

Aboriginal groups call for new laws to allow community members to move on after offending

Aboriginal people in Victoria with a history of offending struggle to find work because an out-of-date legal system stands in their way, according to a coalition of Aboriginal and legal organisations.

Groups including the Victorian Aboriginal Legal Service, Koori Court elders and Law Institute Victoria have thrown their weight behind a push for reform that will be discussed at the Aboriginal Justice Forum in Swan Hill, Victoria, on Friday 27th October.

The coalition will argue that Victoria should catch up with the rest of Australia by introducing new laws to provide certainty and clarity about their records, and allow people with old and irrelevant criminal history a fair go at finding work and contributing to their community.

The coalition will be explaining the benefits of the reform and highlighting the support within the community for change, given the positive benefits expected for Aboriginal employment and economic participation, self-determination and Aboriginal healing.

In all other Australian states and territories, old and irrelevant criminal history becomes 'spent' and need not be disclosed to prospective employers after the person has been offence-free for a lengthy period of time, usually 10 years for offences committed by adults. This is known as 'spent convictions' legislation.

Many other states also have provisions in their Equal Opportunity legislation that provide protection where a person has been unfairly discriminated against because of a criminal record if it is old and irrelevant to the type of work they're involved in.

These laws all have strong safeguards that ensure that all criminal history is disclosed where relevant to the role.

The coalition, which is called the Criminal Record Discrimination Project, argues that both these approaches should be adopted in Victoria as a matter of urgency.

This is particularly important for Aboriginal people, who are over-represented in the criminal justice system, and under-represented in the work force, says Anne Jenkins, CEO of Healesville Indigenous Community Services Association, and one of the founders of the community group Woor-Dungin, which is coordinating the campaign.

"It's important to us to be able to support our community members who have criminal records; a lot of them are just through fines. If we are to have any hope of our community moving forward, we need to remove some of those obstacles and make a change," says Jenkins.

The reform is also vital for the health of Aboriginal families and communities, says Michael Bell, convenor of the coalition's advisory group and CEO of Winda-Mara Aboriginal Corporation.

“Access to suitable employment remains an ongoing issue for many Aboriginal people, and the state of the law [on criminal records] in Victoria is an additional barrier that prevents people getting jobs.

“When you’re working, you’re self-determining and your family grows. What this current system does is stop people growing. We need to move into the modern era and it’s really important to me that we have a good legislative process for criminal records,” says Bell, who is also an Elder at the Portland, Hamilton and Warrnambool Koori Court.

The actor Uncle Jack Charles supports the reform of criminal records legislation. He says:

“I think it’s important that the state allows people to have a second chance. This is not a soft on crime issue, this is an issue where people need to give us the opportunity to be key players here in Australia, to be upstanding members of the community, you can’t do that if you have a criminal record hanging over you like a black cloud.”

The Victorian government has committed to increasing Aboriginal labour-force participation through the [Victoria Aboriginal Affairs Framework](#), but the unemployment rate for working-age Aboriginal Victorians is still nearly three times as high as for the non-Aboriginal population.

“I look forward to speaking at the Aboriginal Justice Forum about the issue of criminal records discrimination, which has been raised by our community,” says Naomi Murphy, Client Service Officer at the Victorian Aboriginal Legal Service. *“This is a chance for the government to listen to, and act on, the priorities of Aboriginal people.”*

The Aboriginal Justice Forum is a quarterly meeting for the Victorian government to hear the views of the Aboriginal community on justice matters. It emerged from the Victorian [Aboriginal Justice Agreement](#) (AJA), a partnership that was established in 2000 between the Victorian Government and the Koori community to improve justice outcomes for Victorian Aboriginal people.

The forum will be attended by senior bureaucrats from the departments of Justice, Premier and Cabinet and others, and the campaign is asking that they brief their ministers, including the Attorney-General, on the topic. The coalition will also approach the Attorney-General directly after the forum.

Shantelle Thompson, a Barkindji woman who sits on the Committee of Management of Woor-Dungin, sees the reforms as an important part of broader reconciliation for Aboriginal Victorians, for whom poverty, trauma and discrimination are often contributing factors in their offending.

“Imagine how this is for someone who’s only 17 or 18 when they get a conviction. They’re from a traumatic background, they’re not educated, they don’t have support. But they try to make things better and they think, ‘I was juvenile then, and now I want to move on and get a job,’ but they can’t because that’s hanging over them.

“This legislation is something that we can do something about. It’s something that is achievable that is a move in the right direction for real reconciliation. It’s a chance to actually have a genuine impact on people’s ability to create a life beyond the trauma of their lived experience.”

Academics from RMIT University will also attend the forum to support the reforms.

“It’s vital that Victoria introduces legislation to protect people from discrimination on the basis of unrelated criminal history. Current laws entrench the disadvantage and discrimination faced by Aboriginal people and limit their valuable contribution to their communities, and to Australian society more generally,” says Bronwyn Naylor, Professor of Law at RMIT University.

“This campaign is a community-led response to a significant issue for Aboriginal people and organisations, and change has the very real potential to address disadvantage on many fronts, including employment and economic participation, self-determination, health and wellbeing.”

“If the government is serious about improving the rates of Aboriginal employment, which continue to lag behind, they need to fall in line with the rest of the country and provide the certainty needed to enable ex-offenders who have turned over a new leaf to re-enter community life and find stable employment,” says Stan Winford, Associate Director at the Centre for Innovative Justice, RMIT University.

Note for editors:

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- The 49th Aboriginal Justice Forum will be held at Swan Hill Town Hall Performing Arts and Conference Centre, 67 McCallum St, Swan Hill, on Thursday 26 and Friday 27 October 2017.
- In 2015, 16.4 per cent of Aboriginal Victorians aged 16 to 64 were unemployed compared to 6.3 per cent non-Aboriginal Victorians according to the [Victorian Aboriginal Government Affairs Report 2016](#)
- More information about the Criminal Records Discrimination Project can be found at: www.woor-dungin.com.au/criminal-record-discrimination/