

Saturday, 8 November 2008

### CLEAN SLATES FOR GOOD BEHAVIOUR

Attorney-General Michael Atkinson says he'll speak with groups representing victims and offenders about a proposal to introduce uniform national laws governing spent convictions.

Spending a conviction means wiping it from a person's criminal record once that person has been of good behaviour for a long period of time. Some other States already have similar legislation but laws vary from State to State.

On the suggestion of Mr Atkinson, the Commonwealth and State Attorneys-General have agreed to release a model Bill and discussion paper detailing options for laws to spend minor criminal convictions.

"This is a positive step forward and paves the way for public discussion of this sometimes controversial area of law," Mr Atkinson said.

"At this stage no State or Territory has committed to this legislation, but there is strong interest in investigating the merits of uniform spent conviction laws," Mr Atkinson said.

"I will be rigorously evaluating the proposal and to do that I'm seeking feedback from interested parties. South Australians may well want to suggest changes to the model Bill," he said.

"There are sometimes good reasons for minor offences committed many years prior or as a child to be erased from a person's record. Minor criminal convictions can hinder a person's travel or employment and we want to remove that burden where appropriate," Mr Atkinson said.

The model Bill proposes that:

- An offence committed by an **adult** will be spent after **ten years** good behaviour if the sentence did not include imprisonment or a jail term of less than a year was imposed.
- An offence committed as a **juvenile** will be spent after **five years** good behaviour if there was no detention term or if detention of less than two years was imposed.  
(This includes suspended sentences).

The draft Bill provides exceptions in cases where old convictions may be relevant. For example:

- where a person works with (or wants to work with) children or vulnerable people or in a field that requires a character test
- national security reasons
- Parole Board decisions
- courts and police may access and use criminal records in the investigation and prosecution of offences.

The model Bill allows mutual recognition, so that other jurisdictions also treat the offence as spent.

“The question of whether some sex convictions (such as so-called ‘young love’ offences) should be deleted is hotly debated. The model Bill allows the option for States to either never spend sex offences or spend them by court order. I’m interested to hear from parties about their views on what might be best for S.A.,” Mr Atkinson said.

The model Bill also proposes new offences for the wrongful disclosure of spent convictions and dishonestly obtaining details of a spent conviction.

“If enacted, this law will help to put a person’s past in the past and prevent them from suffering lifelong repercussions if he or she has since rehabilitated. It also strikes the right balance to protect the public,” Mr Atkinson said.

The State Government will seek the views of victim support groups, the Commissioner for Victims Rights, prisoner aid groups and legal experts in considering any necessary changes to the model Bill.

The discussion paper and model Bill will be released to relevant parties by 1 December with a comment period of two months. A final model Bill is due to go before the Standing Committee of Attorneys-General (SCAG) meeting next July.