



**An Bille um Cheartas Coiriúil (Tréimhsí
Athshlánúcháin), 2018**
Criminal Justice (Rehabilitative Periods) Bill 2018

Meabhrán Míitheach
Explanatory Memorandum



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EXPLANATORY MEMORANDUM

Background

The primary intention of the Bill is to amend the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 to provide for broader and fairer access to spent convictions.

A spent conviction, sometimes referred to as an expungement, is a conviction that, when it meets certain criteria, does not legally have to be disclosed in certain circumstances, e.g. when you are applying to return to education, for a new job or to be Garda vetted.

The need for a spent conviction regime is rooted in the principles of rehabilitative justice and the generally accepted acknowledgement that, after a certain period of a time, individuals deserve a ‘second chance’ and the opportunity to move on without the inevitable negative effect involved in disclosing a criminal conviction, especially for young people where a criminal conviction can have a disproportionate impact on life prospects. It is commonly accepted that society benefits hugely from the reintegration and rehabilitation of those with a conviction by reducing recidivism and a spent convictions regime should have these principles at its core.

Ireland has had a form of spent convictions since the passage of the Act of 2016 but it is limited, both in practice and comparatively with other European countries. The maximum length of a custodial sentence that can become spent is 12 months or less and for a non-custodial sentence the upper limit is 24 months or less. The Act also places a limit so that only one conviction can ever become spent. The Act also sets the rehabilitative period after which a conviction becomes spent at a blanket 7 years, without distinction as to the nature of the sentence and with no proportionality between the length of the sentence and the following rehabilitative period. The Act also contains no recognition of the disproportionate impact of a conviction on the prospects on a young person and their resulting additional rehabilitative needs.

The Bill makes four substantive amendments to the Act of 2016:

- It extends sentences eligible to be spent from 12 months to 24 months for custodial sentences and from 24 months to 48 months for non-custodial sentences.
- It raises the limit on the number of convictions eligible to be spent from one to two.

- It introduces the principle of proportionality to the relationship between the length of the sentence and the length of the rehabilitative period before the conviction becomes spent.
- In recognition of the specific rehabilitative needs of young people, adults between the ages of 18 and 24 are given an additional opportunity for a spent conviction and would face proportionally shorter rehabilitative periods before their convictions are spent.

Provisions of the Bill

Section 1 sets out the interpretations for the bill.

Section 2 would allow for the Act of 2016 (as amended) to be reviewed by the Minister of Justice and Equality after two years following the commencement of the new provisions and for the findings and conclusions of that review to be laid before the Houses of the Oireachtas.

Section 3 is a standard short title, collective citation and commencement provision.

Section 4 amends Section 4 of the Act of 2016 to extend eligible custodial sentences to be spent from 12 months to 24 months and from 24 months to 48 months for non-custodial sentences. It also defines the rehabilitative period between the date of conviction and when it becomes spent as the 'relevant period' for the purposes of the bill.

Section 5 amends the Act of 2016 by inserting new sections 4A and 4B. Section 4A provides for the relevant periods that will apply to custodial and non-custodial sentences for young adults and the general regime as being set out in the rehabilitative period matrix in the Schedule to the Bill. Section 4B provides that where an individual is convicted of a subsequent offence, the rehabilitative period that applies to the first crime will be extended to the end of the relevant period that applies to the subsequent conviction.

Section 6 amends Section 5 of the Act of 2016 to enable the use of the rehabilitative period matrix in the Schedule to the bill and increases the limit on the number of spent convictions from one to two for the general scheme and from one to three for young adults.

Section 7 makes consequential amendments to the National Vetting Bureau (Children and Vulnerable Persons) Act 2012 so the provisions can apply to the Garda vetting scheme in addition to the general spent convictions regime.

The *Schedule* to the bill sets out two rehabilitative period matrices for custodial and non-custodial sentences where the rehabilitative period for a conviction is made proportional to the length of the sentence and a distinction is made with generally shorter periods for young adults.

Senators Lynn Ruane, Frances Black, Collette Kelleher, John G. Dolan, Alice-Mary Higgins and Grace O'Sullivan,

Nollaig, 2018.