



**REPORT ON CHILDREN'S PROTECTION AND WELFARE
(AMENDMENT) BILL, 2023**

PRESENTED

BY

THE PORTFOLIO COMMITTEE ON THE SOCIAL CLUSTER

***National Assembly
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1. INTRODUCTION

On Monday, 15th May, 2023 the Honourable Minister of Gender, Youth, Sports, Arts, Culture and Social Development (MGYSACSD) presented the Children's Protection and Welfare (Amendment) Bill, 2023. The Bill was referred to the Portfolio Committee on the Social Cluster for consideration in terms of Standing Order No.51 (5). The Committee invited the Hon. Minister of Gender, Youth, Sports, Arts, Culture and Social Development to a briefing session in accordance with Standing Order No. 54 (2).

The Committee, therefore, presents this Report to the House for consideration.

2. MINISTERIAL BRIEFING

The Children's Protection and Welfare (Amendment) Bill, 2023 is meant to domesticate the 1993 Hague Convention on Inter-Country Adoption and the Southern African Development Community (SADC) model law on Eradicating Child Marriage and Protecting Children Already in Marriage. The sole purpose being to make provision for the promotion and protection of the rights, general wellbeing and social development of children, the protection and care of children as well as the establishment of structures to provide care, support and protection of children.

The Bill seeks to address, remove and prohibit customary practices that are harmful to children such as child marriage, child labour and inheritance discrimination against children born out of wedlock.

Moreover, it provides and regulates for licencing and registration of adoption agencies and the places of safety in an effort to encourage alternative care under the Principle of Family Preservation, Survival and Development.

Lastly, the Bill has financial implications for monitoring and supervision of residential care facilities and revenue generation from registration of adoption agencies and licensing of residential care facilities.

3. CONSIDERATION OF THE BILL CLAUSE BY CLAUSE

The Children’s Protection and Welfare (Amendment) Bill, 2023 was adopted with the following amendments:

1. In clause 2, interpretation of **“fit and proper person”** delete the word **“means”** and substitute with the word **“includes”**

General amendments

2. In clause 3, add a new sub-clause (b) as follows and number accordingly:

“(b) The Principal Law is amended by deleting the word “Director Social Welfare” wherever it appears and substitute it with “Director Child Protection”

3. In clause 12, sub-clause 51B, line 2, after the word **“care”** delete the word **“facility”**.

4. In clause 12, sub-clause 51C (4), line 1, after the word **“parents”** insert **“guardian or relatives”**

5. In clause 12, sub-clause 51D (b) (i), after the word **“parent;”** insert the words **“guardian or relative;”**

6. In clause 13, sub-clause 52 (5) line 3, delete the word **“or”** and substitute with a **“comma”** and after the word guardian, insert the words **“relative or the Ministry”**
7. In clause 18, sub-clause 56 (5) (b) line 2, after the word **“in”** delete the words **“the foster”** and substitute with the words **“his care or relative,”**
8. In clause 18, sub-clause 56 (6), line 1, before the word **“An”** insert the following words **“Notwithstanding sub-section 5 (a),”**
9. In clause 20, sub-clause 61A (1), after the word **“Director,”** insert the words **“Child Protection in collaboration with Director Legal Services:”**
10. In clause 20, sub-clause 61A (1) (f), delete the word **“adption”** and substitute with **“adoption”**
11. In clause 20, after sub-clause 61A (1) (h), add new sub-clauses as follows:

“(i) adhering to subsidiary principle; and

(j) Keeping register of prospective and adoptable children.”

Amendment of Section 70

12. Section 70 (1) (b) of the Principal Law is amended in line 1 by:
 - (i) inserting the words **“or gives away”** after the word **“takes”** and
 - (ii) deleting the words **“appropriate consent”** and substituting with the words **“proper authority”** after the word **“without”**.

13. In clause 23, after sub-clause 76A (7), add a new sub-clause as follows:

“(8) For purposes of this Section, appropriate authority means the Ministry responsible for Social Development.”

14. In clause 23 sub-clause 76B (3) line 2, after the word **“to”** delete the words **“a fine not exceeding Ten Thousand Maloti or”** and in line 3, delete **“5 years or both”** and substitute with the words **“25 years.”**

15. In clause 23 sub-clause 76D (4) delete the words **“a fine not exceeding twenty thousand Maloti or”** and in line 3, delete **“or both”**

Amendment of Section 133

16. After clause 24, insert new clauses as follows:

25. The Principal Law is amended in section 133 by inserting new sub-section after sub-section (3) as follows:

“(4) When an offence is committed by an adult against a child, that case shall be tried in a Children’s Court.

(5) The Chief Justice shall make the Children’s Court Rules of Procedure.”

Amendment of Section 135

17. Section 135 (1) (c) of the Principal Law is amended by inserting the words “**or social worker responsible for Social development**”, after the word “**guardian**”

Amendment of Section 136

18. Section 136 (1) of the Principal Law is amended by inserting the words “**or social worker responsible for Social Development**”, after the word “**guardian**”

Amendment of Section 138

19. Section 138 (5) of the Principal Law is amended in line 2, after the word “**of**” by inserting the words “**a Court Intermediary and/or**”

Amendment of Section 175

20. Section 175A (1), line 1 after the words “**he**” delete the word “**registers**” and substitute with the words “**has registered**” and last line after the word “**with**” delete the words “**section 175**” and substitute with the words “**this section and 175B.**”

Amendment of Section 200

21. After clause 28, insert a new clause as follows and renumber sequentially:

“29. Section 200 (4) (e) of the Principal Law is amended by deleting the word “**and**” at the end of the section and adding a new sub-section as follows and number accordingly:

**“(f) a Court intermediary, social worker’s social inquiry report;
and**

Amendment of Section 216

22. Section 216 of the Principal Law is amended by adding subsection “(7)” as follows:

“(7) A Children’s Court may request that maintenance investigation be conducted and the report be submitted for consideration before a maintenance order.”

After clause 30, add a new clause as follows:

Amendment of Schedules I and II

23. “**Schedules I and II**” of the Principal Law are amended by adding new crimes and increasing fines as follows:

“Schedule I

On “**malicious damage to property**” delete “**M1000**” and substitute it with “**M5000**”.

Delete “**any offence under any law relating to illicit of dependence producing drugs where quantity involved does not exceed 25 grams.**”

On “**theft**” delete “**M100**” and substitute it with “**M1000**”.

On any statutory offence delete “**M300 or 3 months imprisonment**” and substitute it with “**M500 or 6 months imprisonment.**”

Schedule II

Add the following crimes:

“Abortion

Aggravated Assault

Aggravated theft

Car theft

Concealment of childbirth

Offences relating to drugs

Perjury

Poisoning

Receiving Stolen Property

Road Traffic Offences

Stock Theft

Threats

Unlawful Damage to property

Wrongful Application of funds”.

4. COMMITTEE’S OBSERVATION

The Committee noted with concern the information gap at grassroots levels in terms of child labour and child marriages.

5. RECOMMENDATION

After thorough scrutiny of the Bill, the Committee recommends that the House adopts the Bill as amended (Annex 1).

6. CONCLUSION

The Committee wishes to submit this report to the House for adoption.

MEMBERS OF THE COMMITTEE

1. Hon. M. Makhalanyane (Chairperson)
2. Hon. M. Mohatonyane
3. Hon. M. Phooko
4. Hon. R. Sehlabaka
5. Hon. M. Malakane
6. Hon. T. Moselelo
7. Hon. M. Tota
8. Hon. M. Mpobole
9. Hon. M. Busa
10. Hon. H. Van Rooyen
11. Hon. B. Makhakhe
12. Hon. M. Nts'ekhe
13. Hon. T. Cheba
14. Hon. M. Lemphane-Letsie
15. Hon. T. Mosotho
16. Hon. M. Holomo
17. Hon. B. Khesa
18. Hon. L. Chopo
19. Hon. M. Khati
20. Hon. M. Lempe
21. Hon. D. Jooma
22. Hon. A.T. Tayob
23. Hon. M. Ralitapole