

COLLATERAL CONSEQUENCES OF DELINQUENCY ADJUDICATIONS FOR YOUTH

This document is meant to provide general information about the collateral consequences of adjudications for youth in Delaware. 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 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.

Are Delinquency Proceedings Private or Public?

- All proceedings before Family Court and all records may be private except:
 - the proceedings in a crime classified as a felony shall be open to the public; and
 - 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.
- Law enforcement agencies are not allowed to release or publish the name or photograph of a youth unless the youth is charged with a violent felony and the release or publication is necessary to protect the public's safety.

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 through 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. All adult proceedings are public.

What Happens to my Record?

- Any arrests and/or any findings of delinquency will be included in your criminal record. Your record is accessible to certain individuals and organizations such as criminal justice agencies, schools, health care providers, employers, and childcare providers when an official background check by the State Bureau of Identification is conducted.

Can I get my Record Expunged?

- The statutes governing expungements for youth with cases Family Court cases are found in 10 Del. Code §§1014-1019. Information regarding how to obtain an expungement may be found at <https://www.courts.delaware.gov/forms/download.aspx?id=90008> and the required forms may be found at <https://courts.delaware.gov/forms/List.aspx?ag=Family Court&sec=Forms>.
- 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. School district discipline will depend on the school's code of conduct/student success guide.
- If you are adjudicated of possession of a firearm in a school zone, in addition to other penalties, you shall be expelled for up to 180 days. The school board may modify the terms of your expulsion.
- If you are adjudicated of possession of a deadly weapon in a school zone, in addition to other penalties, you may be suspended for a period of not less than 30 days. The school board may modify the terms of your suspension.
- If you have committed a crime off-campus, it is the policy of the Attorney General's Office to notify your school about certain crimes.
- 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 whether you have ever been arrested, you must answer affirmatively unless your record has been expunged
- If you are asked whether you have ever been adjudicated, you must answer affirmatively unless your record has been expunged.
- If you are asked whether you have ever been convicted, you do not need to disclose information about your adjudication because it is not considered a conviction.
- 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 a 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 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, childcare 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. If the application specifically asks about arrests or adjudications, they must be disclosed. 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.

Will my Adjudication affect my Civil Rights?

- Unless you were tried and convicted 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 youth criminal records. Even convictions or adjudications which have been sealed or expunged must be revealed 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?

- Youth under 18 are prohibited from possessing a firearm. Persons between 18-21 are also prohibited from possessing a firearm, except under limited circumstances.
- 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 driving privileges; postpone the ability to obtain a driver's license; or immediately enter all traffic, alcohol, and/or drug adjudications or convictions on your 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 17 depending on whichever date is later.

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

- Adjudications do not affect one's eligibility to receive Social Security Income (SSI), TANF or SNAP benefits.

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 in other cases registration is at the discretion of Family Court. It is best to consult with your attorney about whether you will have to register.
 - 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.
 - You may be eligible for removal from the registry in certain cases.

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 childcare.
- 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.
- If placed on the registry as a child, after age 18, you may petition Family Court for removal from the Child Protection Registry.

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 (DSCYF) is required.
- This process includes an assessment of a person's entire criminal history, including adjudications. Adjudications for sexually related offenses and offenses against children will be a bar to adoption. You might be eligible to appeal a denial from DSCYF, but approval is at the discretion of the director of the Division of Family Services.

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 adjudications of delinquency.
- An adjudication is not considered a conviction for the purposes of immigration. However, any conduct, including adjudications, can have immigration consequences for a youth and you should consult an immigration attorney regarding your status.