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Childrens HIV/AIDS Network
A network of organisations working with
children infected and/ or affected by HIV/AIDS

**SUBMISSION on the
Children's Amendment Bill [B 19B-2006]
from
WC-NACOSA- CHAIN
(Children's HIV/AIDS Network)**

WC-NACOSA-CHAIN network: CHAIN is the children's sector of WC-NACOSA, a network of over a 170 organisations comprising of Non Governmental Organisations, Community Based Organisations, Faith Based Organisations, government officials and a diverse array of children's service providers in the HIV and AIDS sector as well as concerned individuals working in the Western Cape on children's HIV and AIDS issues.

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1. Introduction

WC-NACOSA CHAIN welcomes the opportunity to be able to engage with the Portfolio Committee on Social Development on the Children's Amendment Bill. Some of our concerns about the Bill were raised in the submission made by WC-NACOSA CHAIN during the public hearings held in the Western Cape in February 2007. However the current comments and recommendations are made on the Children's Amendment Bill [B19B-2006].

The AIDS pandemic represents a phenomenon, not unlike that of poverty, which is both causal and symptomatic of so many other vulnerabilities of childhood. Almost every section of the Bill is therefore relevant to children in the context of HIV/AIDS. However, this submission focuses on areas of particular concern to individuals and organisations within the HIV/AIDS sector, and is intended to complement the many other sector submissions that address issues of direct relevance to children living in AIDS-affected communities.

Nationally and internationally, our response to the socio-economic impact of HIV/AIDS on children tends to focus on children who have been orphaned. However orphanhood in itself is a process that begins long before the death of a child's caregiver, with differently compounded vulnerabilities at different points along this continuum. Research repeatedly demonstrates that the period of a caregiver's terminal illness is one during which children are prone to exacerbated vulnerability – in which caregivers typically face increased struggles to support their children as they become less able to work to earn money and as cash is diverted to health care and treatment. Our emphasis is thus also to highlight the vulnerability that HIV/AIDS exacerbates on children already made vulnerable due to poverty, violence, neglect and abuse and disability.

The 5.3 million South Africans currently living with HIV/AIDS translate into millions of children whose well-being is potentially compromised by adult illness and whose protection, care and support need to be ensured through the provisions of the Children's Bill.

2. Our Broad Concerns:

2.1 A balance between prevention, early intervention services and formal child protection services

Prevention and early intervention services need to be strengthened and resourced so that the child protection system is used for protection of the child who is most vulnerable and requires statutory protection services. There are different levels and complexities of vulnerability. Some children are in need of the formal child protection system, while others can be cared for and supported through strengthening prevention and early intervention services at community, neighbourhood and family levels.

2.2 Comprehensive social security package

In the absence of comprehensive social security for children and families made vulnerable by HIV/AIDS, many families, carers and community based organisations use the foster care grant as a poverty alleviation measure. This overburdens the foster care system which was intended for children needing protection and therapeutic support. Social workers are not able to deal with many of the urgent issues facing families, carers and communities caring for children.

There is no comprehensive social security system that is based on the current reality of the country in terms of poverty levels and the effect of the HIV/AIDS epidemic on extended families, households and communities. We strongly recommend that there needs to be mechanisms in place to enable families, carers and children to access a comprehensive social security package that includes basic entitlements like nutrition, psychosocial support and care and education. This system needs to build in a sense of urgency in neighbourhoods and communities in caring for children that is not only monetary but includes children's holistic development. It needs to take cognizance of the context of poverty within which there are different levels of vulnerability.

2.3 Interdepartmental cooperation and coordination

It is the experience of the NGO/CBO sector in dealing with service delivery for children that there is a lack of interdepartmental cooperation and coordination. There are fragmented processes at national, provincial and local levels between different departments and even within departments that lead to duplication and a wastage of resources or lack of delivery. Proper interdepartmental coordination and collaboration will be more effective in combating the AIDS epidemic in our communities.

There are good practice models of how in some communities there have been good examples of interdepartmental communication and joint planning taking into consideration public participation and we commend this. It is especially important for a child made vulnerable by HIV/AIDS to have many departments affecting them in some way during the course of their lives - from birth (with birth certificates, PMTCT), to ARV support and clinic support, to school support (nutrition). They also require social services to assist with grants and psychosocial support and care where necessary. There is a great need for interdepartmental cooperation and coordination to be translated into the lives of children, families and communities. More importantly, government must inject more resources into prevention and early intervention services.

3. Discussion of specific clauses and proposed amendments:

Chapter 1: Definitions

Clause	Proposed Amendments	Discussion
1	<p>We agree with the NACCW proposed amendments: Insert a definition of “child and youth care worker” Insert references to roles of child and youth care workers where relevant in chapters 5, 6, 7, 8, 11 and 12.</p>	<p>Child and youth care workers provide a range of child protection and care services, recognised by SACSAP and recommend a definition of child and youth care worker and child and youth care work, as suggested in the NACCW submission: “Child and youth care is direct protective, developmental and ameliorative practice within the lifespan of a young person in the community, the family or a group care/education setting. Its aim through the use of positive relationships and planned programming is to address emotional and behavioural issues, thus promoting improved functioning and development.”</p> <p>Children infected and affected by HIV and AIDS are supported by child and youth care workers, in the rural setting as well as in urban settings. They provide a system of working with children within the child’s and young person’s lifespan at community, family and group level.</p>

Chapter 5: Partial Care

Clause	Proposed Amendments	Discussion
Partial care Clause 76	<p>All NPO disability centres offering partial care for children need to be recognised, funded and regulated by the Department of Social Development. These include developmental stimulation programmes and programmes for physical rehabilitation and therapy.</p>	<p>Services provided to the most vulnerable children - including children with disability or chronic illness, in this case HIV, must be adequately provided for and funded by government. Centres offering partial care should be regulated and empowered to provide services in accordance with set norms and standards.</p> <p>Children infected by HIV often present with specific developmental delays as well as in some cases other disabilities such as cerebral palsy, learning disabilities. Thus these children are included in the services</p>

	<p>NPO early childhood development services must be funded and regulated by departments of Social Development, Health and Education.</p>	<p>provided to children with disability.</p> <p>We agree with the SA Congress for Early childhood Development and Early Learning Resource Unit that a comprehensive inclusive and funded early childhood development service is required. Partial care addresses the regulation and funding of the facilities and the principles of access and redress are important given the vast disparities which continue to affect the majority of children in South Africa. Programmes are required to meet the needs of all children including children with disabilities and children living in poverty and difficult circumstances. A comprehensive service can include: preschools, nursery schools or educare centres, playgroups and crèches.</p> <p>We recommend that within a comprehensive service, the needs of HIV positive children and children affected by HIV and AIDS be addressed through programmes addressing psychosocial support and care for children and families, health care, treatment adherence support programmes and nutritional support.</p>
<p>CI 77 Strategy concerning partial care</p>	<p>We commend the inclusion of reference of clause 11 in the strategy for partial care.</p>	<p>Children with disability as well as children living with HIV do not always have equal access to partial care facilities because of their HIV status or disability. In order to promote equality and non discrimination of these children, provincial departments need to plan explicitly for equal access and tackle the stigma and discrimination that occurs. There needs to be a strategy in place to ensure sufficient provision of partial care facilities for children infected or affected by HIV and AIDS, included under chronic illness and disability.</p>
<p>CI 79 Norms and standards for partial care</p>	<p>We support the recommendation from the DICAG submission and the SACECD and ELRU that there need to be norms and standards for developmental and therapeutic programmes that are inclusive of children with disability or chronic</p>	<p>Norms and standards must be cross referenced to chapter 6 for every ECD facility to include an educational stimulation programme appropriate to the developmental needs of children.</p> <p>We must ensure that children would also receive appropriate psychosocial support and care for families as well as themselves, nutritional support, treatment and healthcare support as well as developmental stimulation in the</p>

	illnesses; physical access and a safe environment for them; training for partial care personnel, which includes diversity training, first aid and universal precautions, psychosocial care and support, developmental stimulation, nutritional support for children and support for treatment.	partial care facility.
CI 81 (c) Application for registration	Insert: <u>ii) Any documents may be prescribed by regulation must be user friendly and accessible.</u>	Many people running partial care facilities need to know how to access the relevant forms and would find it difficult to complete complex application forms.
CI 82 (2) (b)(c)(d) and (3)		Clear guidelines are required regarding a person who is not fit and proper to work in a partial care facility. This should bear in mind the protection of the child from abuse and neglect and from persons who have had a history or criminal record, nationally or internationally of abuse, neglect, violence, child trafficking, pornography etc.
CI 85 Notice of enforcement	Insert: <u>If a partial care facility is closed then alternative arrangements must be made with immediate effect.</u>	Closure of partial care facilities leads to difficulties for the parents/caregivers as alternatives are hard to find in some places and children return home to wait indefinitely. Especially for children who are heading households to look for alternative arrangements for their siblings is an added responsibility to their already existing burden of care.
CI 88 Assignment of functions to municipality	88 (1) It is recommended that clause 87 be excluded from the delegated functions to municipalities. Provisions need to be made for the improvement of inter-sectoral collaboration at this level as well as municipalities being capacitated by provincial government in order to fulfil these functions.	Provinces need to keep a record of all facilities and plan the service delivery accordingly. An integrated and comprehensive approach needs to be adopted with structures and mechanisms for collaboration between sectors. Many municipalities need to be capacitated to have a child-focus in carrying out the functions stipulated and may need training and support to do so. HIV and AIDS is a focus area in the IDP strategies of the municipalities in the Western Cape, however there needs to be an emphasis as well on children's issues within the HIV and AIDS issues identified at this level.

Chapter 6: Early Childhood Development

Clause	Proposed Amendments	Discussion
Definition of ECD Clause 91 (1)	We agree with the DICAG submission insertion: Early Childhood development for the purposes of this act, means the processes of emotional, mental, spiritual, physical and social development of children from birth to school-going age taking into consideration the child's developmental stage.	The current definition of ECD is stated as being from birth to school going age, defined by the DOE as 4 years. Due to the many barriers to learning and development that is experienced by disabled children, and children infected and affected by HIV/AIDS, including lack of appropriate learning materials and access to facilities. They might not achieve developmental milestones at the same time as other children. They then remain in formal ECD or informal centres even after reaching school-going age. Yet these children still need opportunities for support and development as well as additional psychosocial support and care.
Clause 91 (2)	<p>Insert: Early childhood development services means services:</p> <p>(a) intended to promote early childhood development including the provision of facilities, staff training, equipment and materials.</p> <p>(b) Provided by a person other than by a Child's parent or primary care-giver on a regular basis to children up to school-going <u>age or attending an after-care facility or according to the child's developmental age.</u></p> <p>(c) The definition of ECD services needs to be extended to include holistic programmes as follows: <u>An ECD programme means a programme structured within an ECD service to provide educational stimulation, psychosocial support and care, nutritional support, treatment adherence support appropriate to the child's</u></p>	<p>A distinction needs to be drawn between ECD services and ECD programmes.</p> <p>Early Childhood Development programmes include a holistic range of programmes to support child development including direct support for the role of care-givers and families as a child's first duty-bearer.</p> <p>Programmes include those that provide support to families and care-givers of children with disabilities and chronic illnesses and to children and families living in poverty and difficult circumstances as well as to those in more well off circumstances.</p> <p>ECD is the first line of prevention and intervention for children and families and this is particularly important for those infected or affected by HIV/AIDS. ECD programmes need to consider including prevention education, treatment care and support,</p>

	<u>developmental age and stage; programmes that provide support to families/care-givers.</u>	nutritional support and additional support for children living in child-headed households.
Clause 92	Insert: <u>The minister after consultation with... must develop a comprehensive national strategy that is published for public comment before finalisation and is aimed at securing a properly resourced...</u>	In the interest of participatory democracy, any strategy should be made available for public comment and a participatory consultation process with civil society and various non-governmental role-players.
Clause 93	1. Should say <u>must</u> instead of may	

Chapter 7: Protection of Children

Clause	Proposed amendment	Discussion
Clause 106 Norms and standards concerning child protection	(2) Norms and standards must relate to: <u>(q) monitoring; and</u> <u>(r) psychosocial support to both child and carers</u>	There need to be mechanisms to monitor children who are being protected because of the abuse suffered and provision of psychological support for better development and integration.

We commend the Department of Social Development for the inclusion of a provision in the Bill that recognizes the existence of child-headed households and offers support and services for children in these households.

Chapter 8: Prevention and early intervention services

Prevention and early intervention services need to be resourced and emphasized at family, household and community level to promote healthy, caring and strengthened communities.

Section 143 Prevention and early intervention programmes	143(2)(a) <u>Prevention and early intervention must serve also the purpose of promoting social cohesion.</u> (b) <u>Prevention services should also be provided to child headed households</u>	Lack of social cohesion has the potential to negatively effect the child development and further exposing the child to risk of harm or disability. Child headed households often lack capacity and strength to prevent and address abuse that occurs or are bound to occur in households.
Section 144 Purposes of prevention and early intervention programmes	Prevention and early Intervention must focus on: (1) (j) <u>Development and promotion of parenting skills training</u> (2) (c) <u>assisting families to access appropriate information on prevention and early intervention services</u>	Many parents are unable to provide proper parenting to children, leaving them vulnerable. Parenting skills and appropriate early intervention services should also be made available to caregivers such as grandmothers, foster parents in an accessible manner taking into consideration diversity of learning styles, culture, age etc. Many children affected by HIV/AIDS live in granny-headed households or with extended families.
Section 145 Provision of prevention and early intervention service	The provision prevention and early intervention should be done based on professional recommendation.	There needs to be a professional assessment to determine the extent of the family problem before it can be given priority. Families with disabled children lacking proper shelter, food and other basic necessities of life should be given priority after assessment.
Section 145 Strategy for securing prevention and early intervention	We recommend that the strategy aimed at securing provision of prevention and early intervention should include child protection organisations	Child protection organisations contribute to reduction of further risk that child can further be exposed and provision of alternative place of care for children at risk of harm or disability.

Chapter 12: Foster care

We call for greater clarity around foster care for children living with HIV/AIDS (both affected and infected). The current experience is that there are different practices with regard to **grants**, where foster care grants are used as a poverty alleviation measure especially in

households doubly hit by HIV/AIDS and poverty and that this also is dependant on different judges, municipalities, understandings etc. There is also a need to see the foster care system and the formal child protection system as performing its function of protecting those children in need of direct social worker intervention and therapeutic support. However there is an urgent need to provide a more comprehensive social security package for all children taking into consideration the complexity and different levels of vulnerability.

Chapter 13: Child and Youth Care Centres

We welcome the provision of child and youth care centres in the Children's Amendment Bill since with the previous Act organisations offering therapeutic care and support for children infected and affected by HIV and AIDS did not have a category to be registered under, and only temporary safety was only offered by government. We support that these services can now be offered by institutions other than government and there will be a place for registration (e.g. Cotlands in the Western Cape.)

Clause 208 (1)	We welcome and support this section	We support the proposal in subsection (1) that all child and youth care centres have management boards
Clause 208 (6)	The management board must create a children's forum dependant on the age, maturity and ability of children to participate in decision-making as part of the management board to ensure the participation of resident children in the operation of the centre.	Some organisations working with children have children up to the age of 7 years or children with cognitive disabilities, thus when creating a children's forum the age, maturity and emotional readiness in such decision-making should be taken into account.