**SELECT COMMITTEE ON SECURITY AND JUSTICE: 6 NOVEMBER 2019**

**CHILD JUSTICE AMENDMENT BILL, 2018 [B 32B-2018]**

**DEPARTMENT’S RESPONSE TO WRITTEN SUBMISSIONS**

| **PROVISION IN QUESTION** | **NAME OF COMMENTATOR** | **SUBMISSION/RECOMMENDATION** | **RESPONSE** |
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|   | **Centre for Child Law** | The Centre made written submissions to the Portfolio Committee and re-iterates its support for the proposed amendments. The Centre has no further submissions. | The Portfolio Committee considered the submissions by the Centre and adopted some of the proposals made (as reflected in - *clauses 15* - insertion of subsection (1A), *Clause 17* - insertion of paragraph (c) in subsection (1), and *Clause 20* - insertion of paragraphs (aA) and (aB) |
| **Clause 7** | **M Redelinghuys** | Clause 7 amends section 10 of the Child Justice Act, 2008 (the Act) which currently gives the prosecutor the power to consider the educational level, cognitive ability, domestic and environmental circumstances, age and maturity of a children, among others, when considering to prosecute a child. Mr Redelinghuys supports the Bill but requests the Committee to reconsider the deletion of “cognitive ability” from section 10. | Section 10(1) lists factors that the prosecutor must consider in determining whether or not to prosecute a child who is presumed not to have criminal capacity. “Cognitive ability” is one of these factors. It has been argued that a prosecutor is not equipped or qualified to consider the cognitive ability of a child. Moreover, cognitive ability is listed in section 11 as one of the factors that must be evaluated (and reported on) by a suitably qualified person to assist the court on the criminal capacity of a child. The Minister has determined these suitably qualified persons as psychiatrists and psychologists (Government Notice). This factor should thus be removed in section 10, but is still retained in section 11 to be considered by a suitably qualified person. |