

JUNE 20, 2007

DISTRICT OF COLUMBIA**I. Automatic Restoration of Rights:**

A resident of the District of Columbia convicted of a felony may vote if not actually incarcerated. D.C. Code § 1-1001.02(7); D.C. Mun. Regs. tit. 3, § 500.3. A person incarcerated for a misdemeanor violation of D.C. Stat. §§ 1-1001.14 (corrupt election practices), 1-1105.07 (lobbying violations), or 1-1107.01 (miscellaneous provisions under election laws chapter) loses the right to vote during the period of incarceration. *See* D.C. Stat. § 1-1001.02(7)(B) (violations of §§ 1-1001.14, 1-1105.07, and 1-1107.01 included in definition of “felony” for purposes of qualification to vote).

The right to hold office is also restored automatically upon release from prison. D.C. Code § 1-204.02. An individual disqualified for jury service by reason of a felony conviction “may qualify for jury service not less than one year after the completion of the term of incarceration, probation, or parole following appropriate certification under procedures set out in the jury system plan.” *Id.* § 11-1906(b)(2)(B).

Convicted person may not serve as personal representative in probate of an estate if sentence has not expired or has expired within 10 years (unless pardoned on the basis of innocence). D.C. Code § 20-303(b)(4). Other occupations and licenses may be revoked because of a conviction. *See, e.g.*, § 2-3305.3(a)(1)(health care); § 25-115(g)(1)(liquor license); § 2-2729(a)(2)(veterinarian).

II. Discretionary Restoration Mechanisms:**A. Executive pardon:**

- Authority: The President has authority to pardon D.C. Code offenses. The Mayor of the District also has a limited power to pardon violations of municipal ordinances. *See* D.C. Code § 1-301.76 (Mayor may grant “pardons and respites for offenses against the late corporation of Washington, the ordinances of Georgetown and the levy court, the laws enacted by the Legislative Assembly, and the police and building regulations of the District”).
- Eligibility, effect and process for presidential pardon are all the same as for federal offenses.
- Frequency of Grants: very rare (none since at least 2000). Source: Office of the Pardon Attorney.

B. Judicial sealing or expungement of adult felony convictions:

Misdemeanor Convictions and Non-conviction Records: Criminal Records Sealing Act of 2006, codified at D.C. Code § 16-801 et seq., authorizes sealing of certain non-serious misdemeanors, a single felony (failure to appear), and records not leading to conviction. § 16-803. To qualify, a person cannot have been convicted of a felony or serious misdemeanor, and must have a clean record for an extensive waiting period -- 2 years in the case of an arrest for an eligible misdemeanor, 5 years for an ineligible misdemeanor or felony arrest, 10 years for conviction of an eligible offense. A person may also petition for sealing on grounds of actual innocence. § 16-802.* Sealed records remain available to law enforcement and the courts, and to certain employers for background check purposes (e.g., schools, day care centers, law enforcement, licensing agencies, health care workers). § 16-804.

C. Administrative certificate: N/A

II. Nondiscrimination in Licensing and Employment:

D.C. Code § 47-2853.17(a)(Non-Health related occupations) – A person may be denied a license based upon conviction that “bears directly upon the fitness” of the person to be licensed. Certain occupations** subject to a higher standard under § 202 of Omnibus Public Safety Ex-Offender Self-Sufficiency Reform Amendment Act of 2004, D.C. Law 15-357 (2005): a person may be denied a license in those fields only “after consideration by the Mayor of the following criteria: (1) The specific duties and responsibilities necessarily related to the license sought; (2) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more of the duties or responsibilities specified under paragraph (1) of this subsection; (3) The time that has elapsed since the occurrence of the criminal offense or offenses; (4) The age of the applicant at the time of occurrence of the criminal offense or offenses; (5) The seriousness of the criminal offense or offenses;(6) Any information produced by the applicant, or produced on his behalf, in regard to his rehabilitation and good conduct; and (7) The legitimate interest in protecting property, and the safety and welfare of specific individuals or the general public.” § 47-2853.17(c)(1). If licensed denied on grounds of conviction, denial must be in writing and specify reasons. § 47-2853.17(c)(2).

2006 legislation passed by D.C. City Council would have included conviction as a basis of prohibited discrimination in D.C. human rights law, vetoed by Mayor.

* Standard of proof is preponderance of evidence for up to four years after arrest; clear and convincing evidence after four years. § 16-802.

** Asbestos worker; Barber; cosmetologist; Commercial bicycle operator; Electrician; Funeral Director; Operating engineer; Plumber/gasfitter; Refrigeration and air conditioning mechanic; and Steam engineer. See Trade Occupations Exemption from Conviction Restriction on Licensure Act of 2004, codified at D.C. Official Code 47-2853.17(a)(5).

