

Childrens Amendment Bill [B19B - 2006]

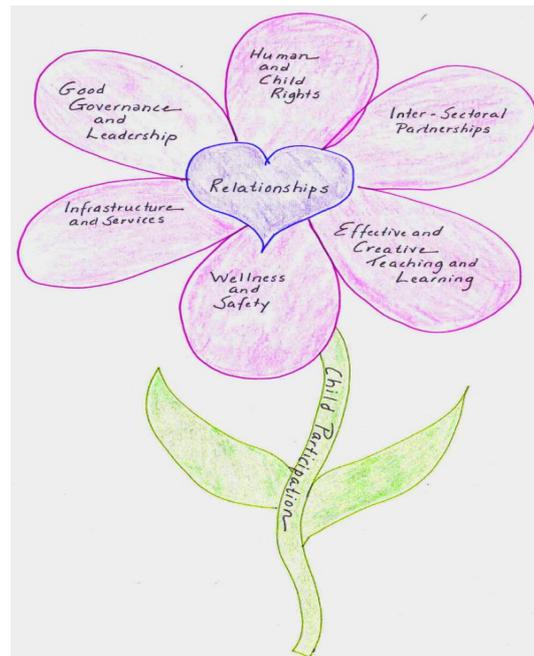
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Introduction

The Caring Schools Network welcomes this opportunity to comment on the Children's Amendment Bill. We are a growing network of civil society organisations, universities and research institutions, UN agencies, donor and private sector organizations and government departments that are committed to working together to build a society in which there are quality, child friendly interventions to provide comprehensive care and support for vulnerable children in and through school communities in South Africa.

We recognise in particular the pivotal role that this bill once enacted as law will play in the establishment of a legal framework for the rights of children in the republic. Bearing in mind the constitutional obligation of co-operative government, and the established and extended definition of organ of state within the constitution, we welcome all endeavours to provide guidance to organs of state such as schools to work co-operatively in the best of interest of the child. We recognise that the legislature intends to create rights, obligations and responsibilities on various agencies in this regard.

This submission focuses particularly on how the Bill can strengthen the role of schools in providing assistance to vulnerable children. We therefore recommend that the following changes are made to the Bill to ensure the achievement of the objectives of the Children's act.

We further note that, the cost of implementing the Act is significantly less than the cost of ignoring the problems. In this light we should see the damage caused to children as a stumbling block to growth and transformation in South Africa. In discussions with Treasury officials, they have indicated that the Minister of finance is willing to invest public funds into areas where long term development potential exists. The current deficit in skills in the country can be alleviated with appropriate and adequate investments in ensuring that a better life for all South Africans is a reality.

Experience:

Casnet members have found that the provisions for early identification and referral in the current system have largely been uncoordinated. In particular the training of educators has been meager and not practical. In most rural areas, services to children in need are non-existent. Where services exist they are overextended leading to piecemeal provisioning. In terms of working with government departments, lack of cooperation between departments and civil society has been cited as a problem. Regular changes in management often mean that building trust between agencies involved with working with children is difficult. Furthermore public funding to private service providers has become burdened with administrative barriers. We need to balance the need to ensure that public funds are accounted for while ensuring that we maximise the number of services available to children.

Role of Schools

With the Education for All objectives which the Department of Education hopes to achieve by 2015, there will be universal enrolment of children in schools. Currently the Department of Education estimates that it has achieved 98% enrolment. Schools are therefore an avenue from which children in need of help can be identified and referred to relevant support structures which are established by the bill. It is only in the Education system that a near universal contact is made between children and an organ of state on a regular basis. Therefore a particular role for the MEC of Education in each province to establish a province specific mechanism would allow for the widening of the social service net to ensure that the rights contained in the Act will be extended to all children. Where appropriate this can also be referral of parents and families to support services. The obligation that this section would create would be limited to the children as they are the primary concern of the school. Assisting parents and families is however not excluded by this clause.

In addition to the role that the state provides for identification and referral, civil society organisations have noted the problem of access to the children in the formal schooling sector. This in effect leads to a situation where children are denied access to service providers. We must recognise that the Education system is stifled by social problems that exist in the country and where it is possible to alleviate the social problems, there will be a resultant increase in the achievement of quality education.

Recommendations

Based on our experience in implementing the *Schools as centres of care and support* strategy, we recommend that the chapter on prevention and early intervention services (chapter 8) be strengthened by incorporating the following recommendations:

Recommendation 1

That the Department of Education be obliged by legislation to establish and maintain a system for the identification, referral and support of vulnerable children

Schools have several comparative advantages over other services when it comes to reaching potentially vulnerable children. Notable of these include the fact that schools exist in large numbers, are often more accessible than other services and large numbers of children spend many hours of their lives in school. Currently legislation mandates principals and teachers to identify and refer children who are abused and/or neglected. We recommend that this is taken further in chapter 8 of the Bill and that the MEC for Education is given the responsibility to establish and maintain for all schools in the province a mechanism for identification, referral and support of children. For this to be effective, provision will need to be made for the appointment and funding of social service professionals and other support personnel within schools

Recommendation 2

That the Department of Social Development be obliged in legislation to adequately provide or fund a range of social services for vulnerable children

It is clear from our work with impoverished rural school communities that the area of service provision for vulnerable children is chronically under-funded. If schools are strengthened to play an identification and referral role in the prevention and early intervention of vulnerable children, then there have to be adequate services and resources around the schools to which they have access.

Areas that are clearly under-resourced include but are not limited to:

- Provision of child-care or community workers linked to schools
- Prompt processing of grant applications
- Payment of child support, foster care and disability grants
- Swift action on receipt of information that grants may be being misused by carers
- Psycho-social assessment of children that present at Social Development
- Counselling for loss and grief, abuse, children with emotional or behavioural problems
- Placing children in appropriate foster or adoptive care, and monitoring the placements
- Providing psycho-social support for families who are fostering or adopting children

Recommendation 3

That the Departments of Social Development, Education and Health, as well as other relevant stakeholders, are obliged in legislation to consult with each other and co-ordinate their respective functions to ensure integrated service delivery of social services for children.

Although the DoSD is the lead government department in the provision of services to children, clear roles for the other departments are needed in the chain of services. The MECs for Health, Education and Social Development should be obliged to ensure that the services for children are delivered in a coordinated and integrated manner.

Amendments to the Bill:

Definitions

s 1 ;

Insertion of “and other constitutional rights which give effect to the best interest of the child principle” after the line which reads “to give effect to certain rights of children as contained in the constitution”. This would increase the scope of rights available to a child which may not explicitly be attributed to children only. For example the right to life is a right that belongs to all, which includes children. The constitution does not establish a right to life for children only but for all South Africans. By inserting and other rights which give effect to the best interest of the child we recognise that children have equal claim to all rights that are given to everyone. Children are entitled to human rights and the Bill cannot limit these rights to those which are attributable to children. The constitution also establishes the co-operative government principle and the Bill gives effect to this principle in establishing mechanisms for inter-departmental co-operation.

s 93(2)

insertion of “the equitable funding of” after “The Minister must determine national norms and standards for”. This is to ensure that the purpose of establishing norms and standards is to fund services. The term equitable is added here to ensure that adequacy benchmarks are set which will encourage equality in funding levels between provinces.

s 143(2)

deletion of “which, if left unchecked, may lead to statutory intervention”. This clause is subjective and would in effect suggest that if a problem exists within a family where it cannot be concluded that a later statutory intervention may be necessary that early intervention and prevention services will not be available to this family. The proviso that if this is left unchecked provides an avenue by which practitioners may ignore a problem until it is too late.

s 144

We would recommend the insertion of a new clause s 144(4), which would read “Prevention and early intervention services must involve and promote the participation of parents and children with disabilities in terms of s 11 of the Act”.

Insertion of new section

We would recommend a new clause be added to cover recommendations 1 – 3 which reads as follows:

s X The MEC of Education in each province must establish and maintain for all schools in the province, a mechanism for the identification, referral and support of children.

(1) In developing the mechanism, the MEC, in order to give effect to section 5 of this Act, must consult with the MEC for Social Development, the MEC for Health and members of civil society providing social services to children.

(2) The mechanism must be structured in a way which ensures:

(a) the delivery of social services to vulnerable children in an integrated and co-ordinated manner

(b) provision for the appointment and funding of social service professionals and para-professionals and other support personnel, within the education system, to provide social services to vulnerable children and to link children with appropriate social service providers.

(3) The MEC must ensure that the mechanism established in terms of this section is monitored to ensure the delivery of services.

Conclusion:

We would like to thank Parliament and the Department of Social Development for placing childrens issues as a priority for South Africa. Members of the Caring Schools Network will continue to work closely with government in the best interest of the child.