

South Australia

Criminal Law Consolidation (Children and Vulnerable Adults) Amendment Act 2018

An Act to amend the *Criminal Law Consolidation 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 *Criminal Law Consolidation (Children and Vulnerable Adults) Amendment Act 2018*.

2—Commencement

This Act will come 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 *Criminal Law Consolidation Act 1935*

4—Substitution of heading to Part 3 Division 1A

Heading to Part 3 Division 1A—delete the heading and substitute:

Division 1A—Criminal neglect etc

5—Insertion of section 13B

Before section 14 insert:

13B—Interpretation

- (1) In this Division—

act includes—

- (a) an omission; and
- (b) a course of conduct;

child means a person under 16 years of age;

cognitive impairment includes—

- (a) a developmental disability (including, for example, an intellectual disability, Down syndrome, cerebral palsy or an autistic spectrum disorder);
- (b) an acquired disability as a result of illness or injury (including, for example, dementia, a traumatic brain injury or a neurological disorder);
- (c) a mental illness;

vulnerable adult means a person aged 16 years or above who is significantly impaired through physical disability, cognitive impairment, illness or infirmity.

- (2) Subject to subsection (3), in this Division the following terms and phrases have the same meaning as in Division 7A:
- (a) *cause*;
 - (b) *harm*.
- (3) For the purposes of this Division, a reference to *harm* will be taken to include detriment caused to the physical, mental or emotional wellbeing or development of a child or vulnerable adult (whether temporary or permanent).
- (4) For the purposes of this Division, a defendant has a *duty of care* to a victim if the defendant is a parent or guardian of the victim or has assumed responsibility for the victim's care.

6—Amendment of section 14—Criminal neglect

- (1) Section 14—delete "serious harm" wherever occurring and substitute in each case:

harm

- (2) Section 14—delete "unlawful" wherever occurring
- (3) Section 14(1), penalty provision—delete the penalty provision and substitute:
Maximum penalty:
- (a) where the victim dies—imprisonment for life; or
 - (b) in any other case—imprisonment for 15 years.
- (4) Section 14(3) and (4)—delete subsections (3) and (4) and substitute:
- (3) If a defendant is charged with an offence against this section in respect of a course of conduct—
 - (a) it is not necessary to prove that the defendant was, or ought to have been, aware that there was an appreciable risk that harm would be caused to the victim by each act making up the course of conduct; and
 - (b) the information need not—
 - (i) allege particulars of each act with the degree of particularity that would be required if the act were charged as an offence under a different section of this or any other Act; or
 - (ii) identify particular acts or the occasions on which, places at which or order in which acts occurred; or
 - (iii) identify particular acts as causing, wholly or partly, particular harm to the victim.
 - (4) A defendant may be charged with an offence against this section in respect of a course of conduct even if some of the acts making up the course of conduct occurred before the commencement of this section.

7—Insertion of section 14A

After section 14 insert:

14A—Failing to provide food etc in certain circumstances

If—

- (a) a person is liable to provide necessary food, clothing or accommodation to a child or vulnerable adult; and
- (b) the person, without lawful excuse, fails to provide that food, clothing or accommodation,

that person is guilty of an offence.

Maximum penalty: Imprisonment for 3 years.

8—Repeal of section 30

Section 30—delete the section