

# AFTER PRISON: ROADBLOCKS TO REENTRY

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

## What's the Law

### STATE PROFILES > OREGON

#### 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 or adoptive parenthood must be barred by convictions for other violent, sexual, and weapons-related offenses unless the prospective foster or adoptive home was certified or approved before November 19, 1997 and the Administrator has determined that denial would result in disruption of placement and that safety concerns have been adequately addressed.

Applicants must also be excluded based upon any felony or misdemeanor conviction unless an exception is granted. A history of violent, sexual, or drug- or alcohol-related arrests, or a false statement about a conviction for any crime may also bar an applicant. Or. Admin. R. §§ 413-120-0450(2)-(8) and 413-120-0455(1)-(4).

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

Yes, the statute is silent on the length of the bars for both foster care and adoption so they operate as lifetime bars unless the Department implements its discretion. Or. Admin. R. § 413-120-0450.

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

Applicants may be barred if other adult household members have any of the arrests or convictions that would disqualify the applicant if s/he were the one arrested or convicted, or if another household member under 18 years of age has disqualifying arrests or convictions and there is reason to believe that individual may pose a risk to children placed in the home. Or. Admin. R. §§ 413-120-0450(1) and 413-120-0430(3) and 413-120-0420(17).

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

Yes, for both foster care and adoption. The Department of Human Services will consider the following factors in determining whether to grant an exception for a conviction or in assessing the suitability of an applicant based upon a history of arrests: severity and nature of the crime; number of criminal offenses; time elapsed since the offense; surrounding circumstances of the crime; content of the police report(s) concerning the crime; the individual's explanation of the

crime; the relationship of the crime to the individual's capacity to provide care; evidence of rehabilitation; and whether disqualification of the individual would create emotional harm to a specific child. Or. Admin. R. §§ 413-120-0450(6).

## **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?**

No, except that arrests more than one year old with no record of acquittal or dismissal may not be disseminated to the public. Or. Rev. Stat. § 181.560 (1)(b).

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

With notice to the subject, any person or agency. Or. Rev. Stat. § 181.560 (1).

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

Arrests less than one year old with no record of acquittal or dismissal and convictions. Or. Rev. Stat. § 181.560 (1)(b).

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

Yes, administrative. Willful violation may result in termination of agency's authorization to receive criminal record information. Or. Admin. R. § 257-010-0045 (1).

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

No.

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

Acquittals, dismissals, and many arrests that did not lead to conviction (except for traffic offenses) may be set aside after one year, unless the individual has currently pending criminal proceedings, an arrest for an unrelated charge within the preceding 3 years, or a conviction within the preceding 10 years (except for motor vehicle offenses). Or. Rev. Stat. §§ 137.225 (1)(b), (6), and (7).

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

If set aside, the individual may deny the existence of the arrest. Or. Rev. Stat. § 137.225 (3).

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

Except for certain violent, sexual, and traffic offenses, many adult convictions may be set aside after 3 years have elapsed following completion of the sentence, including class C felonies, felony marijuana possession, crimes punishable as misdemeanors or felonies (at the judge's discretion), misdemeanors for which imprisonment may be imposed, and violations. To be eligible, individuals may not have currently pending criminal proceedings or other convictions within the preceding 10 years (except for motor vehicle offenses). Or. Rev. Stat. §§ 137.225 (1)(a), (5), and (6).

Juvenile records may be expunged if 5 years have elapsed since termination of the court's jurisdiction, no criminal or juvenile proceedings are currently pending, the individual has not subsequently been convicted of a felony or class A misdemeanor, and the individual is not currently under investigation by the juvenile department. If the individual has reached 18 years of age, the court shall order expungement if these criteria are met or if s/he was never found within the juvenile court's jurisdiction. Juvenile records may also be expunged at any time if the court finds expungement in the best interest of the individual and the public. Or. Rev. Stat. §§ 419.A.262(2), (4), and (7).

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

If an adult conviction is set aside, the individual may deny the existence of the conviction. Or. Rev. Stat. § 137.225 (3).

If a juvenile record is expunged, the individual may deny existence of the record. Public employers and occupational licensing authorities may not ask about or discriminate based upon expunged juvenile records. Private employers may not discriminate based on an expunged juvenile record. Or. Rev. Stat. §§ 419A.262(20) and 670.290 and 659A.030(1)(a)-(e).

## **DRIVERS' LICENSES**

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

The state revokes or suspends drivers' licenses for driving while under the influence of intoxicants. Or. Rev. Stat. §§ 809.235 (b), 809.428, and 813.400.

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

Convictions of felony or misdemeanor driving while under the influence of intoxicants. Or. Rev. Stat. § 813.400.

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

Ninety days to life, depending upon the status of the offender, i.e., the number of times s/he has been convicted, and depending upon whether the crime is felony or misdemeanor driving while under the influence of intoxicants.. Or. Rev. Stat. §§ 809.235 (b) and 809.428.

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

Following a substance abuse assessment, hardship driving permits may be available for employment, medical or alcohol treatment or rehabilitation if the individual participates in a required alcohol or drug information or treatment program. Or. Rev. Stat. § 813.500.

## **EMPLOYMENT**

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

Yes.

**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?**

Yes, for occupational licensing authorities. A license may not be denied, suspended, or revoked based solely upon a conviction. In determining the fitness of the individual, the facts surrounding the conviction and "intervening circumstances" must be considered. Or. Rev. Stat. § 670.280. However, licenses for teaching-related professions will be denied and may be revoked solely because of certain criminal convictions. Or. Rev. Stat. § 342.143(3)(a)-(b) and 342.175(1)(a), (d). There are no standards for public employers.

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

No, except that private employers may not discriminate based on an expunged juvenile record. Or. Rev. Stat. § 659A.030(1)(a)-(e).

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

No.

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

No, only pardons. Or. Rev. Stat. § 144.649. A pardon does not serve as evidence of rehabilitation or lift occupational bars. Telephone interview with Peggy Barber, Department of Corrections, (503) 945-0900.

**PUBLIC ASSISTANCE AND FOOD STAMPS**

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

Yes, Oregon has opted out of the federal drug felon ban. Or. Rev. Stat. § 411.119.

**PUBLIC HOUSING**

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

Yes, the Portland Public Housing Authority will consider arrests not leading to conviction.

**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)?**

People evicted for drug-related criminal activity on public housing authority property are subject to

a three-year bar.

## **VOTING**

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

Individuals incarcerated following felony convictions may not vote. Individuals who have completed the sentence and those on probation or parole may vote. Or. Rev. Stat. §§ 137.281(1) and (3)(d).

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