



JOINT STATEMENT

Embargoed until Monday 15th March 2021

Youth coalition supports Spent Convictions Scheme

We the undersigned member agencies of Smart Justice for Young People, come together to express our collective support for the scheme proposed in the *Spent Convictions Bill*.

Smart Justice for Young People - a coalition of over 50 social services, health, legal, Aboriginal and Torres Strait Islander, youth advocacy organisations and academic experts - has been advocating for a spent conviction scheme in Victoria for many years. Spent convictions are those convictions that have reached a set period (i.e. 10 years for an adult offence and 5 years for a child offence) and are removed so they no longer show on an individual's police criminal record check. Such a scheme is designed to reduce the damaging effect old criminal records can have on people looking for employment, as well as when they try to secure housing or apply for volunteer work.

Victoria is the only state or territory in Australia that does not have a spent convictions scheme. Victoria Police currently have discretion about whether to disclose convictions.

The *Spent Conviction Bill* currently being debated in the upper house of Victorian Parliament. The Bill proposes that some convictions will be spent automatically after the set period (all offences by a young person under 15 years and minor offences of those 15 years and over) but for other more serious offences an application for approval is made to the Court to have them spent.

We confirm that the provision immediately spending convictions for children under 15 years is good public policy based on medical evidence that gives children the best chance to not be stigmatised by their past, but rather rehabilitate and move on with their lives.

We support the Bill based on the following fundamental principles:

- Acknowledgment of the differential developmental stages and needs of children;
- Promotion of rehabilitation and restorative responses and removal of discriminatory barriers impacting the most vulnerable in our community.

Acknowledgement of the differential developmental stages and needs of children

Under the Bill, children aged under 15 years would have their convictions spent immediately, in recognition of the fact that different approaches are needed to supporting children in comparison to adults.

Research into brain development consistently shows that children’s brains are still developing and they are, in general, less able than adults to form good judgements.¹

By spending convictions committed by children under 15, we acknowledge the developmental difference between adults and children and capacity for rehabilitation and change, supported by evidence and our collective work on the ground with marginalised young people.

Concerns have been raised regarding the provision of the Bill to spend convictions for children under 15 where they relate to serious offences. However we wish to highlight that offences of a serious nature committed by young people are rare,² rather most children are in the criminal justice system for minor offending and convictions.

In any case, even with the introduction of this scheme, children will still be sentenced within the criminal justice system in the same way and be held accountable for their offending.

It is also important to re-state that under the scheme, in order for a conviction to become eligible to be spent automatically, a period of 5 years with no serious re-offending must be completed by the child.

The provision within the Bill to ‘spend’ the convictions does not delete the convictions, they are just not disclosed for certain purposes. Under the proposed legislation, police and courts will continue to have full access to criminal histories and records which will be released when required for certain employers and third parties to make necessary risk assessments.

Promotion of rehabilitation and restorative responses and removal of discriminatory barriers impacting the most vulnerable in our community

The scheme acknowledges children’s capacity for genuine change and rehabilitation. We emphasise that many of those who have had contact with the justice system are particularly vulnerable, having often faced multiple layers of complex disadvantage in their lives, in circumstances beyond their control. Many have a history of trauma, abuse or neglect; experience mental health problems, drug or alcohol problems; cognitive disability; and/or have had involvement with child protection services and out-of-home care.

The impact of current legislation is also particularly felt by communities that are disproportionately represented in the criminal justice system – particularly Aboriginal and Torres Strait Islander and culturally and linguistically diverse communities who face compounding discriminatory barriers in terms of access to employment, education and housing.

Critically this scheme will reduce the damaging impact and barriers to education, employment and housing faced by some of the most vulnerable members of our community based on their historical criminal records. The scheme will give young people the opportunity to rehabilitate, and offers a vital second chance to adults who have previously committed an offence and provide an opportunity to set their lives on a better path.

¹ Cauffman, E., & Steinberg, L. (2000). (Im)maturity of judgment in adolescence: why adolescents may be less culpable than adults. *Behavioral Sciences and the Law* 18 (6).

² Australian Bureau of Statistics (2021) <https://www.abs.gov.au/statistics/people/crime-and-justice/recorded-crime-offenders/latest-release>; Crime Statistics Agency. (2019). Latest crime data – Year ending June 2019. Retrieved from <https://www.crimestatistics.vic.gov.au/crime-statistics/latest-crime-data>

JOINTLY SIGNED by

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END STATEMENT

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About Smart Justice for Young People: Smart Justice for Young People is a coalition of over 50 leading social services, health, legal, Aboriginal and Torres Strait Islander, and youth advocacy organisations working together to create change for children and young people who come into contact with the justice system. The group works together to shift political and public attitudes, to advise government on innovative evidence-based approaches, and to challenge policies and practices that harm young people. The coalition is informed by the experiences and voices of young people, experienced practitioners on the ground, leading researchers and health experts, and communities across Victoria.