



SUBMISSION on the Draft Childrens Amendment Bill from WC-NACOSA- CHAIN (Childrens HIV /AIDS Network)

WC-NACOSA-CHAIN network: CHAIN is the childrens sector of WC-NACOSA, a network of over a 170 organisations comprising of Non Governmental organisations, Community Based Organisations, Faith Based Organisations, government officials and a diverse array of childrens service providers in the HIV and AIDS sector as well as concerned individuals working in the Western Cape on childrens HIV and AIDS issues.

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Contents: Highlighting some areas where specifically children infected and affected by HIV and AIDS will be affected by the Bill.

Introduction:

WC-NACOSA CHAIN welcomes the opportunity to be able to engage with the Department of social development on the draft Childrens Amendment Bill.

The AIDS pandemic represents a phenomenon, not unlike that of poverty, which is both causal and symptomatic of so many other vulnerabilities of childhood. Almost every section of the Bill is therefore relevant to children in the context of HIV/AIDS. However, this submission focuses on areas of particular concern to individuals and organisations within the HIV/AIDS sector, and is intended to complement the many other sector submissions that address issues of direct relevance to children living in AIDS affected communities.

Nationally and internationally, our response to the socio-economic impact of HIV/AIDS on children tends to focus on children who have been orphaned. However orphanhood in itself is a process that begins long before the death of a child’s caregiver with differently compounded vulnerabilities at different points along this continuum. Research repeatedly demonstrates that the period of a caregiver’s terminal illness is one during which children are prone to exacerbated vulnerability – in which caregivers typically face increased struggles to support their children as they become less able to work to earn money and as cash is diverted to health care and treatment.

The 5.3 million South Africans currently living with HIV/AIDS translate into millions of children whose well being is potentially compromised by adult illness and whose protection, care and support need to be ensured through the provisions of the Children’s Bill.

Discussion of specific clauses and proposed amendments:

Chapter 1: Definitions:

Clause	Proposed Amendments	Discussion
1	<p>We agree with the NACCW submission proposed amendment: Insert a definition of “child and youth care work” Insert a definition of “child and youth care worker” Insert references to roles of child and youth care workers where relevant in chapters 5, 6,7,8,11 and 12.</p>	<p>We agree with the NACCW motivation that child and youth care workers provide a range of child protection and care services, recognised by SACSAP and recommend a definition of child and youth care worker and child and youth care work to be as suggested in the NACCW submission. “ child and youth care is direct protective, developmental and ameliorative practice within the lifespan of a young person in the community, the family or a group care/education setting. It’s aim through the use of positive relationships and planned programming to address emotional and behavioural issues, thus promoting improved functioning and development.”</p> <p>Children infected and affected by HIV and AIDS are supported by child and youth care workers, in the rural setting as well as in the urban setting. They provide a system of working with children within the child’s and young persons lifespan within the community, family or group care setting.</p>

Chapter 5: Partial Care

Clause	Proposed Amendments	Discussion
<p>Partial care Clause 76</p>	<p>We agree with the DICAG submission proposed amendment: All NPO disability centres offering partial care for children need to be recognised funded and regulated by the department of social development. These include developmental stimulation programmes and programmes for physical rehabilitation and therapy.</p> <p>We agree with the SA Congress for Early childhood Development and Early Learning Resource Unit Submission proposed amendment: NPO early childhood development services must be funded and regulated by departments of Social Development, Health and Education.</p>	<p>Services provided to the most vulnerable children-including children with disability or chronic illness- in this case HIV, are adequately provided for and funded by government. These centres offering partial care should be regulated and empowered to provide services in accordance with set norms and standards.</p> <p>Children infected by HIV also present with specific developmental delays as well as in some cases further disabilities such as cerebral palsy, learning disabilities etc. thus these children are included in the services provided to children with disabilities.</p> <p>We agree with the SA congress for Early childhood development and early learning resource unit that a comprehensive inclusive and funded early childhood development service is required; partial care addresses the regulation and funding of the facilities and the principles of access and redress are important given the vast disparities which continue to affect the majority of children in South Africa. Programmes are required to meet the needs of all children including children with disabilities and children living in poverty and difficult circumstances. A comprehensive service can include: preschools, nursery schools or educare centres, playgroups, crèches..etc. as proposed by the SACECD and ELRU submission.</p> <p>We would also encourage that within the comprehensive service that the needs of the HIV positive children and children affected by HIV and AIDS be addressed such as programmes addressing psychosocial support and care for the children and families, health care, treatment adherence support programmes and nutritional support</p>

		also be included.
Clauses 77 <u>Strategy to ensure provision of partial care</u>	<p>Insert new clause:</p> <ol style="list-style-type: none"> 1. The Minister, after consultation with the Minister of Health and the Minister of Education must include in the departmental strategy a comprehensive national strategy aimed at securing a properly resourced, co-ordinated and managed system for childrens services. 2. The Minister must include within the strategy, a plan for ensuring equal access and equal opportunities to all children. 	<p>Childrens services become an overarching term within which different facilities and programmes would be available to different age cohorts if the definition of early childhood development is reinstated as 0-9.</p> <p>In order for sufficient provision of partial care facilities we recommend the insertion of a strategy clause in order to provide adequately for children infected or affected by HIV and AIDS, included under chronic illnesses and disability.</p>
80	<p>Insert:</p> <p>If a partial care facility is closed then alternative arrangements must be made with immediate effect.</p>	<p>Closure of partial care facilities leads to difficulties for the parents/caregivers as alternatives are hard to find in some places and children return home to wait indefinitely. Especially for children who are heading households to look for alternative arrangements for their siblings is an added responsibility to their already existing burden of care.</p>
81 c	<p>Insert</p> <ol style="list-style-type: none"> i) replace “designated social worker” with “competent social service official” ii) any documents may be prescribed by regulation must be “user friendly” and “accessible.” 	<p>There is a concern that there are too few social workers and that they are already overburdened thus the clause be re-worded to refer to any social services professional who is appropriately trained to review such a facility.</p> <p>Many people running partial care facilities need to know how to access the relevant forms and would find it difficult to complete complex application forms.</p>
82 (2) (b)(c)(d)		<p>Clear guidelines are required regarding a person who is not fit and proper to work in</p>

and (3)		a partial care facility. This should bear in mind the protection of the child from abuse and neglect and from persons who have had a history or criminal record, nationally or internationally of abuse, neglect, violence, child trafficking, pornography etc.
83	We support the recommendation from the DICAG submission and the SACECD and ELRU: -norms and standards for :developmental and therapeutic programmes that are inclusive of children with disability or chronic illnesses; physical access and a safe environment for them; training for partial care personnel, which includes diversity training, first aid and universal precautions, psychosocial care and support, developmental stimulation, nutritional support for children and support for treatment.	Norms and standards must be cross referenced to chapter 6 for every ECD facility to include an educational stimulation programme appropriate to the developmental needs of children. We would like to ensure that children also would also receive appropriate psychosocial support and care for families as well as themselves, nutritional support, treatment and healthcare support as well as developmental stimulation in the partial care facility.
Clause 87 (2)	We agree with the DICAG submission insertion: ..provincial strategies must include measures to ensuring equal access and equal opportunities for children with disability or chronic illness including HIV	Children with disability as well as children living with HIV do not always have equal access to partial care facilities because of their HIV status or disability. In order to promote equality and non discrimination of children with disability and chronic illnesses including HIV we recommend an insertion of a plan for the provincial departments to consider and plan for equal access for children with disability and chronic illnesses including HIV to be made explicit to tackle the stigma and discrimination that sometimes occurs.
Clause 88	88 (1) It is recommended that clause 87 be excluded from the delegated functions to municipalities	Provinces need to keep a record of all facilities and plan the service delivery accordingly. An integrated and comprehensive

	<p>Provisions need to be made for the improvement of intersectoral collaboration at this level as well as municipalities being capacitated by provincial government in order to fulfil these functions.</p>	<p>approach needs to be adopted with structures and mechanisms for collaboration between sectors. Many municipalities need to be capacitated to have a child's focus in carrying out the functions stipulated and thus need the necessary training and support in order to do so. HIV and AIDS is a focus area in the IDP strategies of the municipalities in the Western Cape, however there needs to be an emphasis as well on children's issues within the HIV and AIDS issues identified at this level.</p>
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Chapter 6: Early Childhood Development

Clause	Proposed Amendments	Discussion
<p>Definition of ECD Clause 91 (1)</p>	<p>We agree with the DICAG, submission insertion: Early Childhood development for the purposes of this act, means the processes of emotional, mental, spiritual, physical and social development of children from birth to school-going age taking into consideration the Child's developmental stage</p>	<p>The Current definition of ECD is stated as being from birth to school going age, defined by the DOE as 4 years. Due to the many barriers to learning and development that is experienced by disabled children, and children infected and affected by HIV/AIDS, including lack of appropriate learning materials and access to facilities. They might not achieve developmental milestones at the same time as other children. They then remain in formal ECD or informal centres even after reaching school-going age. And yet these children still need the opportunities of support and development as well as additional psychosocial support and care.</p>
<p>Clause 91 (2)</p>	<p>Insert: Early childhood development services means services: (a) intended to promote early childhood development including the provision of facilities, staff training, equipment and materials. (b) Provided by a person</p>	<p>A distinction needs to be drawn between ECD services and ECD programmes.</p> <p>Early Childhood development programmes include a holistic range of programmes to support Child development including direct support for the role of care-givers and families as a child's first duty-bearer.</p> <p>Programmes include those that provide support to families and care-givers of</p>

	<p>other than by a child's parent or primary caregiver on a regular basis to children up to school-going age or attending an after-care facility or according to the child's developmental age.</p> <p>(c) The definition of ECD services needs to be extended to include holistic programmes as follows: An ECD programme means a programme structured within an ECD service to provide educational stimulation, psychosocial support and care, nutritional support, treatment adherence support appropriate to the Child's developmental age and stage; programmes that provide support to families/ care-givers.</p>	<p>children with disabilities and chronic illnesses and to children and families living in poverty and difficult circumstances as well as to those in more well off circumstances.</p> <p>ECD is the first line of prevention and intervention for children and families and this is particularly important for those infected or affected by HIV/AIDS. ECD programmes need to consider including prevention education, treatment care and support, nutritional support and additional support for children living in child-headed households.</p>
Clause 92	<p>Insert into The minister in consultation with the Minister of Education and the Minister of Health must develop a comprehensive national strategy that is published for public comment before finalisation and is aimed at securing a properly resources....etc We agree with the detailed insertions proposed by SACECD, DICAG and ELRU submissions</p>	<p>In addition to the discussion as detailed in the SACECD, DICAG and ELRU submissions, for a comprehensive strategy and support for Children living with HIV/AIDS there needs to be effective inter-sectoral collaboration at all levels of government for effective service delivery.</p> <p>In the interest of participatory democracy, any strategy should be made available for public comment and a participatory consultation process with civil society and various non-governmental roleplayers.</p>
Clause 93	<p>1. Early childhood development services</p>	<p>The definition of providers of ECD needs to be extended to include the numerous</p>

	<p>provided by an organ of state or an NPO, community based organisation or an individual only qualify for funding from money appropriated by a provincial legislature.....</p> <p>2. include the Minister of Health and exclude financial and fiscal commission</p>	<p>NPO's and community based organisations and individuals who render this service.</p> <p>Norms and standards for ECD should be developed based on the needs of children not the budgetary constraints. Once norms and standards have been developed, then appropriate budget needs to be allocated in consultation with the various financial bodies.</p> <p>We recommend in developing the norms and standards for ECD that the following provisions would ensure holistic support and care for children affected and infected by HIV/AIDS: developmental and therapeutic programmes are inclusive of children with disability or chronic illnesses; physical access and a safe environment for them; training for ECD personnel, which includes diversity training, first aid and universal precautions, psychosocial care and support, developmental stimulation, nutritional support for children and support for treatment.</p>
Clause 94	<p>1. (a) ...up to school-going age or appropriate developmental stage</p> <p>3. Should say must instead of may</p>	

Chapter 13:Child and Youth Care Centres

We welcome the provision of Child and Youth care centres in the Children's Amendment Bill since with the previous Act organisations offering therapeutic care and support for children infected and affected by HIV and AIDS did not have a category to be registered under, and only temporary safety was only offered by government. We support that these services can now be offered by other organisations other than government and there will be a place for registration eg. Cotlands in the Western Cape.

Clause 207(1)	We welcome and support this section	We support the proposal in subsection (1) that all child and youth care centres have management boards
Clause 207(6)	The management board must create a childrens forum dependant on the age and maturity, and ability of children to participate in decisionmaking as part of the management board to ensure the participation of resident children in the operation of the centre	Some of the organsiations working with children have chidren upto the age of 7 years or children with cognitive disabilities, thus when creating a childrens forum the age, maturity and emotional readiness in such decisionmaking should be taken into account.

Thank you for the opportunity to engage in the Draft Childrens Amendment Bill.

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