

South Australia



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ELIZABETHAE II REGINAE
A.D. 2000

STATUTES AMENDMENT (WARRANTS OF APPREHENSION) ACT 2000

No. 18 of 2000

[Assented to 1 June 2000]

An Act to amend the Correctional Services Act 1982, the Criminal Law (Sentencing) Act 1988 and the Young Offenders Act 1993.

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The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY**

Short title

1. This Act may be cited as the *Statutes Amendment (Warrants of Apprehension) Act 2000*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. A reference in this Act to the principal Act is a reference to the Act referred to in the heading to the Part in which the reference occurs.

**PART 2
AMENDMENT OF CORRECTIONAL SERVICES ACT 1982**

Amendment of s. 76—Apprehension, etc., of parolees

4. Section 76 of the principal Act is amended—

(a) by inserting after paragraph (a) of subsection (1) the following paragraph:

(ab) with the concurrence of a second member of the Board—issue a warrant for the apprehension of the person, for the purpose of bringing the person before the Board; or;

(b) by striking out paragraph (b) of subsection (2) and substituting the following paragraph:

(b) may—

(i) issue a warrant for the apprehension of the person; or

(ii) direct a member of the Board to apply to a justice for a warrant for the apprehension of the person,

for the purpose of bringing the person before the Board.;

(c) by inserting after subsection (3) the following subsection:

(3a) A justice must, on application under this section, issue a warrant for the apprehension of a person or for the apprehension and return to prison of a person, as the case may require, unless it is apparent, on the face of the application, that no reasonable grounds exist for the issue of the warrant.

**PART 3
AMENDMENT OF CRIMINAL LAW (SENTENCING) ACT 1988**

Amendment of s. 24—Release on licence

5. Section 24 of the principal Act is amended—

- (a) by striking out from subsection (6) ", on behalf of the board";
- (b) by striking out paragraph (b) of subsection (6) and substituting the following paragraph:
- (b) in the case of proceedings for cancellation of release—
- (i) with the concurrence of a second member of the board—issue a warrant for the apprehension and detention of the person pending determination of the proceedings; or
- (ii) apply to a justice for a warrant for the apprehension and detention of the person pending determination of the proceedings.;
- (c) by striking out paragraph (b) of subsection (7) and substituting the following paragraph:
- (b) direct a member of the board to—
- (i) issue a warrant; or
- (ii) apply to a justice for a warrant,
- for the apprehension and detention of the person for the purpose of bringing him or her before the board.;
- (d) by inserting after subsection (8) the following subsection:

(8a) A justice must, on application under this section, issue a warrant for the apprehension and detention of a person or for the apprehension and return to custody of a person, as the case may require, unless it is apparent, on the face of the application, that no reasonable grounds exist for the issue of the warrant.

PART 4 AMENDMENT OF YOUNG OFFENDERS ACT 1993

Amendment of s. 37—Release on licence of youths convicted of murder

6. Section 37 of the principal Act is amended—

- (a) by inserting after paragraph (a) of subsection (7) the following paragraph:
- (ab) with the concurrence of a second member of the Board—issue a warrant for the apprehension and detention of the youth pending determination of the application; or;
- (b) by inserting after paragraph (a) of subsection (8) the following paragraph:
- (ab) issue a warrant for the apprehension and detention of the youth for the purpose of bringing him or her before the Board; or;

(c) by inserting after subsection (9) the following subsection:

(9a) A justice must, on application under this section, issue a warrant for the apprehension and detention of a youth or for the apprehension and return to custody of a youth, as the case may require, unless it is apparent, on the face of the application, that no reasonable grounds exist for the issue of the warrant.

Amendment of s. 40—Leave of absence

7. Section 40 of the principal Act is amended—

(a) by striking out from subsection (5) "is unlawfully at large and";

(b) by inserting after subsection (5) the following subsections:

(6) A youth who is still at large after the expiry of leave of absence will be taken to be unlawfully at large.

(7) A youth is not, while still at large after revocation of leave of absence, serving his or her sentence of detention.

Insertion of s. 40A

8. The following section is inserted after section 40 of the principal Act:

Leave may be authorised by Board

40A. (1) The Training Centre Review Board may authorise the Chief Executive to grant a youth, subject to conditions that the Board considers proper, periods of leave from a training centre during which the youth will not be subject to the supervision of the Chief Executive.

(2) The Training Centre Review Board may, by written order, revoke any period of leave granted under this section, or vary or revoke any of the conditions to which it is subject.

(3) A youth who is still at large after the revocation or expiry of a period of leave may be apprehended without warrant by a police officer or an officer of the Department authorised by the Minister for the purpose.

(4) A youth who is still at large after the expiry of a period of leave will be taken to be unlawfully at large.

(5) A youth is not, while still at large after revocation of a period of leave, serving his or her sentence of detention.

Amendment of s. 41—Conditional release from detention

9. Section 41 of the principal Act is amended—

(a) by striking out subsection (1);

(b) by striking out from subsection (5) "and, if the youth fails to observe any such condition, the youth will be regarded as being unlawfully at large";

(c) by inserting in subsection (5a) "and section 37D(1)" after "section 37C";

- (d) by inserting in subsection (10) "or may, with the concurrence of a second member of the Board, issue such a warrant" after "apprehension of the youth";
- (e) by inserting after subsection (10) the following subsection:

(10a) A justice must, on application under subsection (10), issue a warrant for the apprehension of the youth unless it is apparent, on the face of the application, that no reasonable grounds exist for the issue of the warrant.

Amendment of s. 48—Escape from custody

10. Section 48 of the principal Act is amended by inserting in subsection (6) "or a youth who has been released on home detention by the Training Centre Review Board in accordance with section 41" after "detention".

Amendment of s. 61—Issue of warrant

11. Section 61 of the principal Act is amended—

- (a) by striking out "that person is satisfied that";
- (b) by inserting "or by affidavit" after "oath".