

Legislative Council—No 124

As introduced and read a first time, 17 October 2019

South Australia

Statutes Amendment (Spit Hoods) Bill 2019

A BILL FOR

An Act to amend the *Correctional Services Act 1982*, the *Mental Health Act 2009*, the *Sheriff's Act 1978*, the *Summary Offences Act 1953* and the *Youth Justice Administration Act 2016*.

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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 (Spit Hoods) Act 2019*.

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 *Correctional Services Act 1982*

3—Insertion of section 86AA

After section 86 insert:

86AA—Prohibition on use of spit hoods

- 5 (1) An officer or employee of the Department or a police officer employed in a correctional institution must not place a spit hood on the head of a person under the age of 18 years.

Maximum penalty: Imprisonment for 2 years.

- 10 (2) Subsection (1) applies despite any other provision of this Act or any other Act or law.

- (3) In this section—

spit hood means a covering (however described) that is intended to be placed over a person's head to prevent the person from spitting on, or biting, another person.

15 Part 3—Amendment of *Mental Health Act 2009*

4—Insertion of section 48A

After section 48 insert:

48A—Prohibition on use of spit hoods

- 20 (1) A person performing a function or exercising a power under this Act must not place a spit hood on the head of a child.

Maximum penalty: Imprisonment for 2 years.

- (2) Subsection (1) applies despite any other provision of this Act or any other Act or law.

- (3) In this section—

25 *spit hood* means a covering (however described) that is intended to be placed over a person's head to prevent the person from spitting on, or biting, another person.

Part 4—Amendment of *Sheriff's Act 1978*

5—Insertion of section 9J

30 After section 9I insert:

9J—Prohibition on use of spit hoods

- (1) A security officer must not place a spit hood on the head of a person under the age of 18 years.

Maximum penalty: Imprisonment for 2 years.

(2) Subsection (1) applies despite any other provision of this Act or any other Act or law.

(3) In this section—

spit hood means a covering (however described) that is intended to be placed over a person's head to prevent the person from spitting on, or biting, another person.

Part 5—Amendment of *Summary Offences Act 1953*

6—Insertion of section 82A

After section 82 insert:

82A—Prohibition on use of spit hoods

(1) A police officer must not place a spit hood on the head of a minor.
Maximum penalty: Imprisonment for 2 years.

(2) Subsection (1) applies despite any other provision of this Act or any other Act or law.

(3) In this section—

spit hood means a covering (however described) that is intended to be placed over a person's head to prevent the person from spitting on, or biting, another person.

Part 6—Amendment of *Youth Justice Administration Act 2016*

7—Insertion of section 33A

After section 33 insert:

33A—Prohibition on use of spit hoods

(1) An employee of a training centre must not place a spit hood on the head of a youth.

Maximum penalty: Imprisonment for 2 years.

(2) Subsection (1) applies despite any other provision of this Act or any other Act or law.

(3) In this section—

spit hood means a covering (however described) that is intended to be placed over a person's head to prevent the person from spitting on, or biting, another person.