

Children's Amendment Bill

Progress Update

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1. The Select Committee on Social Development considers *negotiating mandates* from the provinces (Report on meeting held 15th March 2007)

The provinces have decided how they would like the Children's Amendment Bill to be changed and save for the Free State, each province has put forward an opinion on the Bill, which includes a set of recommendations. These recommendations are written in a document called a *provincial mandate* and given to the provincial MPs who have been delegated to go to the NCOP. The first mandate is called the '*negotiating mandate*', the second one is called the '*final mandate*'.

The Select Committee on Social Services met on the 15th March in Gauteng, to consider the *negotiating mandates* from each province.

Attendance

Members of Parliament

Mr Simon Setona, Free State
Ms N M Madlala-Magubane, Gauteng
Ms Faith Mazibuko, Chair
Mrs Jeanette Vilakasi, KwaZulu-Natal
Mr Les Govender, KwaZulu-Natal
Mr Motlatjo Thetjeng, Limpopo
Mr Bagudi Tolo Jonathan, Mpumalanga
Mr Mohamed Ahmed Sulliman, Northern Cape
Mr Johannes Oupa Tihagale, North West
Ms Helen Lamoela, Western Cape
Ms A N D Qikani, Eastern Cape
Mr Mtetwa, KwaZulu-Natal

Department of Social Development

Dr Maria Mabetoa, Ms. Ronel van Zyl, Ms. Agnes Muller, Mr. Pierre du Preez
Ms. Lana Petersen.

Civil Society

Mr. Sam Mokgopha, Ms. Moira Simpson (Kidzhaven), Ms. Beth Thomas (NASC), Ms. Ms. Sue Philpott (DART), Ms. Nonceba Meyiwa (DICAG), Ms. Lucy Jamieson (Children's Institute).

In the absence of Joyce Masilo, Faith Mazibuko was elected as Chair.

Health Professions Bill Mandates were considered first.

Documents distributed:

- [Eastern Cape negotiating mandate](#)
- [Gauteng Cape negotiating mandate](#)
- [KwaZulu-Natal negotiating mandate and appendix containing amendments](#)
- [Limpopo negotiating mandate](#)
- [Mpumalanga negotiating mandate](#)

- [North West negotiating mandate](#)
- [Northern Cape negotiating mandate](#)
- [Western Cape negotiating mandate and appendix containing recommendations](#)

The Western Cape was invited to present their mandate first, but the permanent delegate Ms. Lamoela asked for more time as she had only just received the mandate and needed to put her papers in order.

Eastern Cape

Ms Qikani read out the whole mandate.

The committee supports the Bill with the following amendments:

- Partial care facilities must have an 'area for resting, sleeping and caring for sick children';
- The mandatory obligation of legal practitioners to report abuse should be reviewed;
- Remove the words "on personal observation" from clause 105(1);
- Clause 105(2) which is currently the category of people who 'may' report abuse; proposal change 'people' to 'parents' and 'may' to 'must';
- Obliging medical practitioners to report cases of suspected statutory rape when performing a termination of pregnancy;
- National Treasury must provide funding to implement the Act.

The full mandate is available at:

<http://ci.org.za/depts/ci/plr/pdf/subs/Eastern%20Cape.pdf>

Gauteng

Ms Madlala read out extracts from the mandate, stating that the financial implications of the Bill were 'negligible'; that the provincial committee had consulted widely; and supported the principle and details of the Bill. They made no recommendations for amendment.

The full mandate is available at:

<http://ci.org.za/depts/ci/plr/pdf/subs/Gauteng.pdf>

Free State

Mr Setona apologised for the lack of any provincial mandate.

Limpopo

Mr Thetjeng started to read the mandate from Limpopo province, when he came to the proposed amendments the Chair interrupted asking him to summarise. Limpopo made several recommendations covering many aspects of the Bill, these include:

- Strategies concerning child protection: call for inter-sectoral co-ordination, training for ECD care-givers, provision for children with disabilities.
- The reporting of children in need of care and protection: limit mandatory reporting to key occupations.
- Child headed households: age limit of 16, assistance to stay at school, free crèches, free education.
- Corporal punishment: ban at all levels including the home;

- Prevention and Early Intervention Services;
- Foster care: children over the age of 18 and still at school should be included;
- Child and youth care centres: children with disabilities should have equal access to services; child and youth care workers should be recognised; consult with municipalities.
- Shelters and drop-in centres: drop-in centres should be established by government.¹

The full mandate is available at:

<http://ci.org.za/depts/ci/plr/pdf/subs/Limpopo.pdf>

KwaZulu-Natal

Mr Govender read the text of the mandate, which describes the process of decision-making, the proposed amendments are tabled in an appendix to the mandate. None of the recommendations were read out to the committee. The recommendations are very detailed and have clear motivations, the document is 28 pages long. Recommendations cover:

- Partial care and ECD
- Children with disabilities
- Reporting of abuse
- Child headed households
- Corporal punishment
- Child labour
- Prevention and early intervention
- Alternative care
- Foster care
- Child and youth care centres
- Shelters and Drop-in Centres
- Inter-sectoral collaboration
- Provisioning
- Duty on MECs to consult when developing norms and standards
- Consultation on the regulations
- Child and youth care workers²

The full mandate is available at:

<http://ci.org.za/depts/ci/plr/pdf/subs/KZN%20Provincial%20mandate.pdf>

Mpumalanga

Mr Tolo summarised the mandate, the province supports the Bill as it stands.

Recommendation:

- The child labour age restriction should to be raised to 16.

The full mandate is available at:

<http://ci.org.za/depts/ci/plr/pdf/subs/Mpumalanga.pdf>

Northern Cape

¹ Summary prepared by author

² Summary prepared by author

Mr Sulliman gave a brief description of the process followed and stated that the “Portfolio Committee on Social Services & Population development supports the Bill”

The mandate describes the process summarises very briefly comments from the public, (Working Group suggestions made in written submissions are not captured). Their recommendations do not respond to the public comments, this could be interpreted as additional information to the departmental drafters, but does not constitute an official position.

Summary:

- They parents should be allowed to exercise appropriate discipline over their children and are clearly pro-corporal punishment;
- Capacity to implement the Bill is questioned;
- The role of the MEC should be strengthened;
- The role of Mayors should also be strengthened;
- All judicial remedies and appeal are to the high court, cost is prohibitive for most people / organisations;
- Reporting of abuse should be compulsory for everyone.³

The full mandate is available at:

<http://ci.org.za/depts/ci/plr/pdf/subs/Northern%20Cape.pdf>

North West

Mr Tlhagale told the committee there had been public hearings in the province and that the recommendations were contained in the mandate.

Recommendations:

- Government should employ more social workers and provide them with resources to enable them to execute work;
- People who are working at partial care should be well trained;
- Children with disabilities should not be discriminated against in schools.

The full mandate is available at:

<http://ci.org.za/depts/ci/plr/pdf/subs/North%20West.pdf>

Western Cape

Ms. Lamoela read out the mandate and presented the appendix containing the Western Cape's recommendations. The Committee has reviewed the submissions made by the organisations in the Western Cape and produced a grid summarising all the recommendations that the Legislature supports. The document is 52p long and covers most of the recommendations made by Working Group members.

The full mandate is available at:

<http://ci.org.za/depts/ci/plr/pdf/subs/Western%20Cape.pdf>

Northern Cape representative objected to the presentation of the Western Cape's document, he stated that it should be on the legislature's official letterhead.

³ Summary prepared by author

The Chair told the room that the department would be given enough chance to review the recommendations. Then told them that the response was required by the 20th March 2007.

2. The Select Committee on Social Development meets to hear the response of the Department of Social Development to the *negotiating mandates*

On the **20th March**, the Select Committee on Social Services met to hear the response of the national Department of Social Development to the proposals made in the negotiating mandates. Dr Mabetoa (Chief Director, Department of Social Development) told the committee that the Department of Social Development had started to redraft the Children's Amendment Bill, however, the mandates are thick documents, and require the redrafting of almost every section of the Bill. The Department of Social Development likes the recommendations, but it will take time to incorporate them properly into the Bill. She asked for more time to complete the process so that they can do justice to the task at hand and not make any compromises. The Department expects the redrafting process to be complete by Friday.

Hon. Sulliman (Northern Cape) supported the request from the Department, stating that the Committee has to do a thorough job of scrutinizing the legislation. He commented that the Western Cape mandate was a summary of the submissions received at the public hearings, and called on that committee to put forward its position. Hon. Mazibuko commented that additional time was required so that the Free State could submit their mandate.

The Select Committee resolved to ask the Programming Committee for an extension until the next parliamentary term.

3. Second Reading Debate to be postponed

The second reading debate on the Bill is scheduled for the **29th March**, this debate will have to be postponed until after the deliberations are completed.

If you want more information, please contact:

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