



Criminal Records (Clean Slate) (Additional Eligibility) Amendment Bill

**Submissions on behalf of
The Law Association of New Zealand
by the Criminal Law Committee**

3 September 2026

INTRODUCTION

The Law Association of New Zealand (The Law Association) is an independent membership organisation for the New Zealand legal profession with more than 11,000 members. The Law Association maintains expert law committees that support legal review and policy advocacy on important issues.

The Criminal Law Committee of The Law Association (the “Committee”) consists of criminal law practitioners from across New Zealand who regularly appear in the District Court, High Court, Court of Appeal, Youth Court and specialist criminal jurisdictions. We appreciate the opportunity to submit our comments on the Criminal Records (Clean Slate) (Additional Eligibility) Amendment Bill (“the Bill”).

INTRODUCTION

1. The Criminal Records (Clean Slate) Act 2004 (the Act) was enacted in recognition that, for a defined class of offenders, the consequences of a criminal conviction should not necessarily follow an individual indefinitely. Its purpose is to limit the effect of historic convictions and thereby support the rehabilitation and reintegration of individuals who have demonstrated sustained law-abiding behaviour¹. It does so by conferring upon eligible individuals a right of non-disclosure and requiring their criminal records to be concealed by public authorities, subject to specified exceptions.²
2. The Criminal Records (Clean Slate) (Additional Eligibility) Amendment Bill proposes to extend eligibility to individuals who have received a custodial sentence of up to 12 months, or who have been subject to mandatory disqualification from driving for repeat offending, provided that they have subsequently completed a rehabilitation period of 10 years.³ At present, both categories are excluded from the clean slate scheme by s 7(1)(b) and (g) of the Act.

SUBMISSION

3. The Committee supports the objective of the Bill. In our view, it represents a principled, measured and overdue extension of the clean slate scheme. It recognises that rehabilitation should have practical consequences and that a relatively short custodial sentence imposed many years earlier should not, of itself, permanently prevent an otherwise eligible individual from moving beyond their criminal history.
4. In particular, the Committee submits that the Bill:

Rehabilitation and reintegration

- 4.1 Advances the rehabilitative and reintegrative purposes of the principal Act, the Sentencing Act 2002⁴, and the criminal justice system more generally.

¹ Section 3(1).

² Sections 14 and 16. Exceptions to the scheme under s 19

³ Criminal Records (Clean Slate) (Additional Eligibility) Amendment Bill 2026 (302-1), cl 5.

⁴ Section 7(1)(h).

4.2 Appropriately extends the clean slate scheme to individuals who, despite having received a short custodial sentence, have subsequently demonstrated sustained rehabilitation through at least 10 years of law-abiding behaviour.

4.2.1 The present blanket exclusion of any person who has received a custodial sentence, regardless of its length, creates an unnecessarily rigid distinction. A short sentence of imprisonment may continue to affect an individual decades after the sentence itself has been completed, irrespective of the seriousness of the original offending, the individual's subsequent conduct, or the extent of their rehabilitation.

4.2.2 The practical consequences of an historic conviction can be substantial. They are particularly significant in employment, where disclosure of a criminal record may prevent an individual from obtaining work commensurate with their skills and experience, restrict advancement, or in some circumstances prevent employment altogether. Those consequences may continue even where the offending is remote in time and bears little or no relationship to the employment sought.

4.2.3 In that way, an historic conviction can continue to impose social and economic consequences long after the sentence imposed by the Court has been completed. Where an individual has remained conviction-free for the prescribed rehabilitation period, the indefinite continuation of those consequences can become increasingly difficult to justify by reference to either punishment or public protection.

4.2.4 Stable employment, economic participation and social reintegration are themselves important protective factors against reoffending. Conversely, persistent social and economic exclusion may undermine rehabilitation and contribute to what has been described as a “vicious cycle of crime”.⁵ A clean slate regime should therefore facilitate, rather than unnecessarily impede, the reintegration of those who have demonstrated sustained law-abiding behaviour.

4.2.5 As the explanatory note recognises, the prospect of eventual eligibility for a clean slate can also provide a positive incentive for individuals to maintain law-abiding behaviour. The proposed 10-year rehabilitation period is substantial. It requires an individual to demonstrate rehabilitation over an extended period before becoming entitled to the benefit of the scheme.

Public protection remains preserved

4.3 Importantly, the Bill does not provide for indiscriminate concealment of criminal histories. The existing statutory safeguards and exclusions remain.

4.3.1 In particular, the public interest in disclosure of convictions for specified sexual offences continues to be protected by the exclusion of those offences under s 7(1)(d) of the Act.⁶ That exclusion applies irrespective of whether a comparatively short custodial sentence was imposed.

4.3.2 The Bill therefore strikes an appropriate balance. It expands eligibility for individuals who have demonstrated long-term rehabilitation while preserving the existing exclusions Parliament has considered necessary for public protection.

⁵ Australian Law Reform Commission *Spent Convictions* (ALRC Report 37, 1987) at [6].

⁶ Criminal Records (Clean Slate) Act, s 4, definition of “specified offences”.

4.3.3 Against that background, the Committee considers that the fact that an individual received a custodial sentence of up to 12 months should not, standing alone, result in permanent exclusion from the clean slate scheme.

Comparative jurisdictions

4.4 The Bill also modernises New Zealand's clean slate regime in a manner broadly consistent with developments in comparable common-law jurisdictions, including Australia and the United Kingdom.

4.4.1 In Australia⁷, depending upon the relevant State, Territory or Commonwealth regime, convictions resulting in custodial sentences of up to 6⁸, 12⁹, or 30 months¹⁰ may become spent following a rehabilitation period. For adult offenders, Australian jurisdictions generally apply a rehabilitation period of 10 years¹¹.

4.4.2 The position in England and Wales is more expansive. Under the Rehabilitation of Offenders Act 1974 (UK)¹², custodial sentences between one and four years may generally become spent four years after completion of the sentence, while custodial sentences of one year or less are generally subject to a one-year rehabilitation period¹³. Following more recent reforms, certain custodial sentences exceeding four years may also become spent after a seven-year rehabilitation period, subject to exclusions for specified serious offences¹⁴.

4.4.3 Viewed comparatively, the reform proposed by the Bill is modest. It retains a substantial 10-year rehabilitation period and extends eligibility only to custodial sentences of up to 12 months. Comparable jurisdictions have recognised that the imposition of imprisonment need not justify the permanent disclosure of a conviction where sufficient time has passed and rehabilitation has been demonstrated.

4.4.4 Those developments reflect an increasingly accepted distinction between the legitimate retention of criminal records by the State and the indefinite requirement that a rehabilitated individual disclose historic offending in ordinary social and economic life.

CONCLUSION

5. The Committee considers the Bill to be a principled and practically sensible reform. It advances the rehabilitative purpose of the clean slate regime, better reflects the principle of proportionality, and recognises that the consequences of offending should not necessarily continue indefinitely after the sentence has been served and rehabilitation has been demonstrated.

6. A person who has completed their sentence and subsequently remained law-abiding for at least 10 years has provided substantial evidence of rehabilitation. Subject to the important statutory exclusions that remain in place, there is little justification for a short custodial sentence imposed in the distant past to operate as a permanent barrier to employment, economic participation and full reintegration into society.

⁷ For a broader comparative perspective, see generally Moira Paterson "Criminal Records, Spent Convictions and Privacy: A Trans-Tasman Comparison" [2011] NZ L Rev 69.

⁸ Criminal Records Act 1991 (NSW); Criminal Records (Spent Convictions) Act 1992 (NT); Spent Convictions Act 2000 (ACT); and Annulled Convictions Act 2003 (Tas).

⁹ Spent Convictions Act 1988 (WA); and Spent Convictions Act 2009 (SA).

¹⁰ Crimes Act 1914 (Cth); Criminal Law (Rehabilitation of Offenders) Act 1986 (Qld); and Spent Convictions Act 2021 (Vic).

¹¹ All Australian jurisdictions correspond to a 10-year rehabilitation period for adult offenders.

¹² See generally Ministry of Justice "Guidance on the Rehabilitation of Offenders Act 1974 and the Exceptions Order 1975" (28 October 2023) GOV.UK <<https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974/guidance-on-the-rehabilitation-of-offenders-act-1974-and-the-exceptions-order-1975>>.

¹³ Changes to rehabilitation periods and custodial thresholds in the 1974 Act were made by the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (UK)

¹⁴ Further changes to rehabilitation periods, and the inclusion of certain custodial sentences of more than 4 years, in the 1974 Act were made by the Police, Crime, Sentencing and Courts Act 2022 (UK).

7. The Committee accordingly supports the objective of the Bill and its extension of the clean slate scheme to persons who have received custodial sentences of up to 12 months and to those affected by the existing mandatory-disqualification exclusion.

CONCLUSION

Thank you for the opportunity to make submissions in respect of Criminal Records (Clean Slate) (Additional Eligibility) Amendment Bill.

We are available to discuss our submissions, if required. Should clarification be required with regards to any matters raised, please contact Gandhya Senanayake, The Law Association Committee Executive at Gandhya.Senanayake@tlanz.nz.

ACKNOWLEDGMENTS

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Ngā mihi



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