

South Australia

Statutes Amendment (Recidivist Young Offenders) Bill 2025

A BILL FOR

An Act to amend the *Bail Act 1985*, the *Sentencing Act 2017* and the *Young Offenders Act 1993*.

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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 *Statutes Amendment (Recidivist Young Offenders) Act 2025*.

2—Commencement

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

Part 2—Amendment of *Bail Act 1985*

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

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

or

- (i) an applicant taken into custody in relation to a serious offence if the applicant is a youth who is a recidivist young offender.

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

recidivist young offender means a person who is a recidivist young offender under Part 3 Division 4 of the *Sentencing Act 2017*;

serious offence means—

- (a) a serious firearm offence within the meaning of Part 3 Division 3 of the *Sentencing Act 2017*; or
- (b) any of the following offences if the maximum penalty prescribed for the offence is, or includes, imprisonment for at least 5 years:
 - (i) an offence under Part 5 Division 2 or 3 of the *Controlled Substances Act 1984*;
 - (ii) an offence under a law of the Commonwealth dealing with the unlawful importation of drugs into Australia;
 - (iii) an offence involving a terrorist act (within the meaning of Part 5.3 of the *Criminal Code* of the Commonwealth);
 - (iv) an offence under Part 3 of the *Criminal Law Consolidation Act 1935*;
 - (v) an offence under section 137 of the *Criminal Law Consolidation Act 1935*;
 - (vi) an offence under section 170 of the *Criminal Law Consolidation Act 1935*;
 - (vii) an aggravated offence under section 170A of the *Criminal Law Consolidation Act 1935*;
 - (viii) an offence under section 85(1) of the *Criminal Law Consolidation Act 1935*;
 - (ix) an offence under section 85B of the *Criminal Law Consolidation Act 1935*;
 - (x) a serious and organised crime offence (within the meaning of the *Criminal Law Consolidation Act 1935*);
 - (xi) an offence against section 31(2aa)(b) of the *Intervention Orders (Prevention of Abuse) Act 2009*;
 - (xii) an offence under a corresponding previous enactment substantially similar to an offence referred to in a preceding subparagraph;

- (xiii) a conspiracy to commit, or an attempt to commit, an offence referred to in a preceding subparagraph;

youth means a child who was, on the day on which an offence was allegedly committed by that child, of or above the age of 14 years.

Part 3—Amendment of *Sentencing Act 2017*

4—Amendment of section 52—Interpretation

Section 52—after the definition of *community based custodial sentence* insert:

conviction means a finding of guilt by a court, or the acceptance of a plea of guilty by a court, whether or not a conviction is recorded;

5—Amendment of section 55—Declaration that youth is recidivist young offender

- (1) Section 55, heading—delete "Declaration that youth is recidivist young offender" and substitute:

Recidivist young offenders

- (2) Section 55(1)—delete "liable to be declared" and substitute:

, by force of this subsection, taken to be

- (3) Section 55(2)—delete subsection (2) and substitute:

- (2) For the purposes of this section, when determining the number of occasions on which a person has committed a particular kind of offence, the offence for which the person is being sentenced is to be included if it is of the relevant kind.

- (4) Section 55(3)—delete "of a serious offence, and the youth is declared (or has previously been declared) to be a recidivist young offender" and substitute:

who is a recidivist young offender of a serious offence (including an offence that resulted in the youth being a recidivist young offender)

- (5) Section 55—after subsection (4) insert:

- (5) A court that is sentencing a youth who is a recidivist young offender for a serious offence may declare that subsection (3) does not apply if the court is satisfied, by evidence on oath given by or on behalf of the youth, that special circumstances exist and that it is, in all the circumstances, not appropriate that the youth be sentenced as a recidivist young offender.

6—Transitional provision

- (1) The *Sentencing Act 2017* as amended by this Part applies in relation to a sentence imposed after the commencement of this Act regardless of whether—

- (a) the offence for which the defendant is being sentenced was committed before or after that commencement; or
- (b) the defendant is being sentenced at first instance or on an appeal.

- (2) To avoid doubt, nothing in this Act affects any sentence imposed before the commencement of this Act.

Part 4—Amendment of *Young Offenders Act 1993*

7—Amendment of section 3—Objects and statutory policies

Section 3(2a)—delete subsection (2a) and substitute:

(2a) In imposing sanctions on a youth for illegal conduct—

- (i) regard should be had to the deterrent effect any proposed sanction may have on the youth; and
- (ii) if the youth has demonstrated a pattern of repeated illegal conduct, the impact of that conduct and the need to protect the safety of the community (whether as individuals or in general) is of paramount importance.

8—Amendment of section 4—Interpretation

Section 4(1), definition of *recidivist young offender*—delete "declared under Part 3 Division 4 of the *Sentencing Act 2017* to be a recidivist young offender" and substitute:

a recidivist young offender under Part 3 Division 4 of the *Sentencing Act 2017*