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LawTalk Blog



Do past criminal convictions remain on your history forever?

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If you have been convicted of [a criminal offence](#) then you know that the conviction will be disclosed on your criminal record. However, you may not be aware that certain adult convictions are eligible to become “spent”. This means that the conviction will no longer be disclosed on police or other criminal history checks.

The [Spent Convictions Act 2009 \(SA\)](#) details whether or not certain convictions will become spent and how that will occur. If the sentence for your adult conviction was for a period of less than 12 months imprisonment or for a penalty other than imprisonment, and was not a sex-related offence, it will automatically become spent after a qualification period of 10 years from the date of your conviction. It should be noted that any subsequent offence committed during this 10 year period will result in the qualification period starting over again.

If you have been convicted of a sex-related offence it is only eligible to become spent if you were not given a prison sentence. Unlike other offences, which automatically become spent, you will need to make an application to the Court. This application should be lodged after the 10 year qualification period has elapsed.

Juvenile non-sex related offences imposing imprisonment of less than 24 months are eligible to become spent after a qualification period of 5 years.

There are exclusions that provide for situations where a spent conviction must still be disclosed. This includes disclosure in relation to:

- Justice and Commonwealth agencies
- Designated judicial authorities
- The Parole Board
- Judicial and associated officers
- Care of children and vulnerable people
- Character tests
- Fire fighting, police and correctional services
- Screening units

This means that when a person is facing another criminal charge, details of their past convictions will appear on their criminal history record and will be disclosed to the court even though those convictions may have become automatically spent.

An application can be made by a person to prevent disclosure of a spent conviction when they are applying for certain employment positions relating to the care of children or vulnerable people, those involving a character test, or where the conviction related to a sex-related offence.

A Magistrate will then consider and determine the application. They have the discretion whether to grant your application and will take into account various factors related to the offence, along with the public interest and anything else deemed relevant. If your application is rejected, you must wait a further 2 years to apply again.

Andersons Solicitors have successfully assisted a number of clients to apply to the court to have their convictions spent. Please [contact](#) our office to speak with [Eva Bailey](#) or [Nes Alexandropoulos](#) who can assist you with your enquiry.

This blog post was written by Family Law Partner, [Eva Bailey](#). Eva Bailey supervises the handling of criminal files.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to South Australian legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.