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GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 319 OF 2011

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

PUBLICATION OF EXPLANATORY SUMMARY OF THE JUDICIAL MATTERS AMENDMENT BILL, 2011

The Minister of Justice and Constitutional Development intends introducing the Judicial Matters Amendment Bill, 2011, in the National Assembly shortly. The explanatory summary of the Bill is hereby published in accordance with Rule 241(c) of the Rules of the National Assembly.

The Bill intends -

- (a) to amend the following Acts, namely -
- the Magistrates' Courts Act, 1944, so as to bring the Afrikaans text relating to causes of action over which magistrates' courts have jurisdiction in line with that of the English text; and to further regulate the jurisdiction of magistrates' courts in line with a decision of the Constitutional Court;
 - the Criminal Procedure Act, 1977, so as to effect technical corrections; and to further regulate the provisions relating to the expungement of certain criminal records;
 - the Small Claims Courts Act, 1984, so as to further regulate the appointment of commissioners;
 - the Special Investigating Units and Special Tribunals Act, 1996, so as to further regulate the litigation functions of a Special Investigating Unit; and to provide for the secondment of a member of a Special Investigating Unit to another State institution;
 - the Criminal Law Amendment Act, 1997, so as to exclude persons under the age of 18 years from the operation of that Act;
 - the National Prosecuting Authority Act, 1998, so as to further regulate the remuneration of Deputy Directors and prosecutors;
 - the Maintenance Act, 1998, so as to further regulate the area of jurisdiction of a maintenance court; to further regulate the circumstances under which maintenance orders may be granted by default; to clarify the legal position relating to the amendment of a maintenance order made by a High Court by a subsequent order made by a maintenance court; to further regulate the transfer of maintenance orders; to increase the penalties for certain offences; to create certain new offences; and to further regulate the conversion of criminal proceedings into maintenance enquiries;
 - the Domestic Violence Act, 1998, so as to further regulate the powers of members of the South African Police Service in domestic violence matters;
 - the Prevention of Organised Crime Act, 1998, so as to make it clear that the Administration of Estates Act, 1965, applies to a curator bonis appointed under Chapter 6 of that Act;
 - the Promotion of Access to Information Act, 2000, so as to extend the time periods within which to bring court applications;
 - the Regulation of Interception of Communications and Provision of Communication-related Information Act, 2002, so as to amend certain

- definitions; to provide that the designated judge may consider applications for the issuing of archived communication-related directions; to provide that electronic communication service providers, other than mobile cellular electronic communication service providers, must electronically record and store information relating to customers; and to further regulate the provisions relating to penalties;
- the National Credit Act, 2005, so as to determine the jurisdiction of magistrates' courts for the purposes of debt review proceedings;
 - to amend the Children's Act, 2005, so as to allow for information in the National Child Protection Register to be made available in the case of applications for the expungement of certain criminal records;
 - the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007, so as to allow for information in the National Register for Sex Offenders to be made available in the case of applications for the expungement of certain criminal records; and to further regulate the issuing of directives by the National Director of Public Prosecutions;
 - the Child Justice Act, 2008, so as to further regulate the evaluation of the criminal capacity of a child; to further regulate the reporting of any injury sustained or severe psychological trauma suffered by a child while in police custody; to further regulate the holding of preliminary inquiries; to provide for the delegation of certain powers and assignment of certain duties by the Cabinet member responsible for social development in respect of the accreditation of diversion programmes and diversion service providers; to effect certain textual corrections; to repeal provisions that make the Criminal Law Amendment Act, 1997, applicable to persons under the age of 18 years; and to further regulate the expungement of records of certain convictions of children;
 - the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009, so as to effect certain textual corrections;
- (b) to establish the Limpopo High Court, Polokwane and the Mpumalanga High Court, Nelspruit; and
- (c) to provide for matters connected therewith.

A copy of the Bill can be found on the websites of the Department of Justice and Constitutional Development and the Parliamentary Monitoring Group at <http://www.justice.gov.za> and <http://www.pmg.org.za>, respectively and may, after introduction, also be obtained from:

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KENNISGEWING 319 VAN 2011**DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING****PUBLIKASIE VAN VERDUIDELIKENDE OPSOMMING VAN DIE
WYSIGINGSWETSONTWERP OP GEREGETELIKE AANGELEENTHEDE, 2011**

Die Minister van Justisie en Staatkundige Ontwikkeling beoog om die Wysigingswetsontwerp op Geregtelike Aangeleenthede, 2011, eersdaags in die Nasionale Vergadering in te dien. Die verduidelikende opsomming van die Wetsontwerp word hierby ooreenkomstig Reël 241(c) van die Reëls van die Nasionale Vergadering gepubliseer.

Die Wetsontwerp het ten doel -

- (a) om die volgende Wette te wysig, naamlik -
- die Wet op Landdroshowe, 1944, ten einde die Afrikaanse teks met betrekking tot skuldoorsake waaroor landdroshowe jurisdiksie het in ooreenstemming te bring met die Engelse teks; en om die jurisdiksie van landdroshowe verder te reël in ooreenstemming met 'n beslissing van die Konstitusionele Hof;
 - die Strafproseswet, 1977, ten einde tegniese wysigings aan te bring; en om die bepalings met betrekking tot die skraping van sekere kriminele rekords verder te reël;
 - die Wet op Howe vir Klein Eise, 1984, ten einde die aanstelling van kommisarisse verder te reël;
 - die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996, ten einde die litigasiebevoegdheid van 'n Spesiale Ondersoekeenheid verder te reël; en om voorsiening te maak vir die sekondering van 'n lid van 'n Spesiale Ondersoekeenheid na 'n ander Staatsinstelling;
 - die Strafrekwysigingswet, 1997, ten einde persone onder die ouderdom van 18 jaar uit te sluit van die werking van daardie Wet;
 - die Wet op die Nasionale Vervolgingsgesag, 1998, ten einde die vergoeding van Adjunkdirekteure en aanklaers verder te reël;
 - die Wet op Onderhoud, 1998, ten einde die regsgebied van 'n onderhoudshof verder te reël; die omstandighede verder te reël waaronder onderhoudsbevele by verstek toegestaan mag word; die regsposisie met betrekking tot die wysiging van 'n onderhoudsbevel gemaak deur 'n Hoë Hof deur 'n daaropvolgende bevel van 'n onderhoudshof op te helder; die oordrag van onderhoudsbevele verder te reël; die strawwe vir sekere misdrywe te verhoog; bepaalde nuwe misdrywe te skep; en die omskepping van strafregtelike verrigtinge in onderhoudsondersoeke verder te reël;
 - die Wet op Gesinsgeweld, 1998, ten einde die magte van lede van die Suid-Afrikaanse Polisiediens in gesinsgeweld aangeleenthede verder te reël;
 - die Wet op die Voorkoming van Georganiseerde Misdaad, 1998, ten einde dit duidelik te maak dat die Boedelwet, 1965, van toepassing is op 'n *curator bonis* aangestel ingevolge Hoofstuk 6 van die gemelde Wet;
 - die Wet op Bevordering van Toegang tot Inligting, 2000, ten einde die tydperke waarbinne hofaansoeke gebring moet word, te verleng;
 - die Wet op die Reëling van Onderskepping van Kommunikasies en Verstrekking van Kommunikasie-Verwante Inligting, 2002, ten einde sekere omskrywings te wysig; voorsiening te maak dat die aangewese

regter aansoeke mag oorweeg vir die uitreiking van argief-bewaarde kommunikasie-verwante lasgewings; voorsiening te maak dat elektroniese kommunikasiediensverskaffers, anders as mobiele sellulêre elektroniese kommunikasiediensverskaffers, inligting met betrekking tot kliënte elektronies moet aanteken en bewaar; en om die bepalings ten opsigte van strawwe verder te reël;

- o die "National Credit Act", 2005, ten einde die jurisdiksie van landdroshowe vir doeleindes van skuldher sieningsprosedures te bepaal;
 - o die "Children's Act", 2005, ten einde toe te laat dat inligting in die "National Child Protection Register" beskikbaar gemaak word in die geval van aansoeke vir die skrapping van sekere kriminele rekords;
 - o die Wysigingswet op die Strafbreg (Seksuele Misdrywe en Verwante Aangeleenthede), 2007, ten einde toe te laat dat inligting in die Nasionale Register vir Seks-Oortreders beskikbaar gemaak word in die geval van aansoeke vir die skrapping van sekere kriminele rekords; en om die uitreiking van voorskrifte deur die Nasionale Direkteur van Openbare Vervolgings verder te reël;
 - o die "Child Justice Act", 2008, ten einde die evaluering van die kriminele toerekeningsvatbaarheid van 'n kind verder te reël; die aanmelding van 'n besering opgedoen of ernstige sielkundige trauma deur 'n kind gelyk terwyl in polisieaanhouding, verder te reël; die hou van voorlopige ondersoeke verder te reël; voorsiening te maak vir die delegasie van sekere bevoegdhede en die toewys van sekere pligte deur die Kabinetslid verantwoordelik vir maatskaplike ontwikkeling ten opsigte van die akkreditering van afleidingsprogramme en afleidingsdiensverskaffers; sekere tekstuele regstellings aan te bring; die bepalings wat die Strafbregwysigingswet, 1997, van toepassing maak op persone jonger as 18 jaar, te herroep; en om die skrapping van rekords van sekere veroordelings van kinders verder te reël;
 - o die "Reform of Customary Law of Succession and Regulation of Related Matters Act", 2009, ten einde sekere tekstuele regstellings aan te bring;
- (b) om die Limpopo Hoë Hof, Polokwane en die Mpumalanga Hoë Hof, Nelspruit in te stel; en
- (c) om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

'n Afskrif van die Wetsontwerp kan gevind word op die webwerwe van die Departement van Justisie en Staatkundige Ontwikkeling en die Parlementêre Monitoringsgroep, by onderskeidelik <http://www.justice.gov.za> en <http://www.pmg.org.za>, en kan na indiening ook bekom word van:

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