

House of Assembly—No 113A

As reported with amendments, report agreed to and passed remaining stages,
15 October 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*.

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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*

5 4—Amendment of section 4—Interpretation

Section 4—after subsection (1) insert:

- (2) A reference in this Act to an *officer of the Department* includes 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
- (b) a person who, after the commencement of this subsection, is designated by the Minister as an officer of the Department under section 4A.

15 5—Insertion of section 4A

After section 4 insert:

4A—Appointment of officers of Department

- (1) The Minister may, by written notice, designate a person to whom this section applies as a person who is to be taken to be an officer of the Department for the purposes of this Act, the *Prisoners (Interstate Transfer) Act 1982* and any other prescribed Act.
- (2) The Minister may, by written notice, revoke—
- (a) the appointment of an officer of the Department made by the Governor before the commencement of this section; or
- (b) a designation made under subsection (1).
- (3) This section applies to a person if—
- (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
- (c) the Minister is satisfied that the person is a suitable person to be designated as an officer of the Department.
- (4) Section 74 of the *Public Sector Act 2009* does not apply to a person designated under subsection (1).

6—Repeal of sections 17B and 17C

Sections 17B and 17C—delete the sections

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 66—Automatic release on parole for certain prisoners

(1) Section 66(2)—after paragraph (a) insert:

- 30 (ab) a prisoner if any part of the imprisonment for which the prisoner was sentenced is in respect of an offence of personal violence; or

(2) Section 66—after subsection (2) insert:

(3) In this section—

offence of personal violence means any of the following offences (including a substantially similar offence against a corresponding previous enactment or the law of another place):

- (a) an offence against the person under Part 3 of the *Criminal Law Consolidation Act 1935*;
- (b) a home invasion;
- (c) an offence of robbery or aggravated robbery;
- (d) a conspiracy to commit, or an attempt to commit, an offence referred to in paragraph (a), (b) or (c);
- (e) an offence that is committed in circumstances in which the offender uses violence or a threat of violence for the purpose of committing the offence, in the course of committing the offence, or for the purpose of escaping from the scene of the offence.

18—Amendment of section 86—Prison officers may use reasonable force in certain cases

Section 86—after "officer" insert:

or employee

19—Repeal of section 86A

Section 86A—delete the section

20—Amendment of section 89—Regulations

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

(2) Section 89(2)(h) and (i)—after "officers" wherever occurring insert in each case:
or employees

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

(4) 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

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

\$5 000

Schedule 1—Related amendment of *Young Offenders Act 1993*

1—Amendment of section 4—Interpretation

Section 4—after its current contents (now to be designated as subsection (1)) insert:

- 5 (2) A reference in this Act to an *officer of the Department* includes 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 designated by the Minister as an officer of the Department under section 4A.

2—Insertion of section 4A

After section 4 insert:

4A—Designation as officers of Department for certain purposes

- 15 (1) The Minister may, by written notice, designate a person to whom this section applies as a person who is to be taken to be an officer of the Department for the purposes of this Act, the *Youth Court Act 1993* and any other prescribed Act.
- (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) a designation 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
- 30 (c) the Minister is satisfied that the person is a suitable person to be designated as an officer of the Department.
- (4) Section 74 of the *Public Sector Act 2009* does not apply to a person designated under subsection (1).

Schedule 2—Transitional provision

1—Transitional provision

5 The amendments made by Part 2 of this Act to section 66 of the *Correctional Services Act 1982* are intended to apply in respect of prisoners serving sentences of imprisonment immediately before the commencement of this clause regardless of when the prisoners were sentenced.