, court-imposed fines, parking tickets; failure to carry insurance.

- **Employment Discrimination & Employer Inquiries**

- Employers are free to hire or fire people with criminal records as they see fit, not covered by Law Against Discrimination
- Employers may ask employees about arrests that did not lead to conviction, and about all arrests or convictions regardless of age
- Employers can obtain criminal history records from state repositories



Civil Consequences: Housing

- Private Housing
 - Under the New Jersey Anti-Eviction Act, “good cause” for eviction includes:
 - Conviction of a drug crime under the CDRA while on the premises, unless individual has completed or is admitted to a drug rehab program, or
 - Knowingly allowing someone who has been convicted of a drug offense to occupy the premises
 - Eviction action must be brought within 2 years of conviction or release from prison, whichever is later



Civil Consequences: Housing

- **Public Housing: Federal Law**

- In 1998, public housing authorities (PHAs) given greater power to deny applicants, terminate Section 8, and evict tenants if any member of tenant household engages in criminal activity (no actual conviction necessary)
- PHAs must:
 - Perform criminal background checks on all adult household members applying to live in public housing
 - Deny housing to anyone 1) convicted of methamphetamine production or 2) subject to lifetime sex offender registration
 - Include lease provision indicating that families will be evicted if any member of the household engages in criminal behavior on or off the premises.
 - Innocent tenants held strictly liable
 - LSC funded legal services can't represent tenants being evicted for criminal activity



Civil Consequences: Housing

– PHAs can:

- Deny assistance to anyone evicted from publicly funded housing for drug related criminal activity (3 year ban)
- Deny admission to anyone who is abusing alcohol or another drug illegally or engaging in other criminal activity

– Implementation varies among New Jersey PHAs

- Example: Newark Housing Authority



Civil Consequences: Immigration

- Non-citizens convicted of certain criminal offenses face a range of consequences, including:
 - Being subject to removal from the U.S. and physically deported to “home” country
 - Being denied admission to the U.S.
 - Being ineligible for various forms of relief that might allow someone to stay under existing laws, including asylum, waivers for lawful permanent residents, & withholding of removal based on fear of persecution
 - Being unable to return legally to the U.S. for periods ranging from 5 years to a permanent bar
 - Being subject to criminal prosecution for illegally returning after having been removed, with sentences ranging from 2 to 20 years.



Civil Consequences: Public Benefits

- Personal Responsibility and Work Opportunity Reconciliation Act of 1996
 - Imposed a lifetime ban on receipt of cash assistance and food stamps for individuals convicted of felony drug offenses
 - States may accept, modify or opt out of the ban
- Work First New Jersey TANF and GA: “Modified” ban
 - Possession and use convictions: no cash assistance or food stamps except if enrolled in or completed treatment, in which case can get both
 - Distribution or sales convictions: no cash assistance or food stamps, but can become eligible for food stamps only if enrolled in or completed treatment
 - Benefits denied to those fleeing prosecution or custody or violating a condition of probation or parole, including payment of fines



Civil Consequences: Education

- Pell Grants: individuals are ineligible while in prison (1992)
- 1998 Title IV of Higher Education Act
 - Imposed prohibition on receiving any federal financial aid for those convicted of drug offenses
 - Possession offenses
 - First offense – one year ineligibility
 - Second offense – two years ineligibility
 - Third offense – indefinite (permanent) ineligibility
 - Sales offenses
 - First offense – two years ineligibility
 - Second offense or more – indefinite (permanent) ineligibility



Civil Consequences: Family Issues

- Most prisoners in U.S. have children
- Parental Rights
 - Adoption and Safe Families Act (1997)
 - DYFS must seek termination of parental rights when a child has been in placement for 15 of the most recent 22 months where grounds exist, including abuse conviction, abandonment or neglect, or “best interest of the child”
 - NJ Supreme Court held that incarceration is a relevant factor in determining termination based on abandonment or unfitness
 - Mandatory background checks for prospective foster and adoptive parents – can be permanently disqualified if any they or any household member convicted of violent offense and disqualified for 5 years for lesser felonies or drug offenses.



Civil Consequences: Family Issues

- Child support
 - Incarceration considered “voluntary unemployment” for child support purposes
 - Child support payments not automatically suspended during incarceration
 - Support orders cannot be retroactively modified after release
 - Federal and state law permits garnishment of up to 65% of wages for debts, including child support arrears



Civil Consequences: Voting & Jury Service

- Individuals lose the right to vote for a conviction of an indictable offense (felony):
 - While incarcerated
 - While on parole or probation
 - Rights can be restored upon completion of sentence
- Individuals convicted of indictable offenses in New Jersey or in any other state, or in federal court are permanently disqualified from serving on a jury in New Jersey



Civil Consequences: Expungement & Pardon

- Expungement
 - Expunged events deemed not to have occurred
 - Convictions for indictable offense can be expunged after 10 years, but most serious offenses, e.g. violent crimes and drug offenses, cannot be expunged
 - Broader expungement for juvenile offenses
- Pardon
 - Governor has power to pardon, may refer applications to Parole Board to investigate
 - Provides restoration of civil rights, eligibility for expungement for otherwise noneligible offenses