



Ref 011-496 NPO
Section 18a Ref 93000897
47 Temple Street, Pietermaritzburg. 3201
P.O. Box 157, Pietermaritzburg. 3200

Tel: +27 33-3457994, Fax: +27 33-3457272 E-mail: info@cindi.org.za Website: www.cindi.org.za



CINDI Network Office
55 Jabu Ndlovu Street
P.O. Box 157
Pietermaritzburg 3200
Tel: 033 345 7994
Fax: 033 345 7272

8TH August 2007



SUBMISSION ON THE CHILDREN'S AMENDMENT BILL FROM THE CHILD ADVOCACY PROJECT OF THE CINDI NETWORK

1. Preamble:

CINDI, founded in July 1996, is a multi-sectoral network of over 150 civil society and government agencies (Non Governmental Organizations, Community Based Organizations, Faith Based Organizations, local and regional government departments). CINDI aims to assist member organizations to identify and assist children in distress, particularly orphans and other children affected or made vulnerable by HIV and AIDS. The CINDI Network works through an innovative clustering strategy that allows close collaboration among members with expertise in a particular technical area in order to provide a continuum of HIV/AIDS care and support to beneficiaries. This strategy allows CINDI to seek funding or programme funds it receives through these clusters. These clusters include: a) Community Development Cluster (CD), b) Home-Based Care Cluster (HBC), c) Psychosocial Support Cluster (PSS), d) Children-in-Care Cluster (CIC), and e) Schools and Youth Development Cluster (SYD). The Child Advocacy Project (CAP) is a CINDI advocacy initiative funded by Department For International Development (DFID) to help ensure that children and their care givers access to their rights. The Children's Amendment Bill in our view is a potentially wonderful piece legislation that would ensure that children have access to services that are their right so that they can grow up into productive citizens of this country.

We would like to applaud the Department of Social Development for their incorporation of a number of changes that we suggested in our submission to the provincial hearings in October last year. We specifically applaud the changes made in sections:

- ➡ Section 104 The section is well phrased to ensure a multi-sectoral approach in the provision of protection services for children

- Section 106 for recognising a number of initiatives to support families, in particular family preservation. CINDI believes that services like provision of anti retroviral drugs and programmes that support adherence and compliance to treatment of AIDS are vital to the preservation of family life by postponing orphan hood.
- Section 110 (1) the expansion of the list of professionals expected to report suspected abuse
- Section 136, to enable child headed households to access social services, the involvement of child headed household members in the running of their households under a mentor depending on age and maturity of the children. We applaud this clause that allows for a mentor to assist child headed house holds. We believe that this will be a relief for these children who get overburdened by adult responsibilities and who consequently fail to perform in, or drop out of school. We also welcome the inclusion of a clause that ensures that the mentor is held accountable. However there is need to include a clause that allows children in the household recourse if the mentor is no longer acting in the best interest of the children.
- We would like to support chapter 13 and 14 which provided for the regulation of Child and Youth Care Centres and Drop in Centres. A research that was conducted by the Built Environment Support Group (BESG) entitled *No Place Like Home* (accessible on the CINDI website www.cindi.org.za/besg) showed that there is a mushrooming of unregistered children homes, which by their unregistered status are not regulated. There is need for the state to come up with mechanisms to ensure that children in these institutions are protected. We also regret to note that the Minimum Standards: South African Child and Youth Care System drafted by Inter ministerial committee on young people at risk, published in May 1998 are still in draft format.

2. GENERAL CONCERNS

The Bill places the onus of implementation of services to children on government departments. It is not clear to us within this process that will monitor implementation and hold the departments accountable? We believe that there is a need for a Children's Ombudsperson to address adequate service delivery to children.

3. PROPOSED AMENDMENTS TO THE BILL

CLAUSE	PROPOSED AMENDMENTS	DISCUSSION
CHAPTER 7: PART 1, CHILD PROTECTION SERVICES		
110(1)	<p>Any correctional official ... who on reasonable grounds concludes that a child has been abused in a manner ...</p> <p>Should read</p> <p>Any correctional official... who on reasonable grounds suspects that a child has been abused in a manner ...</p>	<ul style="list-style-type: none"> ○ Use of <i>concludes</i> implies without any reasonable doubt. ○ It may keep professionals without investigative skills from making definitive reports regarding abused children that they are dealing with. ○ <i>Suspects</i> will allow any professional to be in a position to report without fear.
110 (2)	<p>Any person who on reasonable grounds believes that a child is in need of care and protection because of abuse, sexual abuse or deliberate neglect, may report that belief to the provincial department of social development, a designated child protection organisation or a police..</p> <p>May should be replaced with must</p>	<p>It is important to make reporting of suspected child abuses non negotiable, to form a protection and early intervention measure.</p>

CLAUSE	PROPOSED AMENDMENTS	DISCUSSION
CHAPTER 7: PART 4, CHILD HEADED HOUSEHOLDS		
136(1)	<p>A provincial head of social development may recognise a household as a child-headed household if-</p> <p>(a) The parent or caregiver of the household is terminally ill, or has died, or <u>has abandoned</u> the child(ren)</p>	<p>We suggest the inclusion of has abandoned because not all house headed households are as a result of terminal illness or death.</p>
136(1)	<p><u>Remove the AGE specification in the clause below</u></p> <p>(c) a child over the age of 15 years has assumed the role of care-giver in respect of the children in the household;</p>	<p>We disagree with specifying the age of the child as a condition for recognising a child headed household. While this clause is aimed at protecting the very young children from living in a child-headed household, the reality is that there are households in which the oldest child is not 15 years and above. Developmentally, not all children younger than 15 are immature and not all children above the age of 15 are mature enough to head a household.</p>
136(2)	<p>A child-headed household must function under the general supervision of an adult designated by –</p> <p>(a) a children’s court <u>in consultation with the child heading the household and where appropriate the other children in the household ...</u></p> <p>(b) an organ of the state or a non-governmental organisation determined by the provincial head of social development <u>in consultation with the child heading the household and where appropriate the other children in the household</u></p>	<p>This is important because it will ensure that the children in the child headed households participate in making this important decision in their lives</p>

136(4)	(a) The child at the head of the household or the adult contemplated in subsection (2) may apply , collect and administer for the child-headed household any social security grant or benefits or other assistance to which the household is entitled.	Children in child-headed households and the adults assigned to supervise them may need assistance in the process of applying for social security funds.
136(5)	<u>Suggestion to Insert this clause</u> (c) If the children or a child in the household have reason to believe that the supervising adult is no longer acting in their best interest, they may lodge a complaint with relevant authorities for recourse.	There is need to ensure that the children are empowered to report to relevant authorities if there is abuse of position by the mentors. Children are the one in constant contact with the mentor.
136(7)	The child heading the household may take all day-to-day decisions relating to the household and the children in the household as if that child was an adult care-giver as is appropriate given the child's age, maturity and stage of development	A child is a minor and cannot make decisions as though they were an adult. They have limited decision-making capacity in comparison to an adult.
<u>136 (9)</u>	<u>Suggestion to insert clause</u> The state must safeguard the security of tenure and right to shelter for children in child headed households	Children in child headed households face challenges similar to those faced by all other children. However often relatives and other people have been reported to dispossess children in child headed households of their property especially houses. The Children's Amendment Bill should ensure right to tenure for this group of vulnerable children.

Thank you for giving us this opportunity to make input on this ground breaking piece of legislation

Mangani Katundu, Advocacy officer

mangani@cindi.org.za