

South Australia

Parental Responsibility Bill 2004

A BILL FOR

An Act to impose criminal liability on parents for offences committed by their children; to give the police power to remove children from public places; to make a related amendment to the Young Offenders Act 1993; and for other purposes.

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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Parental Responsibility Act 2004*.

2—Commencement

This Act will come into operation 6 months after the day on which it is assented to.

5 3—Interpretation

In this Act, unless the contrary intention appears—

carer, in relation to a child, means the person (whether a parent, guardian or other person) who has the care and control of the child;

child means a person who is, or was at the relevant time, under the age of 15 years;

10 *public place* includes—

- (a) a place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of that place; and
- (b) a place to which the public are admitted on payment of money, the test of admittance being the payment of money only; and
- 15 (c) a road, street, footway, court, alley or thoroughfare which the public are allowed to use, despite the fact that the road, street, footway, court, alley or thoroughfare is on private property.

4—Criminal liability of parents of child who commits an offence

A parent who, by wilfully or negligently failing to exercise an appropriate level of supervision or control over his or her child's activities, contributes to the commission of an offence of which the child is convicted or found guilty, is also guilty of an offence.

Maximum penalty:

- (a) For a first offence—\$125.
- (b) For a subsequent offence—\$1 250.

5—Removal of children from public places

(1) If a police officer believes on reasonable grounds that a person who is in a public place is a child who is not at the time under the supervision or control of a responsible adult, the officer may—

- (a) request the child to state his or her name and age and the residential address of his or her carer; and
- (b) subject to subsection (3), remove the child from the public place and—
 - (i) take the child to his or her carer's residence; or
 - (ii) if it is not reasonably practicable to take the child to that residence or the officer believes that it would not be in the child's best interests to do so—take him or her to a place of safety (not being a police station) approved by the Minister for the purposes of this section.

(2) In subsection (1)(b)(ii)—

Minister means the Minister for the time being responsible for administering the *Children's Protection Act 1993* (or any Act enacted in substitution for that Act).

(3) A police officer may exercise the power of removal under subsection (1)(b) in relation to a child only if—

- (a) the officer knows, or has requested, the particulars referred to in subsection (1)(a); and
- (b) the officer is of the opinion that removal of the child would—
 - (i) reduce the likelihood of an offence being committed; or
 - (ii) in the case of a child under the age of 10 years—reduce the likelihood of the child committing an act that would constitute an offence if the child was 10 years of age or over.

(4) If a police officer takes a child to an approved place of safety, the officer must notify the child's carer unless it is not practicable to do so or the officer believes that it would not be in the child's best interests to do so.

(5) A police officer may use reasonable force in exercising powers under this section.

(6) A child who is taken to an approved place of safety—

- (a) may be detained in that or some other approved place of safety for a period not exceeding 24 hours in total; and

(b) is, while so detained, in the custody of the person who is in charge of the place; and

(c) must, while so detained, be kept separately from persons who are in custody on remand or serving a sentence for an offence.

5 (7) The person in charge of an approved place of safety in which a child is detained under this section must endeavour to release the child into the custody of the child's carer, unless the person is of the opinion that it is not appropriate to do so in the circumstances of the particular case.

10 (8) A child of 10 years of age or over who leaves a place in which he or she is being detained under this section without the permission of the person in charge is guilty of an offence.

Maximum penalty:

(a) For a first offence—\$125.

(b) For a subsequent offence—\$1 250 or detention for 1 month.

15 **6—Regulations**

The Governor may make such regulations as are necessary or expedient for the purposes of this Act.

Schedule 1—Related amendment

Part 1—Preliminary

20 **1—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 *Young Offenders Act 1993*

2—Amendment of *Young Offenders Act 1993*

25 After section 28 insert:

28A—Power to make counselling orders

30 The Court may, by order, require a youth who has been convicted or found guilty of an offence, or any specified guardian of the youth, to undergo counselling directed towards assisting the youth's development and preventing further offending by the youth.