

News Release Deputy Premier John Rau

Attorney General
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Wednesday, 28 November 2012

New right of appeal for “fresh” and “compelling” evidence

Attorney General John Rau will today introduce a Bill to give convicted persons a new right of appeal if fresh and compelling new evidence comes to light.

Mr Rau said the proposed change is one of a number of amendments to the appeal process contained in the *Statutes Amendment (Appeals) Bill 2012* which he is introducing today.

“Under current law, a convicted person has only one right of appeal, and once that is exhausted, even if fresh and compelling evidence emerges, the defendant is left with no option, other than to petition the Governor for mercy,” Mr Rau said.

“The current South Australian model is in use in most of Australia, and while I’m confident the process works effectively, it has been the subject of some criticism.

“Under the proposed changes, the Executive arm of Government – namely Cabinet and the Governor – play no role in considering “fresh evidence” appeals by convicted defendants.

“While I have been seeking to address this issue for some time, it is timely that we are now able to take into account the Legislative Council Review Committee’s *Final Report on its Inquiry into the Criminal Cases Review Commission Bill 2010*.

“This change to the appeal process was one of the recommendations included in their report tabled in August 2012, and which I am happy to adopt.”

Other changes included in the draft bill include:

- a person granted a full pardon for a conviction on the basis that the evidence does not support such a conviction will be eligible to have their conviction quashed;
- if a defendant appeals his or her sentence on the ground of error and argues that a lower sentence should have been imposed, then the prosecution will have an automatic right of cross appeal without the usual need to obtain leave. The prosecution will be able to argue on the basis that an error was made by the sentencing court and the sentence should be increased, or on the basis the sentence is manifestly inadequate; and
- the Chief Justice will be able to allow the Full Court to be constituted by two judges for both sentence and conviction appeals rather than three judges as is presently the case.

“I intend to introduce the Bill today so that all interested parties and individuals can have their say on the changes during the Christmas break before Parliament resumes in February.”

A copy of the Bill will be made available following its introduction at www.agd.sa.gov.au/newsroom/legislation-parliament