

**House of Assembly—No 190**

As laid on the table and read a first time, 25 September 2013

South Australia

**Evidence (Identification Evidence) Amendment  
Bill 2013**

A BILL FOR

An Act to amend the *Evidence Act 1929*.

---

## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

### Part 2—Amendment of *Evidence Act 1929*

- 4 Insertion of section 34AB  
34AB Identification evidence
- 

## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Evidence (Identification Evidence) Amendment Act 2013*.

#### 2—Commencement

5 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 *Evidence Act 1929*

#### 10 4—Insertion of section 34AB

After section 34A insert:

#### 34AB—Identification evidence

- 15 (1) In a criminal trial, evidence of the identity of the offender obtained by means of an identification process is not inadmissible merely because the evidence was obtained by a process other than an identification parade.
- (2) In a criminal trial, evidence of the identity of the offender obtained by means of an identification process is inadmissible unless—
  - 20 (a) an audio visual record of the identification process is made and kept in accordance with the regulations; or
  - (b) the judge is satisfied that the interests of justice require the admission of the evidence despite the failure to comply with paragraph (a).

- 5
- (3) In a criminal trial where the identity of the defendant is in issue, the judge must, if evidence of the identity of the defendant is admitted, inform the jury—
- (a) of the need for caution before accepting identification evidence; and
- (b) of the reasons for the need for caution, both generally and in the circumstances of the case.
- 10
- (4) In giving any such information, the judge is not required to use any particular form of words but may not make any suggestion that evidence of identification obtained by an identification process other than an identification parade is any less reliable than evidence of identification obtained by those means.
- (5) To avoid doubt, this section does not—
- 15
- (a) make evidence admissible that would otherwise be inadmissible; or
- (b) affect the court's discretion to exclude evidence.
- (6) In this section—

20

***identification process*** means a process whereby a witness identifies another person, and includes an identification parade and identification from a photographic or other form of visual display.