



**CRIMINAL LAW CONSOLIDATION (CHILD SEXUAL  
ABUSE) AMENDMENT ACT 1994**

**No. 23 of 1994**

**SUMMARY OF PROVISIONS**

1. Short title
2. Commencement
3. Insertion of s. 74
  74. Persistent sexual abuse of a child



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**ELIZABETHAE II REGINAE**

A.D. 1994

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No. 23 of 1994

**An Act to amend the Criminal Law Consolidation Act 1935.**

[Assented to 26 May 1994]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Criminal Law Consolidation (Child Sexual Abuse) Amendment Act 1994*.

(2) The *Criminal Law Consolidation Act 1935* is referred to in this Act as "the principal Act".

**Commencement**

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

**Insertion of s. 74**

3. The following heading and section is inserted after section 73 of the principal Act:

**Persistent sexual abuse of a child**

74. (1) A person may be charged with and convicted of the offence of persistent sexual abuse of a child.

(2) Persistent sexual abuse of a child consists of a course of conduct involving the commission of a sexual offence against a child on at least three separate occasions (whether the offence is of the same nature on each occasion or differs from occasion to occasion).

(3) A person does not however commit the offence of persistent sexual abuse of a child unless the occasions on which a sexual offence is committed against the child fall on at least three days.

(4) A charge of persistent sexual abuse of a child—

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- (a) must specify with reasonable particularity when the course of conduct alleged against the defendant began and when it ended; and
  - (b) must describe the general nature of the conduct alleged against the defendant and the nature of the sexual offences alleged to have been committed in the course of that conduct,

but the charge need not state the dates on which the sexual offences were committed, the order in which the offences were committed, or differentiate the circumstances of commission of each offence.

(5) Before a jury returns a verdict that a defendant is guilty of persistent sexual abuse of a child—

- (a) the jury must be satisfied beyond reasonable doubt that the evidence establishes at least three separate incidents, falling on separate days, between the time when the course of conduct is alleged to have begun and when it is alleged to have ended in which the defendant committed a sexual offence against the child; and
- (b) the jury must be agreed on the material facts of three such incidents in which the defendant committed a sexual offence of a nature described in the charge (although they need not be agreed about the dates of the incidents, or the order in which they occurred).

(6) The judge must warn a jury, before it retires to consider its verdict on a charge of persistent sexual abuse of a child, of the requirements of subsection (5).

(7) A person convicted of persistent sexual abuse of a child is liable to a term of imprisonment proportionate to the seriousness of the offender's conduct which may, in the most serious of cases, be imprisonment for life.

(8) A charge of persistent sexual abuse of a child subsumes all sexual offences committed by the same person against the same child during the period of the alleged sexual abuse, and hence a person cannot be simultaneously charged (either in the same or in different instruments of charge) with persistent sexual abuse of a child and a sexual offence alleged to have been committed against the same child during the period of the alleged persistent sexual abuse.

(9) A person who has been tried and convicted or acquitted on a charge of persistent sexual abuse of a child may not be charged with a sexual offence against the same child alleged to have been committed during the period over which the defendant was alleged to have committed persistent sexual abuse of the child.

(10) A prosecution on behalf of the Crown for persistent sexual abuse of a child cannot be commenced without the consent of the Director of Public Prosecutions.

(11) In this section—

“child” means a person under the age of sixteen years;

“sexual offence” means an offence against section 48, 49, 56, 58, 58A or 72, or an attempt to commit, or an assault with intent to commit, any of those offences.

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

**BASIL S. HETZEL, Governor's Deputy**