

South Australia

Parliamentary Privilege (Special Temporary Abrogation) Bill 2005

A BILL FOR

An Act to temporarily remove any bars arising from Parliamentary privilege to the exercise by police officers of their usual investigatory powers in relation to certain documentary material claimed to provide evidence of alleged criminal sexual misconduct; to temporarily remove any protection arising from Parliamentary privilege for certain allegations of criminal sexual misconduct or related criminal misconduct if made in the course of Parliamentary proceedings; and for other purposes.

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Preamble

- 1 The Member for Hammond has made public claims that documentary material in his possession or in the possession of assistants to the Member evidences or might evidence criminal sexual misconduct by a member of Parliament or others but has asserted that Parliamentary privilege prevents police officers from exercising their usual investigatory powers in relation to any such documentary material.
 - 2 The Parliament intends by this measure to protect the public interest by ensuring that the exercise of powers under a search warrant in relation to such documentary material, and the subsequent use in criminal proceedings of any documentary material obtained through the exercise of such powers, does not constitute a breach of Parliamentary privilege.
 - 3 Assistants to the Member for Hammond have published allegations, without apparent adequate basis, naming a member and former member of Parliament and public officials as having been involved in criminal sexual misconduct. The allegations were published from the precincts of Parliament using Parliamentary facilities. It is not known whether the allegations were published at the request or with the approval of the Member for Hammond or any other member of Parliament.
 - 4 The Parliament also intends by this measure to guard against serious harm to personal reputations and the dignity and integrity of the Parliament by ensuring that similar allegations cannot be made in the course of Parliamentary proceedings or in a published report of Parliamentary proceedings with the protection of Parliamentary privilege.
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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Parliamentary Privilege (Special Temporary Abrogation) Act 2005*.

2—Interpretation

- (1) In this Act, unless the contrary intention appears—

assistant to the Member means a person who, whether as an employee or volunteer, has been or is providing assistance to the Member in the collection or collation of documentary material that evidences or might evidence criminal sexual misconduct by a member of Parliament or other person;

breach of Parliamentary privilege includes contempt of a House of Parliament;

criminal proceedings includes activity preparatory to criminal proceedings;

documentary material includes—

(a) any paper or other material on which there is writing or images; and

(b) any data storage device or recording medium from which writing, images or sounds are capable of being reproduced with or without the aid of any other article or device; and

(c) any article or device required for the reproduction of writing, images or sounds from a data storage device or recording medium;

the Member means the Member for Hammond;

Parliamentary privilege includes any privilege conferred by an Act or law protecting statements made in the course of proceedings of Parliament or in a published report of such proceedings from criminal or civil action;

relevant documentary material means documentary material that is or has been in the possession of the Member or an assistant to the Member and evidences or might evidence criminal sexual misconduct by a member of Parliament or other person;

search warrant means a general search warrant under Part 15 of the *Summary Offences Act 1953*.

- (2) A reference in this Act to the making of an allegation in the course of proceedings of Parliament includes a reference to the tabling in Parliament of a document containing an allegation.

3—Abrogation of privilege in relation to execution of search warrant

- (1) The powers conferred by a search warrant are to be taken to be exercisable in relation to relevant documentary material within the precincts of Parliament or elsewhere.

- (2) The exercise of powers under a search warrant in relation to relevant documentary material does not constitute a breach of Parliamentary privilege.

- (3) If relevant documentary material is obtained by police officers through the exercise of powers under a search warrant, the use of the documentary material in criminal proceedings does not constitute a breach of Parliamentary privilege.

4—Abrogation of privilege in relation to Parliamentary proceedings

- (1) An allegation made in the course of proceedings of Parliament, or in a published report of such proceedings, naming or otherwise identifying a member or former member of Parliament or public official as having been involved in criminal sexual misconduct or related criminal misconduct is not protected by Parliamentary privilege.

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- (2) If an allegation is made in the course of proceedings of either House of Parliament naming or otherwise identifying a person who is a member or former member of Parliament or public official as having been involved in criminal sexual misconduct or related criminal misconduct, the Presiding Officer of the House must ensure that the Hansard record of those proceedings, including any draft of such a record, is amended before it is circulated or published so as to remove any words by which the person is named or may be identified.
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- (3) The House of Assembly or the Legislative Council may, by resolution, exclude or limit the operation of this section in relation to proceedings of that House or a report of such proceedings.
- (4) This section will be taken to have come into operation at 2 p.m. on 4 April 2005.

5—Expiry of Act

This Act will expire on a day to be fixed by the Governor by proclamation.