

DRAFT FOR CONSULTATION

Disclosure of Electoral Candidates' Convictions Bill

Member's Bill

Explanatory note

General policy statement

This bill is an omnibus bill that would require the disclosure of candidates' criminal conviction history in Parliamentary and local body elections. This would provide transparency for the electorate, who would then be able to decide if the person is fit to be elected, despite their criminal record. This bill does not seek to disqualify people with criminal convictions from becoming candidates, which could prevent people who have legitimately reformed their lives from being elected. This would not affect people whose convictions are able to be concealed under the Clean Slate scheme, or where there is a court order or other legal requirement that prohibits publication of the conviction. The disclosure requirements only apply to convictions for offences punishable by 2 or more years' imprisonment.

Clause by clause analysis

Clause 1 is the title clause.

Clause 2 is the commencement clause. It provides for the Bill to come into force on the day after the date on which it receives the Royal assent.

Part 1

Amendments to Electoral Act 1993

Clause 3 provides for *Part 1* to amend the Electoral Act 1993.

Clause 4 inserts *new section 146M* and an associated cross-heading. *New section 146M* requires the Electoral Commission to make a criminal conviction information request to the Ministry of Justice in respect of each of the candidates in an election, and requires the Ministry of Justice to supply the details of any criminal conviction information that it holds in respect of those candidates back to the Electoral Commission. This information sharing requirement is subject to the clean slate scheme estab-

lished under the Criminal Records (Clean Slate) Act 2004, and any court order or statutory prohibition that would prevent publication or disclosure of the criminal conviction information. **Criminal conviction** is defined to mean only those convictions punishable by 2 or more years' imprisonment.

Clause 5 amends section 147 to include the details of candidates criminal convictions supplied under *new section 146M* in the “**nomination and polling place information**” that must be published by the Electoral Commission.

Part 2

Amendments to Local Electoral Act 2001

Clause 6 provides for *Part 2* to amend the Local Electoral Act 2001.

Clause 7 inserts *new section 60A* which requires the electoral officer to make a criminal conviction information request to the Ministry of Justice in respect of each of the candidates in an election, and requires the Ministry of Justice to supply the details of any criminal conviction information that it holds in respect of those candidates back to the electoral officer. This information sharing requirement is subject to the clean slate scheme established under the Criminal Records (Clean Slate) Act 2004, and any court order or statutory prohibition that would prevent publication or disclosure of the criminal conviction information. **Criminal conviction** is defined to mean only those convictions punishable by 2 or more years' imprisonment.

Clause 8 amends section 62 to require the electoral officer to treat the criminal conviction information supplied under *new section 60A* as if it were a part of the candidate profile statement for that candidate, and to provide it to electors accordingly.

Matt King

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the Disclosure of Electoral Candidates' Convictions Act **2019**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1**Amendments to Electoral Act 1993****3 Principal Act**

This Part amends the Electoral Act 1993 (the **principal Act**).

4 New section and cross-heading inserted

After section 146L, insert:

*Candidate criminal conviction information***146M Requirement to supply candidate criminal conviction information**

- (1) The Electoral Commission must, as soon as practicable after the close of nominations, submit a criminal conviction information request to the Ministry of Justice for of each of the constituency candidates and list candidates.
- (2) The criminal conviction information request must be in the prescribed form and must include the name and identity details of the candidate.
- (3) The Ministry of Justice must, as soon as practicable after receiving a criminal conviction information request from the Electoral Commission, supply to the Electoral Commission a copy of any criminal conviction information held by the Ministry of Justice for the identified candidate.
- (4) **Subsection (3)** is subject to—
 - (a) the clean slate scheme established under the Criminal Records (Clean Slate) Act 2004; and
 - (b) any court order prohibiting publication of the criminal conviction information; and
 - (c) any statutory prohibition that would prevent disclosure or publication of the criminal conviction information.
- (5) In this section, **criminal conviction** means a conviction for an offence punishable by 2 or more years' imprisonment.

5 Section 147 amended (Advertisement of nomination and polling places)

After section 147(4)(b), insert:

- (ba) for each candidate, the details of any criminal conviction information supplied under **section 146M(3)**; and

Part 2 Amendments to Local Electoral Act 2001

6 Principal Act

This Part amends the Local Electoral Act 2001 (the **principal Act**).

7 New section 60A inserted (Requirement to supply candidate criminal conviction information)

After section 60, insert

60A Requirement to supply candidate criminal conviction information

- (1) The electoral officer must, as soon as practicable after the close of nominations, submit a criminal conviction information request to the Ministry of Justice for each of the candidates.
- (2) The criminal conviction information request must be in the prescribed form and must include the name and identity details of the candidate.
- (3) The Ministry of Justice must, as soon as practicable after receiving a criminal conviction information request from the electoral officer, supply to the electoral officer a copy of any criminal conviction information held by the Ministry of Justice for the identified candidate.
- (4) **Subsection (3)** is subject to—
 - (a) the clean slate scheme established under the Criminal Records (Clean Slate) Act 2004; and
 - (b) any court order prohibiting publication of the criminal conviction information; and
 - (c) any statutory prohibition that would prevent disclosure or publication of the criminal conviction information.
- (5) In this section, **criminal conviction** means a conviction for an offence punishable by 2 or more years' imprisonment.

8 Section 62 amended (Provision of candidate profile statements to electors)

- (1) In the heading to section 62, after “**statements**”, insert “**and criminal conviction information**”.
- (2) After section 62(1), insert:
 - (1A) An electoral officer who receives criminal conviction information for a candidate under **section 60A(3)** must treat that information as if it were a part of a candidate profile statement received in accordance with section 61, and ensure that it is provided to electors accordingly.