

PORTIONS OF THE CHILD ACT OF SA THAT PERTAINS TO CHILDREN’S MINISTRY AND CHURCHES

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CHAPTER 1: INTERPRETATIONS, OBJECTS APPLICATION AND IMPLEMENTATION OF ACT

“Care”,

In relation to a child, includes, where appropriate-

- (a) Within available means, providing the child with-
 - (i) A suitable place to live;
 - (ii) Living conditions that are conducive to the child’s health, well-being and development; and
 - (iii) The necessary financial support;
- (b) Safeguarding and promoting the well-being of the child;
- (c) Protecting the child from maltreatment, abuse, neglect, degradation, discrimination, exploitation and any other physical, emotional or moral
Harm or hazards;
- (4 respecting, protecting, promoting and securing the fulfilment of, and guarding against any infringement of, the child’s rights set out in the Bill of Rights and the principles set out in Chapter 2 of this Act;
- (e) guiding, directing and securing the child’s education and upbringing, including religious and cultural education and upbringing, in a manner appropriate to the child’s age, maturity and stage of development;
Guiding, advising and assisting the child in decisions to be taken by the child in a manner appropriate to the child’s age, maturity and stage of development;
- (g) Guiding the behaviour of the child in a humane manner;
- (h) Maintaining a sound relationship with the child;
- (i) Accommodating any special needs that the child may have; and
- 0) generally, ensuring that the best interests of the child is the paramount concern in all matters affecting the child;

“Care-giver”

Means any person other than a parent or guardian, who factually cares for a child and includes-

- a) a foster parent;
- b) a person who cares for a child with the implied or express consent of a parent or guardian of the child;
- c) a person who cares for a child whilst the child is in temporary safe care;
- d) the person at the head of a child and youth care centre where a child has been placed;
- e) the person at the head of a shelter;
- f) a child and youth care worker who cares for a child who is without appropriate family care in the community; and

“Child”

Means a person under the age of 18 years;

Objects of Act

2. The objects of this Act are-

- (a) **To promote the preservation and strengthening of families;**
- (6) To give effect to the following constitutional rights of children, namely-
 - (i) Family care or parental care or appropriate alternative care when removed from the family environment;
 - (ii) Social services;
 - (iii) Protection from maltreatment, abuse of degradation; and
 - (iv) That the best interests of a child are of paramount importance in every matter concerning the child;
- (c) To give effect to the Republic’s obligations concerning the well-being of Children in terms of international instruments binding on the Republic;
- (d) To make provision for structures, services and means for promoting and monitoring the sound physical, psychological, intellectual, emotional and social development of children;

- (e) To strengthen and develop community structures which can assist in providing care and protection for children;
- (f) To protect children from discrimination, exploitation and any other physical, emotional or moral harm or hazards;
- (g) To provide care and protection to children who are in need of care and protection;
- (h) To recognise the special needs that children with disabilities may have; and
- (i) Generally, to promote the protection, development and well-being of children.

CHAPTER 2: GENERAL PRINCIPLES

Children with disability or chronic illness

11. (1) in any matter concerning a child with a disability due consideration must be
- (a) Providing the child with parental care, family care or special care as and when appropriate;
 - (b) Making it possible for the child to participate in social, cultural, religious and educational activities, recognising the special needs that the child may have;
 - (c) Providing the child with conditions that ensure dignity, promote self-reliance and facilitate active participation in the community; and
- (4 providing the child and the child's care-giver with the necessary support services.
- (2) In any matter concerning a child with chronic illness due consideration must be
- (a) providing the child with parental care, family care or special care as and when appropriate;
 - (b) providing the child with conditions that ensure dignity, promote self-reliance and facilitate active participation in the community; and
 - (c) providing the child with the necessary support services. given to- given the
- (3) A child with a disability or chronic illness has the right not to be subjected to medical, social, cultural or religious practices that are detrimental to his or her health, well-being or dignity.

Social, cultural and religious practices

12. (1) every child has the right not to be subjected to social, cultural and religious practices which are detrimental to his or her well-being.

CHAPTER 3: PARENTING PLANS

A very interesting new part of legislation.

CHAPTER 7: PROTECTION OF CHILDREN

Reporting of abused or neglected child and child in need of care and protection

110.(1) **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.

(2) Any person who on reasonable grounds believes that a child is in need of care and protection may report that belief to the provincial department of Social development, a designated child protection organisation or a police Official.

(3) A person referred to in subsection (1) or (2)—

(a) must substantiate that conclusion or belief to the provincial department of social development, a designated child protection organisation

Or police official; and

(b) who makes a report in good faith is not liable to civil action on the Basis of the report.

(4) A police official to whom a report has been made in terms of Subsection (1) or (2) or who becomes aware of a child in need of care and

Protection **must**—

(a) ensure the safety and well-being of the child concerned if the child's Safety y or well-being is at risk; and

(b) within 24 hours notify the provincial department of social development or a designated child protection organisation of the report and

Any steps that have been taken with regard to the child.

CHAPTER 7 SECTION 2 – NATIONAL CHILD PROTECTION REGISTER

Part B of Register

Purpose of Part B of Register

118. The purpose of Part B of the Register is to have a record of persons who are unsuitable to work with children and to use the information in the Register in order to protect children in general against abuse from these persons

Finding persons unsuitable to work with children

120. (1) A finding that a person is unsuitable to work with children may be made by-

- (a) a children's court;
- (b) any other court in any criminal or civil proceedings in which that person is involved; or
- (e) any forum established or recognised by law in any disciplinary proceedings

(2) A finding in terms of subsection (1) may be made by a court or a forum concerning the conduct of that person relating to a child. contemplated in subsection (1) of its own volition or on application by-

(a) an organ of state involved in the implementation of this Act;

(5) Any person who has been convicted of murder, attempted murder, rape, indecent assault or assault with the intent to do grievous bodily harm with regard to a child during the five years preceding the commencement of this Chapter, is deemed to have been found unsuitable to work with children.

(6) A finding in terms of subsection (1) (b) that a person is unsuitable to work with children is not dependent upon a finding of guilty or innocent in the criminal trial of that person.

Consequences of entry of name in Part B of Register

123. (1) No person whose name appears in Part B of the Register may-

(a) manage or operate, or participate or assist in managing or operating, an institution providing welfare services to children, including a child and youth care centre, a partial care facility, a shelter or drop-in centre, a cluster foster

care scheme, a school, club or association providing services to children; THAT INCLUDE CHURCHES

(b) work with or have access to children at an institution providing welfare services to children, including a child and youth care centre, a partial care facility, a shelter or drop-in centre, a school, club or association providing services to children, or in implementing a cluster foster care scheme, either as an employee, volunteer or in any other capacity;

(c) be permitted to become the foster parent or adoptive parent of a child;

(d) work in any unit of the South African Police Service tasked with child protection;

(e) be employed in terms of the Public Service Act in a position where that person works with or has access to children;

v) be employed in terms of the Municipal Systems Act in a position where that person works with or has access to children; or

(@ work in any other form of employment or activity as may be prescribed.

(2) No person managing or operating or who participates or assists in managing or operating an institution providing welfare services to children, including a child and youth care centre, a partial care facility, a shelter or drop-in centre or a school may allow a person whose name appears in Part B of the Register to work with or have access to children at the centre, facility, shelter or school, either as an employee, volunteer or in any other capacity.

(3) No designated child protection organisation may allow a person whose name appears in Part B of the Register to work with or have access to children on its behalf, either as an employee, volunteer or in any other capacity.

(4) The South African Police Service may not allow a person whose name appears in Part B of the Register to work in a unit of the Service tasked with child protection.

(5) The head of a state department may not allow a person whose name appears in Part B of the Register to be employed in a position where that person works with or has access to children.

(6) The municipal council of a municipality may not allow a person whose name appears in Part B of the Register to be employed in a position where that person works with or has access to children.

Establishment of information in Part B of Register

126(1) Before a person is allowed-

(a) to work with or have access to children at an institution providing welfare services to children, including a child and youth care centre, a partial care facility, a shelter or drop-in centre or school, the person managing or operating the institution, centre, facility, shelter or school must establish whether or not 's name appears in Part B of the Register;

to work with or have access to children on behalf of a designated child an organisation, the organisation must establish whether or not that person's name appears in Part B of the Register;

(b) work in a unit of the South African Police Service tasked with child protection, the Service must establish whether or not that person's name appears in Part B of the Register;

(2) Within 12 months of the commencement of this chapter:

(a) the person managing or operating an institution, centre, facility, shelter or school contemplated in subsection (l)(u) must establish whether the name of any person who works with or has access to children at the institution, centre, facility, shelter or school appears in Part B of the Register;

(b) a designated child protection organisation

(3) Anyone has the right, upon presentation of sufficient proof of his or her identity, to establish whether or not his or her name appears in Part B of the Register, and if so, the reasons why his or her name was entered in the Register.

(4) Inquiries in terms of subsection (l), (2) or (3) must be directed in writing to the Director-General on a confidential basis.

(5) In the event of an inquiry made to the Director-General in terms of- (2) Within 12 months of the commencement of this chapter-

(a) subsection (l), the Director-General must respond in writing within 21 working days by indicating whether the person's name appears in Part B of the Register or not;

(b) subsection (2), the Director-General must respond in writing within six months by indicating whether the person's name appears in Part B of the Register or not; and

(c) subsection (3), the Director-General must respond in writing within 21 working days by indicating whether the person's name appears in Part B of the Register, and if so, the reasons why his or her name was entered in the Register.

Disclosure of names in Part B of Register prohibited

127. (1) No person may disclose the fact that the name of a particular person appears

(a) within the scope of that person's powers and duties in terms of this Act or any other law;

(b) to a body referred to in section 126(1) or (2) on written request by such person or institution;

(c) to a person referred to in section 126(3); or

(4) when ordered by a court to do so. in Part B of the Register except -

(2) The general rule with regard to the disclosure of information in Part B of the Register is that it must be in the best interests of the child, unless the information is disclosed following an inquiry in terms of section 126.

(3) The Director-General must inform a person found unsuitable to work with children when that person's name and particulars are entered in Part B of the Register.

Removal of name from Register

128. (1) A person whose name appears in Part B of the Register may in terms of subsection (2) apply for the removal of his or her name and any information relating to that person from the Register.

(2) Application for the removal of a name and particulars from the Register may be made-

(a) to any court, including a children's court;

(b) to the Director-General, if the entry was made in error; or

(c) to the High Court if the Director-General rushes an application in terms of

(3) An application in terms of subsection (1) to remove a person's name and particulars from Part B of the Register on the ground that the affected person has been rehabilitated, may only be made after at least five years have lapsed since the entry was made and after considering the prescribed criteria.

(4) The name and particulars of a person convicted more than once of an offence with regard to a child may not be removed from Part B of the Register.

ADMINISTRATION OF FIRST AID WITHIN OUR MINISTRY

Chapter 7 : Consent to medical treatment and surgical operation

129. (1) Subject to section 5(2) of the Choice on Termination of Pregnancy Act, 1996 20 (Act No. 92 of 1996), a child may be subjected to medical treatment or a surgical operation only if consent for such treatment or operation has been given in terms of either subsection (2), (3), (4), (3, (6) or (7).

(2) A child may consent to his or her own medical treatment or to the medical treatment of his or her child if-

(a) the child is over the age of 12 years; and

(a) the child is of sufficient maturity and has the mental capacity to understand the benefits and risks . . .

Chapter 2: Part 32 Care of child by person not holding parental responsibilities and rights

32. (1) A person who has no parental responsibilities and rights in respect of a child but who voluntarily care for the child either indefinitely, temporarily or partially, including a care-giver who otherwise has no parental responsibilities and rights in respect of a child, **MUST**, whilst the child is in that person's care:

(a) safeguard the child's health, well-being and development

(b) **Protect the child from** maltreatment, abuse, neglect, degradation, discrimination, exploitation, and **any other physical**, emotional or mental harm or hazards.

(2) Section 120, a person referred to in this subsection(1) may exercise any parental responsibilities and rights reasonably necessary to comply with section (1) including the right to consent to any medical examination of treatment of the child is such consent cannot reasonably be obtained from the parent or guardian of the child.

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THE IMPLICATIONS ON OUR MINISTRY

In short: Doxa Deo will need to send in Form 29 from for every worker, city changer, youth worker, secretary, garden worker that works within the vicinity of where children are!

As can be seen in SECTION 126 the Director-General can take anything from 21 days to 6 months to reply on our form 22's that have been submitted. This leaves us open for liability, thus the next steps are recommended:

All STAFF should:

- (a) Fill in and sign the AFFIDAVIT submitting that to their knowledge their names are not on the above mentioned register.
 - a. We have one that has been drafted for the children's ministry that can be provided if need be.
- (b) If possible, should obtain a police clearance as to be able to work within the ministry.
 - a. This has a cost implication.

My recommendation is thus that we start with:

- (a) All full-time workers working with of in the vicinity of children by **having them complete an affidavit.**
- (b) All full-time teachers, care-givers, youth and children's pastors and youth workers, submit for **their own police clearance** ASAP!
- (c) That every person heading a ministry makes sure to submit a form 29 to the Director-General of Social affairs ASAP!
- (d) I also recommend **that we organize training** in the children's Act for all teachers, Youth workers and children's home workers.
- (e) We should them **get every City Changer involved in** our children and youth ministry's, children's homes and schools to also **complete the affidavit** and **where possible apply for a police clearance**, while awaiting the reply of the Director-general.