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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 2386.

23 October 1987

No. 2386.

23 Oktober 1987

It is hereby notified that the State President has consented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 103 of 1987: Law of Evidence and the Criminal Procedure Act Amendment Act, 1987.

No. 103 van 1987: Wysigingswet op die Bewysreg en die Strafproseswet, 1987.

Act No. 103, 1987

LAW OF EVIDENCE AND THE CRIMINAL PROCEDURE ACT
AMENDMENT ACT, 1987

GENERAL EXPLANATORY NOTE:

Words underlined with solid line indicate insertions in existing enactments.

ACT

To make provision that any accountable boy under the age of 14 years may be held legally responsible for any act or offence of which sexual intercourse with a female is an element; to amend the Criminal Procedure Act, 1977, so as to further regulate the circumstances in which certain criminal proceedings shall not take place in open court; and to extend the prohibition of the publication of certain information relating to certain offences; and to provide for matters incidental thereto.

(English text signed by the State President.)
(Assented to 13 October 1987.)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Evidence of sexual intercourse by boy under 14 years may be adduced.

1. Notwithstanding the provisions of any law or the common law, but subject to any rule of law relating to the accountability of any person under the age of 14 years, evidence may be adduced in legal proceedings where the question is in issue whether a boy under the age of 14 years has had sexual intercourse with any female, that such sexual intercourse has taken place, and no presumption or rule of law to the effect that such a boy is incapable of sexual intercourse shall come into operation.

Amendment of section 153 of Act 51 of 1977.

2. Section 153 of the Criminal Procedure Act, 1977 (hereinafter referred to as the principal Act), is hereby amended by the insertion after subsection (3) of the following subsection:

“(3A) Any person whose presence is not necessary at criminal proceedings referred to in paragraphs (a) and (b) of subsection (3), shall not be admitted at such proceedings while the other person referred to in those paragraphs is giving evidence, unless such other person or, if he is a minor, his parent or guardian or a person *in loco parentis*, requests otherwise.”

Amendment of section 154 of Act 51 of 1977, as amended by section 12 of Act 33 of 1986.

3. Section 154 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) Where a court under section 153 (3) directs that any person or class of persons shall not be present at criminal proceedings or where any person is in terms of section 153 (3A) not admitted at criminal proceedings, no person shall publish in any manner whatever any information which might reveal the identity of any complainant in the proceedings: Provided that the presiding

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judge or judicial officer may authorize the publication of such information if he is of the opinion that such publication would be just and equitable.”

Insertion of section 335A in Act 51 of 1977.

4. The following section is hereby inserted in the principal Act after section 335:

335A. (1) No person shall, with regard to any offence referred to in section 153 (3) (a) and (b), as from the date on which the offence in question was committed or allegedly committed, until the prohibition in terms of section 154 (2) (b) of the publication of information relating to the charge in question commences, publish any information which might reveal the identity of the person towards or in connection with whom the offence was committed or allegedly committed, except with the authorization of a magistrate granted on application in chambers, with due regard to the wishes of the person towards or in connection with whom the offence was committed.

(2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding R1 500 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.”

Short title.

5. This Act shall be called the Law of Evidence and the Criminal Procedure Act Amendment Act, 1987.