

BRIEFING ON CHILDRENS AMENDMENT BILL

PRESENTATION ON GDSD VIEWS ON THE BILL

DATE: 04 OCTOBER 2022



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PROVINCIAL GOVERNMENT
REPUBLIC OF SOUTH AFRICA

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INTRODUCTION

- The Children's Act 38 of 2005, is a comprehensive piece of legislation that gives effect to the constitutional rights of children
- Seeks to afford children the necessary care, protection and assistance so that they can develop to their full potential.
- The Children's Amendment Bill contribute towards the comprehensive legal solution as ordered by the Gauteng Division of the High Court in Pretoria, in the matter of Centre for Child Law v Minister of Social Development to deal with challenges relating to the provision and administration of foster care.

OBJECTIVES

- Amend and insert certain definitions
- Extend the children's court jurisdiction
- Provide for the care of abandoned or orphaned children and additional matters that may be regulated
- Provide for additional matters relating to children in alternative care

GSD VIEWS

Amendments	GSD position
<p>Section 24 (1) Any person having an interest in the care, well being and development of a child may apply to the High Court or children’s court for an order granting guardianship of the child</p>	<p>Supported Inclusion of Children's court will improve access (finance) and eliminate the red tape</p>
<p>Section 45: Extending the jurisdiction of the children’s court to include “guardianship of an orphaned or abandoned child’ Including unaccompanied or separated migrant child, or the child of an asylum seeker or refugee,</p>	<p>Supported Inclusivity of the section to cover the unaccompanied/separated migrant minors will alleviate long stays at Temporal POS</p>
<p>Amendment of section 105 to include development and conducting Quality Assurance processes</p>	<p>Supported Strengthen monitoring of child protection services Quality services are provided Timeous intervention to address developmental areas emerging at designated CPOs and the department</p>

GDSD VIEWS

Amendments	GDSD position
<p>Amendment of section 142 Prescribing the powers, duties and responsibilities of the Registrar of the National Child Protection Register Prescribing the criteria for the establishment and resourcing of designated child care and protection units</p>	<p>Supported Additional resources by having designated Child Protection Units Strengthen building of state capacity</p>
<p>Section 150: To include an unaccompanied migrant child from another country”; “a victim of trafficking ”; or a child who “has been sold by a parent caregiver or guardian</p>	<p>Supported</p>
<p>Section 156: Add that the child be placed in the care of a parent or family member, if the court finds that such person is a suitable person to provide for the safety and well-being of the child</p>	<p>Supported Reduce administrative functions relating to provision of foster care</p>
<p>Section 159: That a court may extend an alternative care order that has lapsed or make an interim order</p>	<p>Supported Reduce administrative functions provided by social workers. No foster care backlogs</p>

GSD VIEWS

Amendments	GSDS position
Section 160: The Minister may make regulations regarding the procedure, form and manner that a social service practitioner must follow when assessing, screening, investigating, referring to the relevant authority and placing a child who is in need of care and protection	Supported Clear guidelines and procedures on assessing, screening, investigating and referring a child to relevant authority
Section 183 : Organisation operating or managing the cluster foster care scheme must register as a designated child protection organization the provincial department of social development or a Designated child protection organisation must manage and operate a cluster foster care scheme	Supported Regulate provision of the services and protection of children. Enhance the implementation of the Institutional realignment project of the department in building state capacity
Section 185 : Not more than six children may be placed in foster care with a single person or two persons sharing a common household	Supported. it will ensure that children placed in cluster foster care are cared appropriately and the quality of care is not compromised
Section 186: Children’s court may deem it necessary to order further supervision services	Supported Care and protection of children is critical for the department

SECTION 76

- Amendment of Section 141 of Act 38/2005, as inserted by Section 5 of Act 41 of 2007 and Section 34 of Act 8 of 2017
- Section 141 of the principal Act is on Child Labour and exploitation of Children
- Section 76 of the Children's Amendment Bill seeks to Amend s141(2) by infusing it with s110(1), to read as follows:
- Any correctional official, dentist, homeopath, immigration official, labour inspector, legal practitioner, medical practitioner, midwife, minister of religion, nurse, occupational therapist, physiotherapist, psychologist, religious leader, social service professional, social worker, speech therapist, teacher, traditional health practitioner, traditional leader or member of staff or volunteer worker at a partial care facility, drop-in centre or child and youth care centre who on reasonable grounds concludes that a child has been abused in a manner causing physical injury, sexually abused or deliberately neglected, must report that conclusion in the prescribed form to a designated child protection organisation, the provincial department of social development or a police official, who becomes aware of...

IN CONCLUSION

- Gauteng Department of Social Development is supporting the amendment of s76, as it includes Professionals, Community Leaders and Community members that may interact and be in contact with the child/ren to report child labour and exploitation.
- The department further supports the process fully and will participate in the public hearings



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THANK YOU