LEGAL
ACTION
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PUBLIC ASSISTANCE LAWS AFFECTING
INDIVIDUALS WITH CRIMINAL CONVICTIONS

The 1996 federal welfare law contained several specific provisions that will restrict access to public benefits for individuals with criminal convictions.

Individuals with drug felony convictions are permanently ineligible to receive federal welfare benefits (TANF) and food stamps.

Unless states enact legislation to opt out of or modify the ban, states must impose a lifetime ban on the receipt of TANF benefits and food stamps for those individuals who have been convicted of drug felonies (possession or sale) for conduct after August 22, 1996. The drug felon ban does not apply to Medicaid or to non-federal assistance that a state may provide through its own general assistance program.

About half the states (19) have decided to follow the ban. Twenty states have decided to modify the ban in some way. States have modified the ban to exempt individuals with drug felony convictions who have undergone drug treatment and to limit the ban to a specific period of time, such as five years. Only eleven states and the District of Columbia have adopted legislation opting out of the ban.

The federal law does not require states to conduct investigations or obtain criminal history information in order to determine whether an individual has been convicted of a drug felony. Investigation into an individual's criminal history is done through self-reporting.

Individuals in violation of a condition of their parole or probation are ineligible for federal welfare benefits (TANF), food stamps, Supplemental Security Income (SSI) and public housing.

For the sanction affecting the receipt of TANF benefits and public housing, the federal law does not define two important elements: (1) what constitutes a violation of probation or parole to trigger the ban; or (2) when the period of ineligibility begins and ends. For the sanction of SSI and food stamps, the ineligibility applies "during such month" and "during any period," respectively, that the individual is out of compliance.