



Victoria is the only place in Australia without a scheme to clear a person's criminal record of old and irrelevant convictions for minor offences. The Greens will correct this oversight by introducing a spent convictions scheme.

Victoria is the only Australian jurisdiction where a person's criminal record can last forever, regardless of whether their conviction was for a minor offence that's decades old.

Carrying around an old criminal record is a significant barrier to gaining employment, which potentially exacerbates a person's social isolation, criminal identity, and ultimately their chance of reoffending.

If we want to stop the record rates of reoffending in Victoria, we must encourage the full rehabilitation and reintegration of offenders who have lived crime-free since committing a minor offence.

## OUR PLAN

### The Greens will:

- **Introduce *spent convictions* legislation for eligible non-serious offenders who haven't reoffended for a significant number of years. The legislation will be consistent with laws already operating in all other Australian states.**
- **Amend Victoria's *Equal Opportunity Act* to prohibit discrimination on the grounds of a person's irrelevant criminal record.**

## SPENT CONVICTIONS

*Spent Convictions* are when a person's criminal convictions are permanently removed from official criminal records if the person does not reoffend after a significant period of time.<sup>i</sup>

Spent convictions schemes reflect the reality that many people with a minor criminal record are not serious offenders and that old convictions often relate to a short-period of personal difficulties or circumstances, for example, during a troubled adolescence or young adulthood.

However, unlike all other Australian states and territories, Victoria has no spent conviction laws. Instead, all convictions on a criminal record last forever, with what is (and is not) included in an individual's criminal record check determined by Victoria Police under their *Information Release Policy*.<sup>ii</sup>

## IMPROVING REHABILITATION

After being convicted and punished for a minor offence, a spent convictions scheme provides a person with an incentive to change their behaviours and not reoffend.

Rehabilitation is important because current corrections data shows nearly 44 per cent of Victoria's prisoners will return to prison within two years of their release.<sup>iii</sup>

Steady employment is key to breaking the cycle of offending, but criminal record checks have become standard recruitment process for a wide range of employers. Every year Victoria Police undertakes hundreds of thousands of criminal history checks.<sup>iv</sup>

In the competitive job market, the fact that historical, minor offences continue to show up in these checks can be almost as detrimental to a person as if the offences were serious and relevant.



Employers seldom have the time to investigate the detailed personal histories of all job applicants, and so are likely to deliberately or subconsciously discriminate against any person 'with a record'.

The current Victorian system makes getting a job even harder for minor offenders, because it discloses 'findings of guilt' against a person even when the court had chosen not to record a conviction.

Besides from employment, old, minor criminal convictions can deny a person the means to do everyday things such as insuring their belongings or successfully applying for accommodation.

To break the cycle of crime we should be removing the barriers that stop people from rehabilitating and reintegrating into the community, not make this process more difficult.

## MAINTAINING IMPORTANT PROTECTIONS

Criminal record checks are vitally important to protect the community from serious and dangerous criminals.

This is why spent convictions only apply to non-serious offenders who have not reoffended over a significant number of years.

Working with children checks for job candidates to disclose all relevant serious, sexual, violent or drugs offences will always be maintained where these important protections are required.

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<sup>i</sup> Liberty Victoria's Rights Advocacy Project (2017) *A Legislated Spent Convictions Scheme for Victoria: Recommendations for Reform*, May 2017.

<https://libertyvictoria.org.au/sites/default/files/RAP-report-A-Legislated-Spent-Convictions-Scheme-for-Victoria-Recommendations-for-Reform-20170517.pdf>

<sup>ii</sup> Victoria Police *Victoria Police Information Release Policy* — September 2017.

[https://www.police.vic.gov.au/content.asp?a=internetBridgingPage&Media\\_ID=38447](https://www.police.vic.gov.au/content.asp?a=internetBridgingPage&Media_ID=38447)

## ENDING DISCRIMINATION

To back up the spent convictions scheme we need to strengthen the laws regarding discrimination on the grounds of an irrelevant criminal record.

A person's criminal record should only be considered if it is relevant to a decision.

While a criminal record may be very relevant when assessing a person's suitability in certain areas of employment, for many other jobs it may be entirely irrelevant.

Normally old, minor criminal records are also irrelevant for other areas of life, like applications for rental accommodation.

Discrimination on the grounds of an irrelevant criminal history serves to further undermine a person's reintegration into the community. While this clearly costs the individual involved, it also costs the community in terms of promoting a higher level of reoffending.

Discrimination on the grounds of an irrelevant criminal history is already prohibited in Tasmania, Western Australia, the Northern Territory and the ACT, and at the federal level.

Updating Victoria's equal opportunity legislation to protect a person from discrimination on the grounds of their irrelevant criminal record is long overdue.

<sup>iii</sup> Victorian Budget 18/19: Service Delivery

<sup>iv</sup> Law Institute of Victoria (2015) *LIV Submission Introduction of Spent Conviction Legislation in Victoria*, 22 April 2015.

<https://www.liv.asn.au/getattachment/787194f0-0474-4f35-bddf-259d67f7319e/LIV-Submission-Introduction-of-Spent-Conviction-Le.aspx>