

## 08 CJB 63

### Tracking changes made to Child Justice Bill at meeting on 17 June 2008

Page	Clause	Clause	Change	Comment
2	Long title		... and to incorporate, as a central feature of the process, diversion of certain matters involving children away from formal court processes	
3	Preamble		'expand and entrench the notions of restorative justice in the criminal justice system for children who are in conflict with the law, while ensuring their responsibility and accountability'	
			Recognise the present realities of crime ... the potential for reoffending (instead of recidivism)	
4	Preamble		'creating child justice courts designed to adjudicate matters ...'	
4			Parliament of the RSA enacts (deleted 'The')	
5	Table of contents		Chapter 3 Written notice, summons, arrest	
10	Definitions	Clause 1 – 'an appropriate adult'	Means any member of a child's family or a guardian or caregiver referred to in section 1 of the Children's Act, or a suitable person who is prepared to assist a child'	
	Definitions		Insert new definition of 'medical practitioner' – use wording contained in Children's Act	New
12	Objects of the Act	Clause 2(e)	'foster cooperation between government departments and between government departments and non-governmental sector to ensure an integrated and	

			holistic approach in implementing this Act'.	
13	Guiding principles	Clause 3(h)	The word 'should' instead of 'must' is flagged	
14	Manner in which children who are alleged to have committed offences are to be dealt with	Clause 5(2)	Sections 41(3) and 47(5)	
14		Clause 5(3)	New (b) dealing with children age 10-14 who lack criminal capacity. Old (b) becomes (c).	
15	Minimum age of criminal capacity	Clause 7(2)	A child who is 10 years or older but under the age of 14 years and who commits an offence is presumed to lack criminal capacity, unless the State proves that the child/he or she has criminal capacity in accordance with section 11.	
15	Review of minimum age	Clause 8	In order ..., the Minister responsible for the administration of justice must, ... section 94(4) and (5).	
16	Manner of dealing with child under the age of 10 years	Clause 9(1)(b)	'If no parent or appropriate adult ....	
16		Clause 9(3)(a)(i)	Section 50. (delete (3))	
16		Clause 9(3)(b)	Flagged use of word may – suggested use words 'does'	F
17	Decision to prosecute child who is 10 years ....	Clause 10(1)(g)	Flagged the inclusion of clause 'appropriateness of diversion'.	F
18	Proof of criminal capacity	Clause 11(2)	Referred to in section 40 (instead of 41)	
20	Responsibility of police official ..	Clause 12(b)	A probation officer ... or until the determination of that person's age at the preliminary inquiry or	

			child justice court, after which the police official must treat the person ....	
20	Age estimation by probation officer	Clause 13(2)(e)	'an age estimation by a medical practitioner' (Delete 'made').	
20		Clause 13(4)	Should evidence to the contrary emerge at any stage before sentence, the estimation of age by a ....recorded'.	
21	Age determination by any other court	Clause 15(b)	Section 16 (not 15)	
24	Methods of securing attendance	Clause 17(2)	'Where circumstance permit, a police official should obtain guidance from the DPP or a prosecutor on whether or not the child should be made to attend a preliminary inquiry and, if so, the manner in which this should be done/accomplished.	
24	Written notice	Clause 18(1)	Criminal Procedure Act	
24		Clause 18(3)(b)	... each must acknowledge receipt by way of a signature or a mark'.	
25		Clause 18(4)(a)(iv)	Date, time and place Delete ; 'and' (at end of subclause)	
25	Summons	Clause 19(1)	Date, time and place	
25		Clause 19(2)(a); Clause 19(2)(b)	Delete 'thereof' before 'by way of signature or mark'	
25		Clause 19(3)(a)(iii)	Delete ; 'and' at end of subclause	
27	Arrest	Clause 20(3)(b)	Delete ; 'and' at end of subclause	
28	Approach to be followed when considering release or detention of	Clause 21(2)(a)	'section 18, read with section 22; or'	

	child after arrest			
29	Duty of police official ...	Clause 23 - heading	Duty of police official when releasing a child into care of parent	New heading
29	Release of child into care of parent or appropriate adult ...	Clause 24(1)	'Where a child is in detention in respect of any ...	
30		Clause 24(7)(a)	'with section 19 for the child to appear at ..'	
30		Clause 24(7)(c)	If it is found that the failure is not due to the child's fault, the presiding officer may(i) ... (ii) ...; and, (iii) if necessary, make an appropriate order ...	
31		Clause 24(7)(e)	Cross reference to section 46 – to deal with failure of a parent/appropriate adult to appear after being warned to do so	New clause
31	Release of child on bail	Clause 25(1)	' ... section 21(2)(b)'	
31		Clause 25(2)	Insert reference to presiding officer.	