

## **18 Questions and Answers for Advising Potential PPOE Students**

### **Question 1: Is a felony conviction always a bar to peace officer licensure in Minnesota?**

Answer: Yes. According to MN Rules a felony conviction is a bar to licensure if the individual was convicted of a felony in Minnesota or in any other state or federal jurisdiction or of any offense in any other state or federal jurisdiction which would have been a felony if committed in Minnesota.

### **Question 2: What are the five misdemeanor convictions that will bar an individual from peace officer licensure in Minnesota per the minimum selection standards (6700.0700)?**

Answer: Out of the approximately 1,303 misdemeanors, only these five are bars to peace officer licensure in Minnesota.

- Assault in the fifth degree (§609.224)
- Theft (§609.52)
- Failure to report maltreatment of a vulnerable adult (§609.234)
- Presenting false claims to public officer or body (§609.465)
- Medical assistance fraud (§609.466)

### **Question 3: What are the thirteen gross misdemeanor convictions that will bar an individual from peace officer licensure in Minnesota per the minimum selection standards (6700.0700)?**

Answer: Out of the approximately 800 gross misdemeanors, only these thirteen are bars to peace officer licensure in Minnesota.

- Assault in the fifth degree Subd. 2c, Caregiver/Vulnerable Adult (§609.224)
- Theft (\$200-\$500) (§609.52)
- Domestic Assault (§609.2242)
- Mistreatment of persons confined (§609.23)
- Mistreatment of residents or patients (§609.231)
- Criminal abuse (vulnerable adult) (§609.2325)
- Criminal neglect (vulnerable adult) (§609.233)
- Financial exploitation (vulnerable adult) (§609.2335)
- Failure to report (vulnerable adult), great bodily harm (§609.234)
- Other prohibited acts (prostitution related) (§609.324)
- Presenting false claims to public officer or body (\$200-\$500) (§609.465)
- Medical assistance fraud (\$200-\$500) (§609.466)
- Disorderly conduct, Subd. 3 (caregiver) (§609.72)

**Question 4: Are there any other convictions that could be bars to licensure not specifically listed in 6700.0700, subp. 1, F.1-3?**

Answer: Yes, the minimum selection standards (6700.0700, subp. 1, F.3-4) also say an individual is barred from licensure if convicted:

- under any state or federal narcotics or controlled substance law irrespective of any proceeding under Minnesota Statutes, section 152.18, or any similar law of another state or federal law, or,
- of a crime that, if committed in Minnesota, would be a bar to licensure.

If students don't know if their particular crime falls into one of these categories they should get a written legal opinion. Neither coordinators nor POST Board staff can provide the student with a legal interpretation of the student's particular circumstances.

**Question 5: What is the one thing that will bar someone with only a juvenile record from being licensed as a peace officer in Minnesota?**

Answer: Anyone who is required to register as a predatory offender is barred from licensure. If a person is required to register for 10 years beginning at age 15 that person is barred until they are no longer required to register at age 25.

All other juvenile records are not a bar per the minimum selection standards.

Even though Minnesota's legal system now uses the term "juvenile conviction" instead of the old term juvenile delinquency, juvenile conviction is not the same as adult conviction. The term conviction used in the list of bars from licensure does not mean juvenile convictions.

**Question 6-10 All relate to the following statement.**

**An individual is barred from peace officer licensure if the crime they were found guilty of is one of those listed in the minimum selection standards even if their conviction:**

	<u>Answer</u>
<b>Question 6. resulted in no jail time</b>	<u>True</u> False
<b>Question 7. has been expunged</b>	<u>True</u> False
<b>Question 8. has been continued for dismissal</b>	<u>True</u> False
<b>Question 9. has been continued for dismissal or expunged <u>and</u> a judge says he/she is not barred</b>	<u>True</u> False*
<b>Question 10. is <u>withdrawn and vacated in accordance with MN Rules of Criminal Procedure 15.05</u></b>	True <u>False</u>

\* Minnesota Rule 6700.0100 says that conviction means a person has been charged with a crime and found guilty "regardless of length of or imposition or execution of any sentence received, any deferred finding of guilt or imposition of sentence by the court,

or any expungement of the offense records or conviction.” This is a high standard set for peace officer licensure and not all judges or other individuals in the criminal justice system understand it. Students may receive advice that having a conviction expunged or dismissed is sufficient but in the case of law enforcement licensure, it is not.

**Question 11. True or False, having a conviction withdrawn and vacated is a fairly common occurrence and relatively easy to have done.**

Answer: False. MN Rules of Criminal Procedure 15.05 allows, in very rare cases, for a conviction to be erased completely; not expunged, not dismissed but withdrawn and vacated as if no conviction existed. Students should be advised that to have a conviction withdrawn and vacated is a rare occurrence and that it is up to them to pursue this change.

**Question 12: Is the student in the following scenario barred from peace officer licensure in Minnesota?**

Scenario: A student says “I was arrested for a crime that is listed in the minimum selection standards but I was sent through adult diversion. I served five days in the county jail, paid a fine and was on probation for two years. “

Answer: No, the student is not barred. Pursuant to MN Rules of Criminal Procedure 25.05 the student never pled guilty therefore the student is not barred from licensure for this crime.

**Question 13: Is the student in the following scenario barred from peace officer licensure in Minnesota?**

Scenario: A student says “I was convicted of a petty theft as an adult, but it was just a dollar candy bar and I just forgot to pay for it.”

Answer: Yes, the conviction is a bar to licensure under MN Statute 609.52 because it is a theft. Points to remember when advising this student:

- Although people often refer to petty theft as a petty misdemeanor (based on the common word petty) petty theft is not a petty misdemeanor, it is theft and therefore a bar to licensure.
- POST has no discretion in enforcing this rule.
- If the student was tried as a juvenile then it would not be a bar.
- If the student had said “I was charged with a petty theft” or “I was tried for petty theft” then the answer depends on the outcome; if there was an adult theft conviction it is a bar.

**Question 14: Do the POST Board's minimum selection standards have a vision requirement?**

Answer: Yes, but by default. Although there is no vision requirement in the minimum selection standards, there is a requirement for all peace officer license applicants to possess a valid Minnesota driver's license and the Department of Motor Vehicles (DMV) does have a vision requirement so by default their standard is also ours.

**Question 15: May a student who is not a U.S. Citizen take the POST Board's PPOE exam?**

Answer: Yes. Although individuals who are not U.S. citizens cannot become licensed peace officers they may complete the professional peace officer education program and take the POST Board exam because they may become a citizen at some point. Prior to admission to a PPOE program the program's coordinator should discuss this with the student.

**Question 16: Does Minnesota have a minimum age for peace officer licensure?**

Answer: No. Since individuals must complete at least a two year degree, then pass the State exam, most license eligible candidates are, in fact, 21 years of age or older but there is no minimum age requirement in the minimum selection standards. POST is aware of individuals who have attained eligibility at 19. Students should be advised, however, that some law enforcement agencies have a minimum age requirement for hire.

**Question 17: How should the student in the following scenario be advised?**

A student says he "got into some trouble when he was younger" and wonders if he can become a police officer in Minnesota. He says he was never convicted as an adult and is not required to register as a sex offender.

Answer: Although the student is not barred from licensure by the minimum selection standards it is important for him to understand that law enforcement agencies can have more restrictive standards than those listed in the minimum selection standards. The student should be advised that passing the POST Board examination and becoming eligible to be hired does not guarantee a successful career in law enforcement and that he should talk with the people who do the hiring at some of the law enforcement agencies he is most interested in working for to find out if his juvenile record or other personal history will prevent him from being hired. Also the student should be advised law enforcement agencies are required by law to do a thorough background check and it is his own best interest to be open about his past.

**Question 18: What do students need to understand about the minimum selection standards and their relationship to getting hired as a peace officer and being successful in a law enforcement career?**

First, students need to know there may be a big difference between minimum selection standards for license eligibility pursuant to 6700.0700 and the hiring standards of a particular law enforcement agency. Agencies have an obligation to conduct a thorough background investigation pursuant to MN Statute 626.87 and may have much more restrictive employment standards.

Second, background issues, physical and psychological issues and even individual personality traits that do not bar licensure may very well bar employment at some agencies and impact an individual's ability to become a competent peace officer. Students need to understand that law enforcement is a unique field encompassing a broad variety of tasks and situations that require mature critical thinking and decision making skills as well as the ability to apply techniques and tactics with of a variety of equipment. Students should not receive all their knowledge about this field from television and should be encouraged to participate in ride-alongs, internship programs and other experiences that will help them understand the realities of peace officer duties.