



Submission to the Portfolio Committee on Social Development, Parliament of South Africa

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1 INTRODUCTION

SASPCAN is a non-governmental organisation which has been in existence since 1984. It is a registered non-profit organisation (NPO 011-262). It was founded to act as a forum for support for anyone wishing to combat child abuse. It is a networking organisation which provides information and training in the field and promotes inter-disciplinary co-operation in the co-ordination of services to abused children and their families. SASPCAN initiates services where gaps exist. SASPCAN branches can be found in Johannesburg, Cape Town, Durban and Pietermaritzburg.

We have a particular interest in the development and implementation of legislation and policy which articulates the protection and realisation of the rights of children in South Africa. We welcome this opportunity to make a submission on the Children's Amendment Bill.

2 OUR EXPECTATIONS OF THE CHILDREN'S BILL

South African children are vulnerable in a range of situations and in a range of ways. Currently, childhood in South Africa is characterised by high levels of interpersonal violence, of sexual assault, and of poverty, as well as lack of access to the basics of human survival – including adequate housing, health care, nutrition and education. These problems are significantly (and increasingly) exacerbated by the HIV pandemic. Our colonial and apartheid history and the deeply patriarchal nature of our society in all its manifestations are a fertile breeding ground for the social ills which challenge many of our children.

We know from research that many children who grow up in such difficult circumstances perpetuate the circumstances under which they were raised, in their adult lives and as parents. It is for this reason that we feel that the incoming legislation is overdue, and that it must ensure that that childhood is restructured for South African children in general, and those that are vulnerable in particular.

This means a far greater emphasis on prevention and early intervention than is currently the case. Many of the broad prevention strategies that are required (affordable housing, free education, social security, capacity-building for parenting, income support, access to health care) are beyond the scope of this submission and this Bill. Others, such as access to ECD services and effective protection are relevant and dealt with in other submissions to this process.

3 OUR BROAD CONCERNS

3.1 Resourcing

Our first concern is the funding of prevention and early intervention and ECD services. Currently, where they are available, they are mostly delivered by NGOs and CBOs – which too often lack resources and are as a result not well-represented in rural areas. While it is clear that such services could continue to be delivered by civil society organisations, they need significant government support to do so. Where no services exist, it will be necessary to establish them.

There are concerns about the costs of broad prevention and universal access to these. We acknowledge that effective and far-reaching prevention will be costly; however, we know that the cost of *failing to prevent* abuse and neglect 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 than the cost of non-prevention. Factors considered included the impacts of child maltreatment on health, development and social adjustment including juvenile and adult criminality, and the resultant costs of provision for special education, protective services, foster

care, social services and the criminal justice system. The most expensive long-term consequences of child abuse and neglect are related to criminality. This has been estimated to be over US\$55 billion per annum. An Australian study found the long-term costs of child abuse and neglect to be in the order of Aus\$1,3 billion per annum.

Also costly is the loss of productivity to society from adult survivors of child abuse, who are disproportionately affected by unemployment, substance abuse and many other problems – estimated in the USA to be \$656 million per annum. A New Zealand study found that the loss of earnings, extra health bills, and unmet potential of adult survivors was costing NZ\$2.4 billion per year.

Although we as yet do not have equivalent estimates for the South African context, the costs of failure to address the needs of our children are undoubtedly extremely high. Child abuse and neglect damage our human capital and are serious threats to our nation's developmental agenda.

3.2 An appropriate balance between prevention and early intervention services and formal child protection services

SASPCAN notes with concern that the Children's Amendment Bill, like the present Child Care Act, relies disproportionately on the formal child protection system, which operates in large measure through the country's overstretched children's courts and its shrinking pool of social workers. This system is urgently in need of upgrading to enable it to be more effective in dealing with cases of active maltreatment of children.

But it cannot effectively address the mass-based problems facing the hundreds of thousands of orphans and vulnerable children in our country whose problems arise from poverty in combination with HIV/AIDS and other pervasive hazards. The needs of these children can only be met through a combination of improved access to social security and a national roll-out of easily accessible community-based support and empowerment programmes. These should work through voluntary, supportive alliances with families and communities, rather than through the legal authority which is a strong feature of formal protective services. Such services could make judicious use of social workers where necessary, while also mobilising all other categories of social service professionals, along with community developers and volunteers. They should involve all spheres of government in partnership with available NGOs, FBOs and CBOs, and could be linked to, if not built into, the Integrated Development Plans of local authorities. The work of the Child Care Forums which have been coming into being in all provinces under the leadership of the Department of Social Development could play a key role.

In this way a layer of promotive, preventive and early intervention services would be readily accessible to hundreds of thousands of vulnerable children who could be prevented from falling into deepening levels of marginalisation, and the increasing destruction of their potential. They would also serve those who are permanently in the care of their extended families due to the death or incapacitation of their parents. Vast numbers of such children are currently being inappropriately channelled into formal foster care because there is no other way of giving them access to social security.

The number of children in court-ordered foster care has increased by 500% since 2000, and is continuing to skyrocket. Such an approach is inappropriate and unsustainable in a country where the majority of children are poor, and where deaths of parents are occurring on a massive scale. The result is that the formal child protection system has become an income maintenance system, and is now paralysed by the sheer numbers involved. This approach has also created a number of perverse incentives, one of which is for moving children away from their biological parents to give someone access to a grant for which the parents themselves are not eligible.

Through the strengthening of Chapter 8 of the Bill, a strong and dependable layer of preventive and early intervention services could be put in place. This would enable vulnerable children ready access to effective support in their immediate environment without their having to enter the endless queues for admission to social work caseloads and children's court procedures. It would in addition enable certain children who would qualify for statutory protective services but would not necessarily respond well to such an approach, to be linked with alternative forms of assistance better suited to their needs. Children on the streets and in certain forms of labour are good examples. This layer of services would also free up the courts and the social workers to carry out urgently needed protective and rehabilitative tasks which require their specific skills and training. In addition this layer could respond to the special needs of children at risk of marginalisation due to disability and chronic illness, and it could be tasked with education of families and other community members in non-violent methods of discipline.

The proposed amendments which are listed later in this submission have the above considerations in mind.

3.3 Interdepartmental co-operation and co-ordination

Service delivery to vulnerable children in South Africa continues to be bedevilled by a lack of co-operation and co-ordination across various sectors. It is fragmented and not holistic in dealing with vulnerable children – giving rise frequently to unnecessary expenses, high levels of frustration and hopelessness, and further trauma. Under these conditions, it lacks impact and effectiveness. It is essential that a national plan for prevention and early intervention is developed in consultation with ALL role-players, including civil society. It is especially important that the Departments of Education and Social Development work closely together.

The importance of the involvement of the Department of Education in the provision of prevention and early intervention programmes cannot be over-emphasised. Firstly, compulsory education is a critical component of prevention and early intervention in its own right.

Secondly, the fact that children are at school and in the class of the same teacher each day provides a unique opportunity for the early identification of vulnerable children – and a chance to do something while prevention or early intervention is still a realistic option, i.e. before the problem becomes such that a tertiary-level intervention is required.

Clearly neither the Department of Social Development nor the Department of Education can implement effective prevention and early intervention programmes without an involvement of both departments at all levels – from decision-making, policy and budgeting, through to implementation.

4 SUGGESTED TEXT FOR CLAUSES

Clauses in Children’s Amendment Bill	Amendments recommended by SASPCAN
<p>Prevention and early intervention services</p> <p>143. (1) Early intervention services means social development services which are—</p> <p>(a) designed to serve the purposes mentioned in section 144; and</p> <p>(b) provided to families where there are children identified as being vulnerable to or at risk of harm or removal into alternative care;</p> <p>(2) Prevention services means social development services—</p> <p>(a) designed to serve the purposes mentioned in section 144; and</p> <p>(b) provided to families with children in order to strengthen and build their capacity and self-reliance to address problems that may or are bound to occur in the family environment which, if unchecked, may lead to statutory intervention.</p>	<p>Prevention and early intervention services</p> <p>143 – Prevention and early intervention services</p> <p>(1) Prevention services means social development services—</p> <p>(a) designed to serve the purposes mentioned in section 144; and</p> <p>(b) provided to families with children in order to strengthen and build their capacity and self-reliance to address problems that may or are bound to occur in the family environment which, if unchecked, may lead to statutory intervention.</p> <p>(2) Early intervention services means social development services which are—</p> <p>(a) designed to serve the purposes mentioned in section 144; and</p> <p>(b) provided to families where there are children identified as being vulnerable to or at risk of harm or</p>

	<p>removal into alternative care.</p> <p>Notes:</p> <ul style="list-style-type: none"> • <i>The order in which these two sets of services are dealt with has been changed around to emphasise the priority that should be given to prevention, and in order to render the flow of the text more logical as prevention should take place before early intervention.</i> • <i>"social development" should be removed as this narrows the concept to only those services rendered by the department of social development.</i> • <i>"statutory intervention" needs to be defined.</i>
<p>Purposes of prevention and early intervention services or programmes</p> <p>144. (1) Prevention and early intervention services or programmes must focus on:</p> <ul style="list-style-type: none"> (a) Preserving a child's family structure; (b) developing appropriate parenting skills and the capacity of parents and care-givers to safeguard the well-being and best interests of their children; (c) establishing appropriate interpersonal relationships within the family; (d) promoting the well-being of children and the realisation of their full potential; (e) preventing the neglect, abuse or inadequate 	<p>Purposes of prevention and early intervention services or programmes</p> <p>144. (1) (1) Prevention and early intervention services or programmes must focus on:</p> <ul style="list-style-type: none"> (a) preserving a child's family structure <u>in situations of vulnerability</u> (b) Developing of appropriate parenting skills and the capacity of parents and care-givers to safeguard the well-being and best interests of their children, <u>including promoting positive, non-violent forms of discipline of children</u>; (c) establishing appropriate interpersonal relationships within the family; (d) promoting the well-being of children and the realisation

<p>supervision of children and preventing other failures in the family environment to meet children's needs;</p> <p>(f) preventing the recurrence of problems in the family environment that may harm children or adversely affect their development;</p> <p>(g) diverting children away from the child and youth care system and the criminal justice system; and</p> <p>(h) avoiding the removal of a child from the family environment.</p> <p>(2) Prevention and early intervention services or programmes may include –</p> <p>(a) assisting families to obtain the basic necessities of life;</p> <p>(b) empowering families to obtain such necessities for themselves.</p> <p>(3) Prevention and early intervention services must involve and promote the participation of families, parents, care-givers and children in identifying and resolving their problems.</p>	<p>of their full potential;</p> <p>(e) preventing the neglect, abuse or inadequate supervision of children and preventing other failures in the family environment to meet children's needs;</p> <p>(f) preventing the recurrence of problems in the family environment that may harm children or adversely affect their development;</p> <p>(g) diverting children away from the child and youth care system and the criminal justice system; and</p> <p>(h) avoiding the removal of a child from the family environment;</p> <p><u>(i) providing assistance with issues of trauma and grief in families affected by illness, death, separation, violence or natural disasters;</u></p> <p><u>(j) providing practical assistance and guidance for older persons, children and young adults who are serving as caregivers for children;</u></p> <p><u>(k) providing assistance to families with children with disabilities; and</u></p> <p><u>(l) providing assistance to families with children with chronic illnesses.</u></p> <p><u>(m) providing assistance to children in families with sick or terminally ill caregivers and children living in child headed households</u></p> <p><u>(n) providing assistance to children suffering from substance abuse or children living with caregivers suffering from substance abuse</u></p>
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	<p><u>(o) providing aftercare services and support to children when they leave residential care</u></p> <p>(2) Prevention and early intervention services or programmes may <u>must where necessary</u> include –</p> <p>(a) assisting families to obtain the basic necessities of life and to access essential services;</p> <p>(b) empowering families to obtain such necessities <u>and access essential services</u> for themselves.</p> <p>(c) <u>providing families in desparate need with the basic necessities of life including</u> <u>food, clothing, and shelter</u></p> <p>(3) Prevention and early intervention services must involve and promote the participation of families, parents, care-givers and children in identifying and resolving their problems.</p>
<p>Provision of prevention and early intervention services</p> <p>145. (1) Prevention and early intervention services provided by an organ of state, a designated child protection organisation or a non-governmental organisation only qualify for funding from money appropriated by a provincial legislature if it complies with the national norms and standards mentioned in subsection (2).</p> <p>(2) The Minister must determine the national norms and</p>	<p>Provision of prevention and early intervention services</p> <p>145. <u>(1) The MEC for Social Development in each province must provide prevention and early intervention services for children in need of such services.</u></p> <p><u>(2)</u> Prevention and early intervention services provided by an organ of state, a designated child protection organisation or a non-governmental organisation only qualify for funding from money appropriated by a provincial legislature if it complies</p>

<p>standards after consultation with the MECs for Social Development, the Financial and Fiscal Commission and the Minister of Finance.</p> <p>(3) In implementing subsection (1) families who lack the means of providing proper shelter, food and other basic necessities of life to their children must be given priority.</p>	<p>with the national norms and standards mentioned in subsection <u>(3)</u> (2).</p> <p><u>(3)</u> The Minister must determine the national norms and standards after consultation with the MECs for Social Development, the Financial and Fiscal Commission and the Minister of Finance.</p> <p><u>(4)</u> In implementing subsections <u>(1)</u> and <u>(2)</u> families who lack the means of providing proper shelter, food and other basic necessities of life to their children must be given priority.</p>
<p>Strategies for securing provision of prevention and early intervention services</p> <p>146. The Minister must include in the departmental strategy a comprehensive national strategy aimed at securing the provision of prevention and early intervention services to families, parents, care-givers and children across the country.</p>	<p>Strategies for securing provision of prevention and early intervention services</p> <p>146. <u>(1)</u> The Minister must include in the departmental strategy a comprehensive national strategy aimed at securing the provision of prevention and early intervention services to families, parents, care-givers and children across the country <u>ensure that a national network of prevention and early intervention services as described in s145 is in place and operating effectively throughout the country, based on data reflecting the numbers of vulnerable children and families in each province.</u></p> <p>(2)The minister must consult with the MECs for Social Development, Education, Health, Community Safety,</p>

	Correctional Services, Provincial Commissioners of SAPS, Director's of Public Prosecution and members of civil society to develop the national strategy.
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The following new clauses are proposed:

147a - Suggested clause for insertion regarding local government

Insert an additional clause obliging all Local Government's to take children's needs into account when developing their IDPs particularly in the areas of:

- Water, sanitation and refuse removal
- Electricity
- Housing
- District level health services
- Partial care facilities (crèches)
- Road building and maintenance
- Traffic control and road safety enforcement
- Safety at public entertainment facilities

148. The principal of a public or private school must on a confidential basis –

- (a) identify children who are frequently absent from school, where this may be due to their becoming involved in exploitative child labour or excessive household responsibilities, or to lack of appropriate family care;
- (b) take all reasonable steps to assist them in returning to school or to discourage them from leaving school;
- (c) submit the names and addresses of those children to an appropriate prevention or early intervention programme or alternative support service, or to the nearest office of the Department of Social Development for assistance; and
- (d) submit the names and addresses of those children to the provincial head of Social Development, for purposes of data-gathering and planning.

This is an amended version of clause 236 in the original SA Law Commission Draft Bill. It recognises the school as a vital context for identifying children who are in the beginning stages of falling onto the social margins due to poverty and/or the death or illness of caregivers, and/or of being caught up in child labour including worst forms such as prostitution, and/or of moving onto the streets. There is no other context which has the same potential for prevention and early intervention, and there is no possibility of an effective and comprehensive approach to prevention and early intervention which does not utilise schools as focal points. In response to any argument that such a function is not within the ambit of the Children's Bill, it could be pointed out that the Minister of Education and the education sector are already required to perform a number of functions in terms of the Bill, and also of the present Child Care Act. Areas of responsibility include certain categories of child and youth

care centre as well early childhood development. All teachers are also mandatory reporters of child abuse in terms of clause 105.

We thank you.

A handwritten signature in black ink, appearing to read "Bower".

CAROL BOWER
SASPCAN. August 2006