



Disclaimer: the material in this fact sheet is intended as a general guide only. You should not act on the basis of the information in this fact sheet without first getting legal advice about your own particular reason. The information is based on the laws in Victoria as of 15 November 2021.

SPENT CONVICTIONS: WHAT TO KNOW

INCLUDED IN THIS FACT SHEET ARE:

What is a spent conviction?

How do convictions become spent?

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- 2 Spent after the conviction period
- 3 Spent when ordered by a Magistrate

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WHAT IS A SPENT CONVICTION?

When you plead guilty or you are found guilty at court, the court can record the finding of guilt **with or without conviction**.

You get a criminal record whether or not the Court has recorded a conviction.

Victoria's new Spent Conviction scheme means that now, some convictions may be considered 'spent', which means they will no longer appear on a criminal record check.

HOW DO CONVICTIONS BECOME SPENT?

1 Immediately (automatically spent)

From 1 December 2021, a conviction will be automatically and immediately spent on the day it is imposed at court if:

- The court did not record a conviction;
- The offence was committed when you were under 15;
- The conviction was a qualified finding of guilt in a special hearing;
- The only penalty was a fine imposed by a Children's Court;
- The conviction was an "infringement conviction", which means driving convictions handed out by infringement notices, like drink or drug driving and minor speeding offences

Note that if the sentence includes conditions, those conditions must be completed before the conviction will be spent.

For example: if you are sentenced to a six month good behaviour bond with the condition to be of good behaviour and write a letter of apology, the conviction will only be spent once you have completed the letter and stayed out of trouble for six months.

2 Spent after the conviction period

A conviction will be spent after a certain period if:

- A court records a conviction, and
- The conviction is not defined as a 'serious conviction'

The periods are:

- 10 years from the date of conviction for adults
- 5 years from the date of conviction for children between 15-18 and those under 21 at the time of sentencing: 5 years from the date of conviction

3 Spent when ordered by a Magistrate

- From 1 July 2022, you can apply for a conviction to become spent after the conviction period has passed where:
- You were a child or a young offender (under 21) at the time the conviction was imposed, or
- You were an adult at the time, and
 - No term of imprisonment was imposed for a serious violence or sexual offence, or
 - A term of no more than 5 years imprisonment was imposed for any other type of offence

WHAT ARE THE BENEFITS OF A CONVICTION BECOMING SPENT?

Once spent, a conviction will not appear on your criminal record.

You do not have to tell people about any spent convictions and people cannot ask you to tell them about any spent convictions you may have.

This means it cannot be used to exclude you from future opportunities.

WHAT ELSE SHOULD I BE AWARE OF?

Spent convictions still involve an acceptance of responsibility and a finding of guilt.

If you are given a penalty that involves conditions, you have to complete those conditions before the conviction will be spent.

There are a number of situations where a spent conviction will still be disclosed, for example:

- If you have to go to court again, spent convictions will form part of the record the police and court will look at;
- If you apply for a Working With Children's Check;
- If you apply for a firearms license;
- If you want to work in certain jobs that require your criminal record for employment or accreditation, for example, as a teacher, police officer or lawyer

MORE INFORMATION

To understand more, please see:

- Victoria Legal Aid: <https://www.legalaid.vic.gov.au/find-legal-answers/going-to-court-for-criminal-charge/possible-outcomes-for-criminal-offences/criminal-records>
- Department of Justice: <https://www.justice.vic.gov.au/spent-conviction-scheme>

Visit our website: www.youthlaw.asn.au

Chat to us: 03 9113 9500

Email your questions: legal@youthlaw.asn.au

YOUTHLAW

Young Peoples Legal Rights Centre

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