

Legislative Council—No 165

As introduced and read a first time, 1 May 2024

South Australia

**Statutes Amendment (Criminal Justice Measures)
Bill 2024**

A BILL FOR

An Act to amend the *Bail Act 1985* and the *Summary Offences Act 1953*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement

Part 2—Amendment of *Bail Act 1985*

Division 1—Amendments commencing on assent

- 3 Amendment of section 10A—Presumption against bail in certain cases
- 4 Transitional provision

Division 2—Amendments commencing 3 years after assent

- 5 Amendment of section 10A—Presumption against bail in certain cases

Part 3—Amendment of *Summary Offences Act 1953*

- 6 Insertion of section 21AA
21AA Advertising involvement in offence etc
- 7 Transitional provision

Schedule 1—Review

- 1 Review
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Statutes Amendment (Criminal Justice Measures) Act 2024*.

2—Commencement

- (1) Subject to subsection (2), this Act comes into operation on the day on which it is assented to by the Governor.
- 10 (2) Part 2 Division 2 comes into operation 3 years after the day referred to in subsection (1).

Part 2—Amendment of *Bail Act 1985*

Division 1—Amendments commencing on assent

3—Amendment of section 10A—Presumption against bail in certain cases

- 15 (1) Section 10A(2), definition of *prescribed applicant*—after paragraph (h) insert:
or

- (i) an applicant charged with a prescribed offence and an offence against section 21AA of the *Summary Offences Act 1953* if—
- (i) the prescribed offence is the alleged principal offence for the purposes of the charge of the offence against section 21AA of the *Summary Offences Act 1953*; and
 - (ii) at the time of the alleged offending the applicant was a child of or above the age of 14 years.

(2) Section 10A(2)—after the definition of *prescribed applicant* insert:

prescribed offence means an offence against any of the following provisions of the *Criminal Law Consolidation Act 1935*:

- (a) section 86A;
- (b) section 169;
- (c) section 170.

4—Transitional provision

The *Bail Act 1985* as amended by this Division applies in relation to a person who applies for bail on or after the commencement of this Division (regardless of whether the relevant offence was committed before or after that commencement).

Division 2—Amendments commencing 3 years after assent

5—Amendment of section 10A—Presumption against bail in certain cases

- (1) Section 10A(2), definition of *prescribed applicant*, (i)—delete paragraph (i)
- (2) Section 10A(2), definition of *prescribed offence*—delete the definition

Part 3—Amendment of *Summary Offences Act 1953*

6—Insertion of section 21AA

After section 21 insert:

21AA—Advertising involvement in offence etc

- (1) A person commits an offence against this section if—
 - (a) the person commits an offence (the *principal offence*); and
 - (b) the person publishes material to advertise—
 - (i) the person's involvement in the offence; or
 - (ii) the act or omission constituting the offence.

Maximum penalty: Imprisonment for 2 years.

- (2) A person may be charged with an offence against this section and the principal offence in the same instrument of charge.
- (3) In this section—

advertise means attract the notice and attention of the public or a limited section of the public;

material includes—

- (a) any written or printed material; and
- (b) any photographic, electronic or other information or data from which an image or representation may be produced or reproduced; and
- (c) any audio, video or other recording from which an image or sound may be produced or reproduced;

publish means publish by any means, including via the Internet, social media or other electronic means.

7—Transitional provision

Section 21AA of the *Summary Offences Act 1953* (as inserted by this Act) only applies in relation to a principal offence (within the meaning of that section) committed or alleged to have been committed on or after the commencement of this Part.

Schedule 1—Review

1—Review

The Minister must, after the second anniversary of the commencement of this clause but not later than 6 months after that anniversary, cause a review of the operation and effectiveness of the amendments made by Part 2 Division 1 and Part 3 of this Act to be conducted and a report on the review to be laid before both Houses of Parliament.