

## Centre for Child Law welcomes the adoption of the Child Justice Amendment Bill by Parliament

FOR IMMEDIATE RELEASE

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The Centre for Child Law welcomes the adoption of the Child Justice Amendment Bill and notes that it is one of only two organisations that made submissions on the Child Justice Amendment Bill, which was adopted by Parliament on 14 November 2018.

The statement to this effect is available at:  
<https://www.iol.co.za/news/politics/parliament-portfolio-committee-adopts-child-justice-amendment-bill-18114859>.

The Centre supported the majority of the amendments that have been adopted, but is disappointed that the minimum age of criminal capacity has been increased from 10 years to 12 years and not 14 years as the Centre had hoped. Nonetheless, the Bill also makes provision for a further review, in the future, of the minimum age of criminal responsibility, with a view to raising it. What the Bill does is:

- Increase the minimum age of criminal responsibility from 10 years to 12 years, thus children under 12 years of age do not have criminal capacity and have to be referred for interventions provided for in sections 5 and 9 of the Child Justice Act;
- Children who are 12 years and older, but under the age of 14 years are presumed to lack criminal capacity unless is proven otherwise, after an assessment provided for in section 11 of the Child Justice Act.

The Bill provides for Parliament to consider raising the age of criminal capacity within five years of this amendment, and the Centre hopes that at that stage it might be raised to 14 years. Earlier this week, on 13 November 2018, the UN Committee on the Rights of the Child released a revised General Comment on Juvenile Justice for public comment, in which they recommend that states parties raise the minimum age of criminal responsibility to 14 years.

A further notable and important amendment is the provision that changes the section that provided for how “Children used by adults to commit crime” to now be “Persons using children to commit crime” should be dealt with. The rationale for the amendment is that “persons” includes older children who may be using younger children to commit crime. While this may be a valid concern, it needs to be kept in mind that where the victim and the offender are both children, an approach that seeks to assist the needs of both children should be followed. In this regard the older child must be treated in accordance with the provisions of the Child Justice Act and not as an adult.

The Child Justice Act has been in operation for eight (8) years now and provides a child-centred framework for dealing with children who commit offences - with the main aim being rehabilitating them to stop the cycle of crime and prevent them from becoming offenders in their adulthood. It is encouraging that the review of the age of criminal capacity has been undertaken, based on research collated by the Department of Justice. We must continue to ensure that efforts to rehabilitate children who commit offences are increased in to order to improve their chances of a better future and a society with less crime.

**Ends.**

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