

**Spent convictions for juvenile offenders**

**Report 42**

**NSW Government Response**

## **NSW Government response to the Legislative Council Standing Committee on Law and Justice Inquiry 'Spent convictions for juvenile offenders'**

*On 12 November 2009 the then Attorney General and Minister for Justice, the Hon John Hatzistergos MLC referred the following terms of reference to the Standing Committee on Law and Justice (the Committee):*

That the Standing Committee on Law and Justice inquire into and report on:

*"Whether sex offenders' convictions should be capable of being spent under the Criminal Records Act 1991, or should they only become spent in limited circumstances, for example where:*

- (a) the offence was committed as a juvenile,*
- (b) there was a finding of fact that the sex was consensual,*
- (c) the offences were minor sex offences, or*
- (d) no conviction was recorded."*

The impetus for the referral was to inform the NSW Government's approach to the Model Spent Convictions Bill (**the Model Bill**) developed by the Standing Committee of Attorneys General, which requires each jurisdiction to make a decision on whether convictions for sexual offences should be capable of becoming spent.

The Committee received submissions from 22 stakeholder organisations and private citizens, and heard evidence from a number of witnesses over two days of public hearings at Parliament House. The Committee published Report 42 *Spent Convictions for juvenile offenders* on 6 July 2010, which included nine recommendations.

*On 13 October 2011 the Legislative Council resolved that the NSW Government Response to the Committee's Report be tabled by 12 December 2011.*

The NSW Government notes that the issues raised by the Committee are complex. The need to protect the community from the risk of sexual offending must be balanced against the community interest in rehabilitating past offenders to reduce re-offending.

The NSW Government in principle supports the Committee's recommendation that sexual offences committed by juveniles should be able to become spent in certain circumstances, however has not yet determined its preferred mechanism by which those offences should become spent. The NSW Government does not consider at this time that there are persuasive arguments in favour of spending convictions for sexual offences committed by adults.

The NSW Government will give further consideration to the recommendations contained in the Report, and where appropriate, will undertake further consultation with relevant agencies, before determining its final position on the recommendations.