

Legislative Council—No 95

As received from the House of Assembly and read a first time, 7 April 2011

South Australia

Evidence (Identification) Amendment Bill 2011

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) Amendment Act 2011*.

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 defendant is not inadmissible merely because it was obtained other than by an identification parade if the judge is of the opinion that the evidence has sufficient probative value to justify its admission.
- (2) 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—
 - 20 (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.

5

- (3) 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 other than by an identification parade is less reliable than evidence of identification obtained by that means unless, in the circumstances of the case, the judge is of the opinion that it is in the interests of justice to do so.