

Barrier Crimes Statutes

The Joint Commission on Health Care
Behavioral Health Care Subcommittee
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Jessica R. Eades, Senior Attorney
Division of Legislative Services

The Problem

- In §§ 37.2-416 and 37.2-506, how do subsections B, C and E fit together?
- For example, if a person has a conviction for misdemeanor assault which “substantially related to the applicant's substance abuse or mental illness” but also occurred “while [the person was] employed in a direct consumer care position” is that person eligible for employment?

- Or, if a person is convicted of misdemeanor assault which “substantially related to the applicant's substance abuse or mental illness” must that person show evidence of rehabilitation, or can they simply choose to wait 10 years?
- In other words, do these misdemeanor assault convictions qualify for both exceptions?

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Other Questions

- Why doesn't a conviction for misdemeanor assault under subsection D of § 18.2-57 (assault of school personnel) qualify for the substance abuse/mental illness exception under subsection C?

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Recommendation adopted by JCHC (SD11, 2008)

- Option 5: Introduce legislation to amend *Code of Virginia* §§ 37.2-506, 37.2-416 to allow persons convicted under §§ 18.2-57(A) and 18.2-57.2(A) to also be assessed for rehabilitation as set forth in §§ 37.2-506(C) and (D), 37.2-416(C) and (D); Specify that the rehabilitation assessment will apply only to persons seeking employment in adult substance abuse programs and adult mental health programs and that the criminal behavior was substantially related to the substance abuse disorder and/or mental illness.

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- Why doesn't a conviction for felony possession of drugs qualify under the subsection C exception, when a conviction for felony distribution of drugs does qualify?

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