

South Australia

## **Statutes Amendment (Bail Authorities) Act 2020**

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*.

#### **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 *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:

- (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;