



Bureau of Justice Assistance

Program Brief



Denial of Federal Benefits Program and Clearinghouse

The Denial of Federal Benefits Program, established under Section 5301 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), provides federal and state courts with the ability to deny all or selected federal benefits to individuals convicted of drug trafficking or drug possession. Codified at Title 21, United States Code, Section 862, the program provides a sentencing option for federal and state courts to deny all or selected benefits available from the Federal Government to persons convicted of drug trafficking or possession.

The Denial of Federal Benefits Program is administered by the Bureau of Justice Assistance (BJA), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ). BJA also operates the Denial of Federal Benefits Program Clearinghouse, which maintains a database of the names of convicted individuals and the benefits they have been denied.

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www.ojp.usdoj.gov/BJA

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About BJA

The Bureau of Justice Assistance was established in 1984 as a component of the Office of Justice Programs, U.S. Department of Justice. BJA provides leadership and resources to state, local, and tribal governments and communities to reduce crime, violence, and drug abuse and to strengthen the nation's criminal justice system. BJA provides this assistance through formula and discretionary grants, training and technical assistance, publications, and the BJA web site.

For Further Information

For information about the Debarment List, write or call:

General Services Administration

Office of Acquisition Policy
18th and F Streets NW.
Washington, DC 20405
202-501-4873

For additional information about the Denial of Federal Benefits Program, contact:

Bureau of Justice Assistance

Denial of Federal Benefits Program Clearinghouse
810 Seventh Street NW.
Washington, DC 20531
301-809-4904
Fax: 301-860-1837
Web site: www.ojp.usdoj.gov/BJA

For publications and information on other BJA-funded programs, contact:

Bureau of Justice Assistance Clearinghouse

P.O. Box 6000
Rockville, MD 20849-6000
1-800-688-4252
Web site: www.ncjrs.org

Clearinghouse staff are available Monday through Friday, 8:30 a.m. to 7 p.m. eastern time. Ask to be placed on the BJA mailing list.

Why Was the Denial of Federal Benefits Program Created?

Drug offenders place an extraordinary burden on the criminal justice system. Correctional institutions are filled with serious drug offenders. Probation alone is most often inadequate for dealing with drug offenders. However, lower-level drug offenders are not routinely incarcerated unless they also commit a serious offense or have multiple drug-related convictions.

To close the gap between incarceration and probation, DOJ has explored numerous intermediate steps or punishments, including civil penalties, license suspension and revocation, boot camps and shock incarceration, halfway houses, electronic monitoring, and drug testing. Another approach that has gained nationwide support is the drug court movement. Drug courts integrate substance abuse treatment, sanctions, and incentives with case processing to place nonviolent offenders in court-supervised rehabilitation programs.

The denial of federal benefits is another sanction that addresses individuals found guilty of violating the Controlled Substances Act. The denial of such federal benefits as grants, contracts, purchase orders, financial aid, and business and professional licenses will, at the very least, ensure that they forfeit their claims to most taxpayer-supported economic benefits and other privileges. Federal benefits are defined by statute as "the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States. . . ." The program alerts casual drug users to the fact that, as students, they can lose their student loans; as broadcasters, they can lose their Federal Communications Commission licenses; as physicians, they can lose their authority to prescribe medicine; as pilots, they can lose their Federal Aviation Administration licenses; as business owners, they can lose their Small



Business Administration loans or the right to contract with the Federal Government; and as researchers, they can lose medical, engineering, scientific, and academic grants.

Some benefits are excluded from the denial process. These exclusions include public housing, welfare, and drug treatment benefits, as well as benefits earned through financial contributions or services to the Federal Government, such as Social Security, health, disability, and veterans' benefits. Also, the courts may choose to restore benefits for specific reasons, such as an offender's successful completion of an approved drug rehabilitation program.

Provisions of the Statute

The sentencing provisions of the Anti-Drug Abuse Act of 1988 are as follows:

Drug trafficker. Any individual convicted of a federal or state offense consisting of the distribution of a controlled substance, as defined by the Controlled Substances Act (21 U.S.C. 801 et seq.):

- ◆ *On the first conviction*, is ineligible for any or all federal benefits for up to 5 years, at the discretion of the court.
- ◆ *On a second conviction*, is ineligible for any or all federal benefits for up to 10 years, at the discretion of the court.
- ◆ *On a third or subsequent conviction*, is permanently ineligible for all federal benefits.

Drug possessor. Any individual convicted of a federal or state offense involving the possession of a controlled substance:

- ◆ *On the first conviction*, receives one or a combination of the following three sentences, at the discretion of the court: (1) is ineligible for any or all federal benefits for up to 1 year, (2) is required to successfully complete an approved drug treatment program that includes periodic testing to ensure that the individual remains drug free, or

(3) is required to perform appropriate community service.

- ◆ *On a second or subsequent conviction*, is ineligible for all federal benefits for up to 5 years, at the discretion of the court. The court continues to have the discretion to impose penalties and conditions and may require the completion of the imposed conditions for the reinstatement of benefits.


How the Denial Process Works

Denial of federal benefits is a sentence pronounced by a federal or state judge as a result of conviction for trafficking in or possession of drugs. This sanction can be imposed in combination with other sanctions, and courts have the option of denying all or some benefits and determining the length of the denial period based on the nature of the crime. When denial of benefits is part of a sentence, the sentencing court notifies the BJA Denial of Federal Benefits Program Clearinghouse, which, in turn, informs the U.S. General Services Administration (GSA).

GSA publishes the names of individuals who are denied benefits in the *Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs*, commonly known as the Debarment List. The Debarment List contains special codes that indicate whether all or selected benefits have been denied for an individual and the expiration date for the period of denial. Before making an award or conferring a benefit, federal agencies are required to consult the Debarment List to determine if the individual is eligible for benefits.

Federal agencies may request information over the telephone regarding a specific individual by calling the BJA Denial of Federal Benefits Program Clearinghouse, which maintains a complete listing of the benefits denied to each individual sentenced under the program. Clearinghouse staff can immediately assist agencies over the telephone with





verification of an individual listed in the Debarment List. All inquiries are followed with a memorandum.

Federal agencies may purchase annual subscriptions to the Debarment List from the U.S. Government Printing Office. Nonfederal persons or organizations should contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, 202-512-1800. Reference stock number: 722-002-00000-8. Electronic access to the Debarment List is available at <http://epls.arnet.gov> or by dialing the electronic bulletin board at 202-219-0132. The settings are N-8-1-F.

Denial of Federal Benefits Program Clearinghouse staff are available Monday through Friday from 8 a.m. to 5 p.m. eastern time at 301-809-4904.

Program Success

At the end of fiscal year 2001, the Denial of Federal Benefits database held a total of 6,938 cases, 765 of which were received during that year. Routine exchanges of data files with the U.S. Department of Education, the Federal Communications Commission, and other providers of federal benefits help to ensure that sanctioned drug offenders are excluded from receiving benefits, many of which are directly supported by tax dollars. Outreach to federal and state courts and prosecutors has increased in an effort to re-educate the judiciary about these sanctions and their usefulness as alternatives to more traditional and often more expensive forms of punishment.

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