



ANNO TRICESIMO QUINTO

ELIZABETHAE II REGINAE**A.D. 1986**

No. 33 of 1986

An Act to amend the Bail Act, 1985, and the Children's Protection and Young Offenders Act, 1979.

[Assented to 10 April 1986]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. This Act may be cited as the "Statutes Amendment (Children's Bail) Act, 1986".

Commencement.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

Amendment of
Bail Act, 1985.

3. The Bail Act, 1985, is amended—

(a) by inserting in section 3 after the definition of "bail authority" the following definition:

"child" means a person who was, on the day on which an offence was allegedly committed by that person, under the age of 18 years;;

(b) by inserting in section 3 after the definition of "guarantor" the following definition:

"guardian" in relation to a child, means a parent of the child and any person who is the legal guardian of the child or who has the immediate custody and control of the child;;

(c) by inserting after the present contents of section 3 as amended by this section (now to be designated as subsection (1) the following subsection:

(2) For the purposes of this Act, a person shall be deemed to have been convicted of an offence if a formal finding of

guilt has been made against that person by a court whether or not the court proceeds to record a conviction.;

(d) by inserting the following paragraph immediately before paragraph (a) of section 4:

(aa) a child who, having been arrested by a member of the police force on suspicion of having committed an offence, has been delivered into the custody of the member of the police force in charge of a police station.;

(e) by inserting after subsection (1) of section 6 the following subsection:

(1a) For the purposes of subsection (1)—

(a) a child who has been arrested on suspicion of having committed an offence shall, for so long as no charge is actually laid against the child, be deemed to have been charged with that suspected offence;

and

(b) if this child is not charged with that suspected offence but with some other offence arising out of the same circumstances as that suspected offence—a bail agreement entered into by the child relates to that other offence.;

(f) by inserting after subsection (2) of section 8 the following subsection:

(2a) Where the eligible person is a child, a request may be made on behalf of the child under subsection (2) by a guardian of the child.;

(g) by striking out subparagraph (iii) of paragraph (a) of subsection (2) of section 11 and substituting the following subparagraph:

(iii) to be—

(A) in the case of a child, under the supervision of an officer of the Department of Community Welfare;

and

(B) in any other case, under the supervision of an officer of the Department of Correctional Services,

and to obey the lawful directions of the officer.;

(m) by striking out from subsection (3) of section 11 the passage “referred to in subsection (2)(a) requiring an applicant for bail to place himself” and substituting the passage “requiring an applicant for bail to be”;

(n) by striking out from subsection (8) of section 11 the passage “place himself under the supervision of an officer of” and substituting the passage “be under the supervision of an officer of the Department of Community Welfare or”;

- (o) by striking out from paragraph (a) of subsection (1) of section 13 the passage "understands that he" and substituting the passage "and, where the arrested person is a child, any guardian of his who is present, understands that the arrested person";
- (p) by inserting in paragraph (b) of subsection (1) of section 13 after the passage "arrested person" the passage "and, where the arrested person is a child, any guardian of his who is present,";
- (q) by inserting in subsection (2) of section 13 after the passage "if he so requests" the passage "or, in the case of a child, if he or his guardian so requests";
- (r) by striking out from subsection (3) of section 13 the passage "12 noon" and substituting the passage "4 p.m.";
- (s) by striking out from subsection (2) of section 14 the passage "or the person applying for release on bail" and substituting the passage ", the person applying for release on bail or, where the person applying for release on bail is a child, the child or a guardian of the child";
- (t) by inserting in subsection (1) of section 15 after the passage "application of the applicant" the passage "or, where the applicant is a child, on the written application of the child or a guardian of the child";
- (u) by striking out from paragraph (c) of subsection (2) of section 15 the word "and" between subparagraphs (i) and (ii) of that paragraph;
- (v) by inserting after subparagraph (ii) of paragraph (c) of subsection (2) of section 15 the following word and subparagraph:
and
(iii) where the applicant is a child—of the circumstances of the child.;
- (w) by inserting in subsection (3) of section 15 after the passage "arrested person" the passage "(not being a child)";
- (x) by striking out from subsection (3) of section 15 the passage "12 noon" and substituting the passage "4 p.m.";
- (y) by striking out from paragraph (a) of subsection (1) of section 20 the passage "charged with" and substituting the passage "arrested for";
- and
- (z) by striking out paragraph (b) of section 24 and the word "or" immediately preceding that paragraph.

Amendment of
Children's
Protection and
Young Offenders
Act, 1979.

4. The Children's Protection and Young Offenders Act, 1979, is amended—

- (a) by inserting after paragraph (bb) of section 25 the following paragraph:
(bc) an offence against section 17 of the Bail Act, 1985;;
- (b) by striking out from paragraph (b) of subsection (1) of section 30 the passage "recognizance entered into by the child for the

purposes of bail shall be discharged" and substituting the passage "bail agreement entered into by the child under the Bail Act, 1985, shall be terminated";

(c) by striking out from subsection (2) of section 30 the word "recognizance" and substituting the passage "bail agreement";

(d) by inserting the following subsection after subsection (3) of section 42:

(3a) A child who is apprehended, whether under this section or any other Act or law, shall be dealt with in accordance with the Summary Offences Act, 1953.;

(e) by striking out from subsection (4) of section 42 the passage "Any child who is apprehended, whether under this section or any other Act or law, shall, if he is not granted bail under section 43 of this Act," and substituting the passage "Where a child is not granted bail under the Bail Act, 1985, the child shall";

(f) by repealing section 43;

(g) by striking out from paragraph (b) of subsection (1) of section 44 the passage "upon such conditions as the Court thinks fit";

(h) by striking out subsection (2) of section 44;

and

(i) by striking out subsection (3) of section 80.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

C. L. LAUCKE, Governor's Deputy