



PUBLIC ASSISTANCE

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Hidden or “collateral consequences” are additional penalties that may result from criminal convictions. They have a direct impact on critical areas of life such as: employment, housing, education, public benefits, parental rights, and voting, and can hinder an individuals’ ability to successfully reintegrate. Understanding the relevant legal and regulatory framework that creates these sanctions can be helpful to criminal defense attorneys, other advocates, and all residents of New Jersey affected by incarceration. Please note that these laws can and do change, and you should inquire about updates before relying on this information. [June 2006]

SUMMARY: Public Assistance benefits that provide cash assistance and food stamps can be critical to help individuals leaving jail and prison get on their feet and pay for basic necessities while they look for work, complete substance abuse treatment and reintegrate into their communities. In addition, eligibility for public assistance means not only cash benefits, but also payment for job training, childcare, transportation, and certain kinds of medical assistance.

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), the federal welfare reform law of 1996, allowed states to enact a lifetime ban on cash assistance and food stamps for those convicted of drug-

related offenses. States could adopt the ban, reject it, or modify it; and New Jersey, like many states, has put modified ban in place for its Work First New Jersey program. Those with drug convictions can get some benefits under some conditions (see below). PRWORA also denied Supplemental Security Income (SSI) payments for those whom the stated deems “fugitive felons” and probation and parole violators.

This fact sheet outlines barriers arising from restrictions to public assistance in New Jersey. It includes enabling statutes, identifies convictions triggering a sanction, its consequences, and remedies where they exist.

Work First New Jersey

STATUTE OR REGULATION	CONVICTION OR OFFENSE	CONSEQUENCES	REMEDIES
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) Pub. L. No. 104-193 (42 U.S.C. 862(a))	Individuals convicted of state or federal felony offenses involving use or sale of drugs	Lifetime ban on receipt of cash assistance and food stamps	None for many states. New Jersey has modified the lifetime ban to allow for exceptions – (see below)
Work First New Jersey (N.J.S.A. § 44:10-48(b)(7))	Individuals convicted after August 22, 1996 of a felony or a crime that includes “the distribution of a controlled substance” under the Federal “Controlled Substances Act” — Applies both to people receiving WFNJ-TANF (families with	Will be prohibited from receiving all WFNJ benefits and food stamps.	Still be eligible for food stamps, but not cash benefits, if enrolled in or completed a licensed residential treatment program. Those GA eligible can qualify for whatever limited medical assistance benefits they would have been able to receive as GA recipients but only

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	children) or WFNJ-GA (single adults)		while receiving treatment in a licensed residential drug treatment program. ¹
Work First New Jersey (N.J.S.A. § 44:10-48(b)(7))	Individuals convicted after August 22, 1996 of a felony or a crime that includes “the possession and use of a controlled substance” under the Federal “Controlled Substances Act” — Applies both to people receiving WFNJ-TANF (families with children) or WFNJ-GA (single adults)	Will be prohibited from receiving all WFNJ benefits and food stamps.	Still be eligible for cash benefits <u>and</u> food stamps if enrolled in or completed a licensed residential treatment program. Eligibility for benefits under this exception starts as soon as the individual is enrolled in or has completed the program. During the program, and in the 60 days after completion, recipients can be tested for drug use, and if tested positive lose eligibility. ²
N.J.S.A. § 44:10-48(b)(8) N.J.S.A. § 44:10-48(b)(9)	Individuals fleeing to avoid prosecution, custody or confinement after a conviction for a felony or high misdemeanor, or those violating a condition of parole under federal or state law.	Loss of WFNJ benefits.	None.
N.J.S.A. § 44:10-48(b)(8)	Individuals applying for benefits who are either on parole or probation.	Will not receive benefits if not in compliance with parole or probation.	Must show that they are in compliance with their parole or probation, including payment of fines or court costs.
N.J.S.A. § 44:10-48(b)(9)	Individuals misrepresenting information or committing fraud on their applications.	Will face exclusion from all benefit receipt for a period of six months for the first violation, 12 months for the second violation, and permanently for the third violation.	None.

Social Security

STATUTE OR REGULATION	CONVICTION OR OFFENSE	CONSEQUENCES	REMEDIES
Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) Pub. L. No. 104-193 (42 U.S.C. 862(a)) §202(a) amends Title XVI of the Social Security Act	Individuals who are fleeing to avoid prosecution or custody or confinement after conviction for a felony, or violating a condition of probation or parole imposed under state or federal law.	Denied Supplemental Security Income (SSI) payments for any month where the recipient is deemed fleeing or violating a condition of probation or parole, or recouped for any month out of compliance. ³	Must request a “good cause determination” from Social Security (as to why there was an outstanding warrant against you). If granted, there will be a restoration of benefits ⁴

¹ There is no provision to fund any nonresidential drug treatment. Those on TANF (and single individuals who are elderly or disabled) will still be eligible for Medicaid benefits regardless of any felony drug convictions.

² Does not include methadone, if they are participating in a methadone program. Cash benefits are issued directly to the program while in residence to cover the cost of treatment, except for a small needs allowance.

³ The Social Security Administration deems an individual a “fleeing felon” if there is any outstanding warrant for an arrest, regardless of the jurisdiction, and regardless of the reason.

⁴ Examples of “good cause” can be: mistaken identity; that the crime was not violent or drug-related; there is only one warrant over ten years old; there have been no other convictions since warrant was issued; the state doesn’t want to act on the warrant or another state doesn’t want to prosecute; someone having legal guardianship over you; living in a nursing home or long-term care facility.

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