

INDEPENDENT ANALYSIS OF DRAFT LAW OF UKRAINE

**“ON AMENDMENTS TO CERTAIN
LEGISLATIVE ACTS OF UKRAINE
REGARDING THE DELINEATION OF THE
FUNCTIONS OF STATE AUTHORITIES
AND LOCAL SELF-GOVERNMENT
AUTHORITIES ON THE PROTECTION
OF CHILDREN’S RIGHTS IN
CONNECTION WITH THE
ESTABLISHMENT OF THE STATE
CHILDREN’S SERVICE OF UKRAINE”
NO. 7087**

INDEPENDENT ANALYSIS BY AGA PARTNERS LAW FIRM

September 2023

This independent analysis by legal experts was commissioned by UNICEF as a part of two independent analyses of Draft Law 7087 in order to contribute to public debate around the law with a view to strengthening children's protection and supporting Ukraine to strengthen its care system.

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I. INTRODUCTION

1. This analysis was prepared based on and in accordance with the instructions contained in the e-mail dated 7 June 2023, as well as the results of the meeting at the UNICEF office on 11 August 2023.
2. In the specified letter, the following issues, which were addressed in this document, were proposed for the experts' attention:
 - (1) A description of the proposed changes and impact to the childcare and protection system and laws.
 - (2) The issues that the draft law proposes to address.
 - (3) The effect that the passing of the law would have on the childcare and protection system in the short, medium and long-term.
 - (4) The strengths, risks, challenges, gaps and conflicts with other laws that might arise for children.
 - (5) The law's compliance with the constitution as well as its position vis-à-vis other legislation and policies.
 - (6) If and how the proposed changes are congruent with the government's Care Reform Strategy.
 - (7) Whether the changes would further Ukraine's ambition to reform its system from one which relies on institutional care to one which favours family and community-based forms of care.
 - (8) Whether the draft legislation is in line with EU and international law and related frameworks.
3. Below you will find answers to the questions listed in the previous paragraph of this document.
4. However, before proceeding to the answers, we bring to your attention a table that consolidates the possible advantages and disadvantages of Draft Law 7087.

Disadvantages	Advantages
Lack of a clear delineation between the activities of local children's services and district state administrations.	Improvement of the system of state authorities and local self-government authorities the activities of which are aimed at protecting the rights and interests of the child, including the creation of a new state authority directed exclusively at protecting the rights and interests of the child.
Introduction of the prosecutor's mandatory participation in the adoption cases, which may lead to a delay in consideration of the relevant category of cases.	Partial improvement of the adoption procedure and emphasis on short-term consideration of court cases of this category.
Reduction of the terms for preparing an adoption case for consideration on the merits and appealing it.	Detailing the tasks that are set before the newly created authorities for the protection of children's rights, which sets the vector of transparency in their activities.
Actual availability of powers of various state authorities, in the field of adoption and protection of children's rights, which are included in the coordinate system of the Cabinet of Ministers of Ukraine.	

5. In our opinion, despite the existing disadvantages, if implemented, Draft Law 7087 may positively influence the current state of affairs in the field of protection of children's rights in Ukraine in the short, medium and long term.
6. In addition, in accordance with the instructions of the United Nations Children's Fund Office in Ukraine, as well as to visually demonstrate the relevant changes and facilitate the perception of the analysis of the current state of affairs in the field of the protection of children's rights in Ukraine, we have prepared several comparative tables, which are attached in the end of this document as the exhibits hereto:
 - (1) Comparative table of the current version of the relevant laws and amendments to them introduced by Draft Law 7087 with experts' comments and notes (Exhibit No. 1);
 - (2) Comparative table of the current powers of the National Social Service of Ukraine, the Ministry of Social Policy of Ukraine and the powers of the State Children's Service in accordance with Draft Law 7087, with experts' opinions (Exhibit No. 2);
 - (3) Comparative table of the current powers of the National Social Service of Ukraine and the powers of a guardianship and custody authority, as well as children's affairs services of district state administrations in the cities of Kyiv and Sevastopol, city, town, village councils according to Draft Law 7087 with experts' opinions (Exhibit No. 3).

II. ANSWERS

1. Description of the proposed changes and impact to the childcare and protection system and laws

7. As can be seen from the Explanatory Note to Draft Law of Ukraine "On amendments to certain legislative acts of Ukraine regarding the delineation of the functions of state authorities and local self-government authorities on the protection of children's rights in connection with the establishment of the State Children's Service of Ukraine" (hereinafter – the "Explanatory Note"), Draft Law 7087 proposes to make amendments to:
 - (1) Law of Ukraine "On local self-government" regarding the determination of the powers of executive bodies of local self-government authorities as guardianship and custody authorities, under the supervision of the chief of local self-government authorities;
 - (2) the Family Code of Ukraine (regarding bringing the provisions of the Code into line with the new distribution of powers in the field of protection of children's rights, related to the decentralization of authority);
 - (3) the Civil Code of Ukraine (regarding clarification of the defining guardianship and custody authorities as exclusively executive bodies of territorial communities);
 - (4) the Civil Procedure Code for the purpose of duly regulating issues related to the adoption of a child;
 - (5) Law of Ukraine "On authorities and services on children affairs and special establishments for children" (regarding the distribution of powers in the field of protection of children's rights related to the decentralization of authority) and strengthening the participation of prosecutor's offices in ensuring the children's rights and interests;
 - (6) Laws of Ukraine "On protection of childhood"; "On ensuring organizational and legal conditions for social protection of orphans and children deprived of parental care" (regarding the distribution of powers in the field of protection of children's rights related to the decentralization of authority).
8. In addition, a comparative table between the current wording of laws and Draft Law 7087 is brought to your attention. For the relevant amendments, we provide our notes or comments which are also disclosed below in this document. In order not to overload the analysis and complicate its perception and navigation, the comparative table will be included as Appendix No. 1 after the main document.

2. The issues that the draft law proposes to address

9. The Explanatory Note contains the following list of the main problems that the said Draft Law 7087 aims to solve:
 - (1) delineation and specification of functions in matters of protection of children's rights, protection of childhood between local state administrations and executive bodies of local self-government authorities;
 - (2) strengthening the coordinating function at the central level and the creation of the State Children's Service of Ukraine - a central executive authority with a special status, which activities are directed and coordinated by the Cabinet of Ministers of Ukraine and which ensures the formation and implementation of the state policy on the protection of children's rights;
 - (3) improvement of legislative procedures for adoption, development of family-based forms of upbringing children and timely assistance to families with children by clearly defining the personal responsibility of chiefs of local self-government authorities for the current state of child protection and the powers of local self-government authorities as guardianship and custody authorities;
 - (4) determination of equivalent powers on matters of protection of children's rights, protection of childhood for village, town, and city territorial communities.

3. The effect that the passing of the law would have on the childcare and protection system in the short, medium and long-term

10. To answer this question, it is expedient to determine the directions proposed by Draft Law 7087, and, within their context, to consider the prospects of its application in different time dimensions.
11. If we are talking about the delineation and specification of functions on the protection of children's rights between different administrative entities, as well as the definition of equivalent powers on the protection of children's rights and childhood protection for village, town and city territorial communities, such a change in the short term can regulate existing differences at the time of the adoption of the law and speed up the provision of social assistance to children.
12. To date, due the lack of a clear delineation of functions at different levels, there is still legal uncertainty, which leads to low-quality processing of information about children who need placement in a family and protection within disputes between their parents, when a guardianship and custody authority provides an opinion with a recommendation on the resolution of such disputes.
13. In addition, there are cases of challenging court decisions and/or delays in their consideration as a result of improper exercise of powers by guardianship and custody authorities in the course of consideration of cases concerning children. As such, by law, they are required to prepare and submit to the court their opinions regarding how the court should resolve a particular dispute. Such opinions are often submitted to the court with great delay or they contain a significant number of shortcomings. Unfortunately, these actions and the lack of proper clarifications both in the opinion itself and directly within the court proceedings regarding the content of the adopted decision prevent the quick consideration of cases.
14. The above leads to the situation, when even if a separate recommendation of a guardianship and custody authority is correct, it can be leveled and subjected to criticism both by the court and other parties to the case during the court hearing. As a result, the decision is taken in violation of the children's rights and legitimate interests, which causes its further challenging to the court of appeal. This leads to a long-term legal uncertainty of the child's status in various legal processes (not only adoption, but also the determination of the child's place of residence, or the order of participation in the upbringing of the child by the parent who lives separately from the child), since until the end of the appellate review, the decision of the court of first instance can not enter into force.
15. It is obvious that there is a shortage of personnel with specialized professional education aimed at considering issues related to the protection of children's rights. At the same time, in the case of delineation of the functions of the authorities entrusted with the protection of children's rights, it is advisable to pay attention not only to improving their functions, but also to filling the personnel with professional education specialists, psychologists, social workers and lawyers.

16. From the practice of consideration of disputes related to the protection of children's rights, the frequent lack of a psychologist who can provide an objective assessment of the child's psycho-emotional state and create a supportive environment for the child during the child's communication with representatives of children's affairs services, the court, and adoptive parents, etc. is a cause for concern.
17. A clear branching of the powers of local self-government authorities, which take care of matters in the field of child protection, will allow relieving the existing system of these authorities, which, based on the number of cases that fall within the competence of a specific state administration, cannot provide a high-quality human rights protection function for children because of the lack of a fully functional staff of professional representatives.
18. In the medium-term perspective, such changes in the legislation will allow strengthening the existing functionality of these bodies and prevent the increase in the number of families which find themselves in difficult life circumstances. It is possible to turn to preventive work in the field of protection of children's rights instead of reacting to situations where there is a need in active protection of the child and, accordingly, work with the consequences.
19. We also believe that there are all prerequisites for reducing the mortality of children as a result of careless treatment of them at still existing institutions for children deprived of care. As practice shows, at orphanages, in particular, there are cases of criminal negligence towards children, which leads to their death as a result of suffocation, dehydration, etc. As a result of the consolidated interaction between local self-government authorities and social workers, it is possible to strengthen the educational activities of citizens regarding various forms of placement of children and the transfer of the majority of children from orphanages to forms of family-type placement. This may lead to cessation of existence of orphanages as a whole.
20. The implementation of measures in this area is important for decentralization. The work field should be fast and more effective compared to work at the regional level, where the number of families intending to place a child requires a correspondingly larger number of employees to process.
21. Among other things, amending the legislation in the part of the branched system of local self-government authorities aimed at protecting the children's rights and interests will significantly improve the situation of those children who have already lost their families and stay at orphanage-type institutions. In addition, this will reduce the burden on those employees who take care of these children and because of insufficiency of human resources cannot provide children with proper education, health care, socialization, as well as other issues that are crucial for the full protection of children deprived of parental care.
22. In the medium-term perspective, such legislative changes will have a socially significant effect, as they will increase the attractiveness of employment in local self-government authorities, based on the goal of protecting the children's rights and interests.
23. In extremely difficult circumstances, such as war and its consequences, this will become a prerequisite for creating new jobs for psychologists, education specialists, as well as other competent employees who are currently deprived of jobs and housing as a result of the military aggression of the Russian Federation.
24. In the long term, these legislative innovations can reduce the level of homeless children and children deprived of parental care, which is primarily the goal of Ukraine as a state.
25. If we consider the prospects in the context of solving the problem of strengthening the coordinating function at the central level and creating the State Children's Service of Ukraine in the short term, such a state authority can create an action plan aimed at eliminating existing gaps at the national and local levels in the sphere of protection of children's rights and interests.
26. To date, the main issues that need to be resolved are the deinstitutionalization and almost complete cessation of the activities of residential care institutions, as well as the alignment of the regulatory environment of state authorities that protect the children's rights and interests.
27. In our experience, guardianship and custody authorities and children's affairs services at the local and regional level need such review of regulatory provision, as they play a key role in protecting the children's rights in the field.

28. In the course of their activities, the indicated authorities must involve psychologists and education specialists when interacting with children and their families. This will minimize cases of additional psychological trauma of the children, who are already in an extremely unstable psychological state if there is any dispute between the parents, or as a result of being left without parental care.
29. Within the context of the creation of such an authority, an important aspect is a clear vertical, which will not provide for the subordination of children's services to state administrations on the ground. This can fundamentally change all existing corruption schemes that are inherent in this sector of state regulation.
30. One of the main aspects of the dysfunctionality of the children's rights protection system is corruption on the ground, which is related to the influence on the distribution of state funds allocated for the protection of childhood.
31. At the same time, the existence of a separate state central authority, which should be a full-fledged separate institution subordinated to the Cabinet of Ministers of Ukraine, will significantly influence the state of affairs in this sector.
32. In the medium-term perspective, the creation of the State Children's Service of Ukraine can radically change the situation in the sphere of protection of the children's rights and interests, which will consist in the creation of a package of regulatory acts that will be clear for perception, adapted to international standards and effective in law application. For some reason, the creation of such a state authority involves staffing it with specialists who have experience in working with children and public administration in this area.
33. Therefore, the creation of a specialized state authority, which aims to build an updated system of the protection of childhood in accordance with the challenges of today and international standards, is progressive.
34. It is also expedient to review and update the existing norms and standards of work with children in services for children and families, the implementation of standards that will aim to protect the child from illegal interference in his life at all levels, regardless of whether the child is deprived of parental care or has one or both parents. It is important to create a legal framework that will not allow offending a child and depriving him of adequate protection at any of the stages of interaction with the state and within the limits of his private life.
35. In the long term, it is seen that such an independent state institution will eliminate the existing discrepancies in the legislation and create norms that are close to the conditions of today in the context of child-friendly treatment. The creation of such a service is primarily a driving force for improving the treatment of children as required by national law adapted to international standards.
36. Within the context of improving legislative procedures for adoption, development of family forms of upbringing children and timely assistance to families with children, changes to civil procedural legislation in adoption cases are important and deserve special attention.
37. In the short term, such changes may have a positive effect on the quality of consideration of cases in this category, taking into account the creation of the State Children's Service of Ukraine, the activities of which will have a direct impact on the formation of a unified approach to the participation of state representatives, the competence of which includes safeguarding and protection of children's rights, in this category of cases.
38. In addition, the reform of the entire system of protection of children's rights through the proposed draft law requires more complete preparation for the specified court cases on the part of the state authorities, since today the representatives of a guardianship and custody authority often do not have legal education, which results in formal participation during consideration of court cases (not only on adoption, but mostly on determining the child's place of residence, etc.).
39. In the medium-term perspective, it is also expected that due to the increase in the staff of children's affairs services, court cases on adoption and other cases related to the children's rights and interests will have a more complete justification and be filled with evidence that directly concerns the child. To date, a significant drawback is the lack of opinions of psychologists of state institutions that cooperate with children's affairs services, which objectively reveal the child's psycho-emotional state and are an objective analysis of the child's behavioral characteristics at the time of the case being considered in court and the state's interaction with him or her at a certain point of his or her life.

40. It can also be seen that the shortened terms for consideration of adoption cases, proposed by the draft law, will contribute to the effective protection of the rights of the child and will result in the child's placement in a family as soon as possible.
41. In the long term, the proposed measures in terms of procedural legislation will have the effect of ensuring timely assistance to children and creating child-friendly justice.

4. The strengths, risks, challenges, gaps and conflicts with other laws that might arise for children

42. Answering this question, the following key points can be highlighted.
43. Strengths:
 - (1) *improvement of the system of state and local self-government authorities, the activities of which are aimed at protecting the children's rights and interests;*
44. As already mentioned above, the creation of the State Children's Service of Ukraine will allow creating a separate specialized authority that will take care of the protection of children's rights as a highly specialized relevant entity.
45. At the same time, it is important to distinguish a separate vertical in which the State Children's Service of Ukraine will be the main authority that implements state policy in the field of protecting the children's rights and interests, while children's affairs services at all levels are subordinate to it.
46. The option of the system of authorities at the local level proposed in the draft law does not fundamentally differ from the existing one, and therefore it is expected that it will be extremely difficult to achieve the maximum result in the current option.
 - (2) *improvement of the adoption procedure and emphasis on short-term consideration of court cases of this category;*
47. One of the advantages of the proposed changes is the emphasis on the short-term of the judicial consideration of the adoption of children.
48. The specified procedure will have a positive effect in the case of parallel strengthening of the judicial system with human resources.
49. To date, such changes are unlikely to be fully implemented, since the composition of the judicial corps is much smaller than the number of cases per a judge. Therefore, these changes should be introduced with the application of a transition period, which will be consistent with the change in the actual state of court staffing at all levels.
 - (3) *detailing the tasks that are set before the newly created authorities for the protection of children's rights, provides the vector of transparency in their activities.*
50. Despite the fact that in the accompanying documents to Draft Law, this aspect has been subjected to criticism and comments based on general rules of legal technique, it also has its advantages.
51. A clear definition of the tasks and functions of the newly created state authority, as well as an update of the existing structure of state authorities in the field of protection of children's rights will allow for the creating of an effective format of interaction between the state and society, as well as eliminate differences in the understanding as regards which aspects are performed by these authorities.
52. The result of the interaction of these authorities with citizens for the achievement of a single goal- the eradication of orphanhood- depends on the transparency and clarity of the goals and the ways of their implementation.
53. Gaps and risks:
 - (1) *lack of delineation of activities of children's affairs services on the ground and district state administrations, which, in our opinion, will not change the existing situation in the system of state authorities in the field of protection of children's rights;*

54. We propose to make changes to the draft law, the essence of which comes down to the fact that subordination of children's affairs services to district state administrations and other branches of local self-government should be excluded.
55. To date, there is such a structure that has not fully justified the tasks assigned to it, aimed at protecting children at all levels. The draft law actually duplicates this structure on the ground, which will result in the dysfunctionality of these authorities, despite the creation of the State Children's Service of Ukraine.
56. The proposal is to single out a separate vertical as indicated above in section (1) hereof.
- (2) *the introduction of the prosecutor's mandatory participation in adoption cases, which from a practical point of view may affect the effective trial and the burden of the trial by parties who are not necessary, which will lead to the delay of the trial;*
57. Based on a significant experience of representing the interests of private individuals in courts, in particular, in family legal relations, the participation of the prosecutor as a mandatory party to an adoption case (or any other cases concerning the children's rights and interests) is not considered effective and necessary.
58. As was rightly pointed out in the comments to the draft law, this is not consistent with confirmed international experience in this area.
59. In practice, given the high workload in the field of criminal justice and prosecutor's leading role in such proceedings, they will not be able to fully devote attention to such court cases, which will result in their constant postponement due to their non-appearance and prolongation of the consideration of these cases by the court. And the above, based on the goals of the draft law, is impractical.
60. Moreover, there is a fear that prosecutors who will be involved in court cases will not have sufficient relevant understanding and competence aimed at the proper protection of children's rights.
- (3) *the narrowing of the rights of parties to a court case on adoption, as a result of the reduction of the time limits for preparation for consideration of the case on the merits and appeal proceedings, which is inappropriate in today's conditions.*
61. The draft law also proposes to reduce the time limits for consideration of adoption cases and the time limits for appealing decisions in such cases.
62. Unfortunately, the situation in the national judicial system does not allow for consideration of any case in such a short period of time, taking into account the problems of the composition of the judicial corps and the staff of courts of all levels, which were mentioned above.
63. It is appropriate to establish longer time limits for the preparatory stage within the trial, or alternatively to establish the obligation to carry out all the necessary procedures for the preparation of evidence by a children's affairs services and a guardianship and custody authority at the time of the first court hearing in the case, which is a general rule within civil proceedings (with the exception of evidence that cannot be submitted within such a period with a mandatory warning of the court about the above).
64. As for the appeal, it is appropriate to establish a longer procedural period, which will result in an opportunity for those parties to a case who believe that the rights of the child have been violated to prepare a proper appeal. It is expedient to set such terms within the limit of 20 days, or to leave the current general term for an appeal within 30 days.
65. The above conclusions are based on the fact that, from a practical point of view, the reduction of the time limits for an appeal will really lead to the entry into force of the decision in the shortest possible time and, as a result, placing the child in a family. However, if it turns out that such a decision does not meet the interests of the child and requires an appeal for his protection, then 10 days for such a procedural action is not enough for the proper preparation of an appeal.

66. It also seems possible to introduce the mandatory participation of a representative of the State Children's Service of Ukraine as a supervisory authority within the legal process of adoption. The participation of the mentioned person in the case could replace the prosecutor and provide an opportunity for the court to fully administer justice, taking into account the rights and interests of the child as much as possible. Such a party to a case is essentially independent and objective, so such participation, in our opinion, would have a positive effect on the consideration of such cases in courts.
67. Exhibit 2, which contains a comparative analysis of the powers of the authorities related to issues of adoption and protection of children's rights, is also attached to this analysis.

5. The law's compliance with the constitution as well as its position vis-à-vis other legislation and policies.

68. Regarding the amendments to the Family Code of Ukraine, the Civil Code of Ukraine, the Civil Procedure Code of Ukraine, we do not see any inconsistency of Draft Law with the Constitution of Ukraine, as well as possible conflicts and/or contradictions with other laws and acts.
69. However, the correlation between the draft law and Article 143 of the Constitution of Ukraine causes concern. Thus, the specified norm provides for that the state / state executive authority may exercise control over the powers it has delegated to local self-government authorities, and not over those related to their own or self-governing powers.
70. Accordingly, the question remains open as to how the State Children's Service of Ukraine will monitor the compliance by local self-government authorities with the requirements of relevant legislation in terms of exercising their own (self-governing) powers in the field of protection of children's rights, the list of which is contained in the proposed Article 341.
71. In the short term, it is proposed to consider the possibility of assigning most of the powers of the guardianship and custody authority as delegated in order to ensure the possibility of effective control over their implementation by the State Children's Service of Ukraine.
72. In the long term, as already mentioned above, the functioning of the State Children's Service of Ukraine as an independent state central executive authority, which ensures the formation and implementation of state policy in the field of adoption and protection of children's rights throughout its vertical, including the level of village, town, and city councils, i.e., taking out children's affairs services at this level of their subordination.
73. Exhibit No. 3 to this analysis contains a comparative analysis of the powers that the draft law assigns to children's affairs services, the guardianship and custody authority and the powers that the National Social Service of Ukraine currently has.
74. Thus, a comparison of powers indicates their complete or partial overlap. With this in mind, it remains an open question whether this will lead to undesirable scenarios, for example, where such powers are exercised in parallel by both bodies without proper coordination or cooperation, or where such powers will not be exercised at all, as both bodies will believe that they must be performed by another authority.
75. Therefore, it will be important to accompany Draft Law 7087, in case it is signed by the President, with clear bylaws (instructions, provisions) that will properly regulate, in particular, cooperation and coordination of local authorities that carry out activities in the field of protection of children's rights.
76. Moreover, the separate powers of the mentioned authorities in some places completely or partially coincide with the powers that the National Social Service already has. Attention should also be paid to this, so that the powers specified in Draft Law 7087 are properly implemented and actually performed by all relevant entities.

6. If and how the proposed changes are congruent with the government's Care Reform Strategy

77. The National Strategy for Reforming the System of Institutional Care and Upbringing of Children was approved for 2017- 2026 by Order No. 526-r of the Cabinet of Ministers of Ukraine dated 9 August 2017 (hereinafter - the "Strategy").

78. In particular, this Strategy was developed and is currently being implemented precisely with the aim of changing the existing system of institutional care to family-type or close to family-type forms of upbringing children.
79. Thus, the objective No. 1 of the Strategy is the integration and coordination of actions to ensure the reform of the system of institutional care and upbringing of children, which includes, among other things, the following tasks:
- (1) improvement of the legislation to ensure the reform of the system of institutional care and upbringing of children;
 - (2) integration of the main principles, objectives and tasks of the Strategy into the priority areas of activity of central and local authorities of executive power and local self-government authorities;
 - (3) introduction of the mechanism of interdepartmental coordination of actions to achieve the objectives and perform the tasks of the Strategy;
 - (4) specification and delimitation of the powers and responsibilities of central and local executive authorities, local self-government authorities regarding safeguarding the children's rights and family support, assistance in the implementation of such powers by local self-government authorities.
80. The strategy indicates three stages for the implementation of the objectives and tasks defined by it.
81. The first preparatory stage (2017-2018) provided for the development and adoption of regulations necessary for the implementation of the reform of the system of institutional care and upbringing of children.
82. According to the Action Plan for the Implementation of Stage I of the National Strategy for Reforming the System of Institutional Care and Upbringing of Children for 2017-2026 (hereinafter referred to as the "Plan 1"), approved simultaneously with the Strategy, by the 4th quarter of 2017, the Ministry of Social Policy, the Ministry of Education, the Ministry of Health, Ministry of Internal Affairs, the Ministry of Regional Development, Construction and Housing and Utilities, the Ministry of Finance, the Ministry of Economic Development and the National Police were to prepare and submit to the Cabinet of Ministers of Ukraine draft laws on ensuring the exercise of the child's right to upbringing in the family, in particular, on specifying and delineation of the powers and responsibilities of executive authorities at the central and local level to ensure protection of children's rights, social support for families with children, assistance in the implementation of such powers by local self-government authorities.
83. This draft law was developed mainly for the purpose of delineation of the powers of central and local authorities and local self-government authorities, determining the powers of territorial communities in the field of childhood protection and protection of children's rights.
84. On 28 January 2011, the UN Committee on the Rights of the Child emphasized that Ukraine, as a party to the UN Convention on the Rights of the Child, in implementing the decentralization reform and administrative reform, did not adopt a clear plan for the delegation of powers and functions related to care and protection of children.
85. The Explanatory Note to the draft law states the following:
- (1) The legislation on local self-government authorities did not establish their powers as guardianship and custody authorities as regards children: in the process of decentralization, only the creation of the children's affairs service was provided for, but the competence of local self-government authorities in matters of protection of children's rights was not defined. Clarification and delineation of powers and improvement of the function of coordinating activities at the central and local levels were not carried out;
 - (2) In recent years, the replacement of the concept of "legal aid" with the concept of "social service" has significantly deformed the powers of children's affairs services and, accordingly, local self-government authorities in the performance of the powers of guardianship and custody authorities, which are provided for by the law. In addition, Articles 214, 215, 2564, 2568 of the Family Code of Ukraine determine that the power to create foster families, family-type children's homes, to place children in them, and to carry out adoption activities shall be exercised by the district level, which currently does not have staffing and organizational capacity for this;

- (3) There is still a significant organizational difference and functional disparity between the powers of the executive committees of city, district councils in cities, their children's affairs services, which identify such children, register them and carry out adoption activities, placement in the family of citizens of Ukraine, etc., and the powers of the children's affairs services of village, town territorial communities, which have the duty to identify children, but have not acquired the power to register them and place them in family-type forms of upbringing.
86. Thus, the draft law is consistent with the Strategy, in its current wording, and the preliminary plan regarding the specification and delineation of the powers and responsibilities of the executive authorities at the central and local level to ensure the protection of children's rights.

7. Whether the changes would further Ukraine's ambition to reform its system from one which relies on institutional care to one which favours family and community-based forms of care.

87. Unfortunately, the situation in the field of protection of children's rights in Ukraine is critical, as stated in the Opinions of the Temporary Investigative Commission of the Verkhovna Rada of Ukraine on investigating cases and causes of violations of children's rights during the implementation of the decentralization of powers in matters of childhood protection, reforming the system of residential care and upbringing institutions, implementation of the child's right to family upbringing and adoption, development (modernization) of social services as early as 2021, that is, before the start of a full-scale war.
88. The draft law was created precisely for the purpose of improving the situation in this area. Nevertheless, we are convinced that it is hardly possible to radically solve the problem of reforming the system of institutional care and upbringing of children with just one regulatory act.
89. The adoption of this draft law can solve the problem of the lack of objective and up-to-date registration of children who are subject to adoption. Such a problem, in view of inaction in this area, was ascertained by the Temporary Investigative Commission of the Verkhovna Rada of Ukraine on investigating cases and causes of violations of children's rights during the implementation of the decentralization of powers in matters of childhood protection, reforming the system of residential care and upbringing institutions, implementation of the child's right to family upbringing and adoption, development (modernization) of social services in May 2022 (see paragraph 20 of the Opinions).
90. In our opinion, the proposed amendments to Article 214 of the Family Code of Ukraine (The Official Bulletin of the Verkhovna Rada of Ukraine, 2002, No. 21-22, Art. 135) will contribute, as a result, to the proper keeping of the specified list of children of the vulnerable category and, accordingly, to the reform of the system of residential care and upbringing institutions.
91. Thus, it is mandatory to implement a comprehensive approach to the deinstitutionalization process:
- (1) The introduction of programs to inform broad segments of the population about available forms of family upbringing and further popularization of adoption in Ukraine;
 - (2) More effective, active and controlled social and financial support from the state of foster families and family-type children's homes;
 - (3) The existence of an independent state authority that will be solely responsible for the protection of children's rights in Ukraine, the observance of their legitimate interests, the prevention of violations of their rights, strict control over the observance of the property rights of orphans and children deprived of parental care, including in relation to their financial support from the state;
 - (4) Revising and making changes to the Strategy, bringing it into line with the current realities of the war, taking into account all the gaps and practical problems identified by the Temporary Investigative Commission of the Verkhovna Rada of Ukraine. In addition, there is need to focus on the balance between qualitative and quantitative indicators when evaluating the effectiveness of the implementation of the Strategy;
 - (5) A more balanced approach to reforming and amending legislation in the field of protection of children's rights is timely adoption of carefully developed regulations instead of sometimes hasty attempts to adopt a certain law without a clear understanding of how it will actually be implemented and whether it will properly regulate the relevant relations;

- (6) Finally, a clear and comprehensible social campaign is needed to prevent cases in which children receive the status of being deprived of parental care with living and capable parents or one of them.
92. Nevertheless, we believe that Draft Law 7087 really meets the aspirations of Ukraine as a state to change the approach to the upbringing of vulnerable categories of children and eventually make the transition to family-type or similar forms of childcare and upbringing.

8. Whether the draft legislation is in line with EU and international law and related frameworks.

93. The Explanatory Note states that the draft law complies with Ukraine's obligations in the field of European integration, as well as complies with Ukraine's current international treaties and resolutions of international conferences, international organizations, primarily the United Nations Children's Fund, their bodies, including those affecting the protection of children's rights. We can agree with this in general.
94. However, in our opinion and as noted by President of Ukraine, V. Zelenskyy, the prosecutors' participation in relations with children, which do not relate to criminal cases and crimes during the execution of which children were injured, should be reduced to a minimum. Thus, the Committee of Ministers of the Council of Europe, adopting Recommendation (2000)19 "On the Role of the Prosecutor's Office in the Criminal Justice System", supported its position that the criminal sphere should be the priority area of activity of the prosecutor's office in the member states. Accordingly, Ukraine is indeed fulfilling its obligations regarding changing the role and function of the prosecutor's office, in particular, first of all, in the part of refusing to exercise general supervision.
95. That is why the prosecutors' mandatory participation during the consideration and decision by the court of cases of deprivation of parental rights, taking away children and adoption is not expedient.
96. We are not saying that without implementing the changes proposed above, Draft Law 7087 will not comply with EU legislation, international law and regulations related to it, however, they may contribute to its more harmonious correlation with generally accepted world standards.
97. Finally, we are convinced that Draft Law 7087 is capable of positively influencing the current state of affairs in the field of protection of children's rights in the event of its implementation.
98. However, we believe that the State Children's Service should be a separate state structure at the local level in order to achieve its maximum effectiveness in the field of proper and effective protection of children's rights.

APPENDIX No. 1

to the Legal Analysis of AGA Partners experts regarding Draft Law of Ukraine “On amendments to certain legislative acts of Ukraine regarding the delineation of the functions of state authorities and local self-government authorities on the protection of children’s rights in connection with the establishment of the State Children’s Service of Ukraine” No. 7087 dated 22 February 2022

Comparative table of the current version of the relevant laws and amendments to them introduced by Draft Law of Ukraine “On amendments to certain legislative acts of Ukraine regarding the delineation of the functions of state authorities and local self-government authorities on the protection of children’s rights in connection with the establishment of the State Children’s Service of Ukraine” No. 7087 dated 22 February 2022

In the column “Wording awaiting signature of the President of Ukraine”, the relevant amendments are highlighted in bold.

Opposite each line, there are the relevant comments or notes of AGA Partners, which were detailed in the Legal Analysis.

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
FAMILY CODE		
<p>Article 214. Registration of orphans and children deprived of parental care who may be adopted, placed under guardianship, custody or in a family of citizens for upbringing</p>	<p>Article 214. Registration of orphans and children deprived of parental care, including children who may be adopted, placed under guardianship, custody, placed in foster families, family-type children’s homes.</p>	
<p>1. Chiefs of institutions where children who may be adopted, placed under guardianship, custody or for upbringing in a family of citizens, stay, officials of guardianship and custody authorities, as well as other persons who became aware of orphans and children deprived of parental care, are obliged to submit information about them within seven working days to the relevant departments and offices of district, district in the cities of Kyiv and Sevastopol state administrations, executive committees of city, district in the cities councils.</p>	<p>1. Chiefs of institutions where children who may be adopted, placed under guardianship, custody or placed in foster families, family-type orphanages, stay, as well as other persons who became aware of orphans and children deprived of parental care, are obliged to promptly submit information about them to the children’s affairs services of district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils.</p> <p>Registration of children who may be adopted (herein-after referred to as “local registration”) shall be carried out by the children’s affairs services of district state administrations in the cities of Kyiv and Sevastopol, city, town, village councils at the place of origin of an orphan child or a child deprived of parental care in accordance with the procedure established by Cabinet of Ministers of Ukraine.</p>	<p>We evaluate these changes positively, since proper registration keeping of children who may be adopted and timely filling of such list with relevant information is an important component of the process of deinstitutionalization and ensuring the predominant functioning of family-type forms of upbringing in the country.</p> <p>The separation and delineation of the powers of local authorities is also positive, as this affects the efficiency and effectiveness of information processing at each of the territorial levels.</p>
<p>2. District, district in the cities of Kyiv and Sevastopol state administrations, executive committees of city, district in cities councils, if there are no persons will-</p>	<p>2. Children’s affairs services of district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils, if there are no persons willing</p>	<p>We evaluate the proposed changes positively because they allow the effective and efficient processing of information about children in need on the ground.</p>

<p>ing to adopt a child or take it under guardianship or custody, within one month from the date of receipt of information about them, are obliged to submit relevant information to the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations.</p>	<p>to adopt a child or take it under guardianship or custody, within one month from the date of receipt of information about the child, are obliged to submit relevant information to the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv or Sevastopol city state administrations for registering a child (hereinafter referred to as “regional registration”) and to the central executive authority that ensures the formation and implementation of state policy in the field of adoption and protection of children’s rights (hereinafter referred to as “centralized registration”).</p>	
<p>3. The Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations, if there are no persons willing to adopt a child or take it under guardianship or custody, within one month from the date of receipt of information about children who may be adopted, shall transfer it for centralized registration to the central executive authority, which implements the state policy in the field of adoption and protection of children’s rights.</p>		
<p>4. The procedure for centralized registration of orphans and children deprived of parental care who may be adopted, placed under guardianship, custody or for upbringing in a family of citizens, and the procedure for transferring children for adoption shall be established by the Cabinet of Ministers of Ukraine.</p>	<p>3. The procedure for carrying out local, regional and centralized registration of orphans and children deprived of parental care, who may be adopted, placed under guardianship, custody or placed in foster families, family-type children’s homes and the procedure for transferring children for adoption shall be established by the Cabinet Ministers of Ukraine.</p>	<p>In addition, we would like to note the positivity of the introduction of a three-level system of registering children. This will minimize cases when a child in need will be outside the state’s attention.</p>
<p>Article 215. Registration of persons wishing to adopt a child</p>		
<p>1. Registration of persons wishing to adopt a child shall be carried out by divisions and administrations of district, district in the cities of Kyiv and Sevastopol state administrations, executive committees of city, district in cities councils, which shall be entrusted with the direct management of matters related to guardianship and custody, the executive authority of the Autonomous Republic of Crimea in the field of family and children, structural units of regional, Kyiv and Sevastopol city state administrations, as well as the central executive authority that implements state policy in the field of adoption and protection of children’s rights, in accordance with the procedure established by the Cabinet of Ministers of Ukraine.</p>	<p>1. Registration of persons wishing to adopt a child shall be carried out by the children’s affairs services of the district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils, the central body of executive power, which ensures the formation and implementation of state policy in the field of adoption and protection of children’s rights, in accordance with the procedure established by the Cabinet of Ministers of Ukraine.</p>	<p>We evaluate these changes positively, since proper registration of persons wishing to adopt a child and timely filling of such list with up-to-date information is an important component of the process of deinstitutionalization and ensuring the predominant functioning of family-type forms of upbringing in the country.</p>

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
<p>2. Registration of citizens of Ukraine living outside Ukraine and foreigners wishing to adopt children shall be carried out exclusively by the central body of the executive power, which implements state policy in the field of adoption and protection of children's rights, in accordance with the procedure established by the Cabinet of Ministers of Ukraine.</p>	<p>2. Registration of citizens of Ukraine living in Ukraine and wishing to adopt a child shall be carried out by the children's affairs services at the place of their residence in accordance with the procedure established by the Cabinet of Ministers of Ukraine.</p>	<p>We evaluate these changes positively, as the processing of information on the ground allows paying attention to a wider range of people who want to adopt a child, and therefore to speed up the placement of children who need it.</p> <p>We evaluate these changes positively, since special attention is paid to another category of citizens who are potential adopters, namely foreigners. Therefore, the circle of potential adopters at all levels is taken into account.</p>
	<p>3. Registration of citizens of Ukraine living outside Ukraine and foreigners wishing to adopt a child shall be carried out by the central executive body, which ensures the formation and implementation of state policy in the field of adoption and protection of children's rights in accordance with the procedure established by the Cabinet of Ministers of Ukraine.</p>	
<p>Article 216 Prohibition of intermediary, commercial activities related to the adoption of children</p>		
<p>1. Intermediary, commercial activities related to the adoption of children, their placement under guardianship, care or for upbringing in the family of citizens of Ukraine and foreigners is prohibited.</p>	<p>1. Intermediary, commercial activities related to the adoption of children by citizens of Ukraine or foreigners, placement of children under guardianship, custody, placement in foster families, family-type children's homes is prohibited.</p>	<p>We evaluate these changes positively, because the expansion of the list of prohibitions aimed at protecting the children's rights is urgent.</p>
<p>Article 256⁴ Creation of a foster family</p>		
<p>1. The decision to create a foster family shall be made by the district in the cities of Kyiv and Sevastopol state administrations, the executive committee of the city (a city of the republican Autonomous Republic of Crimea and a city of regional significance) council in accordance with the procedure established by the Cabinet of Ministers of Ukraine.</p>	<p>1. The decision to create a foster family and place a child (children) for upbringing and cohabitation shall be made by the district in the cities of Kyiv and Sevastopol state administrations, the executive committee of the city, town, village council in accordance with the procedure established by the Cabinet of Ministers of Ukraine.</p>	<p>The proposed wording is appropriate as it details the powers and entities aimed at the creation of foster families. This will enable the effective work with families who have expressed a desire to provide assistance to children in need of placement, including on the ground.</p>

2. An agreement on placing children in a foster family shall be concluded between the adoptive parents and the authority that made the decision to create a foster family on the basis of a standard agreement.	2. An agreement on the organization of the activities of the foster family shall be concluded between the adoptive parents and the authority that made the decision to create a foster family on the basis of a standard agreement. The agreement may be terminated in accordance with the procedure established by law.	We evaluate these changes positively, as they detail the interaction between foster parents and the state, allow settling all important issues regarding the placement of children.
3. The authority that made the decision to create a foster family is obliged to monitor the fulfillment by foster parents of their duties regarding the upbringing and maintenance of children.	3. The authority that made the decision to create a foster family is obliged to cooperate with the foster parents in the maintenance and upbringing of the child (children).	We evaluate these changes positively, because today there are not only cases of complaints from foster families regarding the passive participation of state authorities in interaction with them after the child is transferred to the family.
None	4. Control over the implementation of the agreement on the organization of the activities of the foster family shall be carried out by the children's affairs services of the regional, district, city of Kyiv and Sevastopol state administrations.	We evaluate these changes positively, as they detail the powers of state authorities in the matter of interaction with foster families.
4. Provisions on foster families and a standard agreement on placement of children in foster families shall be approved by the Cabinet of Ministers of Ukraine.	5. Provisions on the foster family and the standard agreement on the organization of the activities of the foster family shall be approved by the Cabinet of Ministers of Ukraine.	These changes are a logical continuation of the previous item, so they do not contain comments.
Article 256 ⁸ Creation of a family-type children's home		
1. The decision to create a family-type children's home shall be made by the district, district in the cities of Kyiv and Sevastopol state administrations, the executive committee of the city (cities of the Autonomous Republic of Crimea and cities of regional importance) council in accordance with the procedure established by the Cabinet of Ministers of Ukraine.	1. The decision to create a family-type orphanage and place a child (children) in it shall be made by district state administrations in the cities of Kyiv and Sevastopol, executive committees of city, town, village councils in accordance with the procedure established by the Cabinet of Ministers of Ukraine.	We evaluate these changes positively, as they detail the procedure not only for the creation of children's homes, but also for the placement of children, who are the central subject of state protection. At the same time, it is considered expedient to expand the range of entities that acquire powers in the field of child protection. The authorities on the ground will reach more families aiming to provide families for children in need.
2. An agreement on the organization of activities of a family-type children's home shall be concluded between the foster parents and the authority that made the decision to establish a family-type children's home, based on a standard agreement.	2. An agreement on the organization of activities of a family-type children's home shall be concluded between the foster parents and the authority that made the decision to establish a family-type children's home, based on a standard agreement. The agreement may be terminated in accordance with the procedure established by law.	The specified norm is expedient, as it establishes a lever of influence on parents-educators who may violate the rights of children.
3. The body that made the decision to create a family-type children's home is obliged to monitor the fulfillment by parents-educators of their duties regarding the upbringing and maintenance of children.	3. Control over the implementation of the agreement on the organization of activities of a family-type children's home shall be carried out by the children's affairs services of the regional, district in cities of Kyiv and Sevastopol state administrations.	We evaluate these changes positively, since a clear delineation of control between state authorities will have the effect of preventing violations of children's rights and/or leaving such violations outside the attention of the state.

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
<p>THE CIVIL CODE OF UKRAINE</p> <p>Chapter 6 GUARDIANSHIP AND CUSTODY</p> <p>Article 55. The task of guardianship and custody</p>		
None	2. Guardianship and custody shall be established in accordance with the procedure provided by the Cabinet of Ministers of Ukraine.	Considered editorially.
<p>Article 56. Guardianship and custody authority</p>		
1. The guardianship and custody authorities are district, district in the cities of Kyiv and Sevastopol state administrations, executive authorities of city, district in cities, village, town councils.	1. The guardianship and custody authorities are district in the cities of Kyiv and Sevastopol state administrations, executive committees of city, town, village councils.	We evaluate these changes positively, as they detail the list of subjects and empower authorities on the grounds of children's rights protection. This will allow for more effective cooperation with families and children and more prompt assistance on the ground.
<p>Article 63. Appointment of a guardian or custodian</p>		
5. One or more guardians or custodians may be appointed to an individual.	5. One guardian or custodian shall be appointed for a juvenile, minor person. One or more guardians or custodians may be appointed for an adult.	These changes are evaluated positively by us, as they clearly define the subjects who are provided with guardianship and custody, as well as the number of guardians and custodians, which contributes to a clear understanding of the norm.
<p>CIVIL PROCEDURE CODE OF UKRAINE</p>		
<p>Article 45. Ensuring the protection of the rights of juveniles or minors during the proceedings</p>		
3. The court shall promote the creation of proper conditions for a juvenile or minor to exercise his or her rights, defined by law and provided for by the international treaty, the consent to the binding nature of which has been given by the Verkhovna Rada of Ukraine.	3. The court shall promote the creation of proper conditions for the juvenile or minor to exercise his or her rights, defined by law and provided for by the international treaty, the consent to the binding nature of which has been given by the Verkhovna Rada of Ukraine.	<p>In our opinion, the prosecutor's mandatory participation in such categories of cases may lead to an increase in the timeframe of their consideration.</p> <p>In addition, according to the President's latest amendments, the provision regarding juvenile prosecutors</p>

	<p>In order to ensure the protection of the rights of juveniles and minors, the court shall consider cases of deprivation of parental rights, taking away a child, as well as adoption of a child with the prosecutor's mandatory participation.</p>	<p>was removed from the text of Draft Law, so there are well-founded fears that prosecutors who will be involved in court cases will not have sufficient professional orientation and competence aimed at the proper protection of children's rights.</p> <p>Alternatively, it seems possible to introduce the mandatory participation of a representative of the State Children's Service of Ukraine as a supervisory authority within the legal process of adoption. The participation of the mentioned person in the case could replace the prosecutor and provide an opportunity for the court to fully administer justice, taking into account the rights and interests of the child as much as possible. Such a party is independent and objective on the merits, so its participation, in our opinion, would have a positive effect on the consideration of such cases in courts.</p>
<p>Article 56. Participation in the court process of authorities and persons who are granted by law the right to apply to the court in the other persons' interests</p>		
<p>6. State authorities and local self-government authorities may be involved by the court in participating in the case or participate in the case on their own initiative to submit opinions for the exercise of their powers. The participation of the said authorities in the court process to submit opinions in the case shall be mandatory in the cases established by law or if the court deems it necessary.</p>	<p>6. State authorities, local self-government authorities, the prosecutor may be involved by the court in participating in the case or participate in the case on their own initiative to submit opinions for the exercise of their powers. The participation of state authorities, local self-government authority, and the prosecutor in the legal proceedings to submit opinions in the case shall be mandatory in the cases established by this Code, other laws, or if the court deems it necessary.</p> <p>The prosecutor's participation shall be mandatory during the consideration of cases of deprivation of parental rights, taking away a child, as well as adoption of a child.</p>	<p>In our opinion, the prosecutor's mandatory participation in such categories of cases may lead to an increase in the timeframe of their consideration.</p> <p>In addition, the provisions of the sixth part of Article 56 in the version awaiting the signature of the President provide for the opportunity for state bodies, including the prosecutor, to participate in the case of their own free will or in the event that they are involved in the case by the court. We find it possible to leave this wording, however, our position remains unchanged regarding the prosecutor's mandatory participation in such cases.</p>
<p>Article 293. Separate proceedings</p>		
<p>4. In the cases established by clauses 1, 3, 4, 9, 10 of the second part of this article, cases shall be considered by a court composed of one judge and two jurors.</p>	<p>4. In the cases established by clauses 1, 3, 9, 10 of the second part of this article, cases shall be considered by a court consisting of one judge and two jurors.</p>	<p>In part four of Article 293, the figure "4" is omitted.</p>

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
<p>Article 311. Content of an application</p>		
<p>2. The following documents must be attached to an application for adoption of a child, if available:</p> <ol style="list-style-type: none"> 1) a copy of the marriage certificate, as well as the written consent of the other spouse, certified by a notary, in case of adoption of a child by one of the spouses; 2) a medical certificate of the applicant's state of health; 3) a certificate from the place of work indicating the salary or a copy of the income declaration; 4) a document confirming ownership or right to use the residential premises; 5) other documents specified by law. 	<p>2. The following documents must be attached to an application for adoption of a child, if available:</p> <ol style="list-style-type: none"> 1) a copy of the marriage certificate, as well as the written consent of the other spouse, certified by a notary, in case of adoption of a child by one of the spouses; 2) a medical certificate of the applicant's state of health; 3) a certificate from the place of work indicating the salary, a copy of the income declaration or another document confirming income; 4) a document confirming ownership or right to use the residential premises; 5) other documents specified by law. 	<p>We evaluate these changes positively, since adoptive parents may have different forms of income that cannot be confirmed by the list of documents indicated in the previous wording of the law. At the same time, excessive formalism in the types of evidence, which essentially boils down to the key clarification of the circumstance (the ability to maintain a child), is not rational.</p>
<p>Article 312. Preparation of a case for consideration</p>		
<p>1. During the preparation of the child adoption case for consideration, the judge shall decide on the participation in it of interested persons of the relevant guardianship and custody authority, and in cases in which the proceedings are opened based on the applications of foreign citizens- the authorized executive authority.</p>	<p>1. During the preparation of the child adoption case for consideration, the judge shall decide on the participation in it of interested parties of the relevant guardianship and custody authority, the prosecutor, persons in whose family the child is raised (foster parents, parents-educators, guardians, custodians, legal representatives), and in the case in which the proceedings are opened at the request of a foreign citizen- the authorized executive authority.</p>	<p>In our opinion, the prosecutor's mandatory participation in such categories of cases may lead to an increase in the term of their consideration.</p>
<p>3. The following must be added to the opinion of the guardianship and custody authority:</p> <ol style="list-style-type: none"> 1) a report of inspection of the applicant's living conditions, drawn up at his place of residence; 2) child's birth certificate; 3) a medical certificate of the child's health, physical and mental development; 4) in the cases established by law, the consent of the parents, guardian, custodian of the child, health care institution or educational institution, as well as the child himself for adoption; 	<p>3. The following must be added to the opinion of the guardianship and custody authority:</p> <ol style="list-style-type: none"> 1) a report of inspection of the applicant's living conditions, drawn up at his place of residence; 2) child's birth certificate; 3) a medical certificate of the child's health, physical and mental development; 4) in the cases established by law, the consent of the parents, guardian, custodian of the child, health care institution or educational institution, as well as the child himself or herself for adoption; 	<p>The proposed changes do not have a negative content, as they supplement the list of entities that may provide evidence to the court. Taking into account the range of entities that take care of the issues of children deprived of parental care, the proposed change is appropriate.</p>

None	<p>4. The preparation of the case for consideration shall be carried out for no more than five days from the day of the initiating of the proceedings in the case, on which the court shall pass a ruling.</p> <p>A preparatory hearing in adoption cases shall not be held.</p>	It is appropriate to establish longer terms for the preparatory stage within the court proceedings, or alternatively to establish the obligation to carry out all necessary procedures for the preparation of evidence by the children's services and the guardianship and custody authority at the time of the first court hearing in the case, which is a general rule within the scope of civil proceedings (with the exception of evidence that cannot be submitted within such a period with a mandatory warning about it to the court).
<p>Article 313. Consideration of a case</p>		
1. The court shall consider a case of adoption of a child with the mandatory participation of the applicant, the guardianship and custody authority or the authorized executive authority, as well as the child, if he is aware of the fact of adoption due to his age and state of health, with the summons of interested parties and other persons whom the court deems necessary to interrogate.	1. The court shall consider a case of adoption of a child with the mandatory participation of the applicant, the guardianship and custody authority or the authorized executive authority, the prosecutor, as well as the child, if he is aware of the fact of adoption due to his age and state of health, with the summons of interested parties and other persons, whom the court deems necessary to interrogate.	In our opinion, the prosecutor's mandatory participation in such categories of cases may lead to an increase in the term of their consideration.
None	<p>5. The court shall consider cases of adoption of a child within a reasonable period of time, but not more than thirty days from the day of initiating the proceedings in the case.</p>	In our opinion, these changes are positive, because they are aimed at the maximum reduction of the term of consideration of adoption cases and finding a family by a child.
<p>Article 314. Court decision</p>		
1. Based on the results of consideration of the application for adoption, the court shall render a decision.	1. Based on the results of consideration of the application for adoption, the court shall render a decision within the time limit provided for in part five of Article 313 of this Code.	These changes are a logical continuation of the previous clause, so there are no comments or notes.
<p>Article 354. The term for an appeal</p>		
1. An appeal against a court decision shall be filed within thirty days, and against a court ruling- within fifteen days from the day of its announcement.	1. An appeal against a court decision shall be filed within thirty days, and against a court ruling- within fifteen days from the day of its announcement.	It is appropriate to establish a longer procedural term, which will result in an opportunity to prepare a proper appeal for those parties to the case who believe that the rights of the child have been violated. It is expedient to set such terms within 20 days, or at all to leave the current general term for an appeal within 30 days.
None	<p>An appeal against a court decision on adoption a child shall be filed within ten days from the day of its announcement.</p>	

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
		<p>The above conclusions are based on the fact that, from a practical point of view, reducing the terms for appeals will really lead to the decision becoming effective in the shortest possible time and, as a result, placing the child in a family. However, if it turns out that such a decision does not meet the interests of the child and requires an appeal for his protection, then 10 days for such a procedural action is not enough for the proper preparation of an appeal.</p>
<p>LAW OF UKRAINE ON AUTHORITIES AND SERVICES ON CHILDREN AFFAIRS AND SPECIAL ESTABLISHMENTS FOR CHILDREN</p>		
<p>Article 1. Authorities and services on children affairs and special establishments and institutions that ensure their social protection and prevention of offences.</p> <p>Ensuring social protection of children and prevention of offenses among them shall be entrusted within the defined competence to:</p> <p>the central executive authority, which ensures the formation of state policy in the field of family and children, the central executive authority, that implements the state policy in the field of family and children, the executive authority of the Autonomous Republic of Crimea in the field of family and children, relevant structural units of regional, Kyiv and Sevastopol city, district state administrations, executive authorities of city and district in cities councils;</p> <p>social rehabilitation schools and vocational social rehabilitation schools of education authorities; centers for medical and social rehabilitation of children in health care institutions;</p> <p>special educational institutions of the State Criminal Enforcement Service of Ukraine; shelters for children;</p> <p>centers for social and psychological rehabilitation of children; social rehabilitation centers (children's towns).</p>	<p>Article 1. Authorities and services on children affairs and special establishments and institutions that ensure social protection of children, protection of children's rights and prevention of offenses</p> <p>Performing activities for social protection of children, protection of children's rights and prevention of offenses shall be entrusted within the defined competence to:</p> <p>central executive authorities, which ensure the formation and implementation of the state policy in the field of social policy, social protection of the population, on issues of family and children, health and recreation of children, prevention and countermeasures against domestic violence;</p> <p>the central executive authority, which ensures the formation and implementation of the state policy in the field of adoption and protection of children's rights;</p> <p>the executive authority of the Autonomous Republic of Crimea on family and children, children's services of regional, Kyiv and Sevastopol city state administrations, district, district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils;</p> <p>the guardianship and custody authorities in terms of the exercise of powers and measures in the field of protection of children's rights;</p>	<p>The proposed changes are expedient as they define the entities that protect children's rights.</p> <p>This allows for the correct distribution of tasks between different levels of state authorities and avoiding confusion of competence between different state authorities.</p> <p>In turn, this approach allows covering problematic issues and their solutions at all levels and in accordance with the tasks assigned to these levels.</p> <p>In addition, clarity in the list of state authorities that protect children's rights allows establishing a clear vertical line of subordination and counteracting violations in the field of child protection by addressing higher-level authorities.</p>

	<p>education management authorities, educational institutions, institutions and organizations of the education system;</p> <p>health care authorities, health care agencies and institutions;</p> <p>social protection authorities, social protection agencies and institutions;</p> <p>territorial offices of the central executive authority, which implements the state policy in the field of social protection of the population on issues of provision of social services, social support for the family, children's health and recreation;</p> <p>authorized units of the National Police of Ukraine;</p> <p>juvenile reception centers of the National Police of Ukraine;</p> <p>courts;</p> <p>prosecutor's office;</p>	
	<p>centers for providing free secondary legal assistance;</p> <p>authorized bodies on probation issues; special educational institutions of the State Criminal Enforcement Service of Ukraine;</p> <p>shelters for children;</p> <p>centers for social and psychological rehabilitation of children;</p> <p>centers of social support for children and families;</p> <p>centers for medical and social rehabilitation of children in health care institutions;</p> <p>schools of social rehabilitation and professional schools of social rehabilitation of management authorities in the field of education;</p> <p>social rehabilitation centers (children's towns);</p> <p>social service centers.</p> <p>Other executive power authorities, local self-gov-</p>	

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<p>Other executive authorities, local self-government authorities, enterprises, institutions and organizations, regardless of the form of ownership, individual citizens shall participate, within their competence, in the implementation of social protection and prevention of offenses among children.</p> <p>In this Law, the social protection of children should be understood as a set of measures and means of a socio-economic and legal nature, the implementation of which is entrusted to the entities specified in parts one and two of this article, regarding the ensuring of children's rights to life, development, upbringing, education, medical care, provision of material support.</p>	<p>ement authorities, enterprises, institutions and organizations, regardless of the form of ownership, and citizens of Ukraine shall participate, within their competence, in ensuring the social protection of children and the protection of children's rights.</p> <p>In this Law, the social protection of children and the protection of children's rights shall mean a set of measures, decisions and actions of the entities specified in parts one and two of this Article, on providing the child with social, educational, medical, legal and other services, ensuring the best interests of the child, observing the child's rights defined by the Constitution of Ukraine, the UN Convention on the Rights of the Child and the legislation of Ukraine.</p>	<p>The proposed changes are expedient as they define the entities that protect children's rights.</p> <p>This allows for the correct distribution of tasks between different levels of state authorities and avoiding confusion of competence between different state authorities.</p> <p>In turn, this approach allows covering problematic issues and their solutions at all levels and in accordance with the tasks assigned to these levels.</p> <p>In addition, clarity in the list of state authorities that protect children's rights allows establishing a clear vertical line of subordination and counteracting violations in the field of child protection by addressing higher-level authorities.</p>
<p>Article 2. Basic principles of activities of authorities and services on children affairs, special children's social protection agencies and institutions</p> <p>The activities of authorities and services on children affairs and special children's social protection agencies and institutions shall be carried out on the principles of:</p> <p>...</p> <p>publicity, i.e. systematic informing on the state of affairs regarding the protection of children's rights, offenses among children, the work of the central executive authority that ensures the formation of the state policy on issues of family and children, the central executive authority that implements the state policy in the field of family and children, the executive authority of the Autonomous Republic of Crimea in the field of family and children, children's services, special children's social protection agencies and institutions in open state statistics, mass media;</p> <p>...</p>	<p>Article 2. Basic principles of activities of authorities and services on children affairs, special agencies and institutions that ensure social protection of children, protection of children's rights</p> <p>Activities of authorities and services on children affairs, special agencies and institutions that ensure social protection of children, protection of children's rights, shall be carried out on the principles of:</p> <p>...</p> <p>publicity, i.e. systematic informing on the state of affairs regarding the protection of children's rights, the work of the central executive authority that ensures the formation of and implements the state policy in the field of adoption and protection of children's rights, the executive authority of the Autonomous Republic of Crimea in the field of family and children, children's services, special children's social protection institutions and agencies that protect children's rights, in open state statistical information, mass media;</p> <p>...</p>	<p>This article is a logical continuation of the previous provision, so there are no comments. The detailing of the spheres to which the principles of activity of state authorities are extended (in particular, the protection of children's rights and adoption) does not violate the logic of the proposed legislative changes and emphasizes the main areas of activity of state authorities the activities of which are regulated by this law.</p>
<p>Article 4. The state executive authority implementing the state policy in the sphere of adoption and protection of children's rights, the executive authority of the Autonomous Republic of Crimea in the sphere of family and children, children's affairs services</p>	<p>Article 4. The central executive authority, which ensures the formation of and implements the state policy in the sphere of adoption and protection of children's rights, the executive authority of the Autonomous Republic of Crimea in the sphere of family and</p>	<p>The introduction of the State Children's Service of Ukraine will allow the creation of a separate specialized state authority that will deal with issues of protection of children's rights as a highly specialized relevant entity.</p>

<p>The main tasks of the central executive authority that implements the state policy in the sphere of adoption and protection of children's rights, the executive authority of the Autonomous Republic of Crimea in the sphere of family and children, children's affairs services are:</p> <p>development and implementation, independently or together with relevant executive authorities, local self-government authorities, enterprises, institutions and organizations regardless of the form of ownership, public organizations, of measures to protect the children's rights, freedoms and legitimate interests;</p> <p>coordination of efforts of central and local executive authorities, local self-government authorities, enterprises, institutions and organizations regardless of the form of ownership in solving issues of social protection of children and organizing work to prevent child neglect;</p> <p>ensuring the compliance with the requirements of legislation regarding the establishment of guardianship and custody over children, adoption of them;</p>	<p>children, children's affairs services</p> <p>The Cabinet of Ministers of Ukraine, in accordance with its powers, shall provide general regulation of activities in the field of protection of the children's rights.</p> <p>The State Children's Service of Ukraine shall be the central executive authority that ensures the formation of and implements the state policy in the field of adoption and protection of children's rights.</p> <p>The State Children's Service of Ukraine shall be a central executive authority with a special status, which is entrusted with the exercise of powers to prevent, detect and terminate cases of violation of children's rights, the powers of the competent authority on adoption issues, coordination of the activities of the central executive authority and local self-government authorities, children's affairs services, other children's authorities in matters of adoption and protection of children's rights, implementation of the UN Convention on the Rights of the Child.</p>	<p>At the same time, it is important to distinguish a separate vertical in which the State Children's Service of Ukraine will be the main authority that implements the state policy in the field of protection of rights and interests of the child, while children's affairs services at all levels will be subordinated to it.</p> <p>The option of the system of state authorities, which is proposed in Draft Law, does not differ significantly from the existing one, therefore it is expected that the maximum possible result in the sphere of protection of children's rights will not be achieved.</p>
<p>control over the conditions of maintaining and upbringing children at institutions for orphans and children deprived of parental care, special institutions and agencies of social protection for children, regardless of the form of ownership;</p> <p>registration of children who find themselves in difficult life circumstances, orphans and children deprived of parental care, adopted, placed in foster families, family-type children's homes and social rehabilitation centers (children's towns);</p> <p>carrying out work on social and legal protection of children, prevention of neglect and offenses among them, on social and psychological rehabilitation of the most vulnerable categories of children, control and coordination of activities of children's affairs services;</p> <p>implementation of coordination and methodological support on issues within their competence,</p> <p>activities of central and local executive authorities, local self-government authorities as regards the</p>	<p>The State Children's Service of Ukraine shall:</p> <p>ensure the formation of and implements the state policy in the field of protection of children's rights and adoption;</p> <p>carry out regulatory and organizational-methodical support for the activities of guardianship and custody authorities in relation to children, children's affairs services, other children's authorities in matters of adoption and protection of children's rights, regarding the implementation of guardianship and custody, ensuring the rights and interests of minors and juveniles;</p> <p>coordinate the activities of the central executive authorities on the protection of children's rights, carry out an examination of draft regulatory acts for compliance with the provisions of the UN Convention on the Rights of the Child;</p> <p>coordinate the cooperation of the central executive authorities with the United Nations Children's Fund (UNICEF) in accordance with the established procedure, coordinate the implementation of UNICEF-supported programs in Ukraine;</p>	

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<p>social protection of orphans, children deprived of parental care, persons from among them, as well as ensuring compliance with the legislation on the establishment of guardianship and custody for orphans and children deprived of parental care, their adoption, application of other legally prescribed forms of placement of children; promoting the development of various forms of upbringing for orphans and children deprived of parental care.</p> <p>The central executive authority implementing state policy in the sphere of adoption and protection of children's rights, the executive authority of the Autonomous Republic of Crimea in the sphere of family and children, children's affairs services shall have the right:</p> <p>to make decisions on issues within their competence, which are mandatory for implementation by central executive authorities, their territorial authorities and local state administrations, authorities of the Autonomous Republic of Crimea, local self-government authorities, enterprises, institutions and organizations of all forms of ownership and citizens;</p> <p>to apply, in case of violation of the rights and legitimate interests of children, as well as in matters of providing them with assistance, to the relevant executive authorities, local self-government authorities, enterprises, institutions and organizations, regardless of the form of ownership;</p> <p>to conduct work among children to prevent delinquency; to raise before executive authorities and local self-government authorities the issue of referral of children who find themselves in difficult life circumstances, repeatedly voluntarily left their family and educational institutions to special institutions for children, educational institutions (regardless of the form of ownership);</p> <p>to ensure placement of orphans and children deprived of parental care in family-type children's homes, foster families, placement under guardianship, custody, adoption;</p>	<p>ensure, in accordance with the established procedure, the activities of consultative, advisory authorities, established by the Cabinet of Ministers of Ukraine, on the implementation of the state policy in the field of protection of children's rights;</p> <p>ensure the interaction of central and local executive authorities, local self-government authorities, institutions, enterprises, agencies and organizations, non-governmental organizations and associations on issues of ensuring the rights and interests of minors and juveniles;</p> <p>ensure direct interaction with diplomatic institutions of Ukraine abroad and foreign diplomatic missions in Ukraine on issues of ensuring the rights and best interests of children - citizens of Ukraine abroad, including their return to Ukraine, adoption;</p> <p>carry out an analysis of the effectiveness of the implementation of measures to ensure the best interests of the child, monitoring and evaluation of the results of observing and protecting the rights of the child, implementing the state policy in the field of adoption and protecting the rights of the child;</p> <p>ensure the development and organization of implementation of programs to improve the situation of children, participate in and initiate the development and implementation of programs to support families with children;</p> <p>coordinate and methodologically support the activities of central and local executive authorities, local self-government authorities as regards the protection of the rights of orphans and children deprived of parental care, persons from among of them;</p> <p>carry out methodological support of activities and control over the compliance with the requirements of the legislation regarding the adoption of children by citizens of Ukraine and foreigners, placement of children under guardianship, custody, placement of children in foster families, family-type children's homes, taking away or withdrawal of children from</p>	

<p>to conduct matters related to guardianship and custody over children and adoption of children; to check the state of work on the social and legal protection of children at institutions for orphans and children deprived of parental care, special agencies and institutions of social protection for children regardless of the form of ownership, the state of educational work with children at educational institutions, by place of residence, as well as if necessary- the working conditions of employees younger than 18 years old at enterprises, institutions and organizations regardless of the form of ownership;</p> <p>if necessary, represent the interests of children in courts, in their relations with enterprises, institutions and organizations, regardless of the form of ownership;</p> <p>to invite parents or guardians, custodians, officials to the children's affairs service for a conversation in order to find out the reasons and conditions that led to the violation of children's rights, neglect, commission of offenses, to take measures to eliminate them;</p>	<p>family-type forms of upbringing; ensure the implementation of adoption activities, including centralized registration of orphans and children deprived of parental care, including children who may be adopted, as well as registration of foreigners and citizens of Ukraine, who live outside Ukraine, - candidates for adopters and children adopted by them;</p> <p>ensure the functioning of the data bank on orphans and children deprived of parental care, families of candidates for adoption, guardians, custodians, adoptive parents, foster parents in accordance with the procedure established by the central executive authority, which ensures the formation of state policy in the field of adoption and protection of children's rights;</p> <p>control over the compliance by executive authorities, local self-government authorities, enterprises, institutions and organizations, regardless of the form of ownership, with the requirements of the legislation on the protection of the rights of orphans and children deprived of parental care, placing the children under guardianship and custody, in family-type forms of upbringing and adoption;</p>	
<p>to give consent to the dismissal of employees under the age of 18 at the initiative of the owner of the enterprise, institution and organization regardless of the form of ownership or the body authorized by him;</p> <p>to raise before the executive authorities and local self-government authorities the issue of imposing disciplinary sanctions on officials in the event of their failure to comply with decisions made by the central executive authority that implements the state policy in the field of adoption and protection of children's rights, the executive authority of the Autonomous Republic of Crimea in the field of family and children, children's affairs services;</p> <p>to determine the need of the regions for the creation of special agencies and institutions of social protection for children; to develop and implement their own social programs and support public social programs in order to ensure the protection of the children's rights, freedoms and legitimate interests;</p> <p>to raise before executive authorities and local self-government authorities the issue of bringing to justice the individuals and legal entities, which</p>	<p>conduct work on the civil and legal protection of children, their legal representatives, provide methodical assistance in ensuring provision of legal assistance by local self-government authorities to orphans and children deprived of parental care, to persons wishing to create family-type forms of upbringing, to adopt a child;</p> <p>supervise and coordinate the activities of children's affairs services;</p> <p>organize work on improving the level of professional competence of employees of children's affairs services;</p> <p>ensure drawing up and maintaining state statistics on children in accordance with Ukrainian legislation and international standards.</p> <p>The executive authority of the Autonomous Republic of Crimea in the field of family and children, children's affairs services of regional, Kyiv and Sevastopol city state administrations shall:</p> <p>ensure, within the limits of their powers, the imple-</p>	

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<p>have violated the rights, freedoms and legitimate interests of children in accordance with the law; to visit children who find themselves in difficult life circumstances, are registered with the children's affairs service, at their place of residence, study and work; to take measures for the social protection of children.</p>	<p>mentation of the state policy on the protection of the children's rights and legitimate interests in the region, the cities of Kyiv and Sevastopol, the coordination and methodological support of the activities of local executive authorities, local self-government authorities, territorial offices of central executive authorities as regards the protection of children's rights, including orphans and children deprived of parental care, persons from among them, as well as ensuring the compliance with the legislation on the establishment of guardianship and custody over orphans and children deprived of parental care, their adoption by citizens of Ukraine and foreigners, placement in foster families, family-type children's homes, use of other forms of placement of children provided for by law;</p> <p>supervise the compliance by executive authorities with the requirements of legislation on the protection of rights of children, including orphans and children deprived of parental care;</p> <p>exercise control over the state of implementation by local self-government authorities of delegated powers in the field of children's rights protection;</p> <p>monitor the compliance with children's rights;</p> <p>contribute to the creation of institutions that protect children's rights;</p> <p>implement programs for the prevention of violations of children's rights;</p> <p>ensure, within the limits defined by the legislation, the implementation of adoption activities, including regional registration of orphans and children deprived of parental care, including children who may be adopted;</p> <p>provide candidates for adoptive parents, guardians, custodians, foster parents, parents-educators with information about children who are on the regional register;</p> <p>supervise the control over the conditions of maintaining and upbringing children at institutions with 24-hour stay, foster families, orphans and children</p>	

	<p>deprived of parental care, in the families of guardians, custodians, family-type children's homes and foster families;</p> <p>ensure statistical reporting on children in the region;</p> <p>carry out, within the limits of their competence, the coordination of the activities of district children's affairs services, district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils, provide them with practical and methodical assistance, generalize and spread the best work experience in the protection of children's rights;</p> <p>organize training and improve the professional competence of employees of district, district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils;</p> <p>develop and implement, independently or jointly with the relevant executive authorities, local self-government authorities, enterprises, institutions and organizations of all forms of ownership, non-governmental associations and organizations, programs and measures to protect the children's rights, freedoms and legitimate interests;</p>	
	<p>analyze, within the limits of powers, the state of work on the protection of children's rights and take measures to eliminate shortcomings and restore children's rights;</p> <p>ensure the provision of consultations and clarifications to children, their parents or other legal representatives on the protection of children's rights;</p> <p>within the scope of their powers, provide practical, methodical and consulting assistance to local executive authorities, local self-government authorities, enterprises, institutions and organizations of all forms of ownership, public organizations, and citizens in solving issues related to protection of children's rights;</p> <p>provide organizational and methodological assistance to shelters for children, centers for social and psychological rehabilitation of children, centers for social support of children and families, small group homes operating in the territory of the oblast, the cities of Kyiv and Sevastopol, exercise direct control over the activities of subordinate institutions;</p>	

carry out, within the scope of their competence, control of the maintenance of a single data bank on orphans and children deprived of parental care, families of candidates for adoption, guardians, custodians, foster parents, parents-educators in accordance with the procedure established by the central executive authority, which ensures the formation of state policies in the field of adoption and protection of children's rights;

carry out information and explanatory work on issues within their competence;

take measures to eliminate violations of the legislation on the protection of children's rights.

The children's affairs services of district state administrations shall:

ensure the implementation of the state policy on the protection of children's rights in the territory of the district and the execution of delegated powers of territorial communities on the protection of children's rights by territorial communities;

carry out coordination of the activities of children's affairs services of territorial communities that operate in the territory of the district, provide them with organizational, methodical and practical assistance, monitor the implementation of delegated powers in the field of the protection of children's rights;

check information on violations of children's rights by visiting them at their place of residence (stay), study, work;

carry out an analysis of decisions regarding children, which are made by guardianship and custody authorities, children's affairs services of territorial communities;

exercise control over the timeliness of granting children the status of an orphan, a child deprived of parental care, ensuring the right of such children to

	<p>be brought up in a family, the compliance with the requirements of legislation in adoption and placement of a child under guardianship and custody, placement in family-type children's homes, foster families;</p> <p>carry out the control over the conditions of upbringing of children who stay at children's residential care institutions;</p> <p>ensure the provision of consultations and clarifications to children, their parents and other legal representatives on the protection of children's rights;</p> <p>within the scope of their powers, provide practical, methodical and consultative assistance to local executive authorities, local self-government authorities, enterprises, institutions and organizations of all forms of ownership, public organizations, and citizens in solving issues related to the protection of children's rights;</p> <p>verify the reports on the protection of children's rights of the relevant city, village, town councils, their executive authorities, children's affairs services for the compliance with the Constitution and laws of Ukraine;</p>	
	<p>take measures to identify and eliminate violations of legislation on the protection of children's rights;</p> <p>inform the executive authority of the Autonomous Republic of Crimea in the field of children, children's affairs services of regional state administrations about the state of affairs in the territory of the relevant administrative territorial units/territorial communities, about trends and problems of implementing the state policy in the field of the protection of children's rights, and also report on the activities of children's affairs services of the district state administration.</p> <p>The children's affairs services of district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils shall:</p> <p>ensure the implementation of the state policy and own (self-governing) powers on matters of the protection of children's rights in the territory of district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils;</p> <p>provide legal assistance to children, their parents</p>	

and other legal representatives in resolving issues of adoption, placement of children in families of citizens of Ukraine, deprivation and renewal of parental rights; visiting the child's by a mother/father deprived of parental rights; resolving disputes between parents regarding the child, etc.;

carry out the preparation of case files of children and their legal representatives for consideration by the guardianship and custody authority;

take measures to identify violations and protect the rights of children whose life or health is in danger and who have been left without parental care;

check information about violations of children's rights by visiting them at their place of residence (stay), study, work;

carry out activities to protect the rights of children whose parents refused to take them from a medical institution, abandoned children, found children;

carry out direct management of cases on the protection of children's rights, in particular, orphans, children deprived of parental care, children who find themselves in difficult life circumstances, and other categories of children;

within the limits of the powers defined by the law, provide legal assistance in order to exercise the right of a child to be adopted, placed in a family of citizens of Ukraine, to implement the ability of citizens of Ukraine and foreigners to adopt a child;

ensure the creation of various forms of placement of orphans and children deprived of parental care;

organize the interaction of structural units of district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils, enterprises, institutions, organizations of all forms of ownership located in the territory of the community, to resolve issues of protection of children's rights, including family upbringing, on issues of adoption and placement of orphans and

	<p>children deprived of parental care in foster families, family-type children's homes, transfer of children under guardianship, custody, prevention of child neglect, child abuse, involvement of children in the worst forms of child labor, as well as on the exercise of the child's rights to education, health care, etc.;</p> <p>identify and keep records of children who have suffered as a result of hostilities and armed conflicts, take measures to provide such children with the appropriate status;</p> <p>supervise the state of maintenance and upbringing of children placed under custody or guardianship, placed in foster families, family-type children's homes, the conditions of living and upbringing of adopted children; ensure, within the limits of competence, the implementation of the agreement on the organization of activities of a foster family, a family-type children's home; exercise the control over the conditions of upbringing of children who stay at institutions for children;</p> <p>monitor the living conditions of children who find themselves in difficult life circumstances, take measures to take away children from conditions that pose a threat to the child's life or health;</p> <p>determine the needs of children and provide assistance to children in families who find themselves in difficult life circumstances;</p> <p>raise before the executive power authorities and local self-government authorities, authorities of the National Police of Ukraine, the prosecutor's office, managers of enterprises, institutions and organizations, the issue of holding individuals and legal entities, as well as officials, responsible in accordance with the law in the event that they violate the rights and legitimate interests of children;</p> <p>if necessary, represent the children's interests in court;</p> <p>keep records of children who find themselves in difficult life circumstances;</p> <p>children left without parental care, orphans and children deprived of parental care; adopted children; candidates for guardians, custodians, foster parents,</p>	

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parents-educators of family-type children's homes;

guardians, custodians, foster parents, parents-educators of family-type children's homes; real estate of orphans, children deprived of parental care, which belongs to them by right of ownership;

ensure the maintenance and operation of a data bank on orphans and children deprived of parental care, families of candidates for adoption, guardians, custodians, foster parents, parents-educators in accordance with the procedure established by the central executive authority, which ensures the formation of state policy in the field adoption and protection of children's rights;

ensure the implementation of adoption activities, including carrying out local registration of children who may be adopted;

provide candidates for adoptive parents, guardians, custodians, foster parents, parents-educators of family-type children's homes with information about children who are registered with the children's affairs service, and issue referrals to visit families and institutions in order to establish contact with the child; ensure the preparation of documents for the creation of family-type forms of upbringing and placement of orphans and children deprived of parental care in foster families, family-type children's homes, placement under guardianship, custody;

ensure placement of children in difficult life circumstances, children left without parental care, in institutions of social protection for children, other forms of placement of children;

enroll orphans and children deprived of parental care in small group homes or other residential care institutions;

apply to the National Police authorities to conduct investigative work to establish the place of residence, stay of parents or other representatives of children left without parental care, children deprived of parental care;

	<p>on behalf of the guardianship and custody authority, apply to civil status registration offices for state registration of the birth of a child;</p> <p>give consent to the expulsion of orphans and children deprived of parental care from institutions of general secondary, professional (professional-technical), vocational pre-higher and higher education;</p> <p>take measures in accordance with the law to protect children's property and housing rights, in particular, observe the child's rights during the execution of deeds related to housing, the ownership or right of use of which the children have, during the resolution of disputes regarding the management of the child's property by the parents;</p> <p>eviction of a child; removal of the child from the registration of the place of residence; recognition of the child as having lost the right to use residential premises;</p> <p>prepare petitions for entering of orphans and children deprived of parental care in the social housing register and in the register of citizens who need to improve housing conditions;</p>	
	<p>take measures in accordance with the legislation to resolve disputes between parents regarding the name, surname of the child, the participation of one of the parents in upbringing of the child, determination of the child's place of residence, management of the child's property;</p> <p>take measures within their competence to return children left without parental care, orphans and children deprived of parental care, who are citizens of Ukraine, to Ukraine;</p> <p>ensure the implementation of measures to protect the rights of a child separated from his family;</p> <p>take measures within their competence to return children separated from their families, including foreign children, to their place of permanent residence;</p> <p>in accordance with the procedure established by law, take measures to confirm the child's place of residence when resolving the issue of his temporary departure outside Ukraine;</p>	

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	<p>collect materials, ensure their preliminary consideration and prepare opinions and draft decisions of district in the cities of Kyiv and Sevastopol state administrations, executive committees of city, town, village councils on issues related to the protection of children's rights, granting status, placement of orphans and children deprived of parental care, resolution of disputes between parents regarding the child, etc.;</p> <p>prepare and submit statistical reports on children in accordance with the established procedure;</p> <p>study the need and submit proposals for the creation of institutions that protect children's rights in the community;</p> <p>carry out control over the targeted spending of child support in accordance with the established procedure;</p> <p>prepare drafts of lawsuits and opinions of the guardianship and custody authority for submission to judicial authorities, represent the guardianship and custody authority in court hearings during consideration of cases concerning children;</p> <p>develop and implement, independently or together with other structural units of the city, town, village council, enterprises, institutions and organizations regardless of the form of ownership, non-governmental organizations, measures and programs aimed at improving the situation of children, the protection of children's rights, and also supervise the implementation of such measures;</p> <p>ensure the fulfillment of other powers defined by law.</p>	
	<p>Regulations on the State Children's Service of Ukraine, typical regulations on children's affairs services of regional, Kyiv and Sevastopol city, district, district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils shall be approved by the Cabinet of Ministers of Ukraine.</p>	<p>The proposed provision details the regulation of the Service's activities, which is expedient for a state authority.</p> <p>The proposed provision is of a reference nature and logically leads to a by-law, which will reflect in detail all</p>

		<p>issues related to the State Children's Service of Ukraine.</p> <p>This provision allows eliminating the accumulation of norms in one regulation, which effects positively on its perception.</p>
	<p>The executive authority of the Autonomous Republic of Crimea in the field of family and children, children's affairs services of regional, Kyiv and Sevastopol city, district, district in the cities of Kyiv and Sevastopol state administrations shall be legal entities under public law, have their own letterhead, seal bearing the State Coat of Arms of Ukraine and accounts in the State Treasury authorities of Ukraine.</p>	<p>The above is expedient and urgent, as today there are many comments on the organizational forms and legislative regulation of guardianship and custody authorities.</p>
	<p>Children's affairs services of city, town, village councils shall be separate structural units of the respective councils, have their own letterhead and seal, type of structural unit (department, directorate, office, sector). The issue of assigning the status of a legal entity under public law to children's affairs services of city, town, village councils shall be determined by the decision of the relevant council.</p>	<p>The addition does not contain comments on our part, it is a logical continuation of the previous paragraph.</p>
<p>The central executive authority, which implements the state policy on the issues of family and children, shall control the activities of the executive authority of the Autonomous Republic of Crimea in the field of family and children. Central and local executive authorities, local self-government authorities, enterprises, institutions and organizations, regardless of the form of ownership, officials shall, within the time limit determined by the executive authority implementing the state policy in the field of adoption and protection of children's rights, the executive authority of the Autonomous Republic of Crimea in the field of family and children, relevant children's services, inform on the measures taken to execute the decisions taken by them.</p>	<p>The children's affairs services of the district, district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils shall be subordinate to the heads of the relevant state administrations, city, town, village councils, accountable to and controlled by (in terms of delegated powers) the children's affairs services of the respective cities, district, regional state administrations, the central executive authority, which provides the formation of and implements the state policy in the field of adoption and protection of children's rights. Children's affairs services of the regional, Kyiv and Sevastopol city state administrations shall be subordinate to the heads of the respective state administrations, accountable to and controlled by the central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights.</p>	<p>Regarding mentioned herein it is recommendable to remove such subordination and establish it for the State Children's Service of Ukraine. You can find more details about this in the main document</p>
<p>The number of employees of the district, city, district in cities children's affairs services shall be established on the basis of one service employee per no more than 1 thousand children living in the district and per no more than 2 thousand children living in city, district of the city.</p>	<p>The number of employees of the children's affairs services of the district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils shall be established on the basis of one service employee per 1 thousand children living in the countryside ter-</p>	<p>The proposed changes are appropriate, however, in our opinion, the number of employees should be increased, at least until the situation with the number of children who find themselves in difficult life circumstances improves.</p>

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
<p>The number of employees of the children's affairs of the executive bodies of the village, town councils in the respective territorial communities shall be established on the basis of one service employee per no more than 1 thousand children, but no less than one service employee for the united territorial community.</p>	<p>ritory and per 1,5 thousand children living in the city, but no less than one service employee for the territorial community, if it has less than 1 thousand children living in it.</p> <p>The number of employees of the children's affairs services of the district state administrations shall be established on the basis of one service employee per 5 thousand children living in the territory of the relevant administrative-territorial unit, but no less than three service employees if the district has less than 15 thousand children living in it.</p>	
<p>The central executive authority that implements the state policy in the field of adoption and protection of children's rights, the executive authority of the Autonomous Republic of Crimea in the field of family and children, services for children shall have the rights of a legal entity. The Cabinet of Ministers of Ukraine shall approve the standard regulation on the children's service.</p>	<p>The number of employees of the children's services of the regional, Kyiv and Sevastopol city state administrations shall be established on the basis of one service employee per 15,000 children living in the territory of the relevant administrative-territorial unit.</p>	<p>We believe that the number of employees should be increased, at least until the situation with the number of children who find themselves in difficult life circumstances improves.</p>
<p>Article 9. Centers of medical and social rehabilitation of children</p>		
<p>Centers for medical and social rehabilitation of children shall be established in the state health care system according to the determination of the specially authorized central executive authority for family, children and youth affairs and the central executive authority that ensures the formation of the state policy in the field of health care, for children who use alcohol and drugs, as well as for children who may not be sent to social rehabilitation schools and professional social rehabilitation schools because of their health.</p> <p>The main task of medical and social rehabilitation centers shall be to create conditions and ensure the treatment of children from alcoholism, drug addiction, toxicomania, and their psychosocial rehabilitation and correction.</p> <p>...</p>	<p>Centers for the medical and social rehabilitation of children shall be established by local self-government authorities in agreement with the central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights, and the central executive authority, which ensures the formation of state policy in the field of health care, for children who, because of their state of health, may not be sent to other institutions of social protection or be placed in family-type forms of education.</p> <p>The main task of medical and social rehabilitation centers is to create and ensure conditions for psycho-social rehabilitation of children and correction of child's development characteristics.</p>	<p>The specified point is extremely important and adjusted according to the conditions of today.</p> <p>In the conditions of martial law, children especially need the psycho-emotional rehabilitation and overcoming the consequences of stress and injuries that occurred during the war.</p> <p>The expediency of changes in the detailing of entities that create such centers is also worthy of attention, which is consistent with other proposed changes.</p>

Article 11'
Centers for social and psychological rehabilitation of children

<p>Centers for social and psychological rehabilitation of children shall be formed, reorganized and liquidated by the Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city, district, district in the cities of Kyiv and Sevastopol state administrations, executive authorities of city and district councils in cities and be subordinate to the relevant children's affairs services for long-term (inpatient) or day stay of children aged 3 to 18 who find themselves in difficult life circumstances, providing them with complex social, psychological, pedagogical, medical, legal and other types of assistance.</p> <p>The period of the child's stay in the center shall be determined by the psychological-medical-pedagogical commission in agreement with the relevant children's affairs service.</p>	<p>Centers for social and psychological rehabilitation of children shall be created, reorganized and liquidated by the Council of Ministers of the Autonomous Republic of Crimea, regional, district, city, town, village councils and be subordinated to the relevant children's affairs service for long-term (inpatient) or day stay of children aged 3 to 18 years, who find themselves in difficult life circumstances, providing them and their parents with complex social, psychological, pedagogical, medical, legal and other types of assistance.</p> <p>The term of the child's stay in the center shall be determined by the institution's administration in agreement with the children's affairs service of the founder of such a center.</p>	<p>The proposed changes are expedient, as they make it possible to exactly clarify the structure and subordination of state authorities that take care of the issue of centers.</p> <p>It is appropriate to supplement the provision with a new subject (parents) who are provided with the help of the centers, since there are requests for such help from both children and parents.</p> <p>As for the period of the child's stay in the center and the involvement of the children's service in its determination, the specified change is necessary, since the employees of such services have complete information about the children they work with.</p>
<p>Article 14. Staff support for the activities of children's authorities and services and special agencies and institutions of social protection for children</p> <p>In order to properly organize the activities of children's authorities and services and special agencies and institutions of social protection for children</p>	<p>Article 14. Staff support for the activities of children's authorities and services, special agencies and institutions that provide social protection of children, protection of children's rights, prevention of offenses.</p> <p>In order to properly organize the activities of children's authorities and services, special agencies and institutions that carry out social protection of children, protection of children's rights, prevention of offenses, the central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights, shall provide special training and retraining of chiefs and specialists (teachers, social psychologists, sociologists, lawyers, medical workers and law enforcement officers).</p>	<p>There are no comments on the specified provision, as its content is consistent with other changes proposed by Draft Law.</p>
<p>Article 16. The control over the activities of children's authorities and services, special agencies and institutions of social protection for children</p> <p>The Cabinet of Ministers of Ukraine, the central executive authority that implements the state policy in the field of adoption and protection of children's rights, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations, local self-government authorities shall, within their competence, exercise control over the activities of</p>	<p>Article 16. The control over the activities of children's authorities and services, special agencies and institutions that ensure social protection of children, protection of children's rights, prevention of offenses</p> <p>The Cabinet of Ministers of Ukraine, the central executive authority that ensures the formation of and implements the state policy in the field of adoption and protection of children's rights, the Council of Ministers of the Autonomous Republic of Crimea, local state administrations shall, within their competence, exercise</p>	<p>There are no comments on the specified provision, as its content is consistent with other changes proposed by Draft Law.</p>

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
children's authorities and services, special agencies and institutions of social protection for children.	control over the activities of children's authorities and services, special agencies and institutions that ensure social protection of children, protection of children's rights, crime prevention.	
<p>LAW OF UKRAINE ON PROTECTION OF CHILDHOOD</p> <p>Article 1. Definition of the terms</p>		
None	rights of the child - the totality of rules of Ukrainian legislation in the field of family, civil and other legal relations that determine and protect the personal property and non-property rights and interests of the child;	The article was supplemented with a new paragraph after the third paragraph. In our opinion, the legislative consolidation of the concept of "child's rights" is an important and necessary innovation of Draft Law 7087.
None	family forms of upbringing - foster family, family-type children's home, guardianship (custody) over a child, i.e. placement of orphans and children deprived of parental care in families of citizens of Ukraine by local executive authorities, local self-government authorities, provided for by the laws of Ukraine with their exercise of the powers of the child's legal representative. The maintenance of children in such families shall be financed from the state budget and other sources not prohibited by law.	The article was supplemented with a new paragraph after the fifth paragraph. Such changes are consistent with Ukraine's striving for a complete reform of the care system and the introduction of family forms of education as the basis of the deinstitutionalization process.
children deprived of parental care- children who were left without the care of parents in connection with the depriving them of parental rights, taking away from parents without deprivation of parental rights, recognition of parents as missing persons or incapacitated, declaring them dead, serving sentences in places of deprivation of liberty and their detention during the investigation, the search for them by the National Police of Ukraine, due to the lack of information about their whereabouts, the long-term illness of their parents, which prevents them from fulfilling their parental duties, as well as children separated from their families, abandoned children, children whose parents are unknown, children abandoned by their parents, children whose parents do not fulfill their parental duties for reasons that cannot	children deprived of parental care- children who were left without the care of parents in connection with the depriving them of parental rights, taking away from parents without deprivation of parental rights, recognition of parents as missing persons or incapacitated, declaring them dead, serving sentences in places of deprivation of liberty and their detention during the investigation, their search by the National Police of Ukraine due to the lack of information about their whereabouts, the long-term illness of their parents, which prevents them from fulfilling their parental duties, as well as children separated from their families, abandoned children, children whose parents are unknown, children who have been abandoned by their parents, children whose parents do not fulfill their parental duties to bring up and maintain the child due	The tenth paragraph of the article is explicitly worded in accordance with the realities and current situations in the country, including in relation to the ongoing war and hostilities for the return of the legal territories of Ukraine.

<p>be ascertained in connection with the parents' stay in the temporarily occupied territory of Ukraine or in the areas of the anti-terrorist operation, the implementation of measures to ensure national security and defense, counteracting and deterring the armed aggression of the Russian Federation in the Donetsk and Luhansk oblasts, and homeless children.</p>	<p>to the parents' stay in the territories located in the area of military (combat) operations or in a temporary occupations, encirclements (blockades), children whose parents are wanted as missing or recognized as missing under special circumstances, children whose parents are prisoners of war (held captive by the aggressor state), children whose parents are deprived of personal freedom (detained, take as a hostage) by the authorities of the aggressor state (occupation forces or occupation administrations of the aggressor state), and homeless children.</p>	
<p>Article 3. Basic principles of the protection of childhood</p>		
<p>None</p>	<p>Observance and protection of the rights and freedoms of every child shall be a national interest of the state.</p>	<p>The article was supplemented with a new part after the first part. Enshrining the principle of protection and observance of children's rights at the highest state level is undoubtedly a positive step towards necessary and urgent changes in this sector of public policy in Ukraine.</p>
<p>None</p>	<p>Observance and protection of the rights and freedoms of every child shall be a national interest of the state.</p>	<p>The article was supplemented with a new part after the first part. Enshrining the principle of protection and observance of children's rights at the highest state level is undoubtedly a positive step towards necessary and urgent changes in this sector of public policy in Ukraine.</p>
<p>Article 30. Prohibition of children's participation in hostilities and armed conflicts</p>		
<p>The central executive authority, which ensures the formation of and implements the state family and child policy, shall ensure the implementation of extensive information and explanatory work on the protection of children from participation in hostilities and armed conflicts, encourage society, public associations and non-governmental organizations, mass media for educational work among children, their parents, other legal representatives.</p>	<p>The central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights, shall ensure the implementation of extensive information and explanatory work on the protection of children from participation in hostilities and armed conflicts, encourage society, public associations and non-governmental organizations, mass media to carry out educational work in the field of protection of children's rights among children, their parents, other legal representatives.</p>	<p>These changes are a logical continuation of the implementation of the principle of observance and protection of children's rights at all possible levels, including the protection of children from participation in hostilities and armed conflicts.</p>

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
Article 30'. Protection of children who are in the zone of hostilities and armed conflicts and children who have suffered as a result of hostilities and armed conflicts		
<p>The central executive authority, which ensures the formation of and implements the state family and child policy, shall carry out measures aimed at the reunification of the child with the family.</p> <p>The central executive authority, which ensures the formation of and implements the state policy, the central executive authority, which ensures the formation of and implements the state policy in the fields of education and science, the central executive authority, which ensures the formation of and implements the state policy in the field of health care, shall create conditions for medical, psychological, pedagogical rehabilitation and social reintegration of children who suffered as a result of hostilities and armed conflicts.</p>	<p>The central executive authority, which ensures the formation of and implements the state policy in the sphere of adoption and protection of children's rights, shall carry out regulatory support of issues of protection of the rights of children who are in the zone of hostilities and armed conflicts, and children who have suffered as a result of hostilities and armed conflicts, implement measures aimed at reuniting the child with the family.</p> <p>The central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights, the central executive authority, which ensures the formation of and implements the state policy in the field of education and science, the central executive authority, which ensures the formation of and implements the state policy in the field of health care, the central executive authorities, which ensure the formation of and implement the state policy in the field of social policy, social protection of the population, family and children, health and recreation of children, prevention and counteraction of domestic violence, shall create conditions for medical, psychological, pedagogical rehabilitation and social reintegration of children who suffered as a result of hostilities and armed conflicts.</p>	<p>The first sentence of the fifth part is stated in the new wording.</p> <p>These changes are a logical continuation of the implementation of the principle of observance and protection of children's rights at all possible levels, including the protection of children from participation in hostilities and armed conflicts.</p> <p>These changes also detail the tasks of the relevant state bodies in terms of protecting children who have suffered as a result of hostilities and armed conflicts.</p>
THE LAW OF UKRAINE ON ENSURING ORGANIZATIONAL AND LEGAL CONDITIONS FOR SOCIAL PROTECTION OF ORPHANS AND CHILDREN DEPRIVED OF PARENTAL CARE		
<p>Article 10. Delineation of the powers of central executive authorities regarding the social protection of orphans, children deprived of parental care, as well as persons from among them</p> <p>The central executive authority, which ensures the formation of state family and children policy, shall carry out coordination and methodological support of the activities of central and local executive authorities and local self-government authorities in relation to the social protection of orphans, children deprived of</p>	<p>Article 10. Delineation of the powers of central executive authorities regarding the social protection, protection of the rights of children- orphans and children deprived of parental care, as well as persons from among them.</p> <p>The central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights, shall monitor the results of the implementation of the state policy in the field of protection of children's rights, de-</p>	<p>The proposed wording specifies the functions of the main central executive authorities, which provide organizational and legal conditions for the social protection of orphans and children deprived of parental care.</p> <p>We evaluate such changes positively.</p>

<p>parental care, persons from among them, and also ensure the compliance with the legislation on the establishment of guardianship and custody for orphans and children deprived of parental care, their adoption, and the use of other forms of placement of children provided for by law.</p>	<p>velop proposals for its adjustment, provide regulatory and legal support for the activities of guardianship and custody authorities, on issues of adoption and family placement of orphans and children deprived of parental care, social protection and protection of the rights of orphans and children deprived of parental care, persons from among them.</p> <p>The central executive authority, which ensures the formation of and implements the state policy in the field of social policy, shall manage in the field of social work, ensure the provision of state social assistance, coordinate the activities of local state administrations, local self-government authorities and social service providers regarding the implementation of state policy in the field of provision of social services for orphans and children deprived of parental care, families with children, children with disabilities.</p> <p>The central executive authority, which ensures the formation of state policy in the field of education and science, shall create conditions for orphans and children deprived of parental care, persons from among them to get preschool, full general secondary, extra-curricular, specialized, vocational (vocational-technical) education, inclusive education.</p> <p>The central executive authority, which ensures the formation of the state policy in the field of health care, shall ensure the exercise of the child's right to health care, qualified medical assistance at state and communal health care institutions, contribute to the creation of safe conditions for the life and healthy development of the child.</p>	
<p>Article 11. Guardianship and custody authorities</p>		
<p>Guardianship and custody authorities are district, district in the cities of Kyiv and Sevastopol local state administrations, executive authorities of city or district in cities, village, town councils.</p> <p>Social protection and protection of children's right shall be carried out by district, district in the cities of Kyiv and Sevastopol local state administrations, executive authorities of city, district in cities, village, town councils within their competence.</p>	<p>Guardianship and custody authorities are district in the cities of Kyiv and Sevastopol state administrations, executive committees of city, town, village councils.</p> <p>Social protection of children and protection of children's rights shall be carried out within their competence by district in the cities of Kyiv and Sevastopol state administrations, executive committees of city, town, and village councils.</p>	<p>Part two.</p> <p>Part three.</p> <p>These changes detail the definition of the guardianship and custody authority.</p>

Article 13.
Data bank on orphans and children deprived of parental care

The children's affairs service shall ensure the creation and maintenance of a data bank on orphans and children deprived of parental care.

The procedure for maintaining a data bank on orphans and children deprived of parental care shall be approved by the central executive authority, which ensures the formation of the state family and children policy.

The main purpose of creating and maintaining a data bank on orphans and children deprived of parental care is to improve the social protection of such children, primarily in relation to the process of taking away and placement of such children and persons from among them, the exercise of their right to healthy development and family upbringing, increasing the effectiveness of executive authorities, improving the statistical recording of such children in the interests of the children themselves.

The data bank on orphans and children deprived of parental care shall be created on the basis of data from registration and statistical cards, the procedure for keeping and using of which is determined in accordance with legislation.

Children's affairs **services of district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils shall ensure** maintaining the data bank on orphans and children deprived of parental care.

The procedure for maintaining the data bank on orphans and children deprived of parental care shall be approved by the central executive authority, **which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights.**

The main purpose of creating and maintaining the data bank on orphans and children deprived of parental care **is** to improve the protection of the **rights** of such children, **primarily** the process of taking them away and placement of **them**, the exercise of the child's right to healthy development and family upbringing, increasing the efficiency of the activities of **guardianship and custody** authorities, improvement of statistical recording of such children in the interests of the children themselves.

The data bank on orphans and children deprived of parental care shall be created on the basis of data from registration and statistical cards, the procedure for keeping and using which is determined **by the central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights.**

The specified changes should help the proper maintenance of the data bank on orphans and children deprived of parental care.

Article 14. Data bank on families of potential adopters, guardians, custodians, adoptive parents, foster parents

Keeping a data bank on the families of potential adopters, guardians, custodians, foster parents, parents-educators shall be entrusted to the relevant local executive authorities and local self-government authorities.

Article 14. Data bank on families of **candidates** for adoption, guardians, custodians, foster parents, parents-educators

The data bank on the families of **candidates for adoptive parents, guardians, custodians, foster parents, parents-educators shall be maintained by the children's affairs services of district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils, and the central executive authority, which ensures the formation of and implements the**

These changes are appropriate because they are consistent with other changes proposed by Draft Law.

This should help the proper maintenance of the data bank on families of adoptive parents, guardians, custodians, foster parents, parents-educators.

<p>Potential guardians, custodians, foster parents, parents-educators, if necessary, are obliged to undergo a training course on the problems of raising orphans and children deprived of parental care, according to the program approved by the central executive authority, which ensures the formation of state family and children policy, until the moment of handing over the children to them for upbringing and for living together.</p>	<p>state policy in the field of adoption and protection of children's rights, in accordance with the procedure established by such a central executive authority.</p> <p>The data bank on the families of candidates for adoptive parents, guardians, custodians, foster parents, parents-educators shall also include information on persons deprived of parental rights, if such rights were not renewed, who were adoptive parents, guardians, custodians, foster parents, parents-educators and through their fault, the adoption was canceled, custody or guardianship was terminated, the child was removed from the foster family or family-type children's home.</p> <p>Candidates for adoption, guardians, custodians, foster parents, parents-educators who are not relatives of a child who is placed under custody, guardianship, placed in a foster family, a family-type children's home, are required to complete a training course on upbringing children- orphans and children deprived of parental care, in accordance with the procedure and program approved by the central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights.</p>	
<p>Article 16. Registration and statistical card of an orphan and a child deprived of parental care</p>		
<p>The central executive authority, which ensures the formation of the state family and children policy, shall develop and approve a sample registration and statistical card of an orphan and a child deprived of parental care.</p>	<p>The central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights, shall develop and approve a sample registration and statistical card of an orphan and a child deprived of parental care.</p>	<p>The first sentence of the first part is set out in the new wording in view of the introduction of a new central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights.</p>
<p>Article 17. Social and psychological adaptation of orphans and children deprived of parental care, persons from among them</p>		
<p>In order to prepare orphans and children deprived of parental care, persons from among them for the independent life, their social and psychological adaptation shall be entrusted to social service centers for families, children and youth. The central executive authority,</p>	<p>In order to prepare orphans and children deprived of parental care, persons from among them for independent life, their social and psychological adaptation shall be entrusted to social services centers.</p>	<p>There are no comments on the specified provision, as its content is consistent with other changes proposed by Draft Law.</p>

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<p>which ensures the formation of the state family and children policy, together with the central executive authority, which ensures the formation of state policy in the field of health care, the central executive authority, which ensures the formation of state policy in the field of education and science, shall ensure the development of comprehensive programs of individual psychological, rehabilitation and correctional assistance for orphans and children deprived of parental care, persons from among them, as well as children who find themselves in difficult life circumstances and need such assistance.</p> <p>Social service centers shall provide legal, psychological and social assistance to orphans and children deprived of parental care, persons from among them, as well as their biological parents, guardians, custodians, foster parents, parents-educators, adoptive parents and mentors.</p>	<p>The central executive authority, which ensures the formation of and implements the state policy in the sphere of adoption and protection of children's rights, together with the central executive authority, which ensures the formation of the state policy in the field of health care, the central executive authority, which ensures the formation of the state policy in in the field of education and science, the central executive authority, which ensures the formation of and implements the state policy in the field of social policy, shall ensure the drafting of comprehensive programs of individual psychological, rehabilitation and correctional assistance for orphans and children deprived of parental care, persons from among them, as well as children who find themselves in difficult life circumstances and need such assistance.</p> <p>Social service centers shall provide legal, psychological and social assistance to orphans and children deprived of parental care, persons from among them, as well as their biological parents, guardians, custodians, foster parents, parents-educators, adoptive parents and mentors.</p> <p>....</p>	
<p>LAW OF UKRAINE ON LOCAL SELF-GOVERNMENT IN UKRAINE</p> <p>Article 1. Basic terms used in this Law</p>		
None	<p>powers of the guardianship and custody authority are special powers and procedures provided for by the laws of Ukraine to identify, represent and ensure the legal rights and interests of children and adult individuals who, due to their age and health, cannot independently exercise their rights and perform their duties.</p>	The first part of Article 1, after the eleventh paragraph, has been supplemented with a new paragraph detailing the concept of powers of the guardianship and custody authority.
None	<p>2. Executive committees of village, town, and city councils are guardianship and custody authorities, authorized to protect the rights and legitimate interests of children, as well as adult individuals who need guardianship and custody.</p>	Article 11, after the first part, is supplemented with a new part, as its content is consistent with other changes proposed by Draft Law.

Article 12.
Village, town, city mayor

3. The village, town, city mayor shall head the executive committee of the corresponding village, town, city council, presides over its meetings.

3. The village, town, and city mayor shall head the executive committee of the respective village, town, and city council, preside over its meetings, and **head the guardianship and custody authority.**

There are no comments on the specified provision, as its content is consistent with other changes proposed by Draft Law.

Article 34.
Powers in the field of social protection of the population

1. The powers of the executive authorities of village, town, city councils shall include:

a) own (self-governing) powers:
...

2) deciding, in accordance with the legislation, on issues of providing assistance to disabled persons, veterans of war and labor, families of deceased (deceased or recognized as missing) servicemen, as well as servicemen released from active duty (except conscripts and military servicemen upon conscription of officers) or retired, persons with disabilities since childhood, large families in the construction of individual residential buildings, carrying out capital repairs of housing, in purchase of building materials; allocation of land plots for individual construction, horticulture and vegetable gardening to the specified persons on a priority basis;

...

b) delegated powers:

2) ensuring the implementation of measures provided for by law to improve the housing and living conditions of disabled persons, war and labor veterans, citizens rehabilitated as victims of political repression, military personnel, as well as military personnel released from active duty or retired, families who have lost their breadwinner, large families, elderly citizens who need care at home, to placement in residential homes for persons with disabilities and elderly citizens who need it, children left without parental care, for upbringing in the families of citizens;

1. The powers of the executive authorities of village, town, city councils shall include:

a) own (self-governing) powers:
...

2) deciding, in accordance with the legislation, on issues of providing assistance to persons with disabilities, veterans of war and labor, families of deceased (deceased or recognized as missing) servicemen, as well as servicemen released from active duty (except conscripts and military servicemen upon conscription of officers) or retired, persons with disabilities since childhood, large families, **orphans and children deprived of parental care, persons from among them** in the construction of individual residential buildings, carrying out capital repairs of housing, in the purchase of building materials; allocation of land plots for individual construction, horticulture and vegetable gardening to the specified persons on a priority basis;

...

b) delegated powers:

2) ensuring the implementation of measures provided for by law to improve housing and living conditions of **orphans and children deprived of parental care, persons from among them**, disabled persons, war and labor veterans, citizens rehabilitated as victims of political repression, military personnel, and as well as servicemen released from active duty or retired, families who have lost a breadwinner, large families, elderly citizens who need care at home, to placement in residential homes for persons with disabilities and elderly citizens who need it;

The proposed changes do not contain comments, as they allow expanding the power to protect children's rights on the ground.

It is expected that the aforementioned will allow deepening the work with families at the level of village, town and city councils and more effective implementing of not only the protection of children's rights, but also the prevention of their violation.

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
<p>2¹) solving, in accordance with the legislation, the issues of providing social services to individuals and families with children who find themselves in difficult life circumstances and need outside help, ensuring maintenance and education of children who find themselves in difficult life circumstances;</p>	<p>2¹) solving, in accordance with the legislation, the issues of providing social services to individuals and families with children who find themselves in difficult life circumstances and need outside help, children who find themselves in difficult life circumstances, orphans and children deprived of parental care, and families in which they are brought up, persons from among orphans, children deprived of parental care;</p>	
<p>None</p>	<p>Article 34¹ Implementation of activities of the guardianship and custody authority (related to the protection of the rights of the child)</p> <p>1. The following powers fall under the responsibility of executive committees of village, town, and city councils:</p> <p>1) own (self-governing) powers:</p> <p>exercising the powers of the guardianship and custody authority in relation to children;</p> <p>provision of legal assistance to parents and children regarding the exercise of parental rights and duties, in particular by coordinating the fulfillment by each subject of the provision of medical, social, and legal services of the powers to ensure the rights of the child;</p> <p>implementation of activities related to the protection of the rights of children living in the territory of the territorial community;</p> <p>in cases provided for by law, exercising the powers of the child's legal representative;</p> <p>consideration of reports on children whose parents evade the fulfillment of parental duties (commit violence against children, mistreat children, refuse to provide the child with medical care or refuse to take the child from a health care facility, etc.);</p> <p>implementation of measures to protect the rights of a child left in the maternity ward, another health care institution, a child whom the parents or other</p>	<p>Currently, the question remains open as to how the State Children's Service of Ukraine will monitor the compliance by guardianship and custody authorities (executive committees of village, town, city councils) with the requirements of the relevant legislation in terms of exercising their own (self-governing) powers in the field of protection of children's rights.</p>

	<p>relatives refused to take, an abandoned or found child, ensuring registration of the birth of such a child and submission of information about him to the civil registry office at the place of detection of such a child, immediate placement of children left without parental care;</p> <p>implementation of measures to establish the child's identity, place of residence, information about parents or persons who replace them, other relatives, their place of residence (stay) and organization of work to return the child to be raised in a family or institution or give such a child the status of a child - an orphan or a child deprived of parental care;</p> <p>identifying, selecting, registering, placing and ensuring the rights of children left without parental care, children who find themselves in difficult life circumstances, children whose life or health is threatened;</p> <p>implementation of activities to resolve disputes between parents regarding the determination of motherhood, paternity, registration of a child's birth, upbringing, determination of the child's place of residence, regarding participation in the upbringing of a child of one of the parents who lives separately from the child, as well as disputes between children and parents;</p>	
	<p>representation of the child's interests in court hearings, including in the case of taking away a child with or without deprivation of parental rights;</p> <p>ensuring the establishment of guardianship and custody for orphans and children deprived of parental care, the use of other forms of placement of orphans and children deprived of parental care;</p> <p>implementation of activities for the protection of housing and property rights of children;</p> <p>submission of opinions to the court in cases provided for by law in the case of court consideration of cases concerning children, protection of the rights and legitimate interests of the child;</p> <p>ensuring the implementation of control over the targeted use of child support, measures to prevent and counter domestic violence;</p> <p>ensuring protection of the rights of children separated</p>	

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
	<p>from their families;</p> <p>ensuring, within the scope of competence, the return to Ukraine of children left without parental care, orphans and children deprived of parental care who are citizens of Ukraine and whose place of origin is a territorial community;</p> <p>ensuring the implementation of agreements on the organization of the activities of a foster family, a family-type children's home, in particular, the implementation of social support for such families;</p> <p>creation of children's services that directly ensure the management of cases and coordination of activities in relation to children, in particular, orphans and children deprived of parental care, children who find themselves in difficult life circumstances, children who have suffered as a result of military actions and armed conflicts, as well as take measures provided for by law in the field of prevention and counteraction of homelessness, domestic violence against children and with the participation of children, etc. The type of the children's service as a structural unit and its status as a legal entity under public law shall be determined by the local council;</p> <p>provision of practical, methodical and consulting assistance to local executive authorities, local self-government authorities, enterprises, institutions and organizations of all forms of ownership, public organizations, and citizens within their powers in solving issues related to the protection of children's rights;</p> <p>ensuring the execution of other powers defined by law;</p> <p>2) delegated powers:</p> <p>immediate taking away of the child from the parents or persons who replace them, if there is a direct threat to the child's life or health;</p> <p>applying to the court with lawsuits to deprive the parents or one of them of their parental rights or to</p>	

	<p>take the child away from the mother/father without depriving them of their parental rights, other lawsuits regarding the protection of the child's rights, representing the child's interests in court; detection, granting of status, placement of orphans and children deprived of parental care;</p> <p>carrying out the activities defined by the legislation regarding the adoption and placement of children in family-type forms of upbringing, entering information about orphans and children deprived of parental care into the unified data bank about orphans and children deprived of parental care, families of candidates for adoptive parents, guardians, custodians, foster parents, parents-educators in accordance with the procedure established by the central executive authority, which ensures the formation of the state policy in the field of adoption and protection of children's rights;</p> <p>placement of orphans and children deprived of parental care under guardianship, custody, placement in a foster family, family-type children's home, creation of foster families, family-type children's homes;</p>	
	<p>giving consent for the adoption of a child, if the guardian or custodian has not given such consent;</p> <p>monitoring the conditions of maintenance, education, and upbringing of an adopted child, a child placed under guardianship, custody, a child placed in a foster family, a family-type children's home;</p> <p>provision of legal assistance to orphans and children deprived of parental care, their legal representatives, execution of powers regarding maintenance and upbringing of such children;</p> <p>checking the conditions of maintaining and upbringing of children in families, including those who find themselves in difficult life circumstances, in relation to which a notification has been received about a possible violation of the child's rights, taking measures to immediately take away the child if there is an immediate threat to life or health of the child;</p> <p>ensuring the execution of other powers defined by law.</p>	

Current version of laws of Ukraine	Wording of Draft Law 7087 awaiting signature of the President of Ukraine	Comments and notes of AGA Partners
<p>Article 38. Powers to ensure legality, rule of law, protection of rights, freedoms and legitimate interests of citizens</p>		
<p>2. In addition to the powers specified in paragraph “b” of the first part of this article, the executive authorities of city (with the exception of cities of district importance) councils shall be responsible for:</p>	<p>2. In addition to the powers specified in paragraph “b” of the first part of this article, the executive authorities of city (with the exception of cities of district importance) councils shall be responsible for:</p>	<p>The specified changes should help the proper maintenance of the data bank on orphans and children deprived of parental care.</p>
<p>LAW OF UKRAINE On Prosecutor’s Office</p> <p>Article 2. Functions of Prosecutor’s Office</p>		
<p>1. The prosecutor’s office shall be entrusted with the following functions:</p> <p>1) appearing for the state prosecution in court;</p> <p>2) representation of the interests of a citizen or the state in court in cases specified by this Law;</p>	<p>1. The prosecutor’s office shall be entrusted with the following functions:</p> <p>1) appearing for the state prosecution in court;</p> <p>2) representation of the interests of a citizen or the state in court in cases specified by this Law and the Civil Procedure Code of Ukraine;</p>	<p>We do not consider appropriate the participation of the prosecutor in the cases of adoption of children and other civil cases, the subject of which is the protection of children’s rights.</p>
<p>LAW OF UKRAINE On Civil-Military Administrations</p> <p>Article 4. Powers of Civil-Military Administrations</p>		
<p>1. The civil-military administrations of settlements in the relevant territory shall exercise the following powers:</p> <p>None</p> <p>...</p>	<p>1. The civil-military administrations of settlements in the relevant territory shall exercise the following powers:</p> <p>21) execution of powers of the guardianship and custody authority;</p>	<p>There are no comments on the specified provisions, as its content is consistent with other changes proposed by Draft Law.</p>

APPENDIX No. 2

to the Legal Analysis of AGA Partners experts regarding Draft Law of Ukraine “On amendments to certain legislative acts of Ukraine regarding the delineation of the functions of state authorities and local self-government authorities on the protection of children’s rights in connection with the establishment of the State Children’s Service of Ukraine” No. 7087 dated 22 February 2022

Comparative table of current powers of the National Social Service of Ukraine, Ministry of Social Policy of Ukraine and powers of the State Children’s Service according to Draft Law of Ukraine “On amendments to certain legislative acts of Ukraine regarding the delineation of the functions of state authorities and local self-government authorities on the protection of children’s rights in connection with the establishment of the State Children’s Service of Ukraine” No. 7087 dated 22 February 2022

In the columns “National Social Service of Ukraine”; “Ministry of Social Policy of Ukraine” and “State Children’s Service of Ukraine, the corresponding similar or identical powers of the mentioned state authorities are highlighted in bold.

In addition to Draft Law 7087, during the preparation of this comparative table, Regulation on the Ministry of Social Policy of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine No. 423 dated 17.06.2015 and Regulation on the National Social Service of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine No. 783 dated 26.08.2020 were used as the sources.

At the end of the comparison table, there are relevant opinions of AGA Partners experts.

State authority	National Social Service	Ministry of Social Policy of Ukraine	State Children’s Service of Ukraine
Subordination	The Cabinet of Ministers of Ukraine through the Ministry of Social Policy	The Cabinet of Ministers of Ukraine	The Cabinet of Ministers of Ukraine
Key area of activities	social protection of the population, protection of children’s rights, implementation of state control over the compliance with legislative requirements during the provision of social support and the compliance with children’s rights.	formation and implementation of the state family and children policy, rehabilitation and recreation of children, adoption and protection of children’s rights , prevention and countermeasures against domestic violence,	implementation of powers to prevent, detect, terminate cases of violation of children’s rights , powers of a competent authority relating to adoption, coordination of activities of central executive authorities and local self-government authorities ,
		implementation of state control over the compliance with the requirements of legislation on enforcement of children’s rights.	children’s affairs services, other children’s authorities on matters of adoption and protection of children’s rights, implementation UN Convention on the Rights of the Child.
Main tasks	implementation of state policy in the field of social protection of the population on the following issues: (1) social support of the family , social protection of homeless persons;	ensuring the formation and implementation of the state policy: (1) on family and children issues; (2) children’s health and recreation; (3) adoption and protection of children’s rights.	ensures the formation of and implements the state policy in the field of: (1) protection of children’s rights; (2) adoption.

	<p>(2) implementation of the state policy in the field of children's health and recreation, adoption and protection of children's rights;</p> <p>(3) implementation of the state policy in the field of state control over the observance of children's rights.</p>		
Competence:			
(1) rule-making activities and the national level	<p>formulates proposals for the improvement of legislative acts,</p> <p>acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, regulations of ministries, taking into account the practice of applying legislation on issues within its competence, and submits them to the Minister of Social Policy in accordance with the established procedure.</p>	<p>generalizes the practice of applying legislation on issues within its competence, develops proposals for improving legislative acts, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine and submits them to the Cabinet of Ministers of Ukraine for consideration in accordance with the established procedure;</p> <p>develops draft laws and other regulations on issues within its competence.</p>	<p>carries out regulatory and organizational-methodical support for the activities of guardianship and custody authorities in relation to children, children's affairs services, other children's authorities in matters of adoption and protection of children's rights regarding guardianship and custody, ensuring the rights and interests of minors and juveniles;</p> <p>coordinates the activities of central executive authorities on the protection of children's rights, checks draft regulations for the compliance with the provisions of the UN Convention on the Rights of the Child;</p> <p>coordinates the cooperation of the central executive authorities with the United Nations Children's Fund (UNICEF) in accordance with the established procedure, coordinates the implementation of UNICEF-supported programs in Ukraine;</p> <p>ensures, in accordance with the established procedure, the activities of consultative, advisory authorities, established by the Cabinet of Ministers of Ukraine, on the implementation of the state policy in the field protection of children's rights.</p>
(2) law enforcement activities (key areas)	<p>coordination of activities of structural units of local state administrations, executive authorities of village, town, city councils on issues of social protection of the population regarding the organization of work with:</p> <p>- provision of social services to families (individuals) who find themselves in difficult life circumstances;</p>	<p>develops and submits, in accordance with the established procedure, the proposals for the provision of state social assistance to families with children,</p> <p>low-income families, children with disabilities, temporary state assistance for children whose parents are unable to support them or place of parents' residence or stay of which is unknown;</p>	<p>ensures the interaction of central and local executive authorities, local self-government authorities,</p> <p>agencies, enterprises, institutions and organizations, non-governmental organizations and associations on issues of ensuring the rights and interests of minors and juveniles;</p>

	<ul style="list-style-type: none"> - homeless children; - orphans; - children deprived of parental care. 	<p>ensures the maintenance of a data bank on orphans and children deprived of parental care, on the families of potential adopters, guardians, custodians, foster parents, parents-educators;</p> <p>maintains centralized registration of orphans and children deprived of parental care that may be adopted,</p> <p>as well as registration of foreigners and citizens of Ukraine living outside Ukraine,- candidates for adopters and children adopted by them;</p> <p>creates and maintains the State Register of children's health and recreation facilities, contributes to the development of the network of such institutions.</p>	<p>provides direct interaction with diplomatic institutions of Ukraine abroad and foreign diplomatic missions in Ukraine on issues of ensuring rights and the best interests of children, citizens of Ukraine abroad, including regarding their return to Ukraine, adoption;</p> <p>performs an analysis of implementation efficiency of measures to ensure the best interests of the child, monitoring and evaluating the results of the compliance and protection of children's rights, implementation of the state policy in the field of adoption and protection of children's rights;</p> <p>ensures the development and organization of implementation of programs for improving the situation of children, participates and initiates development and implementation of programs regarding the support for families with children;</p> <p>carries out on issues that fall within its competence, the coordination and methodological support of activities of central and local executive authorities, local self-government authorities regarding protecting the rights of orphans and children, deprived of parental care, persons from among them;</p> <p>carries out control over the compliance by executive authorities, local self-government authorities, enterprises, institutions and organizations regardless of form property with the requirements of legislation regarding the protection of the rights of orphans and children, guardianship and custody, their placement in family-type forms of upbringing and adoption;</p> <p>supervises and coordinates the activities of children's affairs services; organizes work on improving the level of professional competence of employees of children's affairs services;</p> <p>ensures the compiling and maintaining the state statistics on children in accordance with Ukrainian legislation and international standards.</p>
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<p>3) key measures implemented by the authority on family affairs</p>	<p>analyzes the financial situation of families, evaluates the effectiveness of social support provided to them;</p> <p>organizes and carries out work on the formation of responsible parenthood, support of families with children (through the implementation of the Baby Package, Municipal Nanny programs);</p> <p>organizes and carries out information and explanatory work on the implementation of the state family policy, popularization of the institution of the family, strengthening of motivation for marriage registration and responsible parenthood, healthy lifestyle, dissemination of information on rights and services for families.</p>	<p>is carried out on the ground through subordinate authorities.</p>	<p>carries out methodological support of activities and control over the compliance with the requirements of the legislation regarding the adoption of children by citizens of Ukraine and foreigners, placement of children under guardianship, custody, placement of children in foster families, family-type children's homes, taking away or withdrawal of children from family-type forms of upbringing;</p> <p>ensures the functioning of the data bank on orphans and children deprived of parental care, families of candidates for adoption, guardians, custodians, foster parents, parents-educators in accordance with the procedure established by the central executive authority, which ensures the formation of the state policy in the field of adoption and protection of children's rights.</p>
<p>(4) key measures implemented by the children's rights protection authority</p>	<p>ensures the collection and summarization of statistical reporting on the observance of the rights of children, including orphans, children deprived of parental care, and persons from among them, children with disabilities;</p> <p>conducts the analysis of the compliance with the rights of children, including orphans, children deprived of parental care, and persons from among them;</p> <p>summarizes information about problematic issues in the system childhood protection and passes the informational and analytical materials further to the Ministry of Social Policy;</p> <p>ensures the coordination of implementation of provisions of the UN Convention on the Rights of the Child, other international documents ratified by Ukraine;</p> <p>conducts information and explanatory work and consultations on application of legislation in the field of protection of children's rights;</p>	<p>is carried out on the ground through subordinate authorities.</p>	<p>conducts work on the civil legal protection of children, their legal representatives, provides methodical assistance in ensuring that local self-government authorities provide legal assistance to orphans and children deprived of parental care, to persons who wish to create family-type forms of upbringing, adopt a child.</p>

ensures **implementation of control over respecting the rights of children at institutions that provide residential care and upbringing of children at** special institutions for children in accordance with Law of Ukraine "On authorities and services on children affairs and special establishments for children," other children's social protection institutions; in the families of guardians, custodians, foster families, family-type children's homes, families of foster carers;

provides, in accordance with the established procedure, **information about children, which may be adopted, as well referral for acquaintance with the child at his place of residence** to the citizens of Ukraine, foreigners and to citizens of Ukraine who live outside the borders of Ukraine,- to **candidates in adoptive parents;**

enters into the system of centralized registration the data about orphans and children deprived of parental care, which may be adopted, and also about foreigners and citizens of Ukraine who live outside of Ukraine,- candidates for adoption and on children adopted by them;

issues consent to adoption of a child for submission to court or refusal to child adoption to foreigners and citizens of Ukraine who live outside of Ukraine,- to candidates for adoption;

keeps records of children who find themselves in difficult life circumstances, children-orphans and children deprived of parental care, adopted children, as well as children placed to foster families, family-type children's homes, families of foster carers, institutions that carry out residential care and upbringing of children;

conducts work to protect children's rights, prevention of children homelessness and neglect, organization of social and psychological rehabilitation of the most vulnerable categories of children;

carries out coordination and analytical work related to activities of social service centers, social hostels for orphans and children deprived of parental care, centers of social and psychological rehabilitation of children, centers of social support for children and families, shelters for children, centers for social and psychological rehabilitation of children and youth with functional restrictions; children's homes-orphanages, small group houses, family-type children's homes, foster families, families of foster carers, other institutions for children;

contributes to the development of family-type forms of upbringing, placement of orphans and children deprived of parental care to family-type children's homes, foster families, placement of such children under guardianship, custody, for adoption, placement of children who find themselves in difficult life circumstances in the families of foster carers;

organizes, within the limits of the powers provided by law, children's health recovery and recreation;

carries out, within the limits of the powers provided by law, the **coordination of the activities of organizations/institutions that carry out work on the departure of groups of children abroad for health recovery and recreation;** gives consent to the departure of groups consisting of children from various regions of Ukraine, including from areas of anti-terrorist operation, implementation of measures to ensure national security and defense, repulse and containment of the armed aggression of the Russian Federation in the Donetsk and Luhansk regions;

organizes, within the limits of the powers provided by law, **the state certification of children's institutions** for health recovery and recreation, provides them with appropriate methodical assistance.

Conclusions:

The regulations on the State Children's Service contain identical powers of already existing state authorities. In particular, the Ministry of Social Policy of Ukraine and the National Social Service of Ukraine have almost identical tasks and functions related to the protection of children's rights.

One of the key issues, which is completely duplicated in the legislation, is adoption and related issues (keeping a data bank, interaction with adoptive parents and children, etc.).

In order to create an effective system for the protection of children's rights, it is advisable to exclude identical powers and leave them to one specialized authority- the State Children's Service of Ukraine.

Such an approach is balanced, since at the state level it is expedient to create a single authority aimed at protecting children's rights at all levels.

No similar powers of different state bodies will contribute to efficiency in implementation of adoption issues and prevention of violation of children's rights.

In addition, along with the issue of adoption, there are several other important tasks. Such as: combating domestic violence, resolving disputes regarding the place of residence of children, participation in their upbringing by parents who live separately, deprivation of parental rights, taking away a child, etc.

These issues require a consolidated approach in solving them from the point of view of unity in law-making activity and law enforcement. This can be achieved under the condition of creating a single center that would deal with the rights of the child from the moment of creation of new legislation to its implementation at the local level.

Therefore, we believe that it is expedient to exclude the issues related to the protection of the rights and interests of children from the powers of the Ministry of Social Policy of Ukraine and the National Social Service of Ukraine, and to give these powers exclusively to a newly created authority in the form of the State Children's Service of Ukraine.

These recommendations are consistent with the provided comments on the draft law as a whole.

APPENDIX No. 3

to the Legal Analysis of AGA Partners experts regarding Draft Law of Ukraine “On amendments to certain legislative acts of Ukraine regarding the delineation of the functions of state authorities and local self-government authorities on the protection of children’s rights in connection with the establishment of the State Children’s Service of Ukraine” No. 7087 dated 22 February 2022

Comparative table of the current powers of the National Social Service of Ukraine and the powers of the guardianship and custody authority and children’s affairs services of regional state administrations in the cities of Kyiv and Sevastopol, city, town, village councils in accordance with Draft Law of Ukraine “On amendments to certain legislative acts of Ukraine regarding the delineation of the functions of state authorities and local self-government authorities on the protection of children’s rights in connection with the establishment of the State Children’s Service of Ukraine” No. 7087 dated 22 February 2022

In the columns below, corresponding similar or identical powers of the mentioned state authorities are highlighted in bold.

In addition to Draft Law 7087, during the preparation of this comparative table, Regulations on the National Social Service of Ukraine, approved by Resolution No. 783 of the Cabinet of Ministers of Ukraine dated 26 August 2020, were used as sources.

At the end of the comparative table, there are relevant conclusions of AGA Partners experts.

Powers in accordance with Draft Law 7087		Current powers
Children’s affairs services of regional in the cities of Kyiv and Sevastopol state administrations, city, town, village councils:	The executive committees of village, town, and city councils are responsible for:	The National Social Service to fulfill the tasks assigned to it in matters of protection of children’s rights:
ensure implementation of the state policy and their own (self-governing) powers on matters of the protection of children’s rights in the territory of district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils;	exercising the powers of the guardianship and custody authority in relation to children; creation of children’s affairs services, which directly ensure the management of cases and coordination of activities in relation to children, in particular, orphans and children deprived of parental care, children who find themselves in difficult life circumstances, children who have suffered as a result of military actions and armed conflicts, as well as take measures provided for by law in the field of prevention and counteraction of homelessness, domestic violence against children and with the participation of children, etc. The type of the children’s services as a structural units and its status as a legal entity under public law shall be determined by the local council;	ensures the coordination of the implementation of the provisions of the UN Convention on the Rights of the Child, other international documents ratified by Ukraine

<p>provide legal assistance to children, their parents and other legal representatives in resolving issues of adoption, placement of children in families of citizens of Ukraine, deprivation and renewal of parental rights; seeing the child by a mother/father deprived of parental rights;</p> <p>resolving disputes between parents regarding the child, etc.;</p> <p>within the limits of the powers defined by the law, provide legal assistance in order to exercise the right of a child to be adopted, placed in a family of citizens of Ukraine, to realize the possibility for citizens of Ukraine and foreigners to adopt a child;</p>	<p>provision of legal assistance to parents and children regarding the exercise of parental rights and responsibilities, in particular by coordinating the fulfillment by each subject of the provision of medical, social, and legal services of powers to ensure the rights of the child;</p> <p>provision of legal assistance to orphans and children deprived of parental care, their legal representatives, execution of powers regarding maintenance and upbringing of such children;¹</p>	
<p>take measures to detect violations and protect the rights of children whose life or health are threatened and who have been left without parental care;</p> <p>carry out direct management of cases on the protection of children's rights, in particular, orphans, children deprived of parental care, children who find themselves in difficult life circumstances, and other categories of children;</p> <p>take measures in accordance with the law to protect children's property and housing rights, in particular, observe the child's rights during the execution of deeds related to housing, the ownership or right of use of which the children have, during the resolution of disputes regarding the management of the child's property by the parents;</p> <p>check information about violations of children's rights by visiting them at their place of residence (stay), study, work;</p> <p>ensure the implementation of measures to protect the rights of a child separated from his family;</p> <p>raise the issue of bringing individuals and legal entities to justice before executive authorities and local self-government authorities, authorities of the National Police of Ukraine, the prosecutor's office, chiefs of enterprises, institutions and organizations in accordance with the law, as well as officials in case they violate the children's rights and legitimate interests;</p>	<p>implementation of activities related to the protection of the rights children who live in the territory of the territorial community;</p> <p>implementation of activities for the protection of housing and property rights of children;</p> <p>implementation of measures to protect the rights of the child left at the maternity ward, another health care facility, a child whose parents or other relatives refused to take, an abandoned or found child, ensuring the registration of the birth of such a child and submitting information about it to the civil status registration authority at the place where such a child was found, immediate placement of children left without parental care;</p> <p>ensuring protection of the rights of children separated from their families;</p>	<p>conducts an analysis of the state of compliance with the rights of children, including orphans, children deprived of parental care, and persons from among them;</p>

¹ Here and below, italics highlight the powers of the guardianship and custody authorities, which are classified by Draft Law 7087 as delegated.

<p>identify and register children who have suffered as a result of hostilities and armed conflicts, take measures to provide such children with the appropriate status;</p> <p>keep records of children who find themselves in difficult life circumstances; children left without parental care, orphans and children deprived of parental care; adopted children; candidates for guardians, custodians, foster parents, parents-educators of family-type children's homes; guardians, custodians, foster parents, parents educators of family-type children's homes; immovable property of orphans, children deprived of parental care, which belongs to them by right of ownership;</p> <p>ensure the maintenance and operation of a data bank on orphans and children deprived of parental care, families of candidates for adoption, guardians, custodians, foster parents, parents-educators in accordance with the procedure established by the central executive authority, which ensures the formation of the state policy in the field adoption and protection of children's rights;</p> <p>ensure implementation of adoption activities, including maintaining local registration of children who may be adopted;</p>	<p>carrying out identification, selection, registration, placing and ensuring the rights of children left without parental care, children who find themselves in difficult life circumstances, children whose life or health is threatened;</p> <p>carrying out the activities defined by the legislation regarding the adoption and placement of children in family-type forms of upbringing, entering information about orphans and children deprived of parental care into the unified data bank on orphans and children deprived of parental care, families of candidates for adoptive parents, guardians, custodians, foster parents, parents-educators in accordance with the procedure established by the central executive authority, which ensures the formation of state policy in the field of adoption and protection of children's rights;</p>	<p>enters into the centralized accounting system the data on orphans and children deprived of parental care who may be adopted, as well as on foreigners and citizens of Ukraine living outside Ukraine- candidates for adopters and on children adopted by them;</p> <p>keeps records of children who find themselves in difficult life circumstances, orphans and children deprived of parental care, adopted children, as well as children placed in foster families, family-type children's homes, families of foster carers, institutions that provide residential care and upbringing of children;</p>
<p>if necessary, represent the children's interests in court;</p> <p>prepare draft lawsuits and opinions of the guardianship and custody authority for submission to judicial authorities, represent the guardianship and custody authority in court hearings during consideration of cases concerning children;</p> <p>carry out the preparation of case files of children and their legal representatives for consideration by the guardianship and custody authority;</p>	<p>representation of the child's interests in court hearings, including in the case of taking away a child with or without deprivation of parental rights;</p> <p>submission of opinions to the court, in cases provided for by law, in the event of court consideration of cases concerning children, protection of the rights and legitimate interests of the child;</p> <p>applying to the court with lawsuits to deprive the parents or one of them of their parental rights or to take the child away from the mother/father without depriving them of their parental rights, other lawsuits regarding the protection of the child's rights, representing the child's interests in court; identification, granting of status, placement of orphans and children deprived of parental care;</p>	<p>organizes, within the limits of the powers provided by law, children's health recovery and recreation;</p> <p>carries out, within the limits of the powers provided by law, the coordination of the activities of organizations/ institutions that carry out work on the departure of groups of children abroad for health recovery and recreation; gives consent to the departure of groups consisting of children from different regions of Ukraine, including from the regions of the conducting the antiterrorist operations, implementation of measures to ensure national security and defense, repulse and containment of the armed aggression of the Russian Federation in the Donetsk and Luhansk regions;</p>
<p>in accordance with the established procedure, control over the targeted use of child support;</p>	<p>ensuring the implementation of control over the targeted use of child support, measures to prevent and counter domestic violence;</p>	

<p>take measures, within their competence, to return the children left without parental care, orphans and children deprived of parental care, who are citizens of Ukraine, to Ukraine;</p>	<p>ensuring, within the scope of competence, the return to Ukraine of children left without parental care, orphans and children deprived of parental care who are citizens of Ukraine and whose place of origin is a territorial community;</p>	
<p>take measures in accordance with the legislation to resolve disputes between parents regarding the child's name, surname, participation of one of the parents in raising the child, determination of the child's place of residence, management of the child's property;</p>	<p>implementation of activities to resolve disputes between parents regarding the determination of motherhood, paternity, registration of a child's birth, upbringing, determination of the child's place of residence, regarding participation in the upbringing of a child of one of the parents who lives separately from the child, as well as disputes between children and parents;</p>	
<p>ensure the creation of various forms of placement for orphans and children deprived of parental care;</p> <p>ensure the preparation of documents for the creation of family-type forms of upbringing and placement of orphans and children deprived of parental care in foster families, family-type children's homes, placement under guardianship, custody;</p> <p>carry out, by referral, the enrollment of orphans and children deprived of parental care in small group homes or other institutions with 24-hour stay;</p>	<p>ensuring the establishment of guardianship and custody for orphans and children deprived of parental care, the use of other forms of placement of orphans and children deprived of parental care;</p> <p><i>placement of orphans and children deprived of parental care under guardianship, custody, placement in a foster family, family-type children's home, creation of foster families, family-type children homes;</i></p>	<p>promotes the development of family-type forms of education, the placement of orphans and children deprived of parental care in family-type children's homes, foster families, the placement of such children under guardianship, custody, adoption, the placement of children who find themselves in difficult life circumstances, in families of foster carers;</p>
<p>ensure the placement of children who find themselves in difficult life circumstances, children left without parental care, in institutions of social protection for children, other forms of placement of children;</p> <p>collect materials, ensure their preliminary consideration and prepare opinions and draft decisions of district in the cities of Kyiv and Sevastopol state administrations, executive committees of city, town, village councils on issues related to the protection of children's rights, granting status, placement of orphans and children deprived of parental care, resolving disputes between parents regarding the child, etc.;</p>		

<p>supervise the state of maintenance and upbringing of children placed under guardianship or custody, placed in foster families, family-type children's homes, the conditions of living and upbringing of adopted children; ensure, within the limits of competence, the implementation of the agreement on the organization of activities of a foster family, a family-type children's home; exercise control over the conditions of upbringing of children who stay at institutions for children; monitor the living conditions of children who find themselves in difficult life circumstances, take measures to take away children from conditions that pose a threat to the child's life or health;</p>	<p><i>checking the conditions of maintaining and upbringing children in families, including those who find themselves in difficult life circumstances, in relation to which a notification has been received about a possible violation of the child's rights, taking measures to immediately take away the child if there is an immediate threat to the child's life or health;</i></p> <p><i>monitoring the conditions of maintenance, education, and upbringing of an adopted child, a child placed under guardianship, foster care, a child placed in a foster family, a family-type children's home;</i></p> <p>ensuring the implementation of agreements on the organization of the activities of a foster family, a family-type children's home, in particular, the implementation of social support for such families;</p>	<p>ensures monitoring of the compliance with children's rights at institutions providing residential care and upbringing of children, at special institutions for children in accordance with the Law of Ukraine On Children's Authorities and Services and Special Institutions for Children, other social protection institutions for children; in the families of guardians, custodians, foster families, family-type children's homes, families of foster carers;</p>
<p>organize the interaction of structural units of district in the cities of Kyiv and Sevastopol state administrations, city, town, village councils, enterprises, institutions, organizations of all forms of ownership located in the territory of the community, to resolve issues of protection of children's rights, including family upbringing, on issues of adoption and placement of orphans and children deprived of parental care, in foster families, family-type children's homes, placement of children under guardianship, custody, prevention of child neglect, child abuse, involvement of children in the worst forms of child labor, as well as issues of the exercise of children's rights to education, protection of health, etc.;</p>	<p>consideration of reports on children whose parents evade the fulfillment of parental duties (commit violence against children, mistreat children, refuse to provide the child with medical care or refuse to take the child from a health care facility, etc.);</p>	<p>conducts work on protection of children's rights, prevention of child homelessness and neglect, organization of social and psychological rehabilitation of the most vulnerable categories of children;</p>
<p>determine the needs of children and provide assistance to children in families who find themselves in difficult life circumstances;</p>	<p>in cases provided for by law, exercising the powers of the child's legal representative;</p>	<p>summarizes information on problematic issues in the child protection system with subsequent transfer of information and analytical files to the Ministry of Social Policy;</p>
<p>prepare petitions for the inclusion of orphans and children deprived of parental care on the social housing register and on the register of citizens who need to improve housing conditions;</p>		
<p>provide candidates for adoptive parents, guardians, custodians, foster parents, parents-educators of family-type children's homes with information about children who are registered in the children's service, and issue referrals to visit families and institutions in order to establish contact with the child;</p>		<p>provides, in accordance with the established procedure, citizens of Ukraine, foreigners and citizens of Ukraine living outside Ukraine, - candidates for adoption, with information about children who may be adopted, as well as referrals for acquittance with the child at his place of residence;</p>

<p>apply to the National Police authorities to conduct investigative work to establish the place of residence, stay of parents or other representatives of children left without parental care, children deprived of parental care;</p>	<p>implementation of measures to establish the child's identity, place of residence, information about parents or persons who replace them, other relatives, their place of residence (stay) and organization of work to return the child to be raised in a family or institution or grant such a child the status of a child-an orphan or a child deprived of parental care;</p>	
<p>on behalf of the guardianship and custody authority, apply to civil status registration offices for state registration of the birth of a child;</p>	<p>provision of practical, methodical and consulting assistance to local executive authorities, local self-government authorities, enterprises, institutions;</p>	<p>organizes, within the limits of the powers provided by law, the state certification of children's health recovery and recreation facilities, provides them with appropriate methodical assistance;</p>
<p>give consent to the expulsion of orphans and children deprived of parental care from institutions of general secondary, professional (professional-technical), vocational pre-higher and higher education; eviction of a child; removal of the child from the registration of the place of residence; recognizing a child as having lost the right to use residential premises;</p>	<p><i>immediate taking away of the child from the parents or persons who replace them, if there is a direct threat to the child's life or health;</i></p>	<p>carries out information and explanatory work and consultations on the application of legislation in the field of protection of children's rights;</p>
<p>take measures within their competence to return children separated from their families, including foreign children, to their place of permanent residence;</p>		
<p>in accordance with the procedure established by law, take measures to confirm the child's place of residence when resolving the issue of his temporary departure outside Ukraine;</p>	<p><i>giving consent for the adoption of a child, if the guardian or custodian has not given such consent;</i></p>	<p>issues consent for the adoption of a child to foreigners and citizens of Ukraine living outside of Ukraine - to adoptive parents for filing in court or refusal to adopt a child;</p>
<p>prepare and submit statistical reports on children in accordance with the established procedure;</p>		<p>ensures the collection and summarization of statistical reporting on the observance of the rights of children, including orphans, children deprived of parental care, and persons from among them, children with disabilities;</p>
<p>study the need and submit proposals for the creation of institutions in the community that protect children's rights;</p>		
<p>develop and implement, independently or together with other structural units of the city, town, village council, enterprises, institutions and organizations regardless of the form of ownership, non-governmental organizations, measures and programs aimed at improving the situation of children, protecting the rights of the child, and also exercise control over the implementation of such activities;</p>		<p>carries out coordination and analytical work related to the activities of social service centers, social hostels for orphans and children deprived of parental care, centers of social and psychological rehabilitation of children, centers of social support for children and families, shelters for children, centers of social and psychological rehabilitation of children and youth with functional limitations; children's homes-orphanages, small group homes, family-type children's homes, foster families, families of foster carers, other institutions for children;</p>
<p>ensure the fulfillment of other powers defined by law.</p>	<p>ensuring the execution of other powers defined by law; <i>ensuring the execution of other powers defined by law.</i></p>	

Conclusions:

According to Draft Law 7087, children's affairs services at the local lower level are separate structural units of respective councils and are subordinate to the chiefs of the relevant state administrations, city, town, village councils, accountable to and controlled by (in terms of delegated powers) the children's affairs services of the respective city, district, regional state administrations, the central executive authority, which ensures the formation of and implements the state policy in the field of adoption and protection of children's rights.

Analysis of the powers that Draft Law 7087 assigns to guardianship and custody authorities and children's affairs services at the local level indicates a full or partial overlap of some powers. In view of this, it remains an open question whether this will lead to undesirable scenarios, such as where such powers are exercised in parallel by both authorities without proper coordination or cooperation, or where such powers are not exercised at all, as both authorities will believe that they must be performed by another authority.

Therefore, it will be important to accompany Draft Law 7087, in the case of its signing by the President, with clear bylaws (instructions, regulations) that will properly regulate, in particular, cooperation and coordination of local authorities that carry out activities in the field of protection of children's rights.

In addition, the individual powers of the mentioned authorities in some places completely or partially coincide with the powers that the National Social Service already has.

Attention should also be paid to this, so that the powers specified in Draft Law 7087 are properly implemented and actually performed by all relevant entities.

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