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SUBMISSION

CHILDREN'S AMENDMENT BILL (B13-2015)

CHILDREN'S AMENDMENT BILL (B14-2015)

ATTENTION

MS LINDIWE NTSABO

CHILDLINE SOUTH AFRICA

Introduction to Childline South Africa

Childline South Africa, based in Durban is the national office of all Childline provincial offices in South Africa. Each province in South Africa has a provincial Childline office to which calls to the toll free telephone line (08000 55 555) are directed and from which Childline conducts a variety of child protection services.

Childline South Africa also has a strong advocacy role and lobbies actively with key decision makers from all spheres of government for an improved and more effective child protection system.

Childline South Africa seeks to provide a better life free of abuse, neglect and exploitation for all the children of South Africa. As Childline South Africa we believe what we do for the children today will ultimately affect who they become tomorrow.

Childline South Africa welcomes the opportunity to make the comments on the Children's Act Amendment Bill (B13-2015) and the Children's Act Second Amendment Bill (B14-2015). We are looking forward to engaging with the Parliamentary members of the Portfolio Committee on the Social development at the scheduled public hearing on the proposed Amendments.

THE CHILDREN'S ACT AMENDMENTS BILL (B13-2015) AND (B14-2015)

Childline South Africa supports the amendments to align the Children's Act no38 of 2005 with the Sexual Offences Amendments Act as related to certain additions: to provide that a person convicted a sexual offence, or an offence for the possession of child pornography, be deemed unsuitable to work with children; to afford a child offender an opportunity to make representations as to why a finding of unsuitability to work with children should not be made; to provide that the National Commissioner of the South African Police Service must forward to the Director-General all the particulars of persons found unsuitable to work with children; to provide for a child offender to apply in the prescribed manner to have their particulars removed from the Register; to provide for the review of a decision to remove a child without a court order; to extend the circumstances as to when a child is adoptable; to extend the effects of an adoption order by providing that an adoption order does not automatically terminate all parental responsibilities and rights of a parent of a child when an adoption order is granted in favour of the spouse or permanent domestic life-partner of that parent; and to provide for matters connected therewith.

Childline South Africa is considering that these proposed amendments may have the following comments and additions;

1. Section 1(b) of Act 38 of 2005 Childline South Africa agrees with the insertion of the definition of 'sexual offence' as defined by the Criminal Law (Sexual Offences and Related Matters) amendment Act, 2007 (Act 32 of 2007).
With the coming into effect on 7 August 2015 of the Prevention and Combating Trafficking in Persons Act 2013 (Act 7 of 2013);
2. Childline South Africa proposes that the definition of sexual offences must include offenses relating to Section 10 of prevention and Combatting of Trafficking in Persons Act no 75 of 2013 concerning:
Involvement in offences
(1) Any person who:
 - (a) Attempts to commit or performs any act aimed at participating in the commission of;
 - (b) Incites, instigates, commands, directs, aids, promotes, advises, recruits, encourages or procures any other person to commit; or
 - (c) conspires with any other person to commit; an offence under this Chapter is guilty of an offence.
(2) A person who is found guilty of an offence referred to in subsection (1) is liable, on conviction, to penalties for the offence in question, as provided for in section 13."

Section 120 of the Children's Act no 38 of 2005

All Acts that have a relevance to children's matters such as Film and Publications Act 1996 (Act 65 of 1996), Prevention and Combatting Trafficking in Person's Act no 75 of 2013, Criminal Law (Sexual offences and related matters) Amendment Act no 32 of 2005, The Child Justice Act no 75 of 2008 should speak the same language.

(a) On conviction of murder, any sexual offence contemplated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007), and section 10 of the Prevention and Combating of Trafficking in Persons Act 2013 (Act 7 of 2013) concerning involvement in offences, assault with intent to do grievous bodily harm , where a child is the victim of any such offence, or any attempt to commit any such offence, or offences related to the Film and Publications Act 1996 (Act 65 of 1996) regarding section 24A(5), concerning the distribution or exhibition of classified material to children and 24B concerning child pornography and sexual exploitation of children

- (a) (b)

Childline South Africa is of the opinion that children who have been convicted of sex offences should not be placed on the same National Sex Offender Register as adults. The register should not treat children and adult offenders in the same manner. We believe that a separate Register and process needs to be developed and implemented for children. We are also of the opinion that all efforts should be made to ensure that a child receives rehabilitation services and that placement onto the register would be in extreme cases and the last resort where possible.

(b)

Childline supports that a child who was convicted of an offence is afforded the opportunity to make representation for the removal of their name from the register in subsection. Resources and services should be made available to children in order to make this possible.

Section 152A of Act 38 of 2005

- (1)

We propose that the word **may** be deleted and be replaced by the word **must**.

- (2) (b)

We propose that the word **may** be deleted and replaced by the word **must**.

We further proposed that the court must set a timeframe in relation to the return of child to parents or caregivers or for an investigation to determine if a child is deemed a child in need of care and protection. We believe that this is a matter of

priority as many children find themselves left in alternative care for longer periods than necessary.

Section 151 of Act 38 of 2005

We propose that subsection 2A (b): child concerned, and where reasonably possible the parent, guardian, care giver or person acting in the interest of the child, as the case may be, are present in the children's court for the purposes of assisting the court in making a decision which is in the best interest of the child. (2A) Childline agrees with the change "The court ordering the removal of the child must simultaneously refer the matter to a designated social worker...Childline believes that this would ensure that delays in the investigation processes are minimised and that cases are given immediate attention.

Section 152 of Act 38 of 2005

We agree with the subsection

- (d)

within 24 hours and without delay, report the matter to the relevant provincial department of social development of the removal of the child and of the place where the child has been placed; and"

Childline believes that this is important to ensure that there are no time delays in reporting the placement of a child to the Department of social development and therefore ensuring the alternative placement does not then absorb the cost of looking after the child themselves whilst awaiting the child's official placement in their care.

Section 171 of Act 38 of 2005

Childline agrees with the rewording of Section 171 to include all forms of alternate care. We also agree that all orders contemplated in subsection 1 may not be given effect without approval by a Children's Court. This ensures that social workers are still held accountable and are able to further justify reasons for change in care.

Section 176 of Act 38 of 2005

Childline feels that subsection 2 (b) should read: "the continued stay in that care is necessary to enable that person to complete his or her grade 12, higher education, further education, training or vocational training and internships or learnerships"

Childline supports subsection (c) but propose that time frames be listed and included in this. Enough time needs to be given in order not to leave the child uncertain of their future for most of the year. This also gives the individuals analysing the application enough time to thoroughly analyse the applications made and therefore make appropriate recommendation in this regard.

Childline agrees to the extension of the definition of an adoption social worker.