

House of Assembly—No 113

As laid on the table and read a first time, 17 June 2009

South Australia

Correctional Services (Miscellaneous) Amendment Bill 2009

A BILL FOR

An Act to amend the *Correctional Services Act 1982*; and to make related amendments to the *Young Offenders Act 1993* and the *Youth Court Act 1993*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Correctional Services (Miscellaneous) Amendment Act 2009*.

5 2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Correctional Services Act 1982*

4—Amendment of section 4—Interpretation

Section 4—after subsection (1) insert:

- 5 (2) A reference in this Act to an *officer of the Department* is a reference to—
- (a) a person who, immediately before the commencement of this subsection, held an appointment made by the Governor as an officer of the Department; or
- 10 (b) a person who, after the commencement of this subsection, is appointed by the Minister as an officer of the Department under section 4A.

5—Insertion of section 4A

After section 4 insert:

4A—Appointment of officers of Department

- 15 (1) The Minister may, for the purposes of this Act or any other Act, by written notice, appoint a person to whom this section applies to be an officer of the Department.
- (2) The Minister may, by written notice, revoke—
- 20 (a) the appointment of an officer of the Department made by the Governor before the commencement of this section; or
- (b) an appointment made under subsection (1).
- (3) This section applies to a person if—
- 25 (a) the person is engaged by another person (the *contractor*) to carry out certain work in the course of and for the purposes of the contractor's business; and
- (b) the contractor is engaged, in the course of and for the purposes of a business, by the Minister under a contract, arrangement or understanding for the purposes of this Act or another Act; and
- 30 (c) the Minister is satisfied that the person is a suitable person to be appointed as an officer of the Department.
- (4) A person appointed under this section is excluded from the Public Service.

6—Repeal of sections 17B and 17C

35 Sections 17B and 17C—delete the sections

7—Amendment of section 20—Correctional institutions must be inspected on regular basis

Section 20(2) and (2a)—delete subsections (2) and (2a) and substitute:

- 5 (2) The Governor may, on the recommendation of the Minister, by notice in the Gazette, appoint a suitable person to be an inspector for the purposes of this section.

8—Amendment of section 23—Initial and periodic assessment of prisoners

Section 23(2)—delete subsection (2) and substitute:

- 10 (2) The Minister may, for the purpose of assisting the Chief Executive Officer in carrying out assessments under this section, establish such committees as the Minister thinks fit.

9—Amendment of section 24—Chief Executive Officer has custody of prisoners

- (1) Section 24(2)—after paragraph (b) insert:

15 ; and

- (c) to vary any such regime,

- (2) Section 24—after subsection (2) insert:

- 20 (3) A variation of a regime in respect of a particular prisoner under subsection (2) for any purpose does not constitute a penalty for the purposes of this Act.

10—Amendment of section 36—Power to keep prisoner apart from other prisoners

Section 36(9)—delete subsection (9) and substitute:

- 25 (9) If, under subsection (2), the Chief Executive Officer gives a direction—

(a) that a prisoner be kept separately and apart for a period exceeding 5 days; or

30 (b) that will result in a prisoner being kept separately and apart for a period exceeding 5 consecutive days, or an aggregate of 5 days within any 10 day period,

the Chief Executive Officer must, as soon as reasonably practicable after giving the direction, provide the Minister with a report of the circumstances relating to the direction.

11—Amendment of section 37A—Release on home detention

35 Section 37A(1)—delete "and the regulations"

12—Amendment of section 37B—Authorised officers

Section 37B(5), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$5 000.

13—Amendment of section 38—Release of prisoner from prison or home detention

Section 38—after subsection (3) insert:

(3a) If—

- 5 (a) the Board orders the release of a prisoner from prison or home detention on parole on a specified date; and
- (b) pursuant to subsection (2), the Chief Executive Officer authorises the release of the prisoner before that specified date,

10 the release of the prisoner on the authority of the Chief Executive Officer will be on parole subject to the conditions imposed under this Act.

14—Amendment of section 41—Powers of Visiting Tribunals

Section 41(2), penalty provision—delete the penalty provision and substitute:

15 Maximum penalty: \$7 500 or imprisonment for 3 months.

15—Amendment of section 42A—Minor breaches of prison regulations

(1) Section 42A(2)(d)—delete "seven" and substitute:

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(2) Section 42A(2)(e)—delete "seven" and substitute:

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16—Amendment of section 43—Manager may deal with breaches of prison regulations

(1) Section 43(2)(b)—delete "28" and substitute:

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25 (2) Section 43(2)(c)—delete "14" and substitute:

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17—Amendment of section 89—Regulations

(1) Section 89(2)—delete paragraph (d)

(2) Section 89(2)(j)—delete "or any other personal property"

30 (3) Section 89(2)—after paragraph (j) insert:

(ja) prohibiting, restricting or regulating the holding or acquisition of personal property (other than money) of prisoners, or of prisoners of a particular class, (including the transfer, storage or disposal of such property); and

35 (4) Section 89(2)(m)—delete "\$2 500" and substitute:

\$5 000

Schedule 1—Related amendments

Part 1—Amendment of *Young Offenders Act 1993*

1—Amendment of section 4—Interpretation

Section 4—after the definition of *offence to which this Act applies* insert:

5 *officer of the Department* includes a person appointed as an officer of the
Department of Correctional Services under section 4A of the *Correctional
Services Act 1982*;

Part 2—Amendment of *Youth Court Act 1993*

2—Amendment of section 3—Interpretation

10 Section 3, definition of *Department*—delete the definition

3—Amendment of section 24—Persons who may be present in Court

Section 24(1)—after paragraph (b) insert:

(ba) persons appointed as officers of the Department of Correctional
Services under section 4A of the *Correctional Services Act 1982*;