

COMMITTEE REPORT

Child Justice Bill [B49B – 2002]

Report of the Select Committee on Security and Constitutional Affairs on Child Justice Bill [B49B – 2002] dated 5 September 2008.

The Select Committee on Security and Constitutional Affairs, having considered the subject of the **Child Justice Bill [B49B -2002] (NA – sec 75)**, referred to it, reports the Bill with proposed amendments, as follows:

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1. On page 4, in line 43, to omit “or appropriate adult” and to substitute “, appropriate adult or guardian”.
2. On page 5, in line 1, to omit “or appropriate adult” and to substitute “, appropriate adult or guardian”.
3. On page 5, in line 3, to omit “or appropriate adult” and to substitute “, appropriate adult or guardian”.
4. On page 5, in line 4, to omit “recognisances” and to substitute “recognisance”.
5. On page 6, in line 14, to omit “conference” and to substitute “gathering/meeting”.

CLAUSE 1

1. On page 8, in line 10, to omit “or a guardian”.
2. On page 8, in line 45, to omit the definition of “**family group conference**” and to substitute:

"family group gathering/meeting" means a gathering/meeting referred to in section 61;

3. On page 8, after line 45, to insert:
"guardian" means a guardian referred to in section 1 of the Children's Act;

CLAUSE 3

1. On page 10, in line 19, to omit "and appropriate adults" and to substitute ", appropriate adults and guardians".

CLAUSE 9

1. On page 12, in line 5, to omit "an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 12, in line 6, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".
3. On page 12, in line 7, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".
4. On page 12, from line 22, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
5. On page 12, in line 42, "or appropriate adult" and to substitute ", appropriate adult or guardian".

CLAUSE 13

1. On page 14, in line 9, after "adult", to insert ", guardian".

CLAUSE 18

1. On page 15, from line 32, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 15, in line 33, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".
3. On page 15, in line 36, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
4. On page 15, in line 38, to omit the first "or appropriate adult" and to substitute ", appropriate adult or guardian".
5. On page 15, in line 38, to omit the second "or appropriate adult" and to substitute ", appropriate adult or guardian".
6. On page 15, in line 41, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".
7. On page 15, in line 49, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".

CLAUSE 19

1. On page 16, in line 6, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 16, in line 6, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".
3. On page 16, in line 9, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
4. On page 16, in line 11, to omit the first "or appropriate adult" and to substitute ", appropriate adult or guardian".
5. On page 16, from line 11, to omit the second "or appropriate adult" and to substitute ", appropriate adult or guardian".
6. On page 16, in line 14, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".

7. On page 16, in line 21, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".

CLAUSE 20

1. On page 16, in line 46, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 16, in line 47, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".

CLAUSE 21

1. On page 17, from line 16, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 17, from line 25, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
3. On page 17, in line 28, to omit "recognisances" and to substitute "recognition".

CLAUSE 22

1. On page 17, in line 31, to omit "**or appropriate adult**" and to substitute "**, appropriate adult or guardian**".
2. On page 17, in line 34, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
3. On page 17, in line 37, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
4. On page 17, from line 38, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".

CLAUSE 23

1. On page 17, in line 46, to omit **"or appropriate adult"** and to substitute **", appropriate adult or guardian"**.
2. On page 17, in line 48, to omit **"or an appropriate adult"** and to substitute **", an appropriate adult or a guardian"**.

CLAUSE 24

1. On page 18, in line 1, to omit **"or appropriate adult"** and to substitute **", appropriate adult or guardian"**.
2. On page 18, in line 1, to omit **"recognisances"** and to substitute **"recognisance"**.
3. On page 18, in line 11, to omit **"or an appropriate adult"** and to substitute **", an appropriate adult or a guardian"**.
4. On page 18, in line 13, to omit **"recognisances"** and to substitute **"recognisance"**.
5. On page 18, in line 36, to omit **"or an appropriate adult"** and to substitute **", appropriate adult or a guardian"**.
6. On page 18, in line 37, to omit **"or appropriate adult"** and to substitute **", appropriate adult or guardian"**.
7. On page 18, from line 37, to omit **"or appropriate adult"** and to substitute **", appropriate adult or guardian"**.
8. On page 18, in line 41, to omit **"recognisances"** and to substitute **"recognisance"**.
9. On page 19, in line 1, to omit **"or an appropriate adult"** and to substitute **", an appropriate adult or a guardian"**.

CLAUSE 25

1. On page 19, in line 12, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 19, in line 15, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".

CLAUSE 28

1. On page 20, in line 4, after "which", to insert "take into account their particular vulnerability and".
2. On page 20, in line 6, after "appropriate adults, " to insert "guardians,".
3. On page 20, in line 7, after "probation officers," to insert "assistant probation officers,".

CLAUSE 38

1. On page 23, in line 38, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 23, from line 53, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
3. On page 24, in line 2, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".

CLAUSE 40

1. On page 24, in line 32, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 24, in line 33, to omit "recognisances" and to substitute "recognisance".

CLAUSE 42

1. On page 25, in line 42, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".

CLAUSE 43

1. On page 26, from line 16, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".

CLAUSE 44

1. On page 26, in line 38, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 26, in line 46, after "appropriate adult" to insert ", guardian".
3. On page 26, in line 49, after "appropriate adult" to insert ", guardian".

CLAUSE 46

1. On page 27, in line 10, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".

CLAUSE 47

1. On page 28, from line 12, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
2. On page 28, in line 14, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".

CLAUSE 48

1. On page 29, in line 4, after "an appropriate adult" to insert ",guardian".

CLAUSE 49

1. On page 29, in line 33, to omit "or an appropriate adult" and to substitute "an appropriate adult or a guardian".
2. On page 29, in line 38, to omit "or an appropriate adult" and to substitute "an appropriate adult or a guardian".
3. On page 29, in line 42, to omit "or an appropriate adult" and to substitute "an appropriate adult or a guardian".

CLAUSE 52

1. On page 30, in line 29, to omit "or an appropriate adult" and to substitute "an appropriate adult or a guardian".

CLAUSE 53

1. On page 32, in line 36, to omit "conference" and to substitute "gathering/meeting".

CLAUSE 55

1. On page 33, in line 26, to omit "or appropriate adults" and to substitute "appropriate adults or guardians".

CLAUSE 61

1. On page 36, in line 3, to omit "conference" and to substitute "gathering/meeting"
2. On page 36, in line 4, to omit "conference" and to substitute "gathering/meeting".
3. On page 36, in line 9, to omit "conference" and to substitute "gathering/meeting".
4. On page 36, in line 11, to omit "conference" and to substitute "gathering/meeting".
5. On page 36, in line 13, to omit "conference" and to substitute "gathering/meeting".
6. On page 36, in line 14, to omit "conference" and to substitute "gathering/meeting".
7. On page 36, in line 15, to omit "conference" and to substitute "gathering/meeting".
8. On page 36, in line 16, to omit "conference" and to substitute "gathering/meeting".
9. On page 36, in line 17, to omit the first "conference" and to substitute "gathering/meeting".
10. On page 36, in line 17, to omit the second "conference" and to substitute "gathering/meeting".
11. On page 36, in line 20, to omit "conference" and to substitute "gathering/meeting".
12. On page 36, in line 21, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
13. On page 36, in line 23, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
14. On page 36, in line 25, to omit "conference" and to substitute "gathering/meeting".
15. On page 36, in line 29, to omit "conference" and to substitute

- “gathering/meeting”.
16. On page 36, in line 30, to omit “conference” and to substitute “gathering/meeting”.
 17. On page 36, in line 31, to omit “conference” and to substitute “gathering/meeting”.
 18. On page 36, in line 32, to omit “conference” and to substitute “gathering/meeting”.
 19. On page 36, in line 33, to omit the first “conference” and to substitute “gathering/meeting”.
 20. On page 36, in line 33, to omit the second “conference” and to substitute “gathering/meeting”.
 21. On page 36, in line 35, to omit “conference” and to substitute “gathering/meeting”.
 22. On page 36, in line 47, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
 23. On page 36, from line 50, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
 24. On page 36, from line 52, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
 25. On page 36, in line 57, to omit “conference” and to substitute “gathering/meeting”.
 26. On page 36, in line 58,” to omit “conference” and to substitute “gathering/meeting”.
 27. On page 37, in line 1, to omit “conference” and to substitute “gathering/meeting”.
 28. On page 37, in line 2, to omit “conference” and to substitute “gathering/meeting”.
 29. On page 37, in line 5, to omit “conference” and to substitute “gathering/meeting”.
 30. On page 37, in line 6, to omit “conference” and to substitute

“gathering/meeting”.

31. On page 37, in line 9, to omit “conference” and to substitute “gathering/meeting”.

CLAUSE 65

1. On page 38, from line 6, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
2. On page 38, in line 8, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
3. On page 38, in line 11, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
4. On page 38, in line 12, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
5. On page 38, in line 15, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
6. On page 38, in line 17, to omit “or appropriate adult” and to substitute “, appropriate adult or guardian”.
7. On page 38, in line 18, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
8. On page 38, in line 21, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.
9. On page 38, in line 23, to omit “or an appropriate adult” and to substitute “, an appropriate adult or a guardian”.

CLAUSE 73

1. On page 40, in line 39, to omit “conference” and to substitute “gathering/meeting”.
2. On page 40, in line 43, to omit “conference” and to substitute

"gathering/meeting".

3. On page 40, in line 47, to omit "conference" and to substitute "gathering/meeting".

CLAUSE 74

1. On page 41, in line 4, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".

CLAUSE 80

1. Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Requirements to be complied with by legal representatives

80. (1) A legal representative representing a child must allow the child, as far as reasonably possible, to give independent instructions concerning the case.

(2) A legal representative must-

- (a) explain the child's rights and duties in relation to any proceedings under this Act in a manner appropriate to the age and intellectual development of the child;
- (b) promote diversion, where appropriate, but may not unduly influence the child to acknowledge responsibility;
- (c) ensure that the assessment, preliminary inquiry, trial or any other proceedings in which the child is involved, are concluded without

delay and deal with the matter in manner to ensure that the best interest of the child are at all times of paramount importance; and

- (d) uphold the highest standards of ethical behaviour and professional conduct.

(3) (a) If a presiding officer is of the opinion that a legal representative at any stage during the conduct of any proceedings under this Act, acted contrary to subsection (2), he or she must record his or her displeasure by way of an order which includes an appropriate remedial action or sanction.

(b) A presiding officer who has made any order referred to in paragraph (a) must immediately direct the clerk or the registrar of the court to notify-

- (i) the relevant law society referred to in section 56 of the Attorneys Act, 1979 (Act No. 53 of 1979);
 - (ii) in the case where the legal representative concerned has been employed by the Legal Aid Board, the Board; or
 - (iii) in the case of an advocate, the controlling body of which the advocate is a member,
- of the order.

CLAUSE 87

1. On page 45, in line 30, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".

CLAUSE 90

1. On page 47, from line 29, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".

CLAUSE 94

1. On page 48, in line 24, after "the", to insert "National".

CLAUSE 97

1. On page 50, in line 48, after "the", to insert "National".
2. On page 50, in line 50, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
3. On page 50, from line 57, to omit "or an appropriate adult" and to substitute ", an appropriate adult or a guardian".
4. On page 51, in line 13, to omit "or appropriate adult" and to substitute ", appropriate adult or guardian".
5. On page 51, in line 52, after "the", to insert "National".

SCHEDULE 4

1. On page 57, in line 51, in the third column, before "The", to insert "Subject to section 4(2) of the Child Justice Act,"
2. On page 58, in line 4, in the third column, before "An", to insert "Subject to section 4(2) of the Child Justice Act,"
3. On page 58, in line 29, in the third column, before "If", to insert "Subject to section 4(2) of the Child Justice Act,".
4. On page 63, in line 10, in the third column, to omit "conference" and to substitute "gathering/meeting".
5. On page 63, from line 15, in the third column, to omit "child and youth care centre providing a programme contemplated in section 191(2)(j) of the Children's Act, 2005 (Act No. 32 of 2005)", and to substitute "child and youth care centre providing a programme contemplated in section

191(2)(j) of the Children's Act, 2005 (Act No. 32 of 2005)"

6. On page 63, in line 48, in the first column, to omit "59 of 1992", and to substitute "13 of 2004"
7. On page 63, in line 49, in the second column, to omit "1992" and to substitute "2004".
8. On page 63, in line 52, in the third column, to omit "57(1)" and to substitute "72".
9. On page 64, from line 37, in the third column, to omit "24(4)(d) or 75" and to substitute, "24(4)(d), 75 or 76".
10. On page 64, in line 45, in the third column, to omit "or" and to substitute " ;".
11. On page 64, in line 46, in the third column, after "**1977]**", to insert "section 29 or".
12. On page 64, in line 56, in the third column, after "**1977)]**", to insert "section 29 or".

SCHEDULE 5

1. On page 77, in line 29, in the third column, to omit "57(1)" and to substitute ""72".