

**Legislative Council—No 42**

As introduced and read a first time, 4 April 2012

South Australia

**Criminal Law (Sentencing) (Mandatory  
Imprisonment of Child Sex Offenders)  
Amendment Bill 2012**

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 2012*.

#### 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 of child sex offenders**

#### **20D—Application**

This Division does not apply in relation to a youth unless the youth is dealt with as an adult pursuant to the *Young Offenders Act 1993*.

#### **20E—Mandatory imprisonment of child sex offenders**

- (1) This section applies in relation to a prescribed sexual offence committed by a person before or after the commencement of this section provided that the person was not charged with the offence, or another prescribed sexual offence arising out of the same conduct, before the commencement of this section.
- (2) The following provisions apply in relation to the determination of sentence for an offence to which this section applies:
  - (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.
- (3) In this section—

*prescribed sexual offence* means—

- (a) any of the following offences committed against or in respect of a child under the age of 14 years:
  - (i) an offence under section 48, 48A, 49(1), 50, 56, 58, 59, 60, 61, 63B, 66, 67, 68 or 72 of the *Criminal Law Consolidation Act 1935*;
  - (ii) a conspiracy to commit, or an attempt to commit, such an offence;

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- (iii) aiding, abetting, counselling or procuring the commission of such an offence;
- (iv) an offence under a law previously in force in this State that corresponds to such an offence; or
- (b) any of the following offences involving child pornography in which the child concerned is under or apparently under the age of 14 years:
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- (i) an offence under section 63 or 63A of the *Criminal Law Consolidation Act 1935*;
- (ii) a conspiracy to commit, or an attempt to commit, such an offence;
- (iii) aiding, abetting, counselling or procuring the commission of such an offence;
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- (iv) an offence under a law previously in force in this State that corresponds to such an offence.