

**Legislative Council—No 42A**

As reported with amendments, report adopted, Standing Orders suspended and passed remaining stages, 1 July 2020

South Australia

**Summary Offences (Custody Notification Service)  
Amendment Bill 2020**

A BILL FOR

An Act to amend the *Summary Offences Act 1953*.

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

5 This Act may be cited as the *Summary Offences (Custody Notification Service) 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 *Summary Offences Act 1953*

#### 10 3—Insertion of section 79C

After section 79B insert:

#### **79C—ALRM to be notified where Aboriginal or Torres Strait Islander person taken into custody**

- 15 (1) This section applies where an Aboriginal or Torres Strait Islander person (the *prisoner*) has been apprehended by a police officer (whether with or without a warrant) and delivered into the custody of a prescribed custodial officer.
- 20 (2) A prescribed custodial officer must, as soon as is reasonably practicable after a prisoner is delivered into the custody of the prescribed custodial officer, notify the Aboriginal Legal Rights Movement Ltd (the *ALRM*) in accordance with this section.
- 25 (3) A notification under this section—
  - (a) must be in a manner and form determined by the ALRM; and
  - (b) must specify where the prisoner is being held in custody; and

- (c) must include such of the following information about the prisoner as may be known by the prescribed custodial officer:
- (i) the prisoner's full name; and
  - (ii) the prisoner's date of birth or approximate age; and
  - (iii) any medical or other condition of which the prescribed police officer is aware that may affect, or be affected by, the incarceration of the prisoner,
- and may include any other information the prescribed custodial officer considers appropriate.
- (4) On the making of a notification under this section, a prescribed custodial officer—
- (a) must advise the prisoner to whom the notification relates that the ALRM has been notified that the prisoner is in custody; and
  - (b) must allow a representative of the ALRM to visit the prisoner.
- (5) Without limiting a preceding subsection, if a prisoner is moved after a notification is made under this section, but before the prisoner is visited under subsection (4)(b), a prescribed custodial officer must contact the ALRM and advise the ALRM of the facility to which the prisoner has been moved (and subsection (4)(b) will be taken to apply in respect of visiting the prisoner at that location).
- (6) A prescribed custodial officer who, without reasonable excuse, refuses or fails to comply with a requirement under this section may be dealt with—
- (a) in the case of a prescribed custodial officer who is a police officer—under the *Police Complaints and Discipline Act 2016* for a breach of discipline; or
  - (b) in any other case—in accordance with the Act or law dealing with disciplinary matters in relation to officers or employees of the relevant kind.
- (7) To avoid doubt, this section applies in relation to a prisoner who is a child.
- (8) For the purposes of this section, a prisoner will be taken to have been delivered into the custody of a prescribed custodial officer if the prisoner is admitted into a training centre or other facility established under the *Youth Justice Administration Act 2016*.
- (9) In this section—
- custodial police station*** has the same meaning as in section 78;  
***designated police facility*** has the same meaning as in section 78;

*prescribed custodial officer* means—

- (a) the police officer in charge of a custodial police station; or
- (b) a police officer at a designated police facility; or
- (c) in the case of a prisoner admitted in a training centre or other facility established under the *Youth Justice Administration Act 2016*—the manager of the training centre or other facility; or
- (d) any other person, or person of a class, prescribed by the regulations.

**79D—Certain information to be included in annual report of Commissioner**

- (1) The following information must be included in each annual report of the Commissioner under the *Police Act 1998*:
  - (a) the number of notifications made to the ALRM under section 79C during the year to which the annual report relates;
  - (b) the number of Aboriginal or Torres Strait Islander persons held at custodial police stations or designated police facilities during the year to which the annual report relates;
  - (c) the number of matters dealt with in accordance with section 79C(6)(a) during the year to which the annual report relates, and information setting out the nature of each such matter;
  - (d) any other information requested by the Minister.
- (2) Nothing in this section limits the matters relating to the detention of Aboriginal and Torres Strait Islander persons that may be included in an annual report.