

Legislative Council—No 91

As introduced and read a first time, 17 October 2012

South Australia

Evidence (Identification) Amendment Bill 2012

A BILL FOR

An Act to amend the *Evidence Act 1929*.

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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 *Evidence (Identification) Amendment Act 2012*.

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) Subject to this section, in a criminal trial, evidence of the identity of the defendant is not admissible unless—
 - (a) the evidence has been obtained in accordance with procedures prescribed by the regulations; and
 - (b) the judge is of the opinion that the evidence has sufficient probative value to justify its admission.
- 20 (2) In a criminal trial, the judge may admit evidence of the identity of the defendant obtained otherwise than in accordance with the regulations if the judge is of the opinion that, despite the non-compliance, the evidence has sufficient probative value to justify its admission.

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- (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.
- (4) For the avoidance of doubt, nothing in this section requires a judge to admit evidence of the identity of the defendant.