

House of Assembly—No 76

As laid on the table and read a first time, 22 July 2020

South Australia

**Sentencing (Reduction of Sentences) Amendment
Bill 2020**

A BILL FOR

An Act to amend the *Sentencing Act 2017*.

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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 *Sentencing (Reduction of Sentences) Amendment Act 2020*.

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 *Sentencing Act 2017*

3—Amendment of section 40—Reduction of sentences for guilty pleas in other cases

- (1) Section 40(3)—delete subsection (3) and substitute:

- (3) If a defendant has pleaded guilty to an offence or offences—

- (a) not more than 4 weeks after the defendant's first court appearance in relation to the relevant offence or offences—the sentencing court may reduce the sentence that it would otherwise have imposed by—
 - (i) in the case of a serious offence—up to 25%; or
 - (ii) in any other case—up to 35%; or
- (b) more than 4 weeks after the defendant's first court appearance in relation to the relevant offence or offences but on the day of, or before, the defendant's committal appearance in relation to the relevant offence or offences—the sentencing court may reduce the sentence that it would otherwise have imposed by—
 - (i) in the case of a serious offence—up to 15%; or
 - (ii) in any other case—up to 25%; or

- 5 (c) during the period commencing on the day after the defendant's committal appearance in relation to the relevant offence or offences and ending immediately before the defendant is committed for trial for the offence or offences—the sentencing court may reduce the sentence that it would otherwise have imposed by—
- (i) in the case of a serious offence—up to 10%; or
 - (ii) in any other case—up to 15%; or

Note—

10 See also section 110(3) of the *Criminal Procedure Act 1921*.

- 15 (d) during the period commencing immediately after the defendant is committed for trial for the relevant offence or offences and ending immediately after the first date fixed for the arraignment of the defendant in a superior court—the sentencing court may reduce the sentence that it would otherwise have imposed by—

- (i) in the case of a serious offence—up to 5%; or
- (ii) in any other case—up to 10%; or

- 20 (e) during the period commencing immediately after the first date fixed for the arraignment of the defendant in a superior court in relation to the relevant offence or offences and ending at the commencement of the defendant's trial for the relevant offence or offences—the sentencing court may, if
- 25 satisfied that there is good reason to do so, reduce the sentence that it would otherwise have imposed by up to 5%.

- (2) Section 40(5)—after paragraph (f) insert:

- 30 (g) whether the defendant was motivated to plead guilty by reason of remorse, repentance or contrition or a willingness to cooperate in the administration of justice;
- (h) the strength of the prosecution's case against the defendant, including the nature and probative value of the evidence against the defendant;
- 35 (i) whether at any stage in the proceedings for the offence the defendant disputed the factual basis of the plea, and the dispute was not resolved in favour of the defendant,

- (3) Section 40—after subsection (5) insert:

- 40 (5a) If the sentencing court is satisfied that there are exceptional circumstances in respect of the defendant or the defendant's offending that justify the further reduction of the sentence, the court may reduce the sentence that it would otherwise have imposed by up to 5%.

(5b) In determining the percentage by which a sentence for an offence is to be reduced in accordance with subsection (5a), the court must have regard to the defendant's offending history and may have regard to any other factor or principle the court thinks relevant.

5 (4) Section 40(8)—after the definition of *committal appearance* insert:

serious offence means an offence that is—

- 10 (a) a serious offence of violence within the meaning of section 83D(1) of the *Criminal Law Consolidation Act 1935*; or
- (b) an offence under section 19A of the *Criminal Law Consolidation Act 1935*; or
- (c) a serious sexual offence within the meaning of section 96 of this Act; or
- 15 (d) any of the following offences under the *Criminal Law Consolidation Act 1935* where the maximum penalty prescribed for the offence is, or includes, imprisonment for at least 5 years:
- (i) an offence under section 63AA;
 - (ii) an offence under section 63A;
 - (iii) an offence under section 63AAB;
 - (iv) an offence under section 63AB; or
- 20 (e) any other offence prescribed by the regulations for the purposes of this definition.