**COMMITTEE REPORTS**

**National Assembly**

1. **Report of the Portfolio Committee on Justice and Correctional Services on the Criminal Procedure Amendment Bill [B 2-2017] (National Assembly – section 75), dated 9 May 2017**

The Portfolio Committee on Justice and Correctional Services (the Committee), having considered the Criminal Procedure Amendment Bill [B 2-2017] (the Bill), referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, reports the Bill with amendments [B2A-2017]. The Committee, furthermore, wishes to report as follows:

1. The Criminal Procedure Amendment Bill was referred to the Committee on 1 February 2017. The Bill emanates from the judgment of the Constitutional Court in *De Vos N.O. and Others v Minister of Justice and Constitutional Development and Others* [2015] ZACC 21. On 26 June 2015, the Constitutional Court declared section 77(6)(a)(i) and (ii) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), to be inconsistent with the Constitution and invalid to the extent that it provided for the compulsory imprisonment of an adult accused person; and compulsory hospitalisation or imprisonment of children.
2. The Constitutional Court suspended the declaration of invalidity in respect section 77(6)(a)(i) to the extent that it provides for the compulsory imprisonment of an adult accused person; and compulsory hospitalisation or imprisonment of children for a period of 24 months from the date of the judgement to allow Parliament to correct the defects in light of the judgment. Further, with regard to section 77(6)(a)(ii), the Constitutional Court provided a read-in provision, which was effective from the date of judgment.
3. The Bill, therefore, seeks to amend the Criminal Procedure Act, 1977, so as to provide the courts with a wider range of options in respect of orders to be issued in cases of findings that accused persons are not capable of understanding criminal proceedings so as to make a proper defence; or that accused persons are by reason of mental illness or mental defect or for any other reason not criminally responsible for the offences they are charged with. The Bill also seeks to clarify the composition of the panels provided for in section 79 of the Act to conduct enquiries into the mental condition of accused persons.
4. The Bill was advertised for public comment in various newspapers and in all official languages. The Committee received two written submissions on the Bill but there was no request to make an oral submission.
5. The Committee deliberated on the Bill and agreed to the following amendments:

LONG TITLE

1. On page 2, in the fifth line, to omit “mental defect”, and to insert “intellectual disability”.

CLAUSE 1

1. On page 3, in line 8, to omit “or”.

2. On page 3, in line 14, to omit “him”, and to insert “himself”.

3. On page 3, in lines 14 and 15, to omit—

“or to any property belonging to him or her or any other person”.

4. On page 3, in line 21, to omit “or”.

5. On page 3, after line 23, to insert—

“*(ee)* referred to a Children’s Court as contemplated in section 64 of the Child Justice Act, 2008 (Act No. 75 of 2008), and pending such referral be placed in the care of a parent, guardian or other appropriate adult or, failing that, placed in temporary safe care as defined in section 1 of the Children’s Act, 2005 (Act No. 38 of 2005); or”

6. On page 3, in line 32, to omit “or”.

7. On page 3, in line 33, after the word “unconditionally” to omit—

“where the court has found that the accused has not committed any offence”.

8. On page 3, in line 33, after the comma, to insert “or”.

9. On page 3, after line 34, to insert—

“*(dd)* referred to a Children’s Court as contemplated in section 64 of the Child Justice Act, 2008, and pending such referral be placed in the care of a parent, guardian or other appropriate adult or, failing that, placed in temporary safe care as defined in section 1 of the Children’s Act, 2005;”

CLAUSE 2

1. On page 4, in lines 38 and 39, to omit—

“or to any property belonging to him or her or to any other person”.

2. On page 4, in line 49, to omit “or”, and to insert “**[or]**”.

3. On page 4, in line 50, after “unconditionally;”, to insert “or”

4. On page 4, after line 50, to insert—

“*(ff)* referred to a Children’s Court as contemplated in section 64 of the Child Justice Act, 2008, and pending such referral be placed in the care of a parent, guardian or other appropriate adult or, failing that, placed in temporary safe care as defined in section 1 of the Children’s Act, 2005; or”

5. On page 4, in line 59, to omit “or”, and to insert “**[or]**”.

6. On page 4, in line 60, to omit all the words, and to insert—

“*(dd)* **[be]** released unconditionally; or

*(ee)* referred to a Children’s Court as contemplated in section 64 of the Child Justice Act, 2008, and pending such referral be placed in the care of a parent, guardian or other appropriate adult or, failing that, placed in temporary safe care as defined in section 1 of the Children’s Act, 2005.”; and”

**Report to be considered.**