**MEDIA STATEMENT**

**JUSTICE PORTFOLIO COMMITTEE SENDS STATE LIABILITY AMENDMENT BILL BACK TO DEPARTMENT**

**Parliament, Tuesday, 26 January 2021 –** The Portfolio Committee on Justice and Correctional Services today referred the State Liability Amendment Bill back to government as the committee felt a holistic approach should be followed with changing the Bill, with all the relevant information being at the disposal of the committee.

Committee Chairperson, Mr Bulelani Magwanishe, said the committee received its first briefing from the Department of Justice and Constitutional Development and also received input from the Department of Health today. The committee was, however, not impressed by the information as currently the investigation and research by the South African Law Reform Commission (SALRC) n this matter is still outstanding. “The research is very important for this matter. We legislate in order to improve the lives of our people. We want information that shows impact on the ground and not just information from summits and declarations.”

His views were supported by all members of the multi-party committee.

The State Liability Amendment Bill aims to provide for structured settlements for the satisfaction of claims against the state as a result of wrongful medical treatment of persons by servants of the state. The Bill is promoted in the interim pending the outcome of the larger investigation into medico-legal claims by the SALRC. The Bill aims to introduce a new provision dealing with the structured settlement of claims. The proposed new section provides that a court must, in a successful claim against the state that exceeds R1 million, order that compensation be paid to the creditor in terms of a structured settlement which may provide for, among other things, past expenses and damages, necessary immediate expenses and periodic payments for future costs referred to in the proposed new section.

Furthermore, the proposed new subsection makes provision for those instances where the state can provide treatment to injured parties. Provision will also be made that the amount payable by way of periodic payments will increase annually in accordance with the consumer price index. The proposed new section finally makes provision for any party to apply to a court of law for a variation of the periodic payment order if a substantial change in the condition or the circumstances of the injured party necessitates such a variation.

Many members of the committee raised concerns about the burden this Bill would have on the poor in terms of claims. Concerns were also raised regarding the provision that victims will now be forced to use state health facilities after a neglicence claim – the same services that caused the damages in the first place.

Mr Magwanishe said the committee is in agreement that there is no haste in respect of the Bill. “We do not see the need to address this matter in a piecemeal manner. This cannot be a stop-gap excercise. We require proper consultation with all parties, not just with the Department of Health. We further want an implementation plan as well as a response to all the objections that were previously raised regarding the Bill.”

**ISSUED BY THE PARLIAMENTARY COMMUNICATION SERVICES ON BEHALF OF THE CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON JUSTICE AND CORRECTIONAL SERVICES, MR BULELANI MAGWANISHE.**