

South Australia

**Criminal Law (Sentencing) (Mandatory
Imprisonment of Child Sex Offenders)
Amendment Bill 2010**

A BILL FOR

An Act to amend the *Criminal Law (Sentencing) Act 1988*.

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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 *Criminal Law (Sentencing) (Mandatory Imprisonment of Child Sex Offenders) Amendment Act 2010*.

5 2—Commencement

This Act will come into operation 1 month after the day on which it is assented to by the Governor.

3—Amendment provisions

10 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 *Criminal Law (Sentencing) Act 1988*

4—Amendment of section 20—This Division does not affect mandatory sentences

Section 20—after its present contents (now to be designated as subsection (1)) insert:

- 15 (2) Except as specifically provided in this Act, nothing in this Division derogates from a provision of this Act that expressly prohibits the reduction, mitigation or substitution of penalties or sentences.

5—Insertion of Part 2 Division 2B

After section 20C insert:

Division 2B—Mandatory imprisonment for child sex offenders

20D—Mandatory imprisonment for child sex offenders

(1) Subject to subsection (2), the following provisions apply in relation to the determination of sentence for a prescribed sexual offence (whether committed before or after the commencement of this section) with which a person is first charged after the commencement of this section:

(a) a court must, in relation to such an offence, impose a sentence of imprisonment of—

(i) if the maximum period of imprisonment prescribed in relation to the offence is life—not less than 10 years; or

(ii) in any other case—not less than one third of the maximum period of imprisonment prescribed in relation to the offence (rounded to the next whole day);

(b) a sentence of imprisonment required to be imposed under paragraph (a) constitutes a mandatory minimum non-parole period for the offence;

(c) such a sentence may not be suspended, reduced or mitigated, or substituted with any other penalty or sentence, except with the agreement of the Director of Public Prosecutions.

(2) Subsection (1)(c) does not prevent a court from sentencing the person under section 18A to one penalty for a number of offences.

(3) For the purposes of subsection (1), a person will not be taken to have been first charged with a prescribed sexual offence in relation to particular conduct if the person has previously been charged with that or another prescribed sexual offence in relation to the conduct.

(4) In this section—

prescribed sexual offence means any of the following offences committed against or in respect of a child under the age of 14 years:

(a) an offence under section 48, 48A, 49(1), 50, 56, 58, 59, 60, 61, 63, 63B, 66, 67, 68 or 72 of the *Criminal Law Consolidation Act 1935*;

(b) a conspiracy to commit, or an attempt to commit, any of those offences;

(c) aiding, abetting, counselling or procuring the commission of any of those offences;

- (d) an offence against a law previously in force in this State that corresponds to an offence referred to in any of the previous paragraphs.