

# AFTER PRISON: ROADBLOCKS TO REENTRY

## A REPORT ON STATE LEGAL BARRIERS FACING PEOPLE WITH CRIMINAL RECORDS

### What's the Law

#### STATE PROFILES > ALASKA

##### ADOPTIVE AND FOSTER PARENTING

**1. Does the state consider other criminal history records beyond the federal list of convictions barring people from becoming foster and/or adoptive parents?**

Yes, applicants for foster care must be barred and applicants for adoption may be excluded based upon any charge or conviction in Alaska or another jurisdiction relating to perjury, offenses against the family and vulnerable adults, and other serious offenses, including any felony and other sexual offenses. AK ST § 12.62.900(23) and Alaska Admin. Code tit. 7, §§ 56.210(b) and 56.660(b)(5).

**2. Does the state restrict people from becoming foster and/or adoptive parents for longer than required by federal law?**

Yes, the laws are silent on the length of the bars for both foster care and adoption so they appear to operate as lifetime bars (unless the state exercises its discretion for adoption). Because the state is also silent on the length of the bar for drug-related offenses, the state law goes beyond the federal 5-year discretionary bar. Alaska Admin. Code tit. 7, § 56.660(b)(5).

**3. May applicants be barred by the convictions of other household members?**

Yes, applicants for foster care must be barred if other household members (foster care: age 16 or over; adoption: adult) have any of the convictions that would disqualify the applicant if s/he were the one charged or convicted. Alaska Admin. Code § tit. 7, § 56.660(b)(5).

**4. Does the state make individual determinations about an applicant's eligibility based on the criminal record?**

Yes, for foster care, agencies will check criminal backgrounds and evaluate suitability of a home in light of such findings. Alaska Admin. Code § tit. 7, § 56.550(b)(4). Yes, for adoption the worker responsible for the home study will assess the prospective adoptive parent's capacity to parent children. Alaska Admin. Code § tit. 7, § 56.660(h).

##### ACCESS TO CRIMINAL RECORDS

**1. Is there a time limit after which criminal history information is not reported to non-law enforcement entities for employment purposes?**

Only statutorily-authorized persons may obtain nonconviction information, which includes arrests or charges for which the prosecutor or grand jury has elected not to begin criminal proceedings and at least a year has elapsed since that decision, criminal charges that have been dismissed or for which the person has been acquitted and at least a year has elapsed since that decision, or arrests or charges without a disposition and at least a year has elapsed since the arrest, filing of the charges, or referral of the matter to a prosecutor, whichever is latest. Past conviction information is available to both "interested persons" (employers hiring or accepting volunteers for positions with supervisory or disciplinary power over minors or dependent adults) and the public if the subject is required to register as a sex offender or if fewer than 10 years have elapsed since the date of

unconditional discharge to the date of the request. Interested persons may also obtain past conviction information regardless of the time elapsed since unconditional discharge for "serious offenses," including any felony, crimes involving domestic violence, offenses against the person, family, vulnerable adults, public order, and public health and decency. AK ST § 12.62.900(18), (19), (23); Alaska Admin. Code tit. 13, §§ 68.310(a), (b), 68.315(a), (b) and 68.320(a) and (d).

**2. Other than the subject and criminal justice agencies, who can obtain records?**

Any interested person, the general public, and statutorily-authorized persons with the subject's fingerprints. Alaska Admin. Code tit. 13, §§ 68.310(a), (b), 68.315(a), (b), and 68.320(a) and (d).

**3. What types of records can be disclosed to non-criminal justice agencies?**

Interested persons, the general public, and statutorily-authorized persons are entitled to different levels of criminal history record information. Interested persons are entitled to current offender information including data about individuals currently under arrest, released on bail, serving a criminal sentence, or those who have had a criminal conviction or sentence reversed, vacated, set aside, or who have received executive clemency and past conviction information for offenses requiring registration as a sex offender, if fewer than 10 years have elapsed since the date of unconditional discharge, or for serious offenses regardless of the time elapsed since unconditional discharge. The general public may obtain current offender information and past conviction information for offenses requiring registration as a sex offender or if fewer than 10 years have elapsed since the date of unconditional discharge. Statutorily-authorized persons are entitled to current offender information, past conviction information, and nonconviction information. Alaska Admin. Code tit. 13, §§ 68.310(a), (b), 68.315(a), (b) and 68.320(a) and (d).

**4. Are there penalties for violating limitations on dissemination?**

Administrative but not civil penalties exist. Alaska Stat. § 12.62.200. Criminal penalties also exist for violations of the limitations on dissemination of juvenile records. AK ST § 47.12.300(h).

**5. Are state criminal records available on the internet?**

Yes.

**6. Can state criminal records of arrests not leading to conviction be sealed (including expunged, erased, or purged)?**

Yes, arrests that have resulted from mistaken identity or false accusation can be sealed. AK ST § 12.62.180.

**7. If so, what is the effect of having an arrest sealed?**

The individual may answer that s/he has never been arrested. AK ST § 12.62.180(d).

**8. Can criminal conviction records be sealed (including expunged, erased, or purged)?**

No, for the most part. Only convictions that have resulted from mistaken identity or false accusation can be sealed. AK ST § 12.62.180.

The court shall seal most juvenile records (except for traffic offenses, class A & B felonies against the person or first degree arson) within 30 days of a minor's 18th birthday or within 30 days of the court's release of jurisdiction, whichever is later. If charged as an adult, most juvenile records (except for traffic offenses and certain serious felonies) may be sealed five years after completion of the sentence or five years after the records are made public. AK ST §§ 47.12.300(d) and (f).

**9. If so, what is the effect of having a conviction sealed?**

The individual may deny the existence of the record. AK ST § 12.62.180(d).

Sealed juvenile records may not be used for any purpose except for presentencing reports or the court may order their use good cause. AK ST §§ 47.12.300(d) and (f).

## **DRIVERS' LICENSES**

**1. Does the state revoke or suspend the drivers' licenses of people convicted of drug-related offenses?**

Yes, the state revokes drivers' licenses for drug-related offenses. AK ST § 28.35.030(b)(3).

**2. If so, what crime(s) result in suspension or revocation?**

Driving under the influence of alcohol and/or a controlled substance. AK ST § 28.35.030(a) and (b).

**3. If so, what is the length of the suspension or revocation?**

Not less than 90 days for a first offense; not less than one year for one previous conviction; not less than three years for two previous convictions; and not less than five years for more than two previous convictions. AK ST §§ 28.15.181(c).

**4. Does the state offer restricted drivers' licenses for purposes of employment, education, and/or medical care?**

A limited license may be issued during the last 60 days of the revocation period if the conviction was for a misdemeanor and if certain criteria are met, e.g., the individual's ability to earn a livelihood would be severely impaired and s/he is in compliance with court-ordered treatment requirements. AK ST § 28.15.201(d).

## **EMPLOYMENT**

**1. Can employers ask job applicants about arrests not leading to conviction?**

Yes. AK ST § 12.62.400.

**2. Can employers consider arrests not leading to conviction?**

Yes.

**3. Does the state have standards prohibiting employment discrimination by public employers and occupational licensing agencies based on a conviction record?**

No.

**4. Does the state have standards prohibiting employment discrimination by private employers based on a conviction record?**

No.

**5. Does the state restrict people with criminal records from employment in the field of home health care?**

Yes. Home health aides must not have been convicted of abuse, neglect or mistreatment of another individual or misappropriation of property of a patient under the individual's care. Alaska Admin. Code tit. 7, § 12.541. There is no mechanism to lift this bar.

**6. After an individual has been convicted, does the state offer any mechanism to demonstrate that an individual has been rehabilitated?**

Pardons. Alaska Const. art. 3, § 21. A pardon has the effect of "setting aside" the conviction. Although the record of the "set aside" conviction remains on an individual's rap sheet, s/he is considered not to have been previously convicted. Therefore, a pardon's effect upon occupational licensing will vary. For example, if it is required that the applicant has not been convicted of a felony, the pardon will lift this bar. However, if the occupational licensing authority requires "good moral character," a pardon will not necessary lift the occupational bar because a pardon does not prevent the licensing board from considering the facts underlying the conviction. Executive Clemency in Alaska, available at <http://www.correct.state.ak.us/corrections/Parole/clemencyhandbook.pdf>.

## **PUBLIC ASSISTANCE AND FOOD STAMPS**

**1. Are people with drug-felony convictions dated after 1996 eligible to receive TANF benefits and food stamps?**

No, Alaska adopted the federal drug felon ban. AK ST § 47.05.040.

## **PUBLIC HOUSING**

**1. Does the Housing Authority consider arrests that did not lead to conviction in its admission criteria?**

Yes, the Housing Authority in Anchorage (the Alaska Housing Finance Corporation) considers arrests if they are drug-related or violent.

**2. Does the Housing Authority make individual determinations about an applicant's eligibility based upon the relevance of the criminal record?**

Yes.

**3. How long is the conviction bar(s)?**

There is a 3-year bar for drug-related or violent convictions which may be shortened by evidence of rehabilitation. There is a lifetime bar if an individual is on a lifetime sex-offender list, or 60 months after coming off of a sex-offender list. There is a permanent bar for individuals convicted of manufacturing or producing methamphetamine on federally assisted housing premise or any commission of fraud, bribery or any other corrupt or criminal act in connection with any Federal housing program. There is also a permanent bar for individuals who are fugitive felons, parole violators, or fleeing to avoid prosecution, custody or confinement for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees.

## **VOTING**

**1. Does the state grant people with criminal records the right to vote?**

A person convicted of a felony involving moral turpitude who is incarcerated or on probation or parole is ineligible to vote until s/he has completed his/her sentence and been unconditionally discharged. AK ST §§ 12.55.185, 15.05.030 and 33.30.241.