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## A Student Aid Ban For Past Drug Use Is Creating a Furor

By GREG WINTER

Given that she had been thrown out of the house by 13 for declaring herself a lesbian, spent her teenage years sleeping on subway trains and rotting piers and yet still managed to get her G.E.D., Laura Melendez felt she had kept her nose pretty clean.

Sure, there had been a few arrests for smoking marijuana, but after an entire adolescence spent on the streets, with far more visits by the police than by her parents, what did those offenses really amount to?

"It means I'll be denied an education," said Ms. Melendez, who is from the Bronx, now 22 and applying to college.

If Ms. Melendez had been an armed robber, a rapist, even a murderer, she would not be in the same predicament. Once out of prison, she would have been entitled to government grants and loans, no questions asked.

But under a contentious provision of federal law, tens of thousands of would-be college students have been denied financial aid because of drug offenses, even though the crimes may have been committed long ago and the sentences already served.

"It is absurd on the face of it," said Representative Mark Souder, Republican of Indiana.

Mr. Souder, who wrote the law, says the Clinton and Bush administrations have both turned it on its head, taking a penalty meant to discourage current students from experimenting with drugs and using it to punish people trying to get their lives back on track.

"I am an evangelic Christian who

## Furor on Student Aid Ban For Past Drug Offenses

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believes in repentance, so why would I have supported that?" he said. "Why would any of us in Congress?"

The aid prohibition has been a sore point since its enactment in 1998, inciting debate and recriminations all around. Members of Congress have accused the Clinton and Bush administrations of distorting the law's intent. The Education Department has fired back, saying Congress handed it a vague and sloppy law — one referring simply to "a student who has been convicted" of a drug offense — that the department is faithfully enforcing.

Students are equally perplexed. After serving almost 10 years in prison for attempted murder, Jason Bell went straight to college on federal grants and loans. Now a senior at San Francisco State University, he helps other ex-convicts enroll in the university but often has the hardest time assisting drug offenders whose crimes were minor, certainly a lot less serious than his.

"It's a form of double jeopardy," said Mr. Bell, 32. "They do the time, but then there are still roadblocks when they finish. I don't believe people should be punished twice."

Some members of Congress say they are pushing to rewrite the law for precisely that reason. And, for the first time since the prohibition took effect, the president's budget includes a commitment to revise it — not to throw it out, but to narrow its scope so that students like Ms. Melendez get a second chance.

"It would really take a lot off my mind," she said. "I need to go to school. I can't just leave it like this."

Yet the changes would perpetuate what some members of Congress see as the law's contradictions. Under President Bush's language, anyone who violated drug laws before going to college could get financial aid,

regardless of the offense. That would be in keeping with Mr. Bush's philosophy, as laid out in his State of the Union address, that "when the gates of the prison open, the path ahead should lead to a better life."

But those already in college when they commit a drug offense, however small, would still be stripped of aid, for at least a year. The idea, supporters say, is to continue trying to dissuade students from using drugs, especially since they are being educated with taxpayer money.

The problem, detractors say, is that the law would still impose stiffer penalties on drug use than on any other crime.

"We should abolish the whole rule," said Representative Barney Frank, Democrat of Massachusetts. "Not that we should encourage drug use, but you shouldn't single that out as being worse than rape or arson or armed robbery."

Representative Souder doubts that the prospect of losing financial aid would deter a murderer or a rapist, but says the same threat does a lot when it comes to drug use. Some student counselors agree, arguing that at times, students wrestling with substance abuse need an extra incentive to stay clean.

Critics, however, have an additional complaint: that the proposed changes would have the odd effect of barring some first-time, minor offenders from getting financial aid while restoring it for more serious drug lawbreakers.

By his own count, Donald Miller, a 53-year-old freshman at York College in Queens, was arrested 17 times for abusing drugs and occasionally selling them, a result of what he describes as a fruitless effort to quiet his schizophrenia. It left him homeless and addicted.

Now that Mr. Miller is sober and taking his medications regularly, he has been confronted by the discouraging news that he is not eligible for



Ruby Washington/The New York Times

Had Laura Melendez once been a robber or even a killer, she might now have a clear path to college. Instead, she is a former user of marijuana, and that is keeping her from the federal grants and loans she needs.

financial aid despite living on less than \$600 a month. But under the new rules, he almost certainly would be.

"It would mean that I could continue all the way through school," he said.

On the other hand, there is the case of Marisa Garcia, a junior at California State University, Fullerton. A few weeks before her freshman year began, Ms. Garcia received a ticket for having a small marijuana pipe in her car. (It had some ashes in it, she admits.)

That was her first and only offense. Accordingly, she paid a \$415 fine. But she also lost her federal grants and loans for a year, amounting to thousands of dollars. Under the revised rules, her penalty would be no different.

"It doesn't make sense," Ms. Garcia said. "To punish someone by taking away their education? It's coun-

terproductive."

The law does allow students to win back their aid by going through drug treatment. But when Ms. Garcia looked into that option, all she could find was residential counseling that cost as much as her tuition.

"If I couldn't afford to pay for school," she said, "then how was I supposed to pay for these programs?"

Congressional supporters of the drug prohibition argue that students should obey the law or surrender the privilege of financial aid. But they also contend that the aid prohibition was never meant to punish people for bad choices they made long ago. Given the way the law has been applied, Mr. Souder says, students who have been denied aid because of offenses committed before they were in college should consider suing the government.

"I know as a conservative I'm not supposed to say this, but there are lawsuits to be had here," he said.

The Education Department strongly disagrees, contending that the statute Congress passed does nothing to distinguish between past and current offenses. By clarifying it, lawmakers hope to eliminate the confusion that has surrounded it since its inception. But others worry that as long as financial aid forms continue to ask whether students have had a drug conviction, many will simply assume that they are ineligible.

"There's so much confusion about this law, and it ends up discouraging people from moving forward with their lives," said Michael Dean, a substance abuse counselor in Denver. "At what point in our society do we say that a person has paid their debt?"

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