

South Australia

Evidence (Pre-trial Special Hearings) Amendment Bill 2026

A BILL FOR

An Act to amend the *Evidence Act 1929*.

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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 *Evidence (Pre-trial Special Hearings) Amendment Act 2026*.

2—Commencement

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

Part 2—Amendment of *Evidence Act 1929*

3—Amendment of section 4—Interpretation

- 10 (1) Section 4(1), definition of *serious offence against the person*—delete the definition and substitute:
 - serious offence against the person* means—
 - (a) a sexual offence; or
 - (b) any of the following offences:
 - 15 (i) murder;
 - (ii) manslaughter;
 - (iii) stalking under section 19AA of the *Criminal Law Consolidation Act 1935*;
 - 20 (iv) choking, suffocation or strangulation in a domestic setting under section 20A of the *Criminal Law Consolidation Act 1935*;

(v) causing serious harm under section 23 of the *Criminal Law Consolidation Act 1935*;

(vi) an offence involving an unlawful threat to kill or endanger life;

5 (vii) an offence involving abduction;

(viii) an offence involving blackmail; or

(c) a conspiracy to commit, an attempt to commit or an assault with intent to commit an offence referred to in any of the preceding paragraphs;

10 (2) Section 4(1), definition of *sexual offence*, (e)—delete paragraph (e) and substitute:

(e) a conspiracy to commit, an attempt to commit or an assault with intent to commit an offence referred to in any of the preceding paragraphs;

4—Amendment of section 12AB—Pre-trial special hearings

15 (1) Section 12AB(14), definition of *witness to whom this section applies*—after paragraph (c) insert:

(ca) in the case of a trial of an offence of stalking under section 19AA of the *Criminal Law Consolidation Act 1935* or of choking, suffocation or strangulation in a domestic setting under section 20A of that Act—an alleged victim of the offence (regardless of their age at the time of the trial); or

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(2) Section 12AB(14), definition of *witness to whom this section applies*, (d)—after "abuse" second occurring insert:

(regardless of their age at the time of the trial)

25 (3) Section 12AB(14), definition of *witness to whom this section applies*—after paragraph (d) insert:

(e) in the case of a trial of a charge of an offence against section 23 of the *Criminal Law Consolidation Act 1935*—an alleged victim of the offence (regardless of their age at the time of the trial).

30 5—Amendment of section 12AC—Effect of orders made at pre-trial special hearing

(1) Section 12AC, heading—after "hearing" insert:

etc

(2) Section 12AC(1)—delete "made the court at the pre-trial special hearing as to the admission of a recording of evidence of a witness (being an order under section 13BA)" and substitute:

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as to the admission of a recording of evidence of a witness made by a court under section 13BA

(3) Section 12AC(2)—delete "at the pre-trial special hearing" and substitute:

40 under section 13BA

- (4) Section 12AC(3)—delete "at the pre-trial special hearing" first occurring and substitute:

under section 13BA

- (5) Section 12AC(3)(a)—delete "pre-trial special hearing, become aware of a matter of which the party could not reasonably have been aware at the time of the pre-trial special hearing" and substitute:

making of the order under section 13BA, become aware of a matter of which the party could not reasonably have been aware at the time that order was made

- (6) Section 12AC(3)(b)—delete "at the pre-trial special hearing" and substitute:

under section 13BA

6—Amendment of section 13BA—Admissibility of recorded evidence by certain witnesses in certain criminal proceedings

- (1) Section 13BA(1)—delete "the trial of a charge of an offence, or in a pre-trial special hearing conducted in accordance with section 12AB" and substitute:

prescribed circumstances

- (2) Section 13BA—after subsection (6) insert:

(7) In this section—

prescribed circumstances—an order is made in prescribed circumstances for the purposes of this section if it is made in any of the following circumstances:

- (a) in the trial of a charge of any offence;
- (b) in a pre-trial special hearing conducted in accordance with section 12AB;
- (c) if the order relates to evidence of a person to whom section 50B of the *District Court Act 1991* applies who is the alleged victim of a sexual offence (within the meaning of that section)—at any time before the trial of the sexual offence (or at a time referred to in paragraph (a) or (b)).

Schedule 1—Transitional provisions

1—Application of amendments

The *Evidence Act 1929* as in force after the commencement of this Act applies in relation to a trial of an offence that commences after the commencement of this Act.