



Australian Government

Attorney-General's Department

Working with children – criminal history checks

Safeguarding children from sexual, physical and other abuse is a key priority for all governments. That is why checking the criminal history of people who work or volunteer with children is important: it protects children from harm.

Each day, children in Australia attend organisations such as schools, childcare centres, religious congregations, sporting and recreation clubs.

The 'working with children' check is designed to assess whether staff or volunteers pose a risk to the safety of children.

Most Australian states and territories have laws requiring people who work with children to undergo a 'working with children' check. Currently, law enforcement agencies share criminal history information with child related employment screening units sourced from records held within the state or territory. However, there is only limited exchange of information on spent, quashed and pardoned convictions between jurisdictions.

In November 2008, the Council of Australian Governments (CO AG) decided to improve the exchange of criminal history information for people who work with children.

Changes to Commonwealth legislation

The Australian Government has recently changed the law to allow the disclosure of more of a person's criminal history. Before a person is allowed to work with children, agencies that conduct 'working with children checks' will now be able to take into account any pardoned,

quashed and spent conviction information for Commonwealth offences. Changes to state and territory laws will also allow greater consideration of state and territory conviction information.

Criminal history information is assessed by specially trained staff to decide whether the criminal history should prevent the person working with children. The information is also protected by privacy and record management laws.

Commonwealth spent, pardoned and quashed convictions explained

Convictions where a person was sentenced to a period of less than 30 months' imprisonment are considered to be 'spent' after the expiration of a certain waiting period, provided no further offences were committed during that time. This period is 10 years for adults and five years for a person who was a child at the time the offence was committed.

The Governor General has discretion to issue pardons for convictions. A pardon may be granted to a person where that person is found to have been wrongly convicted of the offence.

Convictions can be quashed by a court on appeal and order a new trial, for example where the court considers the original verdict was dangerous or unsafe.

For further information on the 'working with children checks' carried out by states and territories, visit:
<http://www.aifs.gov.au/nch/pubs/sheets/rs13/rs13.html>.