

Removing a conviction from your criminal record



Easy read brochure 2023



You might need help to read this brochure. A friend, family member or support person can help you.



If you feel upset reading this brochure, you can ask for emotional help. See page 9 for more information.





If the court rules that you are guilty of a crime, you could get a conviction on your criminal record.



Some convictions can be taken off your criminal record. When a conviction has been removed it is called 'spent'.

A conviction can come off your record if:



- you don't commit another crime within a certain period of time



- a law change means that what you did is not a crime anymore



- you appeal the conviction and the court decides you should not be convicted.

Which convictions can be removed?

1. Some crimes committed by a child

If you were a child when you committed the crime, your conviction may be removed if the court:



- did not sentence you to jail or detention.



- gave you a jail sentence that was 24 months (2 years) or less.



For some offences, when 5 years have passed since you were convicted, your conviction may automatically come off your criminal record.

But if you are convicted of another crime during the 5 years you might have to wait longer for your first conviction to be removed.

2. Some crimes committed by an adult

If you were an adult when you committed the crime, your conviction may be removed if the court:



- did not give you a jail sentence.



- gave you a jail sentence that was 12 months (1 year) or less.



For some offences, when 10 years have passed since you were convicted, your conviction may automatically come off your criminal record.

But if you are convicted of another crime during the 10 years you might have to wait longer for your first conviction to be removed.

3. Historical homosexual convictions

Crimes related to homosexuality may be removed as homosexual activity is not a crime anymore and should never have been a crime.

These types of convictions can be removed:



- males having sex with each other
- encouraging other males to have sex with each other
- telling a male you want to have sex with them, and this upset them.

Public decency convictions that relate to homosexuality can also be removed. For example:



- disorderly or offensive behaviour
- offensive language.



If you aren't sure if your conviction can be spent, see page 9 about getting legal advice.

Some organisations can see spent convictions



They include:

- organisations responsible for registering people who care for children



- organisations which register people who care for aged or vulnerable people



- organisations which have to decide if you are a fit and proper person to do certain jobs like a police officer, firefighter, jobs in migration, intelligence and security, and more.

If you are applying for a job in aged care, with vulnerable people, or for certain jobs requiring a character test, see page 9 about getting legal advice.



Otherwise, if someone asks about your criminal record you don't have to tell them about a spent conviction. For example, if they ask you at a job interview.

Which convictions cannot be removed?

These convictions cannot be removed:



- crimes committed by a company



- certain sex-related crimes (which excludes historical crimes relating to homosexuality, see page 5 of this brochure).

Who decides if my conviction can be spent?

Your conviction may be removed automatically, as outlined on pages 3 and 4 of this brochure.



Apply

If your conviction cannot be removed automatically, you may be able to apply to have it removed.

For historical homosexual convictions, you may be able to apply for someone else to have their conviction removed if that person has died or has a mental incapacity, such as an intellectual disability.



If you apply, a magistrate will decide if the conviction can be spent. A magistrate is similar to a court judge.



You will need to leave some paperwork with the court.



For information about how to apply to the court to remove homosexual convictions, see the Easy Read factsheet called [Criminal records – Removing homosexual convictions](#). This is available from sa.gov.au.

If you need help to have a conviction removed

You could ask for legal help from:



- **Legal Services Commission**

Telephone 1300 366 424

- **A community legal centre**

- **A private lawyer**

For referrals telephone the Law Society on 8229 0200.

You will need to pay fees for a private lawyer.

If you need emotional support



If thinking about the time you were convicted makes you feel upset, you can get support from:

- **Lifeline**

Telephone 13 11 14

- **Council On The Ageing SA, Rainbow Hub**

For information and referral
Telephone (08) 8232 0422

- **QLife**

Telephone 1800 184 527
(3pm to midnight daily)