

## How to apply to have a Youth Sexual Offence spent

### Youth sexual offence convictions

The ACT has a scheme that allows a person with certain sexual offence convictions, for offences committed while under 18 years of age, to apply to the Court to have the conviction spent.

### What does 'spent' mean?

Having a youth sexual offence conviction spent means you are not required to disclose any information about the conviction to anyone.

### Can information about my conviction still be accessed after the conviction is spent?

Yes. Details of spent convictions may still be released where the check is required for certain purposes. For example, in the ACT, the *Working with Vulnerable People (Background Checking) Act 2011* allows for details of spent convictions to be accessed and considered during the risk assessment process.

### Who can apply to have a youth sexual conviction spent?

A person who has been convicted of a youth sexual offence in the ACT Magistrates Court (Childrens Court) or ACT Supreme Court can apply for an order to have the conviction spent.

### When can a court order that a youth sexual conviction be spent?

A court may order a conviction be spent only where a sentence of imprisonment longer than six months has not been imposed and the offender has completed a five-year crime-free period. The court must also be satisfied that it is in the public interest to make the order by considering, for example, the nature, circumstances and seriousness of the offence, whether the applicant poses any risks to public safety if the order is made and any views of the victim.

### How do I apply to have my offence spent?

Applications to have youth sexual offence convictions spent are dealt with by the ACT Court in which the conviction was recorded. The approved form for starting an application is called an "Originating Application". This form is the same for both the ACT Magistrates Court and the ACT Supreme Court. For help to access this form see '*Where can I go for help?*' below.

### What needs to go into my application?

Your application should include details of the offence for which you were convicted including your name and address at time of conviction, the date of conviction and the Court in which you were convicted.

An Originating Application form has a format which requires you to choose options to complete and delete. ACT Court Registry counter staff can provide procedural information about which options need to be completed.

For further help completing the form see '*Where can I go for help?*' below.

### **Can I add other information or documents to my application?**

Adding information to an application can help the Court decide whether to make an order that the conviction be spent. In particular, you should tell the Court about any hardship or discrimination you believe you have experienced or are experiencing as a result of the conviction on your criminal record, such as difficulty in obtaining employment or with travelling overseas.

Information that cannot fit onto the Originating Application form can be added by attaching an affidavit. An affidavit is a document, affirmed or sworn by you that the statements in it are true to the best of your knowledge. The affidavit must be attached to your application. Your application must refer to the affidavit and make it clear that you want the Court to take the affidavit into account.

Certified copies of supporting documents can be attached to the affidavit as part of your application. These may include documents relating to employment, licensing, travel, or other activities, or may also include personal references or other supporting documentation. A list of all the documents attached to your affidavit must be included in the affidavit so the Court knows what documents you want it to look at.

For help to access an affidavit form or complete an affidavit, including compiling supplementary documents see 'Where can I go for help?' below.

### **Do I need to tell anyone else about my application?**

Yes. Applicants must give written notice of an application to the chief police officer and director of public prosecutions. The chief police officer and director of public prosecutions may make submissions to the Court in relation to the application.

For help to provide notice of an application see 'Where can I go for help?' below.

### **How do I lodge my application?**

Generally, lodgement of applications is over the ACT Court Registry counter. The counter staff can provide procedural information about lodging an application to have youth sexual offence convictions spent, including information about required forms of ID. Additional advice about coming to court can also be found on the court's website at

<https://www.courts.act.gov.au/coming-to-court/get-support/find-a-lawyer>

### **How much will it cost?**

There is no fee for applications related to convictions recorded in the ACT Supreme Court.

A filing fee applies to applications commenced in the ACT Magistrates Court. Information about fees, including applying for a fee waiver may be found on the ACT Courts website at <https://courts.act.gov.au/magistrates/fees,-fines-and-costs/mc-fees>

For help to apply for a fee waiver see '*Where can I go for help?*' below.

### Should I keep a copy of my application?

Yes. You should keep a copy of your completed application including all supporting documents.

### What happens once I lodge my application?

The Court will notify you when a date and time has been decided for the hearing of the application. You will also be advised as to whether the hearing will be conducted in open court or in the absence of the public.

### Where can I go for help?

If you need help to complete an application, apply for a fee waiver, compile certified copies of documents or complete an affidavit please contact ACT Legal Aid on 1300 654 314 or [civil@legalaiddact.org.au](mailto:civil@legalaiddact.org.au)

ACT Court Registry counter staff can provide procedural information about lodging an Originating Application including which options need to be completed. General information about coming to court can also be found on the Court's website at <https://www.courts.act.gov.au/coming-to-court/get-support/find-a-lawyer>

The *Discrimination Act 1991* makes it unlawful to discriminate against a person based on an irrelevant criminal history. If you believe you have suffered this kind of discrimination further assistance may be obtained by contacting the Office of the ACT Human Rights Commissioner on (02) 6205 2222 or via email to [human.rights@act.gov.au](mailto:human.rights@act.gov.au)

### More information

The scheme for applying to have a youth sexual offence conviction spent is provided for under the *Spent Convictions Act 2000*. The scheme was introduced by the *Justice Legislative Amendment Act 2020*. The changes came into effect on 27 February 2021.

Under the *Spent Convictions Act 2000*, section 14A (Meaning of youth sexual offence conviction—pt. 2) a youth sexual offence conviction means a conviction for a sexual offence where the person convicted:

- (a) was not dealt with as an adult in relation to the conviction; and
- (b) where a sentence of imprisonment of six months or less has been imposed or no sentence of imprisonment has been imposed.

More information about spent convictions generally can be found on the Access Canberra website at <https://www.accesscanberra.act.gov.au>