

**Legislative Council—No 183**

As introduced and read a first time, 25 September 2013

South Australia

**Statutes Amendment (Assaults on Police) Bill 2013**

A BILL FOR

An Act to amend the *Criminal Law Consolidation Act 1935* and the *Criminal Law (Sentencing) Act 1988*.

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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 *Statutes Amendment (Assaults on Police) Act 2013*.

#### 2—Amendment provisions

- 5 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 *Criminal Law Consolidation Act 1935*

#### 3—Amendment of section 23—Causing serious harm

- (1) Section 23(1), penalty provision, (b)—delete paragraph (b) and substitute:

- 10 (b) for an aggravated offence—
  - (i) if the offence is aggravated under section 5AA(1)(c) where the victim is a police officer—imprisonment for not less than 1 year and not more than 25 years;
  - (ii) in any other case—imprisonment for 25 years.

- 15 (2) Section 23(3), penalty provision, (b)—delete paragraph (b) and substitute:

- (b) for an aggravated offence—
  - (i) if the offence is aggravated under section 5AA(1)(c) where the victim is a police officer—imprisonment for not less than 6 months and not more than 19 years;
  - 20 (ii) in any other case—imprisonment for 19 years.

(3) Section 23—after subsection (3) insert:

(4) Despite any other Act or law, a minimum penalty for an aggravated offence fixed under this section applies to an offender who is aged 16 years or more at the time of the offence and cannot be—

- 5
- (a) reduced or mitigated in any way; or
  - (b) substituted by any other penalty or sentence.

#### **4—Amendment of section 270A—Attempts**

(1) Section 270A(3)—delete subsection (3) and substitute:

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- (3) The maximum penalty for an attempt to which this section applies is as follows:
- (a) in the case of attempted treason—imprisonment for life;
  - (b) in the case of attempted murder—
    - 15 (i) if the offence is aggravated under section 5AA(1)(c) where the victim is a police officer—imprisonment for not less than 4 years and not more than for life; or
    - (ii) in any other case—imprisonment for life;
  - (c) if the penalty or maximum penalty for the principal offence (not being treason or murder) is imprisonment for life—

20 imprisonment for 12 years;
  - (d) in any other case—two-thirds of the maximum penalty prescribed for the principal offence.

(2) Section 270A—after subsection (4) insert:

- 25
- (5) Despite any other Act or law, the minimum penalty applicable under subsection (3)(b)(i) applies to an offender who is aged 16 years or more at the time of the offence and cannot be—
- (a) reduced or mitigated in any way; or
  - (b) substituted by any other penalty or sentence.

#### **5—Amendment of section 270AB—Attempted manslaughter**

30 (1) Section 270AB(2)—delete subsection (2) and substitute:

- (2) The maximum penalty for attempted manslaughter is—
- (a) if the offence is aggravated under section 5AA(1)(c) where the victim is a police officer—imprisonment for not less than 2 years and not more than 12 years; or
  - 35 (b) in any other case—imprisonment for 12 years.

(2) Section 270AB—after subsection (3) insert:

(4) Despite any other Act or law, the minimum penalty for an aggravated offence fixed under subsection (2)(a) applies to an offender who is aged 16 years or more at the time of the offence and cannot be—

(a) reduced or mitigated in any way; or

(b) substituted by any other penalty or sentence.

### **Part 3—Amendment of *Criminal Law (Sentencing) Act 1988***

#### **6—Amendment of section 32—Duty of court to fix or extend non-parole periods**

Section 32(5)—after paragraph (ba) insert:

(bb) if fixing a non-parole period in respect of a person sentenced to imprisonment for an offence for which a mandatory minimum period of imprisonment is prescribed, any non-parole period fixed under this section must be a period not less than the prescribed mandatory minimum period of imprisonment;

### **Part 4—Transitional provision**

#### **7—Transitional provision**

An amendment made by this Act to the *Criminal Law Consolidation Act 1935* or the *Criminal Law (Sentencing) Act 1988* applies in relation to an offence occurring after the commencement of the amendment.