

Legislative Council—No 119

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South Australia

Statutes Amendment (Intervention Orders and Penalties) Bill 2020

A BILL FOR

An Act to amend the *Intervention Orders (Prevention of Abuse) Act 2009* and 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 *Statutes Amendment (Intervention Orders and Penalties) Act 2020*.

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.

Part 2—Amendment of *Intervention Orders (Prevention of Abuse) Act 2009*

4—Amendment of section 31—Contravention of intervention order

- (1) Section 31(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$2 000 or imprisonment for 2 years.

- (2) Section 31(1), expiation fee—delete "\$160" and substitute:

\$315

- (3) Section 31(2), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of a basic offence—imprisonment for 3 years;
- (b) in the case of an aggravated offence—imprisonment for 5 years.

- (4) Section 31(2aa), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of a basic offence—imprisonment for 7 years;
- (b) in the case of an aggravated offence—imprisonment for 10 years.

(5) Section 31—after subsection (4) insert:

5 (5) For the purposes of this section, an aggravated offence is an offence committed in circumstances where the offender knew or suspected, or ought reasonably to have known or suspected, that there was a reasonable likelihood that a child would see, hear or otherwise be exposed to the conduct constituting the offence or to any effects of that conduct.

10 (6) If a person is charged with an aggravated offence under this section, the circumstances alleged to aggravate the offence must be stated in the instrument of charge.

15 (7) An offence against this section must be prosecuted, and dealt with by the Magistrates Court, as a summary offence but if the Court determines that a person found guilty of such an offence should be sentenced to a term of imprisonment exceeding 5 years, the Court must commit the person to the District Court for sentence.

(8) In this section—

20 *basic offence*—where a subsection differentiates between the penalty for an aggravated offence and the penalty for a basic offence, the reference to a basic offence is a reference to the offence in its non-aggravated form.

Part 3—Amendment of *Sentencing Act 2017*

5—Amendment of section 52—Interpretation and application

25 Section 52, definition of *serious offence*, (b)—after subparagraph (x) insert:

- (xa) an offence against section 31(2aa)(b) of the *Intervention Orders (Prevention of Abuse) Act 2009*; or