

# **SUBMISSION ON THE CHILDREN'S ACT AMENDMENT BILL**

## **CHILDLINE NORTH WEST**

**FEBRUARY 2007**

**Childline North West is a non-profit organisation delivering services to children. Our services include:**

- the provincial crisis line service for children**
- child abuse and neglect prevention and education programmes**
- training of crisis counsellors and lay counsellors**
- 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 North West 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 NW suggests that the definition be clarified and extended to include primary prevention.

## **2. Provisions for Partial care and Early Childhood Development Facilities**

Childline NW applauds and supports the increased protection of children in these facilities and the registration and monitoring provisions in order to ensure that those services comply with the minimum requirements prescribed by the regulations.

## **3. Chapter 7: The Child Protection System**

- a. Childline NW 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.
- 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 NW 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 NW suggests that 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 should 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 NW 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 preventative.
- 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 development and designated child protection agencies.

- g. S 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 been well documented and have clearly shown the 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 NW supports the recognition 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 caregiver where the responsibilities of caring for younger children have 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 the 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 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 NW 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 forms of discipline at home and at school but would suggest that it reads  
"appropriate positive, non-violent forms of discipline"

### Chapter 8

#### Section 143 & 144 Prevention and early intervention services

Childline NW recommends that a national strategy for prevention must be developed and that prevention strategies should address the broad range of challenges faced by South African children (including HIV, poverty, parenting, discipline etc.)

Childline NW also recommends that prevention services must be priorities in order to minimize the workload of scarce skills and should be coordinated by the Dept. of Social Development. Prevention and early intervention strategies should be spelt out more specifically, norms and standards need to be developed and services must be widely available (even in rural areas) Prevention is also more cost-effective than statutory intervention. We acknowledge that effective and far-reaching prevention will be costly; however, we know that the cost of *failing to prevent* abuse and neglect far exceeds that of prevention many times over. According to a study undertaken by the Michigan State University, the cost of prevention is 19 times less costly than that of non-prevention.

#### Chapter 12

Section 185(2) provides for more than 6 children to be placed in a foster care placement and provides for cluster foster care. Childline NW wants to express our concern about the concept of cluster foster care as described in the bill. In some ways it looks like mini-child and youth care systems. The legal complexity of the situation is not clear. There may be matters both with regard to labour rights of the foster parents (staff) as well as the children. This situation may expose children to the worst effects of residential care.

We thank you.

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