



Spent Conviction Orders at the time of sentencing

This fact sheet has information on what a Spent Conviction Order at the time of sentencing is, what you need to show the court, how you can show the court these things, and how Legal Aid WA can help.

What is a Spent Conviction Order at the time of sentencing?

A Spent Conviction Order at the time of sentencing is an order that the court may make to spend your conviction immediately.

This means that generally, you do not have to tell anyone about your conviction, even where a criminal conviction must normally be disclosed.

However, there are times when you have to disclose your criminal conviction even if it is spent, for example, if you are working with children, for police or in prisons.

A Spent Conviction Order is separate to the punishment ordered against you for the offence.

For example, the court may order that you pay a fine as a penalty for a shoplifting offence, and also make a Spent Conviction Order.

Whether you get a Spent Conviction Order will depend on a lot of different things. This includes your personal circumstances, the type of offence, the penalty you receive and your previous criminal history.

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What do you need to show the court?

What we tell you now applies only to State offences.

There are different rules and processes for Commonwealth convictions.

To get a Spent Conviction Order at the time of sentencing, you will need to show the court three main things.

1. That you are unlikely to commit an offence again,
2. That you will suffer an ‘immediate detriment’ if you are not given a Spent Conviction (for example, you will lose your job or be unable to get a job), and
3. That either you are a person of good character OR the offence was trivial. Trivial means that the offence was not very serious. Very few offences are considered trivial.

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How you can show the court these things?

Think about the reasons why you deserve a Spent Conviction Order.

Make sure that you have actually changed your behaviour for the better.

You can show the court that you have changed your behaviour by:

- » seeing a doctor or counsellor for any anger management, mental health, alcohol or drug issues you may have,
- » getting a job, or
- » making other positive changes in your life.

Written character references and letters are also very helpful.

For example: from your boss or a family friend that says you are a good person who made a mistake and will not get into trouble with the law again can help you persuade the court.

You can get more information on references in our video called “References for Court”.

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How can Legal Aid WA help?

A Legal Aid duty lawyer may be able to help you ask for a Spent Conviction Order at the Magistrates Court.

For more information, videos and self-help guides on spent convictions, see the Legal Aid WA website.