

PRESS RELEASE

UNICEF welcomes signing of Child Justice Bill into Law

Pretoria, 18 May 2009... UNICEF today welcomed the signing into law of the Child Justice Bill by the President of the Republic for South Africa, hailing it as a major step in strengthening the administration of justice for South Africa's children.

The new Act establishes a criminal justice system for children who are in conflict with the law or are accused of offences.

"This Act is of critical importance to the 100,000 children in South Africa who are arrested each year, and also to the communities in which they live," said UNICEF South Africa Representative, Aida Girma.

"It will ensure that children's basic constitutional rights and best interests are upheld when in conflict with the law, and is mindful of the circumstances and vulnerabilities that lead children to commit offences", said Ms. Girma. "At the same time, it holds child offenders accountable for their actions and aims to prevent them from committing further offences. UNICEF believes this will contribute to safer communities, and encourage these children to become law-abiding and productive adults".

A central feature of the new Act is the possibility of diverting matters involving children away from the criminal justice system. In addition to being cost-effective, international experience suggests that diversion can prevent stigmatization and lead to good outcomes for children and public safety.

Forms of diversion include victim-offender mediation, family group conferencing, referral to an NGO or other community or social programme, including substance abuse programmes, family reunification, community service, police warnings, behaviour contracts and conditional or unconditional release. With the exception of the most serious offences, all children who acknowledge responsibility for their acts may be considered for these options.

The Act also entrenches the notion of restorative justice as a sentencing option for those children who do go through Child Justice Court proceedings. Restorative justice is an approach to justice that aims to involve the child offender, the victim, the families concerned and community members to collectively identify and address harms, needs and

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obligations through accepting responsibility, making restitution, taking measures to prevent a recurrence of the incident and promoting reconciliation. Restorative justice options have proven to be more effective than “retributive” approaches, which are concerned purely with punishing the offender and concentrate more on the crime itself than on the people involved.

Raising the minimum age of child offenders from age 7 to age 10

The Act also raises the minimum age at which a child is considered to have “criminal capacity” from seven to 10 years of age. Children under 10 years do not have criminal capacity and therefore cannot be arrested or prosecuted; instead they must be automatically referred to the care and protection system if they commit an offense.

Children older than 10 years old, but younger than 14, can be arrested and prosecuted only if it is proven that they had the capacity to appreciate right from wrong at the time the act was committed.

In partnership with the Department of Social Development and the National Prosecuting Authority, UNICEF has already begun work to prepare for the implementation of the Act. It is currently preparing Guidelines for probation service providers who are responsible for assessment of children accused of offences, for identifying and monitoring diversion and restorative justice options, and for providing programmes for children in secure care facilities. These will be rolled out nationwide through a training of trainers programme.

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For further information please contact UNICEF South Africa <http://www.unicef.org/southafrica>

Media: Yvonne Duncan, yduncan@unicef.org Mobile: 082-561 3970

Child Protection: Stephen Blight, sblight@unicef.org, 082 561 1426