

COLLATERAL CONSEQUENCES OF JUVENILE ADJUDICATIONS OF DELINQUENCY

This document is meant to provide general information about the collateral consequences of juvenile adjudications. This document is not meant to be all inclusive – your adjudication may result in additional consequences that are not included in this document. This document is also based on the current state of the law. Please note, however, that laws can change which may impact the content of this document as currently written. You should always consult an attorney regarding any questions that you have about the consequences of your adjudication.

What is Juvenile Delinquency?

- A delinquent child is a person under eighteen years of age who commits an act which, if committed by an adult, would be considered a crime.
- A juvenile adjudication is not considered a conviction.

What Happens if you are Tried as an Adult?

- You will only be tried as an adult if you are charged with specific offenses, you are not amenable to the rehabilitative processes available to Family Court, you are a repeat offender for certain offenses, or you have been previously found not amenable and now have new charges pending.
- In these situations the case will be transferred from Family Court to Superior Court or the Court of Common Pleas based on the seriousness of the charges

What Happens to my Record?

- Your finding of juvenile delinquency will be included in your criminal record. Although your record is not public information, your juvenile record is accessible to certain individuals and agencies such as criminal justice agencies, schools, health care providers and child care providers.
- If you are arrested, adjudicated or acquitted for a felony or a class A misdemeanor and you are between the ages of 13 and 17, your name and address and the name of your parents will be released to the media, if requested.

Can I get my Record Expunged?

- Expungements for juveniles adjudicated in Family Court are statutory and are found in 10 Del. Code §§1014-1020. Information regarding expungements and required forms may be found on the Family Court website at <http://courts.delaware.gov/Family/index.stm>.
- An expungement is not automatic. You, your parent/guardian, or an attorney must file a petition in the Family Court for an expungement. Your eligibility for an expungement will be based on the seriousness and length of your record and the amount of time that has elapsed.

- Even if your record is expunged, it will still be available to law enforcement officers for purposes of investigating criminal activity, to law enforcement agencies for the purposes of employment, and to criminal justice agencies to determine eligibility for participation in arbitration, court-supervised diversion programs, probation before adjudication of delinquency, or probation before judgment.

How will my Adjudication affect my Current Education?

- If you committed a crime at school and the police have probable cause to believe that you committed that crime, school district policy may subject you to suspension, alternative educational services or expulsion.
- If you are adjudicated of possession of a firearm or other deadly weapon in a school zone, in addition to other penalties, you will be expelled for at least 180 days. The school board may modify the terms of your expulsion.
- If you have committed a crime off of school property, it is the policy of the Attorney General's Office to notify your school about the crime.
- If it is determined that you pose a threat to the safety and welfare of other students, you can be expelled for off-campus crimes.
- Your school's student code of conduct may require that off-campus crimes be punished to the same extent as those committed on campus. However, you may be able to appeal your punishment to the school board and then the Board of Education.

How will my Adjudication affect my future Education?

- When filling out college applications, you must answer all questions truthfully, even though doing so could prevent you from being accepted into the school.
- If you are asked about any past convictions, you do not need to disclose information about your adjudication because it is not considered a conviction.
- If you are asked whether you have ever been arrested, you must answer affirmatively unless your record has been expunged
- An application may also ask you if you have ever been expelled or suspended. If you have been expelled or suspended, you must answer this question truthfully.
- Adjudications may make you ineligible for scholarships and other federal grant money.

How will my Adjudication affect my Participation in Sports/Clubs?

- If you are permitted to return to school following an expulsion, you will typically be placed on a period of probation. During that time, you will probably be prohibited from participating in extracurricular school-related activities, including sports, band, etc.
- Depending on the offense you committed, certain organizations may prohibit you from participating in their sports/clubs/activities, etc. For example, the YMCA denies membership to anyone who has committed any sex offense, and reviews individuals who have committed a violent offense against another person on a case-by-case basis.

How will my Adjudication affect Where I can Live?

- If your family is currently living in public housing, your adjudication may cause you to be evicted, and may disqualify you from future eligibility for these benefits.
- If you have been adjudicated of a violent crime, a drug-related crime, or any criminal act which would adversely affect the health, safety or welfare of other tenants, you may be prohibited from public housing.
- If you are subject to a lifetime sex offender registration, you will be disqualified from federally assisted housing.
- If you are on probation and would like to move to another state, a probation transfer must be requested and approved.

How will my Adjudication affect Future Employment?

- Certain employers will have access to your criminal record.
- In certain professions, employers are allowed to obtain all information relating to an applicant's criminal history, including adjudications. These employers include public schools, child care facilities, and health care providers.
- Criminal justice agencies always have access to adjudications for purposes of employment.
- When filling out job applications, you must answer all questions truthfully. Although you do not have to disclose your adjudication for questions relating to convictions, it may be disclosed through other questions.

Does my Adjudication require me to submit a Sample of DNA?

- If you are required to register as a sex offender, a sample of your DNA will be taken and the resulting profile will be stored in a database maintained by the state police.
- The evidence of a DNA profile may be admissible in a future criminal proceeding to prove or disprove the identity of any person.

Can my Adjudication be used to enhance a Future Sentence?

- With some exceptions, a juvenile adjudication will not be considered a prior offense for purposes of enhancing a subsequent adult sentence, unless you were adjudicated of a serious felony after turning 16.
- Any juvenile 14 years or older, who is adjudicated of a felony offense, and, is then adjudicated of another felony offense within the next 12 months, shall be sentenced to a 6 month period of institutional confinement.

Will my Adjudication affect my Civil Rights?

- Unless you were tried as an adult for a felony, your adjudication will not affect your right to vote, right to serve on a jury or hold office.

What Financial Obligations will I have?

- As a result of your adjudication, the court may impose courts costs, fines, and/or restitution. You must pay these financial obligations.
- Under certain circumstances, the court may also order a judgment against your parents for restitution of up to \$5,000.00.

Will my Adjudication affect my ability to serve in the Military?

- All branches of the military perform background checks on potential applicants; these checks include juvenile criminal histories. Even convictions or adjudications which have been sealed or expunged must be given to the Armed Forces.
- A felony adjudication will generally exclude you from military service. You may apply for a waiver from any branch, but the waiver is not automatic and the process is very individualized.

Will my Adjudication affect my ability to Possess a Firearm?

- Juveniles are prohibited from possessing a firearm.
- If you are adjudicated delinquent of a felony, you will be prohibited from possessing a firearm until age 25.

Will my Adjudication affect my Driving Privileges?

- An adjudication of delinquency may adversely impact your ability to keep or obtain a driver's license.
- Upon an adjudication of delinquency, the Family Court may: revoke or suspend a child's driving privileges; postpone the child's ability to obtain a driver's license; or immediately enter all traffic, alcohol, and/or drug adjudications or convictions on the child's driving record.
- If you are adjudicated delinquent for driving under the influence, the Family Court must revoke or suspend your license and driving privileges until age 21.
- If you are adjudicated delinquent for driving without a license, you will not be able to obtain a license until one year from the date of adjudication or until you turn seventeen depending on whichever date is later.

Will my Adjudication affect my Public Benefits & Federal Loans/Monies?

- Juvenile adjudications do not affect one's eligibility to receive Social Security Income (SSI).

Will my Adjudication result in Sex Offender Registration?

- Depending on your age and type of charges, you may have to register as a sex offender.
- In certain cases registration is mandatory and other cases registration at the discretion of the court. It is best to consult with your attorney about whether or not your charges will require registration.
- The registration may be public or private depending on the assigned level.

- The length of registration will be for 15 years, 25 years or life depending on the assigned tier level.
- If you move to another state, you will have to register as sex offender according to that state's laws.
- Sex offender registration will affect where you can live, work, or attend school. It will also affect your ability to travel and join extracurricular activities.

Will my Adjudication place me on the Child Protection Registry?

- Placement on the Child Protection Registry may affect your ability to obtain employment in certain fields such as education, health care and child care.
- If you are adjudicated delinquent for certain offenses against a child, you will be placed on the Child Protection Registry at a level based on the seriousness of the offense.

Will my Adjudication affect my ability to become a Foster or Adoptive Parent?

- Before you can become a foster or adoptive parent, an investigation by the Department of Services for Children, Youth and Their Families is required.
- This process includes an assessment of a person's entire criminal history, including juvenile adjudications. Adjudications for sexually-related offenses and offenses against children will be a bar to adoption.

Will my Adjudication affect my Immigration Status?

- An applicant for naturalization must show good moral character. In determining whether an applicant is of good moral character, the United States Attorney General can consider conduct at any time prior to the filing of the application; this includes juvenile adjudications of delinquency.
- A juvenile adjudication is not considered a conviction for the purposes of immigration. However, any conduct, including juvenile adjudications, can have immigration consequences for a juvenile and you should consult an immigration attorney regarding your status.