

South Australia

**Evidence (Retrial of Sexual Offences) Amendment
Bill 2005**

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 (Retrial of Sexual Offences) Amendment Act 2005*.

5 2—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*

3—Insertion of section 34L

10 After section 34K insert:

34L—Admissibility of original evidence of alleged victim in retrial of sexual offence

- 15 (1) A court rehearing proceedings for a sexual offence must, on application by the prosecution, admit as evidence a record of evidence of the alleged victim of the offence taken in previous proceedings (the *original proceedings*) if, not less than 21 days before the commencement of the proceedings, or within such other period as the court may allow, the prosecution has given the court and the defendant written notice of the prosecution's intention to tender the record of evidence under this subsection.
- 20 (2) Before the court admits a record of evidence under subsection (1), the court may order that the record be edited to exclude material that is irrelevant to the proceedings presently before the court or inadmissible in those proceedings for some other reason.
- 25 (3) If a record of evidence is admitted under subsection (1), the court must, on application by the prosecution, admit as evidence any exhibits admitted in the original proceedings on the basis of the alleged victim's evidence in those proceedings.

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- (4) If a record of evidence is admitted under subsection (1), the alleged victim cannot be compelled to give further oral evidence in the proceedings but the alleged victim may, if he or she chooses, with leave of the court, give further oral evidence in the proceedings.
- (5) The court must not grant leave under subsection (4) unless satisfied, on application by a party to the proceedings that—
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- (a) it is necessary for the alleged victim to give further oral evidence to clarify any matter relating to the alleged victim's evidence in the original proceedings; or
 - (b) it is necessary for the alleged victim to give further oral evidence to canvas information or material that has become available since the original proceedings; or
 - (c) it is in the interests of justice that the alleged victim give further oral evidence.