

PUBLICATION OF THE DISCUSSION PAPER 164: REVIEW OF THE CRIMINAL JUSTICE SYSTEM: APPROPRIATE (ALTERNATIVE) DISPUTE RESOLUTION IN CRIMINAL MATTERS FOR PUBLIC COMMENT - PROJECT 151

The South African Law Reform Commission (Commission) has published Discussion Paper 164 for public comment and information on the Review of the Criminal Justice System: Appropriate (Alternative) Dispute Resolution in Criminal Matters (ADR) administered by the Department of Justice and Constitutional Development (DOJ&CD). This review seeks to propose law reform in employing pre-trial ADR to redirect criminal cases away from the courts by submitting them to processes capable of being finalised expeditiously in support of abbreviated and cost-effective processes.

The Commission has made the following proposals in the discussion paper:

- To formalise the use of ADR and diversion in criminal matters involving adults by way of legislation;
- To provide for the legislative regulation of both conditional withdrawals of prosecution and adult diversion;
- To align the admission of guilt fines regime so that it works in synergy with the overarching principles of pre-trial ADR;
- To amend the guilt fines regime in this regard by removing all penalty provisions;
- To re-investigate plea and sentence agreements, but only to determine outlined implementation challenges and whether the agreements are being utilised as a way of expediting the finalisation of cases in a way that supports both the public interest and the effective administration of justice; and
- To ensure that related principles of pre-trial ADR (embodying, as it does, those of restorative justice) apply with equanimity, and to include additional conditions over and

above the payment of reparation, for example, by providing for participation of an offender into a community service programme.

A draft Bill which, if enacted and promoted by the Executive, would give effect to the Commission's recommendations has been included in the paper.

The discussion paper is obtainable at the Commission's offices and is available for download on this link: <https://www.justice.gov.za/salrc/>

The Commission encourages interested parties wishing to make inputs on the discussion paper to send their inputs by 31 March 2025 via e-mail to CPAreform@justice.gov.za and copy AMakhwanya@justice.gov.za

Alternatively, written submissions can be delivered by hand to the Commission's offices or sent via post to:

South African Law Reform Commission
Spooral Park Building
2007 Lenchen Avenue South
Centurion
0157

The Secretary
South African Law Reform Commission
Private Bag X668
Pretoria
0001

Inquiries can be directed to Mr Nelson Matibe on (012) 622 6206 or NMatibe@justice.gov.za

**ISSUED BY THE SECRETARY: SOUTH AFRICAN LAW REFORM COMMISSION,
PRETORIA**

DATE: 20 FEBRUARY 2025