

SUBMISSION ON THE CHILDREN'S ACT AMENDMENT BILL

CHILDLINE MPUMALANGA

FEBRUARY 2007

Childline Mpumalanga is part of a national affiliation of Provincial Childline services to children. Our services include:

- the provincial crisis line service for children**
- therapeutic services for abused and traumatized children and their families**
- child abuse and neglect prevention and education programmes**
- youth development services**
- networking across all child and family service providers**
- advocacy and lobbying in relation to children's needs and services.**

As such every section of this Amendment Bill has relevance for our service provision however Childline will limit its submission to some specific 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 suggests that the definition be clarified and extended to include primary prevention.

2. Provisions for Partial care and Early Childhood Development Facilities

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

3. Chapter 7: The Child Protection System

- a. Childline 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. We therefore as an organization support the submission by Johannesburg Child Welfare Society. Children requiring only income and material support and prevention and early intervention programmes such as those providing bereavement counseling.
- b. 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 FCS units of the SAPS without any consultation with other sectors in the Child Protection System 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 hands 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.

- c. Section 105(1) Childline 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. Childline suggest we should return to reasonable suspicion (which is open to various interpretations) and referral for investigation to experts in the field of child protection.
- d. It is also recommended that section 105 (3) be reworded 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.
- e. Section 105 (4) again 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 in terms of criminal law, the age of consent to sexual interaction is 16 years for girl children so any pregnancy in a child under the age of 16 years should receive the attention of the child protection system. Furthermore medical personnel are not trained and experienced in identifying child abuse. Childline 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 in fact 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.

- f. 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 develop and designated child protection agencies.

- g. 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 S106 (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.

Section 136 – Child Headed Households

Childline supports the recognition of and provision of services to these households but

- recommends a minimum age for the child heading the household
- recommends that this child has access to grants both for the maintenance of themselves and other children in the household
- recommends that there be 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.
- Recommends that this section 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 we have the biggest problem with guardianship issues especially when it comes to protecting 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.
 - Recommends that the adult appointed by to assist the child headed household 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.

Section 139 Corporal Punishment

- Childline supports an outright proscription on corporal punishment in all settings including the home
- We support the provision in Section 139 (3) (b) relating to programmes promoting appropriate discipline at home and at school.

Chapter 8 - Prevention and early intervention services

This chapter requires a very careful analysis and Childline awaits the presentation from SASPCAN and others on this issue.

The Child Protection Register – point B – this is still duplicated

Child and Youth Care Centres

We would like to see these provisions extended to ensure that they clearly cover the burgeoning numbers of boarding facilities that are beginning to appear in many cities and towns for children from rural and township areas whose parents wish them to attend what they perceive as superior educational opportunity schools. Parents and caregivers pay for boarding in these privately run establishments, children live in very overcrowded conditions – sometimes up to 21 in a room with 3 tier bunkbeds. There is not monitoring of diet, behaviour homework etc. The motivation of the organizers and owners of these facilities appears to be profit. These boarding establishments are not covered by child care legislation administered by the Department of Social Development or the Department of Education.