

AMENDMENTS PROPOSED
CHILDREN'S AMENDMENT BILL

[BILL 13—2015]

CLAUSE 1

1. On page 2, after line 10, to substitute for paragraph (b) of the following:
(b) by the insertion before the definition of "sexual offence" of the following definition:

"sexual offence" means (i) rape, indecent assault or any offence referred to in the Sexual Offences Act, 1957 (Act No. 23 of 1957), that has been committed against a child; or
(ii) a sexual offence referred to in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007 (Act No. 32 of 2007), that has been committed against a child;"

CLAUSE 2

2. On page 3, before 5, to insert the following subsection:

"(1A) the provisions of subsection (1)(c) are not applicable to a person who was a child at the time of the commission of the alleged offence".

3. On page 3, after line 5, after "murder" to insert "rape" and "indecent assault".
4. On page 3, in line 10, after "harm" to insert the following categories of crimes: "Offences in terms of sections 8,9 and 10 of the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No. 7 of 2013);" and "Offences in terms of 24A (5) concerning the distribution or exhibition of classified materials to children".
5. On page 3, from line 25, to substitute for paragraph (b) of the following:
 - (b) by the insertion after subsection (4) of the following:

(4A) If a court has, in terms of this Act or any other law, convicted a person of a sexual offence referred to in section 4 (a) and such a person was a child at the time of the commission of such offence, or if a court has made a finding and given a direction referred to in section 4(b) in respect of such person who was a child at the time of the alleged commission of the offence, the court may not make an order as contemplated in section 4

(a) unless—

(i) the prosecutor has made an application to the court for such an order;

(ii) the court has considered a report by the probation officer referred to in section 71 of the Child Justice Act, 2008, which deals with the probability of A committing another sexual offence against a child or a person who is mentally disabled, as the case may be, in future;

(iii) the person concerned has been given the opportunity to address the court as to why his or her particulars should not be included in the Register; and

(iv) the court is satisfied that substantial and compelling circumstances exist based upon such report and any other evidence, which justify the making of such an order.

(d) In the event that a court finds that substantial and compelling circumstances exist which justify the making of an order as contemplated in section 4, the court must enter such circumstances on the record of the proceedings.”

6. On page 3, after line 35, after the word “children”, to add the following “unless such person was a child at the time of the commission of the offence.”.

7. On page 3, after line 40, to insert a new paragraph

“(aA) of any criminal conviction contemplated in section 120 (4A)”.

CLAUSE 5

8. On page 4, in line 5, to omit the word “ostensibly” and add the following words “and such inability is readily apparent”.