



# What is expungement and why is it necessary?

Expungement is the removal of a criminal record from the criminal record of a person who has previously been convicted of an offence. The effect of an expungement of a criminal record is that the conviction falls away and is deemed to have never occurred. Having a criminal record has many negative consequences and it can serve as an obstacle to finding employment, opening bank accounts and generally hampers the reintegration of persons, who have previously been convicted, back into their communities.

The purposes of the Child Justice Bill are, *inter alia*, to ensure that children who have come into conflict with the law are reintegrated into their communities, are prevented from committing further crimes and ensure that they become law-abiding citizens. In order to achieve this, the Bill provides for the expungement of a conviction and sentence imposed upon a child within specific time periods. However, such expungement only applies if the child has been convicted for schedule 1 or schedule 2 offences.

The Bill therefore does not provide for the expungement of records concerning serious offences contained in schedule 3 which, *inter alia*, include offences such as murder, rape, robbery with aggravating circumstances, kidnapping, fraud and offences relating to the dealing in or smuggling of ammunition, firearms, explosives or armaments.

The expungement of criminal records for child offenders is an important addition to the present system, as it will provide a light at the end of the tunnel for children (except those convicted of very serious offences) so that they may get on with their lives and not be forever stigmatised by actions committed as a child.

The exclusion of children convicted of schedule three offences from these provisions balances the needs of the child and the needs of society, to which the Bill is sensitive.

## *What the children said:*

Most children consulted in the drafting process of the Bill, especially those who previously had been through the criminal justice system, felt that children who had been convicted should have the record of the conviction removed after a certain period of time.

Somewhat less than half of the children consulted felt that a criminal record did deter a person from crime, as they knew they might go back to prison if caught again.

However, a similar proportion felt that a criminal record did not help prevent crime, as people with criminal records experienced problems with finding employment, opening bank accounts, and being granted credit. Such difficulties could lead them back to crime.