

Impact of the recently approved Section 75 of the Children's Bill

The adoption of the Section 75 Children's Bill (B70-2003 Reintroduced) in the National Assembly on 14 December 2005, which could also be seen as phase one in the development of new comprehensive child related legislation, is a significant milestone because the process of developing this Bill started in 1996 when it was acknowledged that existing legislation was not in keeping with the rights of children contained in the Constitution. Existing legislation also hampered the ability of Government of South Africa to adequately respond to the challenging social realities facing children, families and communities in the new democratic South Africa.

The Children's Bill (*it will become an Act once it has been signed by the President and thus promulgated*) gives effect to the rights of children contained in the Constitution by determining principles and guidelines for the care and protection of all children. It consolidates the laws relating to the welfare and protection of children, and defines parental responsibilities and rights. The Bill also seeks to promote the preservation and strengthening of families, specifies the best interest of the child standard, and recognises the special needs of children with disabilities.

The Children's Bill creates a new legislative foundation for the care and protection of children in South Africa as it strengthens existing and introduces new mechanisms and processes that should ensure the care and protection to children. It also gives effect to the South Africa's obligations concerning the well-being of children in terms of international conventions that have been signed and in most cases ratified by Government of South Africa.

The following are some of the innovative changes that the new Children's Bill will introduce:

- The age of majority is lowered from 21 years to 18 years.
- The acquisition and loss of parental responsibilities and rights is addressed and provision is made for the signing of parental rights agreements and parenting plans.
- The establishment, status and jurisdiction of Children's Courts are specified and provision is made for lay-forum hearings and family group conferences to act in the best interest of a child.
- In addition to a Child Protection Register, the Bill enables the removal of an alleged offender from the home or place where the child resides.
- Issues of consent to medical treatment and access to contraceptives are addressed and certain social, cultural and religious practices are prohibited.
- Inter-country adoptions are regulated to safeguard the best interests of the child and provisions are included to prevent the abduction, the sale of, or trafficking in children.