

Bill C-10: The Government's Tough Stance Against Criminal Record Holders

By Pardon Services Canada | August 30, 2013

Bill C-10



On September 20, 2011, then Justice Minister Rob Nicholson tabled Bill C-10, an omnibus crime bill titled the **Safe Streets and Communities Act**. The Bill proposed to make fundamental changes to many components of Canada's criminal justice system, including the pardon process. In March of 2012, Bill C-10 was passed into law. Outlined below are the major changes made to Canada's pardon system:

- Replacing the name "Pardon" with "Record Suspension";
- Increasing the ineligibility period to apply for a record suspension for a minor or summary conviction from **3 to 5 years**;
- Increasing the ineligibility period to apply for a record suspension for an indictable offence from **5 to 10 years**;
- Quadrupling the cost of getting a federal pardon from \$150 to \$631;
- Rendering persons convicted of child sex offences permanently ineligible for a record suspension;
- Rendering persons with three or more convictions for indictable offences permanently ineligible for a record suspension.

About Record Suspensions

Statistics show that roughly 13 per cent of Canadians have a criminal record—usually minor offences which can create barriers for mobility, employment, and travel. There is a certain stigma associated with a criminal record, but what we do not often realize is that many criminal record holders have been convicted only of a misdemeanor offence. For example, Justice Canada estimates that about 600,000 Canadians have records for marijuana possession ("Statistics." **In depth Marijuana**. CBC News Online, 26 May 2003), a fairly minor offence, but one that can create problems for employment or travel.

A criminal record will not be removed automatically. A person with a criminal record must make an application under the Criminal Records Act of Canada for their record suspension. The Act is meant to help people with past offences who are now rehabilitated. A record suspension is an acknowledgement

from the federal government that a person with a criminal conviction(s) has demonstrated good conduct so that the conviction(s) should no longer reflect adversely on the person's character. The Parole Board of Canada (PBC) is the government body that has complete control over granting, refusing, or revoking a record suspension. Once granted, a record suspension allows individuals who have completed their sentence to have their criminal record kept separate from other criminal records contained in the Canadian Police Information Centre (CPIC). As a result, all information pertaining to the convictions will be removed from CPIC so they no longer appear in a criminal records search. While a record suspension applies only to records kept with federal departments, most provincial and municipal law enforcement agencies will restrict access to their records once notified that a record suspension has been granted.

Pardons, or record suspensions, as they are now called, play an important role in rehabilitating persons with a criminal record and reintegrating them into society. But the legislative changes to the **Criminal Records Act (CRA)** have had a huge impact on Canadians seeking to exercise their rights. The radical changes have led Parole Board of Canada to significantly tighten their requirements for record suspensions. These new, tougher restrictions for record suspensions mean higher fees, longer wait times, and bureaucratic delays.

Azmairin Jadavji of **Pardon Services Canada**, a national company which specializes in record suspensions and waiver applications, is concerned with how these changes are impacting his clients' rights under the CRA to seal their records. "The new law and regulations are mean-spirited and contrary to Canadian principles of giving people a fair chance to redeem themselves and integrate as productive members of our society," he explains.

The Impact of the Legislative Changes

An article published earlier this year by The Canadian Press, and contributed to by Pardon Services Canada, has revealed how dramatic these legislative changes have been. By issuing a request through the **Access to Information Act**, the authors of the article were able to obtain statistics indicative of the



changing practices of the Parole Board. Since the new law came into force, applications for criminal record suspensions have plummeted by more than 40 per cent.

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Furthermore, it appears that the Parole Board is using strict procedural rules to reject the smaller number of applications received. Of the 15,871 applications filed between March and December of 2012, only 8,631 were accepted by the Parole Board for processing. This means that more than 45 per cent of applications were rejected for various, mostly clerical, reasons.

When an application is first submitted to the Parole Board of Canada, it has to be screened in order to determine if it contains all the required components—this includes court documents, local police checks, fingerprints, etc. If any of the documentary requirements are missing, the application is returned to the applicant, along with instructions of what else is needed for processing of the application to occur. According to Pardon

Services Canada’s own records, applications filed prior to March of 2012 were understandably returned for reasons such as incorrect court documents or local police checks done in the wrong jurisdiction. Minor discrepancies in the application were sorted out with the assistance of the investigating officer.

Recently, however, applications are being denied by the Parole Board for far more minor reasons. The Parole Board’s aggressive tightening of the acceptance criteria is resulting in denying rehabilitated Canadians recourse to the legislated relief under the Criminal Records Act.

The **Canadian Bar Association** has stated: “This bill will change our country’s entire approach to crime at every stage of the justice system. It represents a huge step backwards; rather than prioritizing public safety, it emphasizes retribution above all else. It’s an approach that will make us less safe, less secure, and ultimately, less Canadian.”

With this new, more expensive system in place, Canadians looking for a record suspension will have to invest more money into the process—and the risk of rejection is higher than ever before. The Parole Board maintains that their new fee system will “secure the resources needed to efficiently and effectively deliver pardon services”. But higher fees and longer processing times are clearly neither efficient nor effective.

