

**Association for Criminal Justice Research and  
Development (ACJRD)**

**Submission to:**

**The Department of Justice and Equality**

**Review of the Criminal Justice (Spent Convictions and Certain  
Disclosures) Act 2016**

*ACJRD seeks to promote reform, development and effective operation of the Criminal Justice System*

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## **1. Introduction**

- 1.1** The Association for Criminal Justice Research and Development (ACJRD) is a nongovernmental, voluntary organisation which seeks to promote reform, development, and effective operation of the criminal justice system. It does so mainly by providing a forum where experienced personnel can discuss ways of working in an informal setting, by promoting study and research in the field of criminal justice and by promoting the highest standards of practice by professionals associated with criminal justice. ACJRD informs the development of policy and practice in justice.
- 1.2** The ACJRD's membership is varied but is largely comprised of individuals who have experience working within the criminal justice system and who have a strong interest in criminological matters. These include legal practitioners, academics, Criminal Justice Agencies and NGOs.
- 1.3** The ACJRD's approach and expertise is therefore informed by the 'hands on' expertise of practitioners, academics and agencies who deal with various aspects of the criminal justice system enhanced by the contribution of people with diverse experiences, understandings and practices.
- 1.4** However, the views expressed in this submission are those of ACJRD in its independent capacity and are not those of individual ACJRD members or member organisations or agencies or their employees.
- 1.5** The ACJRD welcomes this opportunity to make a submission to the Department of Justice and Equality ("the Department") in relation to the review of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016 ("the 2016 Act"). The purpose of this submission is to provide a summary of the ACJRD's views regarding the limitations of the 2016 Act, as well as a response to the proposed changes to the spent convictions regime set out in the Criminal Justice (Rehabilitative Periods) Bill 2018 introduced to the Seanad in December 2018 by Senator Lynn Ruane ("the 2018 Bill").
- 1.6** The Department, in its Public Consultation document, identifies four "recognised examples of the 2016 Act's limitations."<sup>1</sup> This submission will begin with an executive summary of the ACJRD's recommendations, followed by a brief overview of the benefits associated with allowing certain convictions to become spent. It will then examine each of the four limitations in turn.

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<sup>1</sup> Department of Justice and Equality, 'Review of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016' available at <[www.justice.ie/en/JELR/Review\\_of\\_the\\_Criminal\\_Justice\\_Act\\_2016-Spent\\_Convictions.pdf/Files/Review\\_of\\_the\\_Criminal\\_Justice\\_Act\\_2016-Spent\\_Convictions.pdf](http://www.justice.ie/en/JELR/Review_of_the_Criminal_Justice_Act_2016-Spent_Convictions.pdf/Files/Review_of_the_Criminal_Justice_Act_2016-Spent_Convictions.pdf)> accessed 31 October 2020.

## **2. Executive Summary**

The ACJRD supports the proposed amendments to the 2016 Act contained in the 2018 Bill, and considers that their enactment would enhance the existing spent convictions regime and further promote the goal of rehabilitation within the criminal justice system. The Bill's recognition of the specific rehabilitative needs of young people is particularly welcome.

The ACJRD submits that consideration should be given to further extending the scope of the existing legislation by revising the 2018 Bill in the specific areas set out below. The ACJRD's recommendations are based on a review of the legislation on spent convictions in other jurisdictions, in particular England and Wales, as well as academic commentary on the limitations of the 2016 Act.

With regard to each of the limitations of and proposed amendments to the 2016 Act set out in the Department's Consultation Paper, the ACJRD responds as follows:

**Issue 1 - Restricted Applicability:** The ACJRD supports an extension of the maximum length of sentences eligible to be spent, and recommends that consideration be given to extending the upper limit for custodial sentences to 48 months, in line with neighbouring jurisdictions. The ACJRD also suggests that consideration be given to introducing a process whereby an individual who has received a custodial sentence of more than 48 months may apply for their conviction to become spent, subject to an independent review and on a case-by-case basis.

**Issue 2 – Limited to Only One Conviction:** The ACJRD supports an increase to the number of convictions that may become spent under the legislation, and recommends that consideration be given to removing any limitation on the number of offences per person which may become spent.

**Issue 3 – Lack of Proportionality:** The ACJRD agrees that the existing legislation should be amended to provide for a degree of proportionality between the seriousness of the conviction and the length of the rehabilitation period required, and supports the amendments proposed under the 2018 Bill in this regard.

**Issue 4 – Lack of Recognition of Youth Justice Issues:** The ACJRD welcomes and supports the provisions of the 2018 Bill that make specific provision for young people, and recommends that these provisions should be extended to all persons who have not yet reached the age of 25 years, in line with the definition of a 'young person' in the National Policy Framework for Children and Young People 2014-2020.

### **3. Importance of Legislation on Spent Convictions**

**3.1** The ACJRD has previously highlighted that the essential purposes of the criminal justice system include resolving offending behaviour in a constructive manner, reducing reoffending, and ensuring that the interaction of offenders with the criminal justice system is positive and rehabilitative.<sup>2</sup> Requirements to disclose all previous convictions, however minor and however much time has passed since the commission of the offence, can have a serious negative impact on individuals in a range of areas, including access to employment, training, housing, and insurance.<sup>3</sup> Therefore, the ACJRD believes that a spent convictions regime makes a significant contribution to the goal of rehabilitation by allowing people to move on from previous criminal convictions.

**3.2** The ACJRD submits that a well-designed spent convictions regime can benefit both the individual and wider society, including by promoting fairness, reducing recidivism and allowing individuals to reach their full potential.

**3.3** While the introduction of the 2016 Act was a welcome development as the first legislative provision for spent convictions in relation to adult ex-offenders in Ireland, the ACJRD agrees that the Act contains significant limitations, and that the existing spent convictions regime should be expanded in order to better serve the goals and principles outlined above.

**3.4** In particular, the ACJRD submits that amendments to the existing legislation should address the specific needs of young people and the disproportionate impact of disclosure of convictions on their prospects. While Section 258 of the Children Act 2001 provides that most offences committed by a person before they have attained the age of 18 years may become spent after three years have passed since the conviction, specific provision should also be made for situations where the offences in question were committed by young persons under the age of 25 years.

**3.5** Ireland's spent convictions regime engages its obligations under the European Convention on Human Rights (ECHR). In *M.M. v United Kingdom*, in the context of a police vetting system in Northern Ireland, the European Court of Human Rights accepted that the data contained in a person's criminal record may become part of their private life for the purposes of Article 8 ECHR.<sup>4</sup> In *T & Anor v Secretary of State for the Home Department*,

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<sup>2</sup> ACJRD, 'Submission to the Department of Justice and Equality on the Criminal Justice System Strategy' available at <[www.acjrd.ie/files/ACJRD\\_Submission\\_on\\_Criminal\\_Justice\\_System\\_Strategy\\_-\\_August\\_2020.pdf](http://www.acjrd.ie/files/ACJRD_Submission_on_Criminal_Justice_System_Strategy_-_August_2020.pdf)> accessed 31 October 2020.

<sup>3</sup> T.J. McIntyre & Ian O'Donnell, 'Criminals, data protection and the right to a second chance' (2017) 58 *Irish Jurist* 27-55; Michael O'Flaherty, 'Bill aims to wipe the slate clean on certain convictions' *Irish Times* (6 July 2015), available at <[www.irishtimes.com/news/crime-and-law/bill-aims-to-wipe-the-slate-clean-on-certain-convictions-1.2272447](http://www.irishtimes.com/news/crime-and-law/bill-aims-to-wipe-the-slate-clean-on-certain-convictions-1.2272447)> accessed 31 October 2020.

<sup>4</sup> *M.M. v United Kingdom*, App no 24029/07 (ECtHR, 13 November 2012), para 188.

the UK Supreme Court extended this reasoning to the disclosure of criminal records in the context of private employment relations.<sup>5</sup>

**3.6** The following sections will address the specific limitations of the 2016 Act as set out in the Department's Consultation Paper and the ways in which the 2018 Bill seeks to address them.

#### **4. Restricted Applicability**

**4.1** Under Section 4 of the 2016 Act, a conviction can only become spent where it resulted in a custodial sentence of twelve months or less or a non-custodial sentence of twenty-four months or less. A conviction can never be considered spent if the sentence imposed exceeded these maximum lengths.

**4.2** A comparison with other jurisdictions suggests that the strict upper limit currently applied under the 2016 Act is unduly limiting:

**4.2.1** England and Wales: Under the Rehabilitation of Offenders Act 1974 as amended, convictions imposing a non-custodial sentence or a custodial sentence of a maximum of 48 months can become spent.

**4.2.2** Scotland: under the Management of Offenders (Scotland) Act 2019 (Part 2), which comes into effect on 30<sup>th</sup> November 2020, convictions imposing a custodial sentence of a maximum of 48 months can become spent (an increase from the previous upper limit of 30 months). In addition, in the case of custodial sentences of over 48 months, it is intended to introduce a process enabling a person to apply for a review of their conviction, allowing for a determination as to whether or not the conviction should become spent.

**4.2.3** Northern Ireland: under the Rehabilitation of Offenders (Northern Ireland) Order 1978, convictions imposing a custodial sentence of a maximum of 30 months can become spent.

**4.2.4** Australia: under the Commonwealth legislation, a custodial sentence of a maximum of 30 months can become spent. However, there is a degree of variation between states in Australia as to how the legislation operates.<sup>6</sup>

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<sup>5</sup> *R (on the application of T & Anor) v Secretary of State for the Home Department & Anor* [2014] UKSC 35.

<sup>6</sup> Australian Federal Police, 'Spent Convictions Scheme' available at <[www.afp.gov.au/what-we-do/services/criminal-records/spent-convictions-scheme](http://www.afp.gov.au/what-we-do/services/criminal-records/spent-convictions-scheme)> accessed 31 October 2020; Department of Justice and Equality, 'Research papers on spent convictions' (October 2020), available at <[www.justice.ie/en/JELR/Spent\\_Convictions\\_Research\\_Report.pdf/Files/Spent\\_Convictions\\_Research\\_Report.pdf](http://www.justice.ie/en/JELR/Spent_Convictions_Research_Report.pdf/Files/Spent_Convictions_Research_Report.pdf)> accessed 31 October 2020, 16.

**4.2.5** New Zealand: under the Clean Slates Scheme, a custodial sentence can never become spent.<sup>7</sup> This Scheme is therefore more restrictive as to the eligibility of offences than the current Irish regime.

**4.2.6** Rest of Europe: as noted in the Department's research paper, in most civil law jurisdictions an individual's criminal record is considered confidential and the information is not normally revealed to a prospective employer, unless there is a specific law authorising such disclosure.<sup>8</sup>

**4.3** Section 3 of the 2018 Bill proposes to extend the maximum length of sentences eligible to be spent to 24 months in the case of a custodial sentence, and to 4 years in the case of non-custodial sentences. The ACJRD supports an extension of the maximum length of sentences eligible to be spent, and recommends that consideration be given to extending the upper limit for custodial sentences to 48 months, in line with neighbouring jurisdictions. The upper limit of 48 months which currently applies in England and Wales as well as in Scotland would appear to be a reasonable one.

**4.4** The ACJRD also suggests that consideration be given to introducing a process whereby an individual who has received a custodial sentence of more than 48 months may apply for their conviction to become spent, subject to an independent review and on a case-by-case basis. Such a process could provide an appropriate degree of flexibility to the spent convictions regime, as opposed to applying a strict maximum limit in all cases.

## **5. Limited to Only One Conviction**

**5.1** Under Section 5(3) of the 2016 Act, no more than one conviction may be regarded as a spent conviction. Section 5(5) provides that this limitation does not apply to sentences imposed by the District Court on a person under the Road Traffic Acts (with the exception of the offence of dangerous driving) as well as for minor public order offences.

**5.2** This 'Single Conviction Rule' has been described as an arbitrary cut-off, which is likely to exclude a large number of former offenders from the remit of the Spent Convictions regime.<sup>9</sup> It has also been criticised for failing to give consideration to individual circumstances and contexts.<sup>10</sup> Witnesses to the Oireachtas Joint Committee on Justice and Equality indicated that two or more convictions for separate offences may not necessarily indicate a propensity for offending, but rather reflect a set of factors that contribute to offending such as immaturity, poverty, mental health issues, homelessness,

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<sup>7</sup> Criminal Records (Clean Slate) Act 2004, Section 7(1).

<sup>8</sup> Department of Justice and Equality (n 6) 20. See also Elena Larrauri Pijoan, 'Criminal record disclosure and the right to privacy' (2014) 10 *Criminal Law Review* 723-737, 726.

<sup>9</sup> McIntyre & O'Donnell (n 3) 33.

<sup>10</sup> O'Flaherty (n 3).

addictions, and experience of violence or domestic abuse.<sup>11</sup> The Irish Human Rights Commission, in the context of the Spent Convictions Bill 2012, queried the rationale for restricting the number of convictions that could be considered spent, and considered such a limitation to be disproportionate to the aim of the Bill.<sup>12</sup>

**5.3** In other common law jurisdictions including England and Wales, Australia and New Zealand, spent convictions legislation is applicable to multiple offences.<sup>13</sup>

**5.4** The ACJRD notes the recent decision of the UK Supreme Court in *P & Others v Secretary of State for the Home Department*, a case concerning the disclosure of the respondents' criminal records to potential employers. In that case, the Court described a 'multiple conviction rule' which required disclosure where a person had more than one conviction of whatever nature as "perverse", and noted that since the rule applied "irrespective of the nature of the offences, of their similarity, of the number of occasions involved or of the intervals of time separating them", it was "incapable of indicating a [criminal] propensity."<sup>14</sup> It was therefore held that the rule was neither necessary nor proportionate.

**5.5** Under Section 6(b) of the 2018 Bill, the number of convictions that may become spent in the case of a person aged 24 or over would be increased from one to two.

**5.6** The ACJRD supports an increase to the number of convictions that may become spent under the legislation, and recommends that consideration be given to removing any limitation on the number of offences per person which may become spent. Where a person has successfully become rehabilitated and moved past a period of criminality that may have resulted in multiple convictions, the ACJRD submits that they should be in a position to avail of the legislation. The ACJRD also notes that the current legislation does not impose any limit on the number of minor motoring and public order offences that are eligible to become spent.

## **6. Lack of Proportionality**

**6.1** Section 5 of the 2016 Act sets a uniform rehabilitation period of seven years from the date of conviction before a sentence may become spent. This seven-year period applies regardless of the level of severity of the conviction or the nature and length of the sentence imposed.

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<sup>11</sup> Joint Committee on Justice and Equality, 'Report on Spent Convictions' (October 2019) available at <[https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2019/2019-10-22\\_report-on-spent-convictions\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2019/2019-10-22_report-on-spent-convictions_en.pdf)> accessed 31 October 2020.

<sup>12</sup> Irish Human Rights Commission, 'Observations on the Spent Convictions Bill 2012' (June 2012) available at <[www.ihrec.ie/download/pdf/ihrc\\_observations\\_on\\_spent\\_conviction\\_bill\\_2012\\_june\\_2012.pdf](http://www.ihrec.ie/download/pdf/ihrc_observations_on_spent_conviction_bill_2012_june_2012.pdf)> accessed 31 October 2020.

<sup>13</sup> Department of Justice and Equality (n 6) 6.

<sup>14</sup> *R (on the application of P, G and W) v Secretary of State for the Home Department and another* [2019] UKSC 3, para 63.

**6.2** The blanket approach adopted in Ireland under the 2016 Act contrasts with the more modulated system that applies under the equivalent English regime. The English legislation provides for a variety of different rehabilitation periods according to the nature and length of the sentence imposed, up to a maximum of seven years from the date on which the sentence is completed.<sup>15</sup>

**6.3** If adopted, the 2018 Bill would introduce a similar system of varying rehabilitation periods, with the duration determined according to the severity of the sentence imposed and whether it was custodial or non-custodial.<sup>16</sup> It also provides for shorter rehabilitation periods for young people between the ages of 18 and 24, thus taking into account the specific rehabilitative needs of young people.

**6.4** The ACJRD agrees that the existing legislation should be amended to provide for a degree of proportionality between the seriousness of the conviction and the length of the rehabilitation period required, and supports the amendments proposed under the 2018 Bill in this regard.

## **7. Lack of Recognition of Youth Justice Issues**

**7.1** The 2016 Act makes no specific provision for young people within the criminal justice system, and does not recognise the disproportionate impact that requirements to disclose previous convictions may have on them. In a previous submission to the Department, the ACJRD has highlighted the particular needs of young people who come into contact with the criminal justice system.<sup>17</sup>

**7.2** The incidence of poverty, homelessness or accommodation instability and inadequate community supports/resources increases the likelihood of children and young people experiencing stress and lack of enriching environment which may adversely affect their development on many levels.<sup>18</sup> Exploring brain science and recidivism literature offers evidence “why every effort needs to be undertaken to support de-labelling processes for persons who have come into trouble with the law while young.”<sup>19</sup>

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<sup>15</sup> Rehabilitation of Offenders Act 1974 (as amended), Section 5.

<sup>16</sup> Criminal Justice (Rehabilitative Periods) Bill 2018, Section 5 & Schedule 3.

<sup>17</sup> ACJRD, ‘Submission to the Department of Justice and Equality on the Draft Youth Justice Strategy 2020-2026’ (June 2020) available at <[www.acjrd.ie/files/ACJRD\\_Submission\\_-\\_Draft\\_Youth\\_Justice\\_Strategy.pdf](http://www.acjrd.ie/files/ACJRD_Submission_-_Draft_Youth_Justice_Strategy.pdf)> accessed 31 October 2020.

<sup>18</sup> ACJRD Member. See also Health Services Executive, ‘Adolescent Addiction Service Report 2020’ (April 2020) available at <[www.drugsandalcohol.ie/31890/](http://www.drugsandalcohol.ie/31890/)> accessed 1 November 2020; Sebastián J. Lipina & Jorge A. Colombo, ‘Effects of Poverty on Development I: Health, Educational, and Psychometric Perspectives’ in S. J. Lipina & J.A. Colombo (eds), *Poverty and Brain Development During Childhood: An Approach from Cognitive Psychology and Neuroscience* (American Psychological Association 2009); Sebastián J. Lipina & Michael I. Posner, ‘The Impact of Poverty on the Development of Brain Networks’ (2002) 6 *Frontiers in Human Neuroscience* 238; Barry C. Feld, ‘Adolescent Criminal Responsibility, Proportionality, and Sentencing Policy: *Roper, Graham, Miller/Jackson*, and the Youth Discount’ (2013) 31 *Law & Inequality* 263.

<sup>19</sup> Department of Justice (n 6) 47.

**7.3** The amendments proposed under the 2018 Bill would allow these considerations to be taken into account. The Bill provides for shorter rehabilitation periods for persons who have not yet reached the age of 24 years at the time the offence was committed.<sup>20</sup> It further provides that up to three convictions may be regarded as spent convictions in respect of a person who has not yet reached the age of 24 years, as opposed to a maximum of two convictions for a person aged 24 and over.<sup>21</sup>

**7.4** The ACJRD welcomes and supports the above provisions of the 2018 Bill that make specific provision for young people. It is noted that the National Policy Framework for Children and Young People 2014-2020<sup>22</sup> defines a ‘young person’ as any person under 25 years of age<sup>23</sup>, and the ACJRD recommends that the specific provisions for young people under the 2018 Bill should be extended to all persons who have not yet reached the age of 25 years, in line with this definition.

## **8. Conclusion**

**8.1** The ACJRD considers that the existing spent convictions regime is relatively restrictive by international standards, and supports the proposal for the 2016 Act to be amended with a view to expanding the range of convictions that are open to becoming spent and to providing a greater degree of proportionality in its application, particularly as it relates to young people. Therefore, the ACJRD welcomes the amendments proposed under the 2018 Bill as a means to promote the goal of rehabilitation within the criminal justice system.

**8.2** The ACJRD supports each of the four substantive amendments to the 2016 Act set out in the Department’s consultation paper. The ACJRD recommends that consideration be given to revising some provisions of the 2018 Bill with a view to further extending the spent convictions regime, as follows:

- Extension of the upper length of custodial sentences eligible to become spent to 48 months, in line with current legislation in England and Wales and in Scotland;
- Introduction of a process whereby ex-offenders who have received custodial sentences of more than 48 months may apply for their conviction to become spent, subject to an independent review and on a case-by-case basis.

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<sup>20</sup> 2018 Bill (n 16) Section 5 & Schedule 3.

<sup>21</sup> *ibid* s.6.

<sup>22</sup> Department of Children, Equality, Disability, Integration and Youth, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and young People, 2014-2020* available at <<https://assets.gov.ie/23796/961bbf5d975f4c88adc01a6fc5b4a7c4.pdf>> accessed 1 November 2020.

<sup>23</sup> Irish Penal Reform Trust, ‘IPRT Briefing on Criminal Justice (Rehabilitative Periods) Bill 2018’ (7 February 2019) available at <[www.iprt.ie/site/assets/files/6488/iprt\\_briefing\\_on\\_cj\\_rehabilitative\\_periods\\_bill\\_2018\\_pmb.pdf](http://www.iprt.ie/site/assets/files/6488/iprt_briefing_on_cj_rehabilitative_periods_bill_2018_pmb.pdf)> accessed 1 November 2020.

- Removal of any limitation on the number of offences per person which may become spent.
- Extension of the specific provisions relating to young people to include all persons who have not yet reached the age of 25 years, in line with the definition of a 'young person' in the National Policy Framework for Children and Young People 2014-2020.

**8.3** The ACJRD considers that an expansion of the existing spent convictions regime will further promote rehabilitation, enhancing the life prospects of individuals who have successfully moved on from a period of criminality, and benefiting society as a whole by reducing recidivism and allowing ex-offenders to achieve their full potential.

## **BIBLIOGRAPHY**

ACJRD Members

### **Books and Texts**

Association for Criminal Justice Reform and Development, 'Submission to the Department of Justice and Equality on the Criminal Justice System Strategy' available at <[www.acjrd.ie/files/ACJRD\\_Submission\\_on\\_Criminal\\_Justice\\_System\\_Strategy\\_-\\_August\\_2020.pdf](http://www.acjrd.ie/files/ACJRD_Submission_on_Criminal_Justice_System_Strategy_-_August_2020.pdf)> accessed 31 October 2020

Association for Criminal Justice Reform and Development, 'Submission to the Department of Justice and Equality on the Draft Youth Justice Strategy 2020-2026' (June 2020) available at <[www.acjrd.ie/files/ACJRD\\_Submission\\_-\\_Draft\\_Youth\\_Justice\\_Strategy.pdf](http://www.acjrd.ie/files/ACJRD_Submission_-_Draft_Youth_Justice_Strategy.pdf)> accessed 31 October 2020

Australian Federal Police, 'Spent Convictions Scheme' available at <[www.afp.gov.au/what-we-do/services/criminal-records/spent-convictions-scheme](http://www.afp.gov.au/what-we-do/services/criminal-records/spent-convictions-scheme)> accessed 31 October 2020

Department of Children, Equality, Disability, Integration and Youth, *Better Outcomes, Brighter Futures: The National Policy Framework for Children and young People, 2014-2020* available at <<https://assets.gov.ie/23796/961bbf5d975f4c88adc01a6fc5b4a7c4.pdf>> accessed 1 November 2020

Department of Justice and Equality, 'Review of the Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016' available at <[www.justice.ie/en/JELR/Review\\_of\\_the\\_Criminal\\_Justice\\_Act\\_2016-Spent\\_Convictions.pdf/Files/Review\\_of\\_the\\_Criminal\\_Justice\\_Act\\_2016-Spent\\_Convictions.pdf](http://www.justice.ie/en/JELR/Review_of_the_Criminal_Justice_Act_2016-Spent_Convictions.pdf/Files/Review_of_the_Criminal_Justice_Act_2016-Spent_Convictions.pdf)> accessed 31 October 2020

Department of Justice and Equality, 'Research papers on spent convictions' (October 2020), available at

<[www.justice.ie/en/JELR/Spent\\_Convictions\\_Research\\_Report.pdf/Files/Spent\\_Convictions\\_Research\\_Report.pdf](http://www.justice.ie/en/JELR/Spent_Convictions_Research_Report.pdf/Files/Spent_Convictions_Research_Report.pdf)> accessed 31 October 2020

Feld, Barry C., 'Adolescent Criminal Responsibility, Proportionality, and Sentencing Policy: *Roper, Graham, Miller/Jackson*, and the Youth Discount' (2013) 31 *Law & Inequality* 263  
Health Services Executive, 'Adolescent Addiction Service Report 2020' (April 2020) available at <[www.drugsandalcohol.ie/31890/](http://www.drugsandalcohol.ie/31890/)> accessed 1 November 2020

Homes, Matthew, 'As Crimes Go By' (July 2016) *Law Society Gazette* available at <[www.lawsociety.ie/globalassets/documents/gazette/gazette-pdfs/gazette-2016/july-16-gazette.pdf#page=25](http://www.lawsociety.ie/globalassets/documents/gazette/gazette-pdfs/gazette-2016/july-16-gazette.pdf#page=25)> accessed 1 November 2020.

Irish Human Rights Commission, 'Observations on the Spent Convictions Bill 2012' (June 2012) available at <[www.ihrec.ie/download/pdf/ihrc\\_observations\\_on\\_spent\\_conviction\\_bill\\_2012\\_june\\_2012.pdf](http://www.ihrec.ie/download/pdf/ihrc_observations_on_spent_conviction_bill_2012_june_2012.pdf)> accessed 31 October 2020

Irish Penal Reform Trust, 'IPRT Briefing on Criminal Justice (Rehabilitative Periods) Bill 2018' (7 February 2019) available at <[www.iprt.ie/site/assets/files/6488/iprt\\_briefing\\_on\\_cj\\_rehabilitative\\_periods\\_bill\\_2018\\_pmb.pdf](http://www.iprt.ie/site/assets/files/6488/iprt_briefing_on_cj_rehabilitative_periods_bill_2018_pmb.pdf)> accessed 1 November 2020

Irish Penal Reform Trust, 'Scotland: Criminal Record Disclosure Reforms' (20 October 2020) available at <[www.iprt.ie/spent-convictions/scotland-criminal-record-disclosure-reforms/](http://www.iprt.ie/spent-convictions/scotland-criminal-record-disclosure-reforms/)> accessed 1 November 2020

Joint Committee on Justice and Equality, 'Report on Spent Convictions' (October 2019) available at <[https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint\\_committee\\_on\\_justice\\_and\\_equality/reports/2019/2019-10-22\\_report-on-spent-convictions\\_en.pdf](https://data.oireachtas.ie/ie/oireachtas/committee/dail/32/joint_committee_on_justice_and_equality/reports/2019/2019-10-22_report-on-spent-convictions_en.pdf)> accessed 31 October 2020

Larrauri Pijoan, Elena, 'Criminal record disclosure and the right to privacy' (2014) 10 *Criminal Law Review* 723-737

Lipina, Sebastian J. & Colombo, Jorge A., 'Effects of Poverty on Development I: Health, Educational, and Psychometric Perspectives' in S.J. Lipina & J.A. Colombo (eds), *Poverty and Brain Development During Childhood: An Approach from Cognitive Psychology and Neuroscience* (American Psychological Association 2009)

Lipina, Sebastian J. & Posner, Michael I., 'The Impact of Poverty on the Development of Brain Networks' (2002) 6 *Frontiers in Human Neuroscience* 238

McIntyre, T. J. & O'Donnell, Ian, 'Criminals, data protection and the right to a second chance' (2017) 58 *Irish Jurist* 27-55.

O'Flaherty, Michael, 'Bill aims to wipe the slate clean on certain convictions' *Irish Times* (6 July 2015), available at <[www.irishtimes.com/news/crime-and-law/bill-aims-to-wipe-the-slate-clean-on-certain-convictions-1.2272447](http://www.irishtimes.com/news/crime-and-law/bill-aims-to-wipe-the-slate-clean-on-certain-convictions-1.2272447)> accessed 31 October 2020.

## **Case Law**

*Director of Public Prosecutions v Petrovici* [2018] IEHC 734

*M.M. v United Kingdom*, App no 24029/07 (ECtHR, 13 November 2012)

*R (on the application of P, G and W) v Secretary of State for the Home Department and another* [2019] UKSC 3

*R (on the application of T & Anor) v Secretary of State for the Home Department & Anor* [2014] UKSC 35

## **Legislation**

### **England and Wales**

Rehabilitation of Offenders Act 1974 (as amended)

### **Ireland**

Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016

Criminal Justice (Rehabilitative Periods) Bill 2018

### **New Zealand**

Criminal Records (Clean Slate) Act 2004

### **Northern Ireland**

Rehabilitation of Offenders (Northern Ireland) Order 1978

### **Scotland**

Management of Offenders (Scotland) Act 2019 (Part 2)