



Now and Later:

*The Short and Long-Term
Consequences of a
Louisiana Conviction*

A Resource for Clients

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grant from the Louisiana Bar Foundation*

“Not everything that is faced can be changed, but nothing can be changed until it is faced.”

James Baldwin

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A “conviction” occurs when you are adjudicated delinquent, found guilty at trial, or when you plead guilty before a judge. After you serve your sentence, pay your fine or complete your probation, you will find that your conviction may affect your life and your family in many ways.

The far-reaching consequences of a criminal conviction can affect your life long after any prison sentence, period of probation, or payment of fees has been completed.

These “collateral consequences” of a criminal conviction – either as a result of a plea bargain or a conviction or adjudication by a judge or jury – can be, and often are, severe, unexpected and long-lasting.

Even after your sentence is complete and your fines and fees have been paid, the conviction may affect your basic rights of membership in society, such as:

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- The right to vote
- The denial of access to governmental assistance in all its varied forms from housing to educational assistance
- The dissolution of your family
- Deportation
- Obtaining or retaining a job

It is very important for you to know the full effect of a guilty plea or a conviction by judge or jury. In order to make informed decisions about your case, you should thoroughly discuss your circumstances with your public defender, and specifically ask how you will be affected by a criminal conviction.

If you do not fully understand the impact of the long term results of a conviction when you want to plead guilty, make sure you communicate this to the judge.

This resource is intended to provide a very brief overview of what happens to people who are adjudicated delinquent, convicted at trial, or enter a guilty plea to a felony or misdemeanor offense.

Expanded Explanations

1) Are you charged with a sex offense?

The effects of a conviction for a sex offense are severe, life-long and affect every aspect of your life. These consequences apply to both adult and juvenile offenders. The importance of consulting with your public defender about these consequences cannot be emphasized enough.

Some convicted sex offenders are required to register with state and federal authorities for life.

This information is kept on a public website and your status is communicated to everyone in your community. The social stigma attached to a conviction for a sex offense is quite harsh due to these reporting requirements and the fact that “Sex Offender” will be visible on your driver’s license or state identification card.

Sex offenders are barred for life from public housing or receiving housing assistance. Furthermore, there are strict limitations on where you can live within your community. For example, you may not live within

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one thousand feet of a school, public park or recreational facility. You will be required to notify everyone in your neighborhood that you have been convicted of a sex offense, at your expense. These requirements and the hesitancy of landlords to rent to a sex offender make finding appropriate rental housing very difficult. Every time you move you must pay to notify everyone in your new community and register with local law enforcement.

Conviction of a sex offense also impacts your ability to get a job. You will be prohibited from working with children, in any capacity. If your job requires a license, it may be revoked. Employers will be notified that you are a sex offender, because you will have to present your driver's license or state issued ID card when filling out W-2 paperwork, which may make finding a job difficult.

If you are a student or prospective student, you may be denied admission to an institution of higher learning or denied on-campus housing. If you are receiving or plan to receive state financial aid, that aid will be revoked and you will be *permanently* ineligible for further

state aid.

COLLATERAL CONSEQUENCES RELATING TO ADULT CONVICTIONS IN LOUISIANA

2) Do you live in public or Section 8 housing?

In Louisiana, every person convicted of any felony or misdemeanor, and their entire household, may be evicted or become permanently ineligible for government housing assistance. You may also be permanently excluded from even visiting a friend or family member who lives in public housing.

3) Does your job require that you maintain a license?

Your occupational license may be in jeopardy as the result of a guilty plea or conviction, even for a misdemeanor. Some licensing boards are required to revoke your license while others are allowed to consider a conviction as a factor in disciplining a licensee. In some cases, even if you are not required to hold a license but your employer is, your conviction may put your employer's license in jeopardy- leading to loss of employment or not being hired in the first

instance.

Along with a conviction or plea, licensing boards may consider addiction or excessive use of alcohol in deciding whether to discipline a licensee. Boards are often required to consider “good moral character” or “temperate habits” in determining whether or not an applicant should be licensed.

These laws apply to many jobs that require a license so be sure to ask your defender if your job or potential job requires a license and how you will be affected by an arrest, plea of guilty, or conviction.

4) Do you work with children in any capacity?

If you work in a school, even in a support, part-time, or temporary capacity, you will be subject to a *criminal background check* and may be denied employment or lose your job upon conviction if already employed. If you are a teacher, certain offenses will cause you to be dismissed upon a final conviction or a plea of no contest. Ask your defender about these offenses and if the offense you are charged with falls into this category.

5) Do you work in the oil and gas, shipping, chemical or related industries?

Working in these industries is often based upon the ability to obtain a Transportation Worker Identification Credential (TWIC card). To qualify for this card, you must be a U.S. citizen or fit within an eligible immigration category. Conviction of certain crimes will permanently disqualify you from obtaining a TWIC card. These crimes include espionage, sedition, treason and terrorism. Conviction for certain other offenses can serve as a disqualifying factor, however you may apply for a waiver. These offenses include a transportation security event, improper transportation of a hazardous material, and murder. Lastly, there are interim disqualifying offenses. Under this category, a conviction, guilty plea, and/or acquittal by reason of insanity within seven years of the TWIC application is disqualifying if the offense is listed. These offenses include, but are not limited to, felony drug convictions, bribery and robbery.

Additionally, release from prison after conviction within five years of application is a disqualifying factor.

In both cases though, the applicant may apply for a waiver.

6) *Can you vote?*

In Louisiana, a person is not able to register to vote or to vote while they are under any order of imprisonment for conviction of a felony, which includes all periods of any sentence of confinement. This rule applies to defendants on probation or parole as well as those who are actually incarcerated.

After you have completed your sentence or term of probation, you are eligible to vote. However, you may encounter difficulty registering to vote or at the polling precinct. Voting is an important right that you are entitled to exercise after completing your state sentence. If you are having difficulty exercising your right to vote, consult with the organization VOTE (Voice of the Ex-Offender) at 504-894-8099 or 1-800-552-VOTE.

7) *Do you or a household member own a gun?*

Federal law prohibits anyone convicted in any court, state or federal, of a crime punishable by imprisonment for a term exceeding one year

from possessing a firearm or ammunition. If convicted under Louisiana law, you may regain your right to possess a firearm if you have been pardoned by the Governor or the Pardon Board.

The most important point of this prohibition is that it also bars you from having “constructive possession” of a firearm. This means that if a member of your household or a roommate owns a firearm that is stored in an area that you can easily access you may be treated as if you actually possessed the firearm yourself. You should beware if your family member owns a firearm that is kept in an area of the home to which you have ready access. “Constructive possession” happens most frequently in cars. Ask the driver and any passengers if there is a gun or bullets in the car before traveling with them. Constructive possession of a firearm can result in probation or parole revocation and additional felony charges.

8) *Do you receive governmental aid?*

If you are a prisoner or being held in a public institution, you will be ineligible for Medicaid and your

current Medicaid benefits will be terminated. Imprisonment includes alternative methods of incarceration. You will be ineligible for Medicaid if you are sent to work farms on a seasonal basis, enrolled in a wilderness/boot camp under government control, on home or work release for a temporary period, or residing in a halfway houses.

Prisoner status is not terminated until you are no longer held in state custody. Termination can take the form of completion of a prison sentence, pardon, probation parole or unconditional release. This policy applies to both adults and juveniles.

9) Do you receive Social Security?

Your benefits will be withheld for any month, or any part of a month, during which you are confined for more than 30 continuous days in a correctional institution based on a conviction. Benefits will be withheld if you are confined for more than 30 days based on a court finding of mental incompetence related to a criminal charge. If you have been found to be a sexual predator/sexually dangerous and confined for more than 30 days then your benefits will be withheld even after

completing your sentence.

If you are a fleeing felon or a parole/probation violator, Social Security benefits will not be paid for any month that you have an outstanding arrest warrant or are in violation of the conditions of your probation or parole.

Consult with your defender about various options if you or your family depends on your SSI income.

If you receive Veteran's Administration disability benefits these payments will be reduced if you are incarcerated. Your dependents will also be barred from receiving these payments while you are incarcerated for a felony.

10) Do you receive food stamps?

If you are a fleeing felon or a probation/parole violator, you are ineligible for food stamps under the state food stamp program (SNAP). If you have been convicted under federal or state law for a felony drug offense, you will be disqualified from receiving food stamps for a period of one year from the date of conviction if you are not imprisoned or one year from the date you are released from prison.

11) Will you lose your job as a result of a conviction?

If you are convicted of a crime which leads to losing your job, you may be ineligible for unemployment benefits. For example, pleading guilty to felony possession of marijuana can serve as a basis for termination from your job. The drug conviction also serves as a basis for denial of unemployment benefits, particularly in professions that are “sensitive,” such as teaching, or involve a “family” establishment, such as McDonalds. You cannot receive unemployment benefits if you are serving a prison sentence.

12) Are you a prospective adoptive parent or a foster parent?

If you are a prospective adoptive parent or a foster parent, every person in your household over 18 must submit to a criminal background check. To qualify as either an adoptive/foster parent or to continue to be licensed as a foster parent, you and everyone in your household over 18 must be free of convictions, indictment, or substantial evidence of involvement in any criminal activity involving violence against a person, serious sexual misconduct,

gross irresponsibility or disregard for the safety of others or serious violations of accepted standards of ethical conduct.

13) Are you married?

Your spouse will have grounds to immediately divorce you for a felony conviction that results in a sentence of death or imprisonment at hard labor. If you are convicted of a felony offense, you lose any claim to spousal support. If spousal support is awarded to your former spouse, your obligation to pay spousal support continues even while you are incarcerated.

14) Do you have children?

Your parental rights may be involuntarily ended for such crimes as murder, rape or a felony that has resulted in serious bodily injury. Parental rights may also be terminated if you have abandoned your child by failing to pay child support for six months in a row or by failing to maintain contact with your child for six months in a row. If do not wish to have your parental rights terminated while you are incarcerated, you should either call or write to your child on a regular basis even if the calls are not accepted or the

letters are returned by your child's caretaker.

15) *If you have children who do not live with you, is there a child support order currently in place?*

The obligation to pay child support continues even while you are in prison unless the sentence is death or life without parole. While serving your sentence, the child support payments will add up, without interest, and will become due immediately upon release. If you are allowed work-release, child support will be taken from your earnings automatically. Child support is a legal obligation which cannot be discharged in bankruptcy and non-payment is considered contempt of court. Contempt of court can be punished by imprisonment, a \$500 fine, or both. If you are on probation or parole, non-payment of child support is considered a violation that could result in revocation and a jail sentence.

16) *Are you planning on getting a degree or enrolling in a certificate program?*

Generally speaking, a criminal conviction will not serve as a basis

for denial of admission to the state's universities and community/technical colleges. However, if the offense was very recent and/or involved a crime of violence or a sex crime your application will be reviewed by the college which may consider your perceived level of dangerousness to the campus community as a reason to refuse admission.

Nursing programs in Louisiana are required by state law to obtain criminal background checks from prospective students and if a criminal conviction exists, the potential student must obtain permission from the Louisiana State Nursing Board to attend classes.

You should consult with your defender if you are considering attending an institution of higher learning, since many jobs require a license upon completion of an academic program. Many schools will inform students of possible barriers to licensing, if they know of the conviction; however, they are not required by law to do so.

If an application asks for criminal history information, always answer the questions truthfully. Lying or providing misleading information

on an admissions application is grounds for dismissal at all educational institutions in the state.

17) If you are currently in college, do you receive federal or state financial aid?

If you are convicted of any drug offense while receiving federal student aid (grant, loan or work study), you will be barred from receiving future federal aid for time periods set by law and will be required to repay immediately all aid received after the conviction. Check with your defender for the relevant time periods and options, such as a drug rehabilitation program, that might restore your financial aid sooner.

If you are receiving or are planning to receive state student financial aid, the Louisiana Office of Student Financial Assistance rules require that you be conviction-free, except for misdemeanor traffic violations. If you have a criminal conviction, that conviction will prevent you from receiving educational benefits from the state for as long as you live.

If false or misleading information is provided to the Louisiana Office of Student Financial Assistance (“LOS-

FA”), the administering agency may seek immediate reimbursement for aid already disbursed. If it is further determined that the false or misleading information was provided deliberately, your case will be referred to the Attorney General for investigation and possible prosecution.

18) Are you a U.S. citizen?

Immigration status can be very confusing, but if you were born in another country there are three ways you might be a U.S. citizen: 1) if one or both of your parents are U.S. citizens and they have acquired citizenship; 2) if one or both of your parents were naturalized as a minor thus deriving citizenship; or 3) if you have been naturalized (meaning that you have been a lawful, permanent resident for 5 years, although there are some circumstances, through marriage or military service, where the period of times is less than that). You should clearly explain your immigration situation to your public defender if you are unsure of your citizen status. Please note that you may still qualify for public defender services for your criminal proceedings even if you are not a U.S. Citizen. Qualifying for a pub-

lic defender in a criminal matter is dependent on your financial status, not your immigration status.

Commission of a criminal offense, or even just an arrest, will often affect your ability to stay in the U.S. Convictions for crimes involving “moral turpitude,” domestic violence, aggravated felonies, drug offenses, and certain firearms offenses are examples of crimes commonly used as a basis for deportation. Along with the criminal prosecution, you will be subject to a separate removal hearing where you are not entitled to have a public defender.

It is very important to be open and honest with your public defender about your immigration status very early in the case. Some criminal convictions require your removal but allow you to return while others require your removal and permanently prohibit you from re-entering the U.S. Your public defender should closely consult with you regarding the possible consequences of any plea arrangement or conviction because in many cases a guilty plea to a relatively low-level drug offense can be grounds for removal.

LONG TERM IMPACT OF
JUVENILE DELINQUENCY
ADJUDICATIONS IN
LOUISIANA

19) Are you under the age of 17?

Unless you have been charged and tried as an adult, you may be adjudicated as a juvenile although some laws require adjudications to be treated as convictions. If the adjudication is treated as a conviction, then it can be used against you in a later prosecution.

Juvenile adjudications have serious impacts on your ability to attend school. If you are expelled from your school, you will be prevented from re-enrolling in any school in the state without the approval of the school board for your new school. Drugs and weapons offenses can serve as the basis for expulsion for up to two years. If you are adjudicated as having committed assault or battery on a school employee you will be barred from attending the school where that employee works. For damages to school property (including school buses), you may not return to school until you have fully paid for the damages. If you are suspended from school, you will

not be allowed to participate in any interscholastic contest, on any team, at any school, at any level.

20) If you are under the age of 17, do you have a driver's license?

Your driver's license will be suspended for one year if you are suspended, expelled, or assigned to an alternative school for 10 or more consecutive days for illegal substances; firearms; or for assault or battery on a school employee. If you do not yet have your license, but obtain one during that one-year period, it will be suspended and you will have to pay to get it reinstated.

21) If adjudicated delinquent, were you ordered to pay a sum of money?

If adjudicated delinquent, you may be ordered to pay restitution, fines, court costs, court-appointed attorney's fees, costs of defense, and appeals costs. These are called legal financial obligations. These financial obligations will be enforceable against you for 10 years and are not extinguished upon turning 18. If you do not pay, your probation may be revoked or your parents may be held responsible for payment.

22) If a juvenile, are you being charged with a sex offense?

A plea or adjudication for a sex offense may require you to register as a sex offender for the rest of your life. If you plead guilty to or are adjudicated guilty of a qualifying sex offense you must immediately register, even if you are later pardoned.

You will be required to register in the parishes where you live, attend school, work and where you were adjudicated. You are required to give personal information including your name and aliases, physical description, date of birth, work, home and school addresses; vehicle make, model and color and plate number; offense and date; and a current photograph. All of this information is made available to the public.

23) If a juvenile, have you been adjudicated delinquent in the past?

Juvenile court records are generally confidential, unless you have been charged with or adjudicated of a crime of violence or felony-grade delinquent act. In these cases, law enforcement agencies may make limited information about juvenile records available to the public,

such as booking records and police reports. Courts may release confidential records to certain agencies, such as your school, when the court finds it relevant or necessary to that agency.

Your juvenile record will not be automatically expunged when you turn 17. To have your records expunged and/or destroyed, you must file a written motion to the juvenile court. Expungement is a fairly complicated- and often expensive- process, which varies parish to parish. You should consult with your defender about expungement possibilities for your case.

24) If a juvenile, what is your immigration status?

Generally, a juvenile adjudication will not cause removal (or deportation) or prevent a juvenile from becoming a citizen because under the federal immigration laws, juvenile dispositions are not considered convictions. However, there may still be immigration consequences depending on the type of offense and your immigration status. You should consult with your public defender about these offenses and the possible consequences. Drug abuse

and drug addiction are both grounds for deportation and inadmissibility, even without a conviction or adjudication; therefore, even an arrest for a drug-related offense can lead to removal. It is very important for you to explain your immigration status, to the best of your knowledge, to your public defender.

25) Do you have a child who has been adjudicated delinquent?

Your child's delinquent acts may be enough to form the basis for an eviction from both private and public housing – an adjudication is not required. If your child is adjudicated for a sex offense or is convicted of certain drug offenses, your entire household will be banned from both public and Section 8 housing.

If your child is engaged in drug related activity, including drug abuse, she could be banned from public housing for up to three years. For housing projects, drug-related criminal activity by a juvenile household member may result in the entire family being evicted.

Public benefits based on household size may be reduced if your child's disposition requires her or him to

live outside the home; such as in a secure care facility. If your child receives Supplemental Security Income (SSI), she may not receive benefits for the months that she is in state custody. If you receive child support payments, you may have your payment reduced if your child is living outside the home.

Disclaimer:

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Mission:

The Louisiana Justice Coalition protects the constitutional right to counsel and ensures the respect and dignity of each practitioner and every client by improving the delivery of public defense services and creating a receptive climate for positive change.

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Your Circumstances Which May Be Affected if Convicted of:	Felony	Misdemeanor	Sex Offense
Living in public or Section 8 housing	✓	✓	✓
Holding or maintaining an employment license	✓	✓	✓
Working with children	✓	✓	✓
Working in the oil and gas, shipping, chemical or related industries	✓		✓
Voting or serving on a jury	✓		✓
Owning a gun (You or a household member)	✓		✓
Receiving Medicaid	✓		✓
Receiving Social Security	✓		✓
Receiving veteran's benefits	✓		✓
Receiving food stamps	✓		✓
Losing your job if convicted, even if not incarcerated	✓	✓	✓
Being a prospective adoptive parent or foster parent	✓		✓
Marriage	✓		✓
Children	✓		✓
Currently or planning on pursuing higher education	✓		✓
Receiving federal or state student financial aid	✓	✓	✓
Non-citizen status	✓	✓	✓
Running for Public Office	✓		✓
Current conviction increases penalty of future conviction	✓	✓	✓
Juvenile status	See explanation within	See explanation within	See explanation within