

Legislative Council—No 28

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South Australia

Statutes Amendment (Bail Authorities) Bill 2020

A BILL FOR

An Act to amend the *Bail Act 1985*, the *District Court Act 1991*, the *Magistrates Court Act 1991* and the *Supreme Court Act 1935*.

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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 (Bail Authorities) Act 2020*.

5 2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

10 Part 2—Amendment of *Bail Act 1985*

4—Amendment of section 5—Bail authorities

Section 5(1)(b) to (d)—delete paragraphs (b) to (d) (inclusive) and substitute:

- (b) the District Court;
- (c) the Magistrates Court;

5—Amendment of section 6—Nature of bail agreement

Section 6(4) and (5)—delete subsections (4) and (5) and substitute:

(4) Despite the provisions of any other Act, a bail authority may for any sufficient reason—

(a) on the application of a person on bail or the Crown, or on its own initiative—

(i) vary the conditions of a bail agreement; or

(ii) revoke a bail agreement and, if it is necessary to do so, issue a warrant for the arrest of the person who was released under the agreement; or

(b) on the application of the Crown, or on its own initiative—issue a warrant for the arrest of a person who was released under a bail agreement.

(5) On the arrest of a person to whom subsection (4)(b) applies, the bail agreement of that person is taken to be revoked.

(6) Subsection (5) ceases to apply to the person arrested if that person is later released unconditionally.

(7) A warrant for the arrest of a person under subsection (4)(a)(ii) or (4)(b) cannot be issued by a police officer.

6—Amendment of section 8—Form of application

Section 8(1)—after paragraph (c) insert:

and

(d) must, if the bail authority is a court, be made to the Supreme Court, the District Court or the Magistrates Court in accordance with the rules regulating the making of bail applications under the *Supreme Court Act 1935*, the *District Court Act 1991* or the *Magistrates Court Act 1991* (as the case requires).

7—Amendment of section 18—Arrest of eligible person on non-compliance with bail agreement

(1) Section 18(1)—delete subsection (1) and substitute:

(1) If it appears to a court or justice that a person released on bail has contravened or failed to comply with a term or condition of a bail agreement, it may, if it appears necessary or desirable to do so, issue a warrant for the person's arrest.

(2) Section 18—after subsection (3) insert:

(4) On the arrest of a person to whom this section applies, the bail agreement of that person is taken to be revoked.

(5) Subsection (4) ceases to apply to the person arrested if that person is later released unconditionally.

8—Amendment of section 19A—Arrest of person who is serious and organised crime suspect

- (1) Section 19A—delete "the court may—" and substitute:

the court may, if it appears necessary or desirable to do so, issue a warrant for the person's arrest.

- (2) Section 19A(c) and (d)—delete paragraphs (c) and (d)

- (3) Section 19A—after its present contents as amended by this section (now to be designated as subsection (1)) insert:

(2) On the arrest of a person to whom this section applies, the bail agreement of that person is taken to be revoked.

(3) Subsection (2) ceases to apply to the person arrested if that person is later released unconditionally.

9—Amendment of section 19B—Arrest of person who is or becomes a terror suspect

- (1) Section 19B(1)—delete "the bail agreement is taken to be revoked and"

- (2) Section 19B—after subsection (3) insert:

(4) On the arrest of a person to whom this section applies, the bail agreement of that person is taken to be revoked.

(5) Subsection (4) ceases to apply to the person arrested if that person is later released unconditionally.

Part 3—Amendment of *District Court Act 1991*

10—Amendment of section 51—Rules of Court

Section 51(1)—after paragraph (b) insert:

- (ba) regulating the making of bail applications, including limiting the making of bail applications to the Court in circumstances where the application may be made to another court; and

Part 4—Amendment of *Magistrates Court Act 1991*

11—Amendment of section 49—Rules of Court

Section 49(1)—after paragraph (b) insert:

- (ba) regulating the making of bail applications, including limiting the making of bail applications to the Court in circumstances where the application may be made to another court; and

Part 5—Amendment of *Supreme Court Act 1935*

12—Amendment of section 72—Rules of court

Section 72(1)—after paragraph (d) insert:

- 5 (da) for regulating the making of bail applications, including limiting the making of bail applications to the court in circumstances where the application may be made to another court;