

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
CORRECTIONAL MATTERS
AMENDMENT BILL**

[B 41—2010]

*(As agreed to by the Portfolio Committee on Correctional Services)
(National Assembly)*

[B 41A—2010]

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AMENDMENTS AGREED TO

CORRECTIONAL MATTERS AMENDMENT BILL

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CLAUSE 1

1. On page 2, from line 12 to 14, to omit:

“, and for the purposes of sections 2, 4, 11, 12, 13, 14, 15, 18, 19, 26 to 35, 85, 90, 93, 99, 101 and 115 to 123 includes a remand detainee”;
2. On page 2, from line 18 to 22, to omit paragraph (a) and to substitute:

“(a)means a person detained in a remand detention facility awaiting the finalisation of his or her trial, whether by acquittal or sentence, if such person has not commenced serving a sentence or is not already serving a prior sentence; and”;
3. On page 2, from line 23 to line 28, to omit paragraph (b) and to substitute:

“(b)includes a person contemplated in section 9 of the Extradition Act, 1962, (Act No. 67 of 1962), detained for the purposes of extradition;”;
4. On page 3, after line 9, to insert after “facility;”:

“(c)by the insertion after the definition of “**non-parole period**” of the following definition:
 “**‘other body’** means either—

(a) the National Director of Public Prosecutions or his or her delegate acting in terms of sections 41 or 53(3) of the Child Justice Act, 2008, (Act No. 75 of 2008); or
(b) the Correctional Supervision and Parole Review Board acting under section 77(1) of the Act, as the case may be;”;

(d) by the insertion after the definition of “**solitary confinement**” of the following definition:
 “**‘specialist medical practitioner’** means a person registered in respect of any profession under the Health Professions Act, 1974, (Act No. 56 of 1974), to whom the definition “speciality” applies under that Act;”.

CLAUSE 3

1. On page 3, from line 36 to line 39, to omit paragraph (b) and to substitute:

“(b) If there is no correctional centre or remand detention facility in a district an inmate may be detained in a police cell but not for a period longer than 7 days [a month unless a longer period is authorised by the National Commissioner].”.

CLAUSE 5

1. On page 3, from line 46 to 47, to omit “or unsentenced offenders”.

CLAUSE 6

1. On page 4, from line 5 to 7, to omit paragraph (c) and to substitute:

“(c) by the addition in subsection (1) after paragraph (i) of the following paragraphs:
 “(j) restorative justice requirements;
 “(k) vulnerability to sexual violence and exploitation.”.

CLAUSE 7

1. On page 4, from line 39 to 44, to omit subsection 3 and to substitute:

“(3) The date of expiry of any sentence of incarceration being served by a sentenced offender who escapes from lawful custody or is extradited in terms of the Extradition Act, 1962 (Act No. 67 of 1962), and returns to the Republic or who absconds from the system of community corrections or who is unlawfully discharged is postponed by the period by which such sentence was interrupted.”.

CLAUSE 9

1. On page 5, from line 44 to 45, to omit subsection (3).
2. On page 5, from line 47 to 49, to omit section 47 and to substitute:

“47. Subject to restrictions which may be prescribed by regulation, remand detainees may be allowed to have food and drink sent or brought to them in a remand detention facility.”
3. On page 5, in line 51, before “Every” to insert “(1)”.
4. On page 5, after line 53, to insert:

“(2) No remand detainee is to appear in any court proceedings dressed in a prescribed uniform referred to in subsection (1).
 (3) If a remand detainee does not have adequate or proper clothing to appear in court, he or she must be provided at State expense with appropriate clothing to enable him or her to appear in court.”.
5. On page 6, from line 2 to 4, to omit subsection (1).
6. On page 6, in line 5, before “Information” to omit “(2)”.
7. On page 6, from line 15 to 16, to omit subsection (3).
8. On page 6, from line 19 to 20, to omit subsection (5).
9. On page 6, in line 27, before “provide” to omit “may” and to substitute “must”.
10. On page 6, from line 42 to 44, to omit subsection (1) and to substitute:

“(1) The National Commissioner may detain a person suspected to be mentally ill, in terms of section 77(1) of the Criminal Procedure Act or a person showing signs of mental health care problems, in a single cell or correctional health facility for purposes of observation by a medical practitioner.”.

11. On page 6, from line 48 to 50, to omit subsection (3) and to substitute:

“(3) The Department must, within its available resources, provide social and psychological services in order to support mentally ill remand detainees and promote their mental health.”

12. On page 7, in line 19, before “sworn” to omit “an” and substitute “a”.
13. On page 7, from line 25 to 26, to omit “, to the effect that the prosecuting authority does not oppose the application” and to substitute “whether the prosecuting authority opposes the application or not”.
14. On page 7, from line 35 to 38, to omit subsection (1) and to substitute:

“(1) No remand detainee may be surrendered to the South African Police Service for the purpose of further investigation, without authorisation by the National Commissioner.”

15. On page 7, from line 42 to 45, to omit subsection (3).
16. On page 7, from line 47 to 50, to omit subsection (1) and to substitute:

“(1) The period of incarceration of a remand detainee must not exceed two years from the initial date of admission into the remand detention facility, without such matter having been brought to the attention of the court concerned in the manner set out in this section: Provided that no remand detainee shall be brought before a court in terms of this section if such remand detainee had appeared before a court three months immediately prior to the expiry of such two year period and the court during that appearance considered the continued detention of such detainee.”

CLAUSE 12

1. On page 8, from line 42 to 47, to omit subsection (2).
2. On page 8, in line 48 before “A” to omit (3) and to substitute (2).
3. On page 8, after line 51 to insert:

“(3) If a sentenced offender’s release upon expiry of his or her sentence, is likely to result in his or her death or impairment of his or her health or to be a source of infection to others, the National Commissioner must inform the Department of Health, at least one month prior to the release of such offender or immediately if the condition became known less than a month prior to sentence expiry, in order for that Department to deal with such person in accordance with applicable legislation.”

CLAUSE 13

1. On page 11, from line 1 to 7, to omit paragraph (b). The remaining paragraphs to be renumbered accordingly.
2. On page 11, from line 40 to 44 to omit paragraph (e) and to substitute:

“(d) by the addition after subsection (8) of the following subsections:
 (9) The Minister may cancel correctional supervision, day parole or parole as referred to in subsection (6) only if the decision to grant correctional supervision, day parole or parole was taken by the Minister.
 (10) A matter referred to the Correctional Supervision and Parole Review Board, in terms of subsection (8), must be finalised within 4 months of such referral.”

CLAUSE 14

1. On page 12, in line 4 to insert “or a person acting on his or her behalf” after “offender”.
2. On page 12, from line 5 to 9, to omit paragraph (b) and to substitute:

“(b) An application lodged, by a sentenced offender or a person acting on his or her behalf, in accordance with paragraph (a)(ii), shall not be considered by the National Commissioner, the Correctional Supervision and Parole Board or the Minister, as the case may be, if such application is not supported by a written medical report recommending placement on medical parole.”
3. On page 12, from line 19 to 22, to omit subsection (3)(a) and to substitute:

“(3) (a) The Minister must establish a medical advisory board to provide an independent medical report to the National Commissioner, Correctional Supervision and Parole Board or the Minister, as the case may be, in addition to the medical report referred to in subsection (2)(c).”.
4. On page 12, from line 26 to 29, to omit subsection (4) and to renumber the subsequent subsections accordingly.
5. On page 12, in line 59, before “The” to insert (a).
6. On page 12, in line 59, before “regulations” to insert, “within six months after promulgation of this Act”.
7. On page 12, after line 61, to insert:

“(b) The regulations referred to in paragraph (a), must be submitted to Parliament for approval—
 (i) at least one month before promulgation, if Parliament is in session; or
 (ii) if Parliament is not in session, within one month after the next ensuing session starts.”.

CLAUSE 17

1. On page 13, in line 54 to omit “boards” and to substitute “board”.