

REPUBLIC OF SOUTH AFRICA

PORTFOLIO COMMITTEE AMENDMENTS

TO

CHILD JUSTICE AMENDMENT BILL

[B32 – 2018]

*(As agreed to by the Portfolio Committee on Justice and Correctional Services
(National Assembly))*

[B32A-2018]

AMENDMENTS APPROVED
CHILD JUSTICE AMENDMENT BILL

[B32B – 2018]

CLAUSE 15

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

Amendment of section 41 of Act 75 of 2008

15. Section 41 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:

"(1) A prosecutor may divert a matter involving a child who is alleged to have committed an offence referred to in Schedule 1 and may, for this purpose, select any level one diversion option set out in section 53(3) or any combination thereof, if the prosecutor is satisfied—

- (a) that the factors referred to in section 52(1)(a) to (d) have been complied with; and

- (b) in the case of a child who is **[10] 12** years or older but under the age of 14 years, that **[criminal capacity is likely to be proved in terms of section 11] the child will benefit from diversion.**"; and

- (b) by the insertion after subsection (1) of the following subsection:

“(1A) If the prosecutor is of the view that the child is unlikely to benefit from diversion, or if diversion is for any reason not appropriate, the prosecutor may refer the child to a probation officer to be dealt with as a child who lacks criminal capacity, in terms of section 9 of the Act.”.

CLAUSE 17

1. On page 7, after line 49, to insert:

“(c) If the inquiry magistrate is of the view that the child is unlikely to benefit from diversion, or if diversion is for any reason not appropriate, the inquiry magistrate may refer the child to a probation officer to be dealt with as a child who lacks criminal capacity, in terms of section 9 of the Act.”.

CLAUSE 20

1. Clause rejected.

NEW CLAUSE

1. That the following be a new clause:

Amendment of section 67 of Act 75 of 2008

20. Section 67 of the principal Act is hereby amended by the insertion in subsection (1) after paragraph (a) of the following paragraphs:

“(aA) A child justice court may only make an order for diversion in terms of paragraph (a) if the court is satisfied—

(i) that the factors referred to in section 52(1)(a) to (d) have been complied with; and

(ii) in the case of a child who is 12 years or older but under the age of 14 years, that the child will benefit from diversion.

(aB) If the child justice court is of the view that the child is unlikely to benefit from diversion, or if diversion is for any reason not appropriate, the court may refer the child to a probation officer to be dealt with as a child who lacks criminal capacity, in terms of section 9 of the Act.”.