

SUBMISSION ON THE CHILDREN'S ACT AMENDMENT BILL

CHILDLINE FREE STATE

FEBRUARY 2007

INTRODUCTION

Childline Free State is affiliated to Childline SA. Our services include:

- the provincial crisis line service for children
- child abuse and neglect prevention and education programmes
- networking across all child and family service providers
- advocacy and lobbying in relation to children's needs and services
- therapeutic services for abused and traumatized children and their families
- safe house care
- court preparation for child witnesses who are complainants in criminal cases

Childline Free will limit its submission to the following issues:

1 DEFINITIONS

The definition of prevention services in both the definitions section as well as in Section 145(2) of the Bill is not clear. It would appear that in this and other sections the Bill is referring to prevention at a secondary or even tertiary level when difficulties experienced by children and their families have already arisen.. Childline Free State suggests that the definition be clarified and extended to include primary prevention. Primary prevention, for example, will refer to all the awareness projects Childline is rendering to schools as well as the broader community on child abuse related subjects.

2 PROVISIONS

Childline Free State applauds and supports the increased protection of children in these facilities and the registration and monitoring provisions.

3 CHAPTER 7 THE CHILD PROTECTION SYSTEM

- 3.1 Childline Free State notes with considerable concern the inclusion of children who are only in need of material assistance in child protection services. With increasing numbers of orphaned children, the resulting backlog and strain on professional workers in the child protection system as well as on the Children's Court System has resulted in a marked deterioration of services and in some instances, no services for abused children.
- 3.2 Section 104: The Comprehensive National Strategy: the word "inter-sector" must be inserted into this clause to ensure the engagement of all sectors that comprise the child protection system. This is a critical issue in the light of past and recent history – for example the recent "migration" of the FCU units of the SAPS without any consultation with other sectors in the Child Protection System. This has resulted in chaos with regard to the provision of services to abused children and this has contributed to the secondary trauma that children and families experience at the hand of a malfunctioning system. This word should be inserted into the Bill and not left to the regulations in order to give more legal force to the recognition of the necessity of an inter-sector mechanism.
- 3.3 Section 105(1): Childline Free State supports the mandated reporting for specific occupations and professions but wishes to draw attention to the fact that the bar for mandated reporting of professionals is very high – the wording is "who on personal observation concludes". Many of the professionals listed have no training on identifying abused children and this could result in a lack of reporting. The wording "reasonable suspicion" and referral for investigation to experts in the field of child protection is recommended.
- 3.4 Section 105(3): Recommend the rewording and that the term "substantiate" be replaced by "motivate their conclusion or belief", to prevent the investigation of child abuse by untrained persons who may compromise the success of investigations by trained child protection personnel.
- 3.5 Section 105(4): Medical personnel who have performed termination of pregnancies on children report to the register if the pregnancy was due to the sexual abuse of the child. It must be noted that in terms of criminal law, the age of consent to sexual interaction is 16 years for girl children . Any pregnancy in a child under 16 years should thus receive the attention of the child protection system. Medical personnel are not trained and experienced in identifying child abuse . Childline Free State recommends that all children under the age of 16 who have pregnancies terminated or present as pregnant be referred for assessment to the child protection system. The Bill is silent on the issue of pregnant children who do not

elect to have terminations of pregnancy. Even where the pregnancy and sexual activity does not fall within the criminal law – as with peer sexual relations then one could regard the intervention offered at this point as preventive.

- 3.6 Section 105(5): As the Child Protection Units have now been disbanded or “migrated” and the training clause was removed from the Act for Clerks of the Children’s Court these personnel may not have the skills to appropriately investigate allegations of child abuse and neglect it is recommended that these reports and allegations be referred to provincial departments of social development and designated child protection agencies.
- 3.7 Section 106 gives a list of services to be provided by designated child protection organizations. There is no provision for therapy/psycho-social treatment services for children and families where abuse has occurred. This is a grave oversight as the short and long term consequences and effects of child abuse and neglect of all kinds have well documented and researched negative impacts that interfere with a child’s ability to grow and develop into responsible adult and parenthood. There is the possibility that this could be integrated into Section 106(4) which presently lists services in child protection but basically focuses on the physical care of the child and does not include the psycho-social treatment services.
- 3.8 Section 136 – Child Headed Households. Childline Free State supports the recognition of and provision of services to these households, but recommends the following:
- a minimum age for the child heading the household
 - this child must have access to grants both for the maintenance of him/herself and other children in the household
 - provision for an extension of childhood for the child carer where the responsibilities of caring for younger children has interfered and/or interrupted that child’s process of education.
 - This section should define child headed households more broadly – child headed households also occur when parents have abandoned children – not just when they have died or are terminally ill
 - Also it is important to mention that it is with these children that problems occur with guardianship issues especially when it comes to the protecting of property rights of these children. The High Court curator system takes months to finalise during which time assets that

should be the property of the child have been distributed to and used by other relatives and community members.

- The adult appointed by to assist the child headed household should be appointed in consultation with the child heading the household and where appropriate the other children in the household – although there is a provision in the Act that children must be consulted on all decisions affecting their lives, this might be overlooked in this instance.

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