

Dear South Africa is a network of online platforms designed to facilitate government and encourage the public to participate in unbiased decision-making processes or policy formation at SOE, municipal, provincial and national levels.



## The Children's Amendment Bill [B18 – 2020]

26 August 2020 – 27 November 2020

(As introduced in the National Assembly (proposed section 76); explanatory summary of Bill and prior notice of its introduction published in Government Gazette No. 43656 of 26 August 2020).

### The draft Bill seeks to Amend the Act;

- To provide for children's right to privacy and protection of information;
- To further provide for the rights of unmarried fathers;
- To extend the children's court jurisdiction;
- To further provide for funding of early childhood development programmes;
- To provide for the designation and functions for a Registrar of the National Child Protection Register;
- To further provide for the care of abandoned or orphaned children and additional matters that be regulated;
- To further provide for rules relating to care and protection proceedings;
- To further provide for the medical testing of children in need of care and protection of adoption;
- To provide for additional matters relating to children in alternative care;
- To further provide for matters relation to adoption and inter-country adoption;
- To further provide for the hearing of child abduction matters;
- To further provide for matters relating to surrogate motherhood; and
- To provide for matters connected therewith.

The above notice of intention for the Children's Amendment Bill was released on 26 August 2020 where the closing date was set to 27 November 2020.

Written submissions and enquiries were directed to Ms Lindiwe Ntsabo at [childrens-amendment-bill@parliament.gov.za](mailto:childrens-amendment-bill@parliament.gov.za)

Dear South Africa (DearSA) hosted a participation project through Dear South Africa's mobile and online platform to facilitate, educate and encourage public participation and comment to shape this amendment.

<https://dearsouthafrica.co.za/children/>



**Included on the web page was:**

- 1 - the published Amendments and related documents as downloadable PDFs
- 2 - published notice.
- 3 - a live view of public comments (with a counter and breakdown reflecting number of participants)
- 4 - video summaries
- 5 - links to relevant media articles
- 6 - a portal which posed two questions (with the option of three responses per question)
- 7 - a comment facility to provide input on the Amendment

Each public entry was individually delivered to Ms Lindiwe Ntsabo at [childrens-amendment-bill@parliament.gov.za](mailto:childrens-amendment-bill@parliament.gov.za). DearSA also captured all public entries which have been used to produce this report.

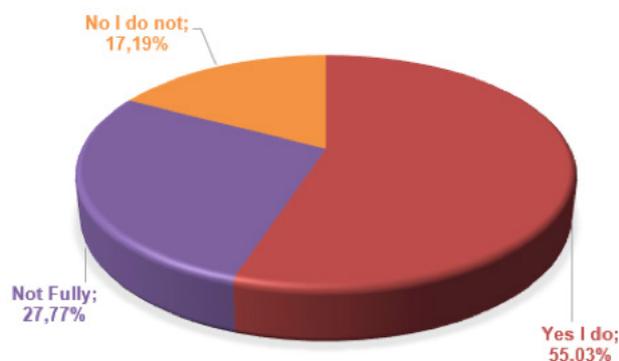
**Note:** In order to accurately reflect public comment, DearSA's projects are unbiased and hold no partisan opinion or agenda. Raw captured data is attached as an Excel file.

A total of **2,146** comments were received by the set closing of 27 November 2020 (included in the Excel file). This report reflects the entries received by the closing date.

Two questions presented;

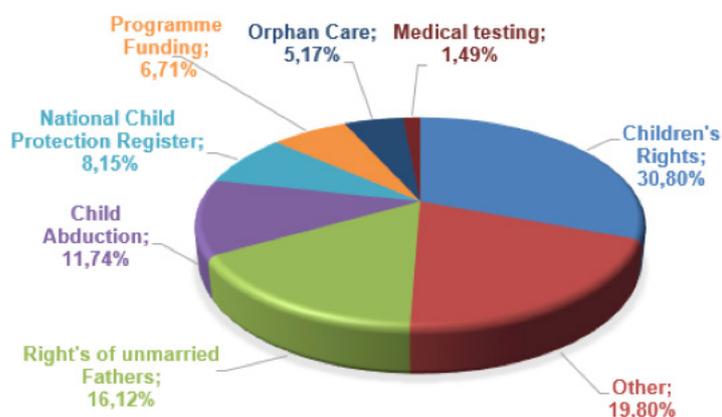
1. Do you support the proposed Children's Amendment Bill?

	Yes, I do	[1,181 selected]	55.03%
	No, I do not	[369 selected]	17.19%
	Not fully	[596 selected]	27.77%



## 2. What is your top concern?

	Children's rights	[661 selected]	30.8%
	Other	[425 selected]	19.8%
	Rights of unmarried fathers	[346 selected]	16.12%
	Child abduction	[252 selected]	11.74%
	National Child Protection Register	[175 selected]	8.15%
	Programme funding	[144 selected]	6.71%
	Orphan care	[111 selected]	5.17%
	Medical testing	[32 selected]	1.49%



## Comments

The participants are encouraged to provide comment to justify their selection in order to help shape the policy amendment.

**Of the "Yes, I do" comments**, the public are calling for a more protected lifestyle for the children in South Africa. A combination of suggestions has been proposed to proactively address children's rights, their safety, wellness, and medical care. In support of this amendment, there are some conditions relating to funding to ensure transparency and more accurate spending. It was also mentioned that orphan care should be budgeted for under the state to allow for proper nutrition, educational care and overall welln



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## Suggestions from the “Yes I do” comments, include;

### Concern; Children’s rights

1. “Child protection to include, those with special needs, requires our full attention and support. ALL children deserve and have a constitutional right, to full protection under the law, to proper care, a decent education and nutritious food and to be able to live, a safe and protected life from those, who intend to cause them any harm or neglect.”
2. “The definition or system of evaluation to establish when a child is capable of making certain decisions him/herself needs to be sharpened, but in general it is a positive document.”
3. “I say bring back the death penalty for those child rapists and abusers. Our children can then live more safely and have the freedom to play in the parks and their own gardens.”
4. “The bill should also legislate that medical practitioners, clinics and hospitals should by law report any child abuse and negligence cases to the Police and the Department of Social Development. This is to allow for the victims to be immediately moved to foster care.”
5. “Affording greater rights to children will directly ensure more protection for children and direct and harsh ramifications for the perpetrators in violent and abusive cases.”
6. “Children have so many rights but many of them are violated like rights to education and not to be abused”. Children’s rights need to be addressed on all levels of their day-to-day lives to ensure success of a healthier and safer living environment.
7. “Protection of children’s rights would cover all the concerns listed. The Bill is sound in many respects, but will it be followed by rigorous enforcement?”
8. Court cases often take too long to reach resolution (child abuse, divorce, etc) which requires development to streamline urgent matters where the children’s safety and wellness are involved or at risk.

### Concern; Other

1. “The current childcare grant as it stands, requires urgent re-address. Sadly, this has become a means of income and why, so many women keep having children they cannot afford...a new system should be considered where, a grant is only paid for the 1st child, in instance where the mother / father were unemployed or disadvantaged by poverty, at the time of conception. However, in instances where, the parents already have more children and then become unemployed, special extended childcare grants, should be approved until such time, employment is gained again”
2. “I think all of these issues are extremely important. Firstly a child needs security, food and shelter. If not from a parent then from a care home staffed by caring adults and funded by the government, charities and corporate fundraisers.”
3. “The punishment for child traffickers and child abduction or molestation must be increased to a mandatory minimum of 50 years in jail to prevent reoffence in any way!”
4. “I support the proposed amendment of section 295 of Act 38 of 2005, in particular, by the deletion in paragraph (c) of subparagraphs (vi) and (vii).”
5. Improve education and make helplines accessible to children all over South Africa.
6. “No law is worth the paper it is written on if there are not enough official employees who can uphold it such as social workers and the judicial system. It is worth nothing if mothers and wives are murdered by their spouses daily. All abuse must be severely punished.”



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### Concern: Rights of unmarried fathers

1. "I believe that fathers should have the same rights as mothers and should be treated equally. The legal system is very biased towards mothers, giving fathers very little say in their child's life."
2. "Father's should have access to their children only if they are paying child support. The financial commitment should be shared equally by both parents."
3. "The Act should fully reflect "gender equality" in all aspects"
4. "Instead of adding father rights outside marriage - the common law act should be updated to include the new draft suggestions with regards to children being recognized in the common law union of the biological parents."
5. This Bill should include all fathers, not only unmarried fathers.
6. "Fathers are often required to support their children, but they have no rights regarding the upbringing and time they can spend with their children." These proposed amendments will provide fathers with a better chance of maintaining their parental relationship with their child among many other benefits.
7. "I would require more information relating to these rights. If it means they are not required to pay child support then I am vehemently against it."

### Concern: Child abduction

1. "Child abduction is a fundamental problem that needs more resources."
2. "If you make new laws, make sure you police and enforce or else this is just a waste of time."
3. "Proven Child abduction should carry the death penalty."
4. Enforce harsher sentencing on all offences that infringe on a child's protection and well-being.
5. "Protect our children. Updated sex offenders register and harsher penalties for the guilty"

### Concern: National Child Protection Register

1. "Should be more transparent to know who lives close by."
2. Human tracking has increased and requires intervention to prohibit children from going missing and being mishandled. An electronic database should contain data for all children which should be updated every 3 to 5 years with a photo and area of residency. This data should be linked to the police officers and private security companies to track and record should any movements take place (even from one community to another community. Airports, bus stations, train stations etc must be equipped with the information to track and locate the children in and around the entire country.
3. "We need more protection against child predators and abusers of children. The register should be made more easily accessible and companies should be able to find that information before hiring of any staff be it for an environment with children or not. Child offenders do not have a place in our community and deserve to be arrested and not only put on a register."

### Concern: Programme funding

1. "The basic education of young children is necessary to prevent children not being able to further themselves due to a lack of ability caused by poor or non-existent early development."
2. Transparent fund allocations and management.
3. Restriction of grants for children - limit grants to 2 or 3 children.

### Concern: Orphan care

1. "Adoption process should be made easier for potential parents. After the child is placed in an adoption home. The department should make follow up visits to ensure all is well with the child."
2. "My top concern is for children who don't have parents to receive basic needs because in most cases they don't receive adequate health care and proper sanitation proper food healthy food and most importantly they are not taken care of in terms of mental health." These requirements need to be



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considered and addressed through various solutions, and the government should also provide support to this structure for the benefit of the children and their youth.

3. "More facilities should be made available to orphan and endangered children, as well as for early childhood development facilities."
4. "Orphans already start their lives with major disadvantages."
5. "Anything that can be done to elevate their plight can only be good."
6. "Children should be protected from all sorts of abuse if need be state should care for them"

#### **Concern: Medical testing**

1. "Medical testing should NOT be enforced. If I'm and my kids are not sick I DON'T need vaccination"
2. "No testing without parent consent"

**Of the "Not Fully" comments,** the participants are in partial agreement. There are multiple facets of road safety that requires improvement in South Africa. However, a large portion have stated that the existing legislation is sufficient but needs to be enforced and managed better. There is also concern that the suggestion of an "intermediate license" will become an additional income stream unnecessarily – leaving the citizen short in the pocket whilst providing no resolution to any of the other issues that our road safety faces.

#### **Suggestions from the "Not Fully" comments, include;**

##### **Concern; Children's rights**

1. "Children are exactly that - children. Parents should have the right to make decisions that children do not have the maturity, experience and knowledge to make."
2. "I do agree that children should have rights, but up to at least the age of 18, parents or guardians should have to give permission for birth control, under-age sex and abortions"
3. "I agree that children's privacy rights should be protected from organizations, companies and banks. However, if this law should include that parents cannot access their electronic devices, how are they to safeguard their children against perpetrators?"
4. "Parents rights should always supersede those of a child until such time as the child is capable of making decisions for themselves. The role of parents should never be undermined by government regulations."
5. "I believe in protection of children and rights however this must be considered with care and no blanket approach"
6. "When the parents do not both contribute to care and welfare of the child, the non-participating parent should have limited rights over the child."

##### **Concern; Other**

1. "There needs to be a stricter system for recording mothers and fathers of children and instead of government funding parents should be forced to provide for their kids. Another alternative is to make contraception compulsory for women under the age of 18".
2. "Too many have become reliant on grants and therefore make little or no attempt to seek gainful employment".
3. "Poverty is the result of THERE BEING TOO MANY PEOPLE on this planet with NOT ENOUGH FOOD AND RESOURCES AND JOBS for these people. People must STOP having babies! Put a law in place which states that a maximum of THREE babies is allowed"
4. "Clause 22, new section 41a, is ill-advised. No single individual should be given the power to change regulations as they deem fit."
5. "Child welfare are permanently understaffed and short of money. How will they be able to control these new laws efficiently. I am in agreement with any law that aids defenceless, but only if properly supervised."



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### **Concern: Rights of unmarried fathers**

1. "Both parents must support a child, both should have rights. If you pay you can raise the child."
2. "I feel the parent left with a child or children regardless of gender should have unwavering legal support."
3. "Unmarried fathers will use this to their advantage, and some don't deserve to have any rights."
4. "Visitation and financial support should go hand in hand. Why must one parent carry all the burden of responsibility while the other has none."

### **Concern: Child abduction**

1. "The law must allow for the death penalty for the abduction of children."
2. "This is a great initiative; however, it is important to add protection against child abduction as these crimes are happening more frequently and parents are not supported when going to the police".
3. "The prevalence of child abduction is a huge concern so children should be taught in schools what to be aware of and how to best protect themselves."

### **Concern: National Child Protection Register**

1. "Sex offenders list must be updated with names of all offenders and be PUBLICLY AVAILABLE in order that we can protect all the children of our nation".
2. "Law enforcement is non-existent hence all of the issues relating to crime against children. Further to this the large majority of parents do not provide an environment to create a good home environment hence too many street kids"

### **Concern: Programme funding**

1. "Women and children are more vulnerable to domestic violence in the country, so providing funding to more skills development programs will also help empower them and help them realize that they also have a place in the society."
2. "The funding will not reach the children, will end up in corrupt state employees/officials' pockets"
3. "People are having kids to obtain grants without realising the true cost of having children. Grants should be restricted to a maximum of 2/3 kids."
4. "The program funding should be re looked at. Children are being subsidized for R17 per child at ECD centre's today and with a minimal stipend of R1751 per practitioner per month... We propose that funding of each canter be formulated from the scratch and remuneration of practitioners be increased from R1751 to R2500 and Centre Managers be R3500 per month."
5. Employment opportunities need to be created by the government to cater for the growing population.
6. Improve education on various methods of contraceptives and inform learners on the needs and costs associated with having a child.
7. Implement family planning centres to be funded and managed by the government.

### **Concern: Orphan care**

1. "There are such a lot of red tape when it comes to orphan children. Adoption is virtually impossible. Yet there are so many children in need of families. Same with fostering, would love to assist but just seems impossible and is disheartening."
2. "The department of social development is striking for many years now and not doing their job to place orphans. The process is too long and not efficient. Something needs to change"

### **Concern: Medical testing**

1. "I am in favour of medical testing but any testing the leads to the prescription of psychiatric drugs I am definitely against."
2. "Children needs parental consent to be tested."



**Of the “No I do not” comments**, the public are opposing most elements in the proposed amendment with the exceptions of the National Child Protection Register and ensuring a safer living environment for children. Most of the resistance is shown toward the changes in relation to Children’s rights, programme funding and medical testing which needs to be reviewed. The social grant system and the transparency has been identified as a flaw in our society and will perpetually continue to fuel the existing problems that South Africa faces daily i.e. poverty, little to no job opportunities, struggling economy, deprived youth, high crime rates, corruption and so on.

**Suggestions from the “No I do not” comments, include;**

**Concern; Children’s rights**

1. “The age of maturity must correspond with responsibility. Awarding privacy to immature kids makes it hard for families & parents to set rules & boundaries that have for generations been the foundation of trust & respect in homes.”
2. “Parents are fearful of their own children in fear that the child will open a case against them. Parents were not equipped to know how to handle all the rights that renders them at the mercy of the law.
3. Now should children have the right to privacy; already as social workers we are giving services that requires us not to disclose to parents. Parents have children who are HIV positive and on ARVs; who aborted for the second time; and are now on birth control without their knowledge.”
4. “This is again an attempt to reduce and limit the responsibility of the parents to care, protect and provide for their children. Perhaps regulations must be more severe for those parents who are not responsible towards the care of their children, but to increase the rights of children who cannot look after themselves and are in the care of their parents are not pro-active to make sure they are cared for.”
5. “Children are the principal responsibility of their parents and they don’t not have the necessary knowledge to determine what is in their own best interest. Therefore, it is a parent’s responsibility to be able to regulate what their children is doing, persons that they are seeing and interacting with etc. “

**Concern; Other**

1. “The summary is vague, each and every aspect has pros and cons. This is not clear as to what rights are of privacy or protection, adoption into different countries could make child trafficking “legal”.”
2. “Our laws that we have are good and protect our children already. If you change the laws, you create loopholes for people to abuse and the children become even more neglected. Follow the rules we already have and implement them properly then perhaps things would work better.”
3. “The government should not dictate to parents how to raise their children. If parents break the law, there are means to deal with them.”

**Concern: Rights of unmarried fathers**

1. “Unmarried fathers should have a far bigger say in the raising of the child, courts should look at the situation not one-sided, but in the importance of the father too. If financial support is given, surely should father have same say in everything involving the child.”
2. “If the mother is uncomfortable with sharing parental rights with the unmarried father then the law must support her. Some fathers are not responsible enough to hold such rights. They do more harm to the psychological aspect of children.”
3. “Why should unmarried fathers have rights...if this bill was really about children’s interests, the board needs to go back and do research on how many children are supported by the state grant and come back talk about unmarried fathers and their rights.”



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#### **Concern: Child abduction**

1. "there should be harsher punishment for child abductors, as we don't have a place in the world for these kinds of people."
2. "This will violate rights of Parents. This will make it easier for our Children to be Abducted. Currently the Police cannot curb Abduction of our Children".

#### **Concern: National Child Protection Register**

1. Children need better protection and the register should be made publicly available, especially where candidates will be working with children.

#### **Concern: Programme funding**

1. "We neither have the resources and skills to implement. It sounds great on paper but this government has consistently failed on implementation."
2. "R32 427 billion in 2020/21" is a ludicrous amount of money to be spending on this Bill."
3. "With the jurisdiction of these matters moving to regional courts from divorce courts, will the regional courts have the appropriate specialist skills to deal with these matters"
4. "It is high time the government provide the jobs and stop the grant as this promote childbearing. Parents must be responsible for their actions".

#### **Concern: Orphan care**

1. "I do not support fully waiving adoption costs. Private adoption agencies perform a critical function in streamlining the adoption process in our country. State-employed social workers are already overburdened in their responsibilities and workload. By completely waiving the adoption fee, private professionals will not take part in the adoption process, thus removing much needed support from the state-employed social workers. This will exacerbate the challenges already inherent to the adoption process, which risks further decreasing the already low adoption rate this means that even more children would be deprived of stable, loving homes. It would also further burden the state, since these orphaned children must then be cared for by the state, with state funds."

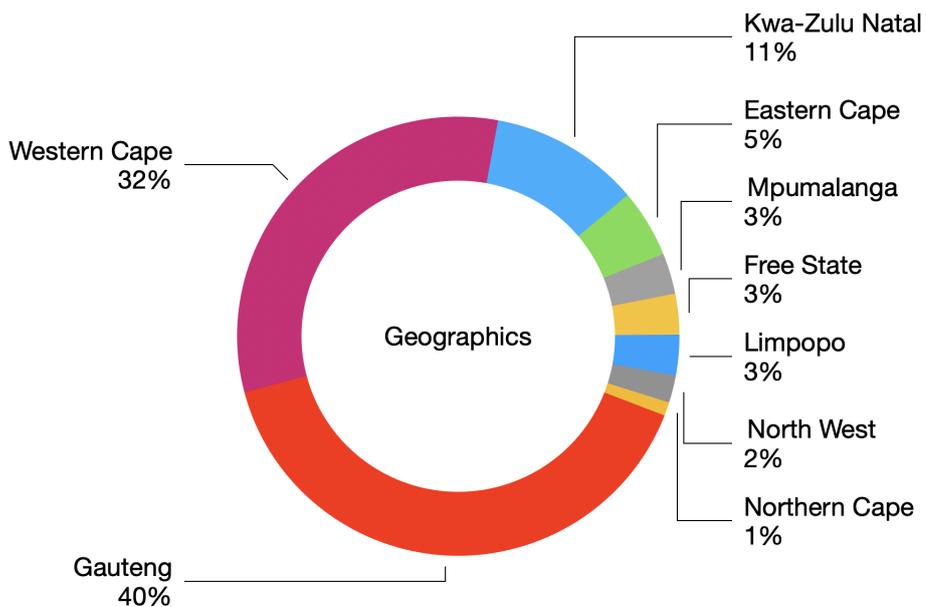
#### **Concern: Medical testing**

1. "I strongly disagree with the proposed addition / changes, NO MEDICAL TESTING ought to be carried out on those under 18 years of age, without their written consent (only obtained once they have been given all the consequences associated with the tests, e.g. side effects, long term results, etc.)."
2. "Children's rights are protected by their parents/ caretakers. We do not need a government to override parents' rights to give children more rights."



## Demographics

Comments originated from all provinces with the greatest input arising from Gauteng, followed by Western Cape and KZN. Demographics can be further broken down into comment options (yes, no, not fully) and by top concern per region upon request, or view the Excel spreadsheet attached.



### Thank you

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