

***Recommendation from the Council for the Administration of Criminal
Justice and Protection of Juveniles- Summary -***

Recommendation to the Dutch State Secretary for Security and Justice, 15 April 2013

Proposed draft bill for Amendments to the Custodial Institutions Act, the Hospital Orders (Care) Act and the Youth Custodial Institutions Act, in connection with subjects such as transport, medical petition right and a few others.

This proposed draft bill lists a number of amendments to the Custodial Institutions Act (Pbw), the Hospital Orders (Care) Act (Bvt) and the Youth Custodial Institutions Act (Bjj), in connection with subjects such as transport, medical petition right and a few others.

Experiment provision

It is proposed to include an 'experiment provision' in the Pbw that allows for changes to be made in, for instance, an institution's degree of security or the right of labour during detention via a General Administrative Order (GAO), without having to make law amendments.

The council recommends not to include the experiment provision because 1) the Council believes it is wrong to suspend general legally laid down rights via a GAO and 2) this provision would cause legal insecurity and arbitrariness for the detainee, according to the Council.

| *Transport*

Where the authority and responsibility lies during the transportation of detainees has been unclear for a considerable period of time. The proposed draft bill would for a large part remove any obscurity. It includes earlier recommendations from the Council. However, the Council is critical about the fact that not all transport has been regulated in one legislative source and about the manner in which authority has been given in regard to freedom-restricting measures during transport.

Mediation

The proposed bill entails mediation prior to the complaints procedure in the Pbw. This meets with the Council's approval. Although the Council advocates mediation, they disapprove of requiring a detainee to provide a reason for why mediation was not used. The Council believes that this duty may pose a threshold for complaining.

Finally

The proposed draft bill and the recommendation further deal with the medical petition right, appointment of officials in penitentiary institutions such as substitute directors and the authority concerning transfer decisions.

The recommendation can be obtained from the secretariat of the Council

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