

Submission to the Portfolio Committee on Social Development on the Children's Bill

July 2004

**Presented by the National Association of Child Care Workers
(NACCW)**

The NACCW is a registered Non-profit Organisation whose broad aim is to improve services to vulnerable children and youth at risk in South Africa. It has a membership of over 2000 individuals comprised of those involved in the field. They include grassroots practitioners, program managers and people operating at policy level. Child and youth care workers have recently been recognized as an autonomous occupational group in terms of the Social Service Professions Act of 1998. The process of establishing a statutory regulatory body in terms of the latter Act is currently underway. Child and youth care workers are those who work in the lifespace of young people at risk – be that on the street, in impoverished communities, in and in residential facilities for children. They are the para-professionals and professionals who give effect to much of the legislative requirements at the interface between children and the system. They are social service professionals whose function it is to intervene therapeutically and developmentally in the child's daily life events. Child and youth care workers are particularly involved in residential care facilities, but also operate in the context of early intervention and preventative services.

Introduction

The sector has endorsed the submission made by the “Children’s Bill Working Group” in respect to the issues of concern raised in that document as well as the submission by the Children’s Institute in respect of the issue of children affected by HIV/AIDS. This submission thus confines itself largely to matters pertaining to chapters 12 and 14 of the Bill. Limited comment on chapter 15 is provided.

Commendations with Respect to Chapters 12 and 14

The sector commends the Department of Social Development for much of the contents of chapters 12 and 14. It considers that these chapters lay a strong and comprehensive foundation for effective services to children placed in residential facilities. It particularly welcomes much of the contents of Chapter 12 as limiting the power of the court and other bodies to transfer children within the child and youth care system. It also is strongly in favour of much of the chapter on ‘Child and Youth Care Centers’.

Of particular note is the requirement for all residential facilities to offer therapeutic programs (S 191(2)). This is particularly welcomed. Residential care is a particularly invasive, serious and therefore also potentially harmful response to difficulties experienced by children. It is thus likely that those children who do indeed require removal from their communities, will also require therapeutic assistance in the context of a residential program to overcome difficulties and traumatic experiences. This section of the Bill reinforces the fact that residential facilities should by definition also be therapeutic in nature - rather than providing alternative accommodation and the provision of only basic care services. In addition it must be noted that residential care (even when poorly executed and meeting only basic needs) is an expensive service and should be reserved as a short term and intensive service.

Concern in Relation to Chapter 12

Excision of provision for free state services:

A concern relates to the excision of the provision for free state services to children in statutory care, originally included in s188 of the SALC draft of the Bill. Should child and youth care centers be required to provide for such services, funding for these services would need to be provided in addition to the funding for the residential care. It must be noted that children placed in child and youth care centers are by definition the responsibility of the state, and it is the responsibility therefore of the state to provide sufficient resources to enable legislative requirements to be met. If it were incumbent on child and youth care centers to fund educational and health services for children in their care, this is likely to seriously impact on their capacity to adequately provide for the requirements of the legislation in respect of therapeutic programs (section 191(2)).

Concerns in Relation to Chapter 14

- ***Definitional provision***

191. (3) A child and youth centre may in addition to its residential care programme or programmes, offer the following services:

(a) the provision of appropriate care and development of children with physical or mental disabilities or chronic illnesses;

(b) the treatment of children for addiction to dependence producing substances; or

(c) any other service that may be prescribed by regulation.

Whilst the above provisions are noted and commended, it is recommended that the role of residential facilities in respect of the provision of early intervention and prevention services be included in the definitional provision. Many residential facilities are currently running such programs very successfully and are often uniquely positioned to do so. Such services should be seen as integral to residential care and treatment.

- **Provision of child and youth care centres**

193. (1) *The MEC may, from funds appropriated by the relevant provincial legislature for this purpose, provide for:*

a) *Facilities and services for the provision of child and youth care centres; and*

(b) *the **subsidisation** of facilities and services by non-governmental bodies and other organs of state for the provision of child and youth care centers.*

The matter of funding for child and youth care centers ought to be more carefully articulated in this section. At present the state has a range of different mechanisms for contributing to the cost of the provision of this form of service which is inequitable. Funding arrangements range from the provision of services for profit through the 100% funding of state-run facilities to the subsidization of private non-profit agencies. The notion of subsidies is rejected as articulated here and should be replaced with a 'purchase of services approach'.

- **Establishment of child and youth care centres by accredited organisations**

196. (1) *Any **accredited** organisation may establish or operate a child and youth care centre provided that the centre –*

This provision is welcomed. However there is no indication within the Bill as to the definition of such an accredited organization. It is suggested that the definition be inserted into the definitional provision, and that it includes the notion of private non-profit, registered organizations, and should state the duration of the accreditation status.

- **Managers and staff of child and youth care centres**

208 (1) *The person or organisation operating a child and youth care centre must appoint or designate –*

(a) *a person as the manager of the centre; and*

(b) a sufficient number of **staff** or other appropriate persons to assist in operating the centre.

(2) A person may be appointed or designated in terms of subsection (1) only after following an interview process prescribed by regulation.

(3) No person unsuitable to work with children may be appointed or designated in terms of subsection (1) or continue to serve at a child and youth care centre.

(4) The number of staff appointed or designated must be in accordance with any **staff-to-children** ratios that may be –

(a) prescribed by regulation; or

(b) required in the conditions of registration of the centre.

The provisions of this section are largely welcomed. However the lack of the specification in the use of the word 'staff' is a concern. It has been noted above that child and youth care centers are required to provide therapeutic programs. This implies that the staff who are engaged with children and youth are trained to carry out therapeutic work in the lifespan of children. Child and youth care workers are the category of social services worker that is appropriately skilled to undertake this work. The term 'staff' as indicated in this section could refer to anyone in the employ of the center. The chief concern of the sector however relates to the child and youth care worker-staff ratio. Of further concern is the fact that the Bill in no way refers to this category of worker and does not in Chapter 1 provide a definition of this category of social service professional.

Concerns in Relation to Chapter 15

- **Definitional provision: Shelters and Drop-in centres**

213 (1) “A shelter is a facility located at a specific place which is managed for the purpose of providing basic services, including overnight accommodation and food, to children, including Street Children, who voluntarily attend the facility but who are free to leave.”

(2) A drop-in center is a facility located at a specific place which is managed for the purpose of providing basic services, excluding overnight accommodation, to children, including Street Children, who voluntarily attend the facility but who are free to leave.”

Should read ... “to street children” not ... “to children, **including** street children”. It is not appropriate to admit other children to street children projects. Shelters, Drop-in centers, etc. are especially designed and run to meet the needs of Street Children. Other children would normally not benefit from their services. Emergency homes and homes for runaways are a more viable alternative for them.

- **Shelters and Drop-in Centres**

214 The MEC may provide facilities and services and may subsidize facilities and services

The word “may” to be replaced with “must” or “shall”.

192, 193, 194 makes a provision for the Department to ensure that there are sufficient child and youth care centers. We would want to make the Department responsible for ensuring that there are also sufficient shelters, drop-in centers and other services to Street Children within each Province.

- **Minimum norms and standards for shelters and drop-in centres**

- 220** (1) “Premises used as shelter or drop-in center must have –
- (a) A safe area for the children to play;
 - (b) adequate space and ventilation;
 - (c) safe drinking water
 - (d) hygienic and adequate toilet facilities;
 - (e) access to disposal of refuse services or other adequate means of disposal of refuse generated at the shelter or drop-in center
 - (f) a hygienic area for the preparation of food for the children.
- (2) Premises used as shelter must, in addition, have –
- (a) Safe sleeping facilities; and
 - (b) Staff available at the shelter around the clock.”

Whilst the physical requirements for these facilities are very basic they are in line with the current unelaborated model of services to Street Children. However there is no mention made of programs for children at the facility. Shelters need to have entrance and exit points for children or else they are simply warehouses. It is not enough to keep children in clean, well-ventilated spaces. There has to be provision for programs which provide for education, recreation, social work, services and permanency planning. In fact all the services which are offered in any other child and youth care centre.

- **Reunification of Street Children with their families**

238. *“A social worker facilitating the reunification of a street child with the child’s family must –*
- (a) investigate the causes why the child left the family home;*
 - (b) address those causes and take precautionary action to prevent a recurrence; and*
 - (c) provide counselling to both the child and the family before and after reunification.”*

The above clause has most unfortunately been removed from the August 12th version of the Bill and represents a step backwards, since supervised return of children to their communities of origin is a central tenet of work with Street Children.

Returning children to their families of origin is difficult intensive work. Family reunification requires not only material support, often food, school uniforms and fees (free education for poor children continues to be a myth) but a great deal of counselling and support to rebuild relationships which have, in many cases, irrevocably broken down.

Children returned to dysfunctional families and without proper support will leave again. There is no evidence that children commit suicide under these circumstances (as suggested in a review of the Bill), they simply leave, go back to the streets. They vote with their feet.

The section on reunification needs to be re-inserted as a matter of urgency. Children will continue to come on to the streets unless their basic needs are met at home and proper services needs to be in place in order to effect this.

- **Education for Street Children**

- 117. (1) (e) (x) *“integrating street children into the education system, or into a system that includes both education and other services to meet the needs of street children;”***

This Section as part of the provision for a National Policy Framework has also been removed along with the mechanism of individual strategies for vulnerable groups. The sector would welcome the provision that the Department of Social Services and the Department of Education take financial responsibility for providing non-formal educational alternatives for Street Children and other out of school children.

However there are a number of NGOs who have for many years provided non-formal education and skills training programs for Street Children. In

many cases these serve as a bridging stage to mainstream school. The most helpful approach would be for the Education Department to collaborate with existing initiatives and provide these with recognition and financial support, rather than themselves, reinvent the wheel.

- **Health Care**

117. (1) (e) (xiv) *“providing impoverished children free access to primary and basic health care services, including at shelters and drop-in centers and through the use of mobile clinics;”*

This Section as part of the provision for an intersectoral National Policy Framework has also been removed from the Departmental Draft 12 August Edition.

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