

DEPARTMENT OF SOCIAL DEVELOPMENT

NO. 791

17 JULY 2020

REPUBLIC OF SOUTH AFRICA

VICTIM SUPPORT SERVICES BILL, 2019

*(As introduced in the National Assembly (proposed section 76); explanatory
summary of Bill published in Government Gazette No. 43528 of 17 July 2020)
(The English text is the official text of the Bill)*

(MINISTER OF SOCIAL DEVELOPMENT)

BILL

To provide a statutory framework for the promotion and upholding of the rights of victims of violent crime; to prevent secondary victimisation of people by providing protection, response, care and support and re-integration programmes; to provide a framework for integrated and multi-disciplinary co-ordination of victim empowerment and support; to provide for designation and registration of victim empowerment and support services centres and service providers; to provide for the development and implementation of victim empowerment services norms and minimum standards; to provide for the specific roles and responsibilities of relevant departments and other stakeholders; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the Bill of Rights in the Constitution of the Republic of South Africa, 1996 provides that, everyone has the right, amongst others, to human dignity and equality before the law;

WHEREAS the Republic of South Africa has, since 1994, become an integral and accepted member of the community of nations and is committed to ensuring justice to victims of crime throughout the criminal justice processes;

WHEREAS basic principles which should be applicable to victims of crime have been set out by the United Nations in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power;

WHEREAS the Republic of South Africa recognises the rights of victims by ensuring the provision of effective, integrated and multi-disciplinary support services to victims of crime and violence in South Africa;

AND WHEREAS it is necessary to mitigate secondary victimisation of victims of violent crime;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa as follows-

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CHAPTER 1:

INTERPRETATION, OBJECTS AND APPLICATION OF ACT

Definitions and interpretation

1. In this Act, unless the context otherwise indicates-

"accreditation" means the process of certification of the programmes required to provide victim support services in accordance with the norms and minimum standards;

"associated professions" includes psychological, medical, forensic, or such other professions applying the social sciences;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"Department" means the national department responsible for social development;

"Director-General" means the Director-General of the Department;

"facility" means a physical structure irrespective of the nature of its construction, which is established by any person and from which any service to victims is rendered;

"Minister" means the Minister responsible for social development;

"person" means a natural or juristic person;

"prescribed" means prescribed by regulation;

"provincial head of department" means the accounting officer for a provincial department responsible for social development;

“relevant department” means a government department at national, provincial and local sphere of government which is required to perform the functions as contemplated in this Act;

“secondary victimisation” means the victimisation that occurs, not as a direct result of the criminal act, but through the response of officials, service providers, the community and individuals;

“service provider” means any registered facility as contemplated in section 39;

“spiritual harm” means harm resulting from the manipulation, abuse or exploitation of a person by the misuse of power and authority administered under the guise of religion or belief, including harassment or humiliation, which may result in psychological trauma;

“trauma counselling” means in-depth counselling to address not only an immediate crisis, but also its long term effects, as well as other experiences of trauma, whether related to the current crisis or not;

“victim” means any person who has suffered physical, emotional, spiritual or psychological harm as a result of a violent crime, either committed or directed against him or her, or his or her family members, irrespective of whether any perpetrator is identified, apprehended, and prosecuted or convicted;

“victim empowerment” means comprehensive programme or support services aimed at ameliorating the condition of victimisation to help a victim recover, and is not limited to the provision of psycho-social services;

“victim support” means the emotional and practical support, and management and referral to professional or other support services where necessary;

“violence” includes emotional, and economic abuse as well as physical harm or threats of physical harm.

Objects of Act

2. (1) The object of the Act is to-

- (a) provide a framework within which victim support services must be provided to victims of violent crime;
- (b) provide for and protect the rights of victims;
- (c) direct that all service providers dealing with a victim treat such victim with dignity and respect regardless of their citizenship, race, gender, culture, religious and personal circumstances;
- (d) make provision for the referral of a victim or a person suspected to be a victim to the relevant service provider;
- (e) provide that a victim is assisted to access victim support service programmes and

- services from the Department and relevant service providers;
- (f) clarify the roles and responsibilities of service providers and the relevant departments in the provision of victim empowerment services;
 - (g) mitigate secondary victimisation;
 - (h) provide for the relevant institutional arrangements;
 - (i) provide for intersectoral programmes or support services that seeks to promote integrated service delivery for victim empowerment;
 - (j) provide for the registration of a facility;
 - (k) provide for accreditation of any victim empowerment programmes;
 - (l) provide for vetting of staff members; and
 - (m) provide minimum standards for the security measures to be implemented by service providers.

Application of Act

3. Except where expressly provided for in this Act, this Act applies to victims of violent crime, all service providers, and relevant departments.

Limitation of Act

4. In the event of a conflict between a provision of this Act and a provision of another Act of Parliament, or where any other Act of Parliament provides for specific services to a victim, the provision of such Act will prevail.

CHAPTER 2

RIGHTS OF AND SERVICES TO VICTIM

Rights of victim

5. (1) A victim has the right, which includes-

- (a) to be treated with dignity and privacy,
- (b) to receive information;
- (c) to offer information;
- (d) to receive protection;
- (e) to receive assistance;
- (f) where applicable to apply for compensation and restitution in terms of the Criminal Procedure Act; 1997 (Act No. 51 of 1977);
- (g) to have a legal practitioner assigned to him or her by the state and at state expense in the

event the victim decides to claim for damages and to be informed of this right promptly; and

- (h) to exercise his or her right to remain silent if not ready to testify and to be informed promptly of the consequences of remaining or not remaining silent.

Screening and assessment of victim

6. Whenever-

- (a) a social worker or a person working under the supervision of a social worker;
- (b) associated professionals;
- (c) a police officer; and
- (d) a member of a registered service provider

comes into contact with a victim or a person suspected to be a victim, such person referred to in subsection (a) to (d) must in the prescribed manner-

- (i) without delay, but no later than 24-hours, determine whether the person concerned is indeed a victim; and
- (ii) if necessary, refer that victim or person suspected of being a victim to the relevant registered service provider for assessment,

unless such victim or a person suspected to be a victim has already been assessed.

Secondary victimisation

7. Every relevant department, associated profession, and service provider must implement a code of conduct that directs the employees to treat victims in accordance with the rights of victims as set out in section 5 and thereby prevent secondary victimisation.

Services rendered to victim

8. A service provider or relevant department must provide the following services to a person who has been assessed as a victim as contemplated in section 6, where necessary-

- (a) medical assistance and care;
- (b) psycho-social services;
- (c) witness protection services; or
- (d) any other relevant services.

CHAPTER 3

ROLES AND RESPONSIBILITIES OF SERVICE PROVIDERS AND RELEVANT DEPARTMENTS

Implementation of Act

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9. (1) Subject to this Act, relevant departments, associated professionals together with the service providers must-

- (a) promote, give effect to and within their scope of responsibility, enforce the rights of victims as contemplated in this Act;
- (b) within their scope of responsibility, render relevant services to victims in an integrated and coordinated manner;
- (c) provide clear, timely and consistent information about relevant support service and assistance available to victims;
- (d) provide care, support and protection to victims; and
- (e) where appropriate, refer victims to relevant support services and service providers that provide legal assistance.

(2) Every relevant department and service provider must ensure that there is adequate human and financial resources to achieve the realisation of the object of the Act.

Minister responsible for social development

10. (1) The Minister must-

- (a) co-ordinate and facilitate the programmes and services to be rendered to victims in terms of this Act;
- (b) deliver services through partnerships with service providers, ensure that such services are rendered in compliance with the prescribed norms and standards;
- (c) provide statutory social work support services to the victim;
- (d) provide each victim with information regarding services available to them within their area of residence;
- (e) provide psycho-social services;
- (f) provide support to victims in court; and
- (g) provide trauma counselling.

(2) The Minister must provide the public with a 24-hour 7-days toll free line to provide services to victims of violent crime.

(3) The Minister may from time to time prescribe services to be rendered by the 24-hour 7-days toll free line, contemplated in subsection (2) which includes the following services -

- (a) a toll-free number for reporting of complaints of victimisation from any member of the public;

- (b) acknowledgement of receipt of a complaint with a reference number to each victim who has provided contact details; and
- (c) analysis of complaint and referral to appropriate service provider or relevant government department service provider.

(4) The Minister, in consultation with Ministers responsible for justice, education, correctional services, health and safety and security must—

- (a) create a policy framework to develop the capacity within all levels of government and non-governmental sector to establish, maintain and develop programmes for victim support service programmes;
- (b) establish and maintain a system for accreditation, as prescribed, of programmes for victim support service and victim support service providers; and
- (c) ensure the availability of resources to implement victim support service programmes as prescribed.

(5) The system for accreditation referred to in subsection 1(b) must contain—

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- (a) criteria for the evaluation of victim support service programmes to ensure that they comply with the minimum norms and standards;
- (b) the criteria for evaluation of the content of victim support service programmes to ensure that they reflect a meaningful and adequate response to the harm caused by the offence committed, to achieve the object of victim support service;
- (c) mechanisms to monitor victim support service programmes and victim support service providers in respect of their ability to render quality service in achieving the object of victim support service and their ability to promote compliance with victim support service; and
- (d) measures for the removal of victim support service programmes and victim support service providers from the system, where appropriate.

(6) The Minister must issue a prescribed certificate of accreditation to each victim support service programme that is accredited in terms of this section.

(7) A certificate of accreditation referred to in subsection (6) is valid for a maximum period of five years from the date of accreditation.

(8) Programmes or services including psychosocial services rendered by other relevant department must be accredited by the department of social development.

Minister responsible for health services

11. (1) The Minister responsible for health must-

- (a) provide professional, accessible, medical; and psychological services to victims admitted to its medical facilities;
- (b) designate any public health establishment for the purposes of—
 - (i) providing Post Exposure Prophylaxis to victims; and
 - (ii) carrying out compulsory HIV testing.

(2) A health care professional must provide a victim with information, in the prescribed manner regarding—

- (a) Post Exposure Prophylaxis to a victim, to prevent disease including HIV infection as a result of a sexual offence to a victim;
- (b) an application by victim or interested person for HIV testing of alleged sex offender, in terms of section 30 of the Criminal Law (Sexual

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Offences and Related Matters) Amendment Act; 2007 (Act No. 32 OF 2007); and

- (c) any other health services available to the victim.

Minister responsible for Police

12. (1) The Minister responsible for police must in the prescribed manner, where applicable, provide—

- (a) private victim-friendly area at each of its stations;
- (b) the case number of the case under investigation;
- (c) name and contact details of the investigating officer assigned to the case;
- (d) a copy of the victim's statement when requested;
- (e) notification of the arrest of any suspect;
- (f) notification if a suspect is released from custody, and whether on bail, warning or not being charged;
- (g) information about services available to victims;
- (h) where a person has been charged, the court dates and place;

(i) the name of the prosecutor responsible for the case; and

(j) general progress made in the case.

(2) A Police Officer must; where the case is not referred to the prosecuting authority within 30 days of it being reported by the victim; provide a notification to the victim, indicating reasons including, where relevant-

(a) why the conduct reported by the victim does not constitute a crime;

(b) steps taken towards investigating the case against the perpetrator; or

(c) whether there is not enough evidence to merit referral for prosecution.

Civilian Secretariat for Police

13. The Civilian Secretariat must-

(a) monitor the implementation of this legislation relating to the South African police services;

(b) report on subsection (a) annually to the national committee for victim support services.

Department responsible for justice

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14. The Minister responsible for justice must ensure that, where applicable -

- (a) victims and witnesses are treated with dignity and respect during criminal proceedings and in respect to support services in relation to such proceedings;
- (b) witness fees are provided as prescribed in the Criminal Procedure Act; 1977 (Act No. 51 of 1977);
- (c) intermediary services in terms of section 170A of the Criminal Procedure Act; 1977 (Act No. 51 of 1977), are provided;
- (d) facilities to facilitate audio visual testimony are available; and
- (e) plans and programmes for the development, management, implementation, monitoring, evaluation, review, and the impact of the victim's charter are coordinated.

Department responsible for correctional services

15. The National Commissioner responsible for correctional services may-

- (a) upon request of the victim, provide a victim with the name and location of the correctional facility where the perpetrator is incarcerated;
- (b) if the victim requested to be notified of the placement consideration in terms of the Correctional Services Act; 1998 (Act No. 111 of 1998), notify the victim in writing, of the scheduled dates of consideration of the sentenced inmate;
- (c) afford the victim an adequate opportunity to make written or oral representations, parole;
- (d) provide information relating to the consideration of parole for the perpetrator; and
- (e) notify the victim of the official date of any release of the perpetrator.

Departments responsible for basic and higher education

16. The Minister responsible for education must-

- (a) protect learners within the learning environment from victimization;
- (b) protect, and provide support to learners or students should they be victimised within or outside the premises of the learning institution; and

- (c) develop supporting policies and practice guidelines which include-
 - (i) abolishing any programme, practice or culture that may lead to the victimisation of learners within the learning institution;
 - (ii) preventing any victimization from occurring within a learning institution;
 - (iii) facilitating immediate access by learner victims to relevant victim support services; and
 - (iv) acting against perpetrators, as well as protecting the learner against further victimization..

Department responsible for women

17. The Minister responsible for women must-

- (a) develop policy guidelines to reduce gender based violence; and
- (b) provide for the implementation of gender mainstreaming by relevant departments, and monitoring thereof.

National Prosecuting Authority

18. The National Prosecuting Authority must-

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- (a) notify the victim of a decision to prosecute, or not to prosecute, and the reasons therefore should the latter apply;
- (b) where a case is enrolled, notify the victim of—
 - (i) the court case number and the charges against the accused person;
 - (ii) whether bail has been granted by a court to an accused;
 - (iii) the first appearance and all subsequent court dates;
 - (iv) the date of handing down the court judgment;
 - (v) the outcome of the case;
 - (vi) the date of the sentencing hearing; and
 - (vii) the sentence imposed.
- (c) consult the victim before the relevant criminal proceedings;
- (d) inform a victim about court processes and the victim's right to attend court proceedings, unless the court otherwise orders or the court processes require the victim not to be present in court;

- (e) where there is capacity, assist the victim by providing relevant court preparation services if the victim is to appear as a witness; and
- (f) where appropriate, present the evidence of the victim, including the impact that the crime had on the victim, at the trial court adjudicating the relevant criminal case.

Legal Aid South Africa

19. The Legal Aid South Africa may-

- (a) render or make available legal aid and legal advice to victims of violent crime in civil proceedings;
- (b) provide legal representation to a victim in civil proceedings where the requirements for legal
- (c) representation at state expense are met; and
- (d) provide education and information concerning legal rights and obligations, as envisaged in the Constitution and its enabling Act.

CHAPTER 4

REGISTRATION OF VICTIM SUPPORT FACILITIES

Procedure for registration of victim support facility

20. (1) No person may establish or manage any victim support facility that renders physical, psychological, spiritual or

social services unless such victim support facility is registered in terms of this section.

(2) Any person who desires to establish or manage a victim support facility contemplated in subsection (1) must apply in the prescribed manner to the provincial head of department for the registration of such facility.

(3) The provincial head of department may—

- (a) after consideration of an application contemplated in subsection (2) and such other information as he or she may obtain; and
- (b) if he or she is satisfied that such victim support facility is or will be managed and maintained in such a way that the reception, and services to victims complies with the prescribed requirements,

grant the application for registration and issue a registration certificate.

(4) The provincial head of department may grant a conditional registration on such conditions as he or she may deem fit for a maximum period of 12 months and must specify those conditions to the applicant in the prescribed manner.

(5) The conditional registration contemplated in subsection (4) may only be extended for a maximum period of 12 months under the same conditions.

(6) The provincial head of department may at any time after three months' notice of his or her intention to do so, and after consideration of any representation received by him or her during such period, amend or cancel a registration certificate issued in terms of subsection (3) or (4).

(7) A registration certificate granted by the provincial head of department is valid for a period of five years, and is renewable every five years on application by the owner or manager of a victim support facility six months prior to the expiry date.

(8) The provincial head of department may refuse an application for registration in terms of subsection (2) or (7) if, after consideration of such application, he or she is not satisfied that such victim support facility is or will be managed and maintained in the manner contemplated in subsection (3).

(9) If a re-registration application is refused or if such registration is cancelled, the provincial head of department and the owner or manager of the facility concerned must take reasonable steps to ensure that all victims admitted in the victim support facility concerned are admitted in another registered facility or with persons who, in the opinion of a social worker, are fit and proper persons for accommodating such victims.

(10) The amendment or cancellation of a registration certificate contemplated in this section must be effected by notice in writing addressed to the holder thereof and comes into operation on a date specified in the notice, which date may not be earlier than three months after the date of the notice, unless the provincial head of department and the holder of the registration certificate have agreed otherwise.

(11) A registration certificate issued under subsection (3) or (4) is not transferable.

(12) The holder of a registration certificate issued under subsection (3) or (4) may, after three months' written notice, surrender such registration certificate to the provincial head of department.

(13) Whenever a registration certificate is refused or cancelled under subsection (8) or (9) or surrendered under subsection 12, the powers and duties conferred or imposed under this Act on the holder thereof must devolve upon the provincial head of department.

(14) A person who contravenes or fails to comply with this section, or any condition imposed thereunder, is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 12 months or to both a fine and such imprisonment.

Requirements for registration of facility

21. A facility may only be registered as such when it complies with the structural, safety, health and any other requirements of the municipality where the facility for a victim is situated.

Provincial register for registered service providers

22. (1) The provincial heads of department must-

- (a) compile and maintain a register containing the details as prescribed of all registered service providers in their respective provinces; and
- (b) must submit the register contemplated in paragraph (1) (a) to the Director-General annually by 31 March.

(2) The Director-General must annually, provide a copy of the register to the national committee to reduce violence and to the Minister, and publish the contents of the register in the *Gazette*.

National register of registered service providers

23. (1) The Director-General must keep a consolidated register of each service provider in the Republic of South Africa.

(2) The register referred to in sub-section (1) must contain the-

- (a) name;
- (b) registration number;

- (c) physical, postal and electronic mail address;
- (d) contact numbers;
- (e) working hours;
- (f) current status of accreditation or registration of each service provider; and
- (g) whether or not such service provider has been suspended or its registration previously cancelled.

Vetting of staff members of service provider

24.(1) A person who is found to be unsuitable to work with children by a competent court and whose details appear in the-

- (a) national child protection register as contemplated in the Children's Act, 2005 (Act No. 38 of 2005);
- (b) national register for sex offenders as contemplated in the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007);
- (c) register of persons convicted of abuse of older persons or any crime or offence related to the abuse of older persons as contemplated in

section 31 of the Older Persons Act, 2006 (Act No.13 of 2006); or

(d) any other legislation

is not a fit and proper person to operate or serve in any capacity of a service provider.

(2) All persons working with victims for an registered service provider must be vetted by the service provider and their criminal record must be verified by the same service provider.

(3) All social workers including other social service professionals providing service to the registered service provider must be registered with the South African Council for Social Service Professions and must comply with the relevant legislation.

Suspension of registration

25. (1) If the provincial head of social development in the relevant province finds that a service provider contravened-

(a) any provision of this Act; or

(b) any term or condition of an registration certificate issued, he or she may-

(i) order the service provider by written notice to rectify the contravention or deviation contemplated in paragraph (a) or (b) within 90 days; or

(ii) give the service provider the opportunity to make representation

within the 90 days stipulated in subparagraph (i).

(2) Failure to rectify the contravention or deviation will result in the suspension of the registration of the service provider until it remedies the defects and reapplies for registration.

(3) The written notice contemplated in subsection (1) (b) (i) must set out-

- (a) the name of the service provider to which the order applies;
- (b) the provisions and conditions that were not complied with and details of the non-compliance;
- (c) the steps that the service provider must undertake to remediate the situation and the timeframe within which those steps must be taken; and
- (d) any other prescribed information.

(4) The suspended service provider must address the application for re-registration to the provincial head of social development who must-

- (a) re-instate the registration of a service provider, if the service provider has rectified the cause of the suspension within the period stipulated in a notice to rectify such; or

- (b) provide written reasons for the refusal of registration, or renewal of registration.

Voluntary deregistration and winding up or dissolution of a service provider

26. (1) A registered service provider may voluntarily deregister by sending to the provincial head of social development-

- (a) the prescribed written notice-
 - (i) stating its intention to deregister voluntarily and the reasons thereof; and
 - (ii) specify a date at least two months after the date of the notice, on which the deregistration is to take effect; and
- (b) simultaneously a copy of the prescribed reports for the period from its previous financial year up to the date of the written notice contemplated in this subsection.

(2) If a registered service provider resolves to wind-up or otherwise dissolve itself or is being wound-up in terms of any law, it must, prior to the winding-up or dissolution process or the relevant order of court, send to the relevant provincial head of social development-

- (a) a written notice-
 - (i) stating this fact; and

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- (ii) containing certified copies of all relevant documents confirming the winding-up or dissolution; and
 - (b) a copy of the prescribed reports for the period from its previous financial year up to the date of the written notice contemplated in this subsection.
- (3) Upon receipt from a registered service provider of the notice of voluntary deregistration or winding-up or dissolution, the provincial head of social development must –
 - (a) cancel the service provider's certificate of registration, and send the provincial amended register within 30 days thereof to the Director-General who will amend the national register; and
 - (b) notify the service provider in writing of the deregistration and confirm the date on which the amendment was made to the register.

National norms and standards for facilities

27.(1) The Minister must within 12 months of coming into operation of this Act and after consultation with the ministers of the executive counsel of the relevant provincial departments, prescribe national norms and standards for facilities for victims of crime and violence.

(2) The national norms and standards must provide for the requirements in respect of the-

- (a) structural constriction;
- (b) size;
- (c) safety;
- (d) hygiene;
- (e) security; and
- (f) relevant building regulations of the local municipality.

Registration and cancelation of registration of facility

28.(1) A person who qualified as contemplated in section 39 or any other law to render services to victims, may in the prescribed manner apply to establish, register and operate a facility provided that the facility-

- (a) is managed and maintained in accordance with any condition subject to which the facility is registered; and
- (b) complies with the national norms and standards and any other requirements as may be prescribed.

(2) Any person operating a facility existing at the time of coming into operation of this Act must, in the manner prescribed apply to the provincial head of department for registration of such a facility as a victim empowerment service.

(3) Any new facility may only be registered as a victim empowerment facility, after lodging the prescribed application with the provincial head of department and after satisfying the prescribed requirements.

(4) The provincial head of department must, when satisfied that the facility complies with the requirements for registration as a victim empowerment facility; within 30 days issue the prescribed certificate to the service provider operating such facility.

(5) Notwithstanding any prescribed period in any other law or certificate, a facility registered as a victim empowerment service facility shall be regarded as having being registered only for a period of five (5) years after the coming into effect of this Act or from the date upon which it is so registered thereafter, and must in all instances re-apply to the provincial head of department for registration in the prescribed manner.

(6) The provincial head of department may after consultation with the Director-General consider an application contemplated in subsection (3) and such other information as he or she may obtain.

(7) If the provincial head of department is satisfied that such facility is or will be managed; and if he or she is satisfied that the reception, assessment, care and support of victims of violent crime complies with the prescribed requirements, grant the application for registration and issue a registration certificate.

Notice of enforcement

29. (1) Whenever a provincial head of social development is informed of the existence of an unregistered facility he or she may in the prescribed manner and by way of written notice, instruct a person operating or owning an unregistered facility to-

- (a) declare and account for all victims accommodated or served at such a facility;
- (b) stop operating that facility; and
- (c) apply for registration in terms of section 48 within a prescribed period which must be specified in the notice.

(2) A person operating a registered facility other than in accordance with the provisions of this Act; may be reported to the relevant provincial committee for victim support services.

(3) The relevant provincial committee for victim support service must monitor the registered facility to ensure compliance with the norms and standards.

Monitoring of registered facilities

30. (1) The chairperson of the relevant provincial committee for victim support services must in the prescribed manner, nominate members from provincial committee for victim support services to serve as a monitoring and enforcement sub-committee of the committee.

(2) The sub-committee of the relevant provincial committee for victim support services may serve for the duration of the term of office of the Committee.

(3) A member of the provincial committee for victim support services, social worker in the employ of the Department or a provincial department, or a police officer may upon written instructions of the Director-General or a provincial head of the department, at any time-

- (a) enter any premises operated as a victim support services facility for the purposes of conducting an investigation in the prescribed manner;
- (b) interview any victim cared for or accommodated in such facility;
- (c) direct any person who has possession or custody of any record or document relating to such a facility, to submit such record or document to him or her for inspection;

- (d) submit a report in the prescribed manner and within 72-hours of such inspection, to the Director-General or the provincial head of department as the case may be, on the findings of the inspection;
 - (e) provide the operator of the facility with a report on the findings of the inspection; and
 - (f) issue any enforcement notice as directed by the Director-General or the provincial head of department.
- (4) A person commits an offence if that person-
- (a) obstructs or hinders a social worker or service provider or official in the performance of his or her functions in terms of subsection (3); or
 - (b) refuses to give a social worker or service provider or official access to a victim cared for or accommodated in a facility referred to in subsection (3),

and if found guilty is liable to a fine in accordance with the Adjustment of Fines Act, 1991 (Act No. 101 of 1991) or to imprisonment for a period not exceeding three years, or to both such fine and imprisonment.

Death or injury in facility

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31.(1) In the event of a death or injury of a victim in a facility the manager of such a facility must immediately report such incident to the-

- (a) police officer in the relevant area;
- (b) relevant provincial head of department; and
- (c) next of kin.

(2) Where the Minister, Director-General, member of the executive council responsible for social development or provincial head of department deems it necessary after receiving the report contemplated in subsection (1), cause an investigation to be conducted into the circumstances of such an incident and take appropriate action including cancellation, suspension or amending the registration certificate of the relevant victim support service facility.

(3) The manager of such a facility must within 48 hours provide the Director-General or the provincial head of department as the case may be, with a full report of the incident as prescribed.

Management structure of facility

32. (1) The Minister may prescribe the management and control structure of a facility.

(2) A management structure of a facility may have members as prescribed.

(3) The members of the management structure referred to in subsection (2) must ensure that a facility-

- (a) provides the services referred to in this Act;
- (b) maintains a satisfactory level of quality service;
- (c) provides opportunities for the training of staff; and
- (d) applies principles of sound financial management and functions effectively.

Record and strategy of facility

33. A provincial head of social development must-

- (a) maintain a record of-
 - (i) all facilities in the province;
 - (ii) the types of facilities; and
 - (iii) the number of each type of facility;
- (b) develop and implement a provincial strategy for the provision of facilities which must include facilitating the establishment and operation of sufficient facilities in that province; and

- (c) prioritising those types of facilities most urgently required.

CHAPTER 5

SERVICE FACILITIES FOR VICTIMS

Department of social development facilities

34. (1) A Khuseleka One-Stop Centre is a facility that serves for the reception, assessment, care and support of victims including victims of violent crime by a multi-disciplinary team.

(2) A Khuseleka One Stop Centre must render the following support services to a victim referred to it by a social worker, associate professional or a relevant provincial head as the case may be-

- (a) assessment by a multi-disciplinary team;
- (b) 24-hour care and support services to victims of crime for a period of 6 months;
- (c) counselling services; and
- (d) skills development.

(3) A shelter is a residential facility that accommodates a victim for a period of one day up to 6 months or as the needs arise;

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(4) A shelter must immediately render within its available resources, psycho-social services to any victim who is referred to it or otherwise comes to its attention.

(5) A white door safe space of hope is a facility that must render care and support services for a period of 24 hours up to 72 hours to a victim.

Department of health facilities

35. (1) Whenever the department of health designates health facilities to provide assessment of victims, such must be reported to the Director-General, to enable the department to provide adequate victim support services.

(2) Designated health facilities must provide trauma counselling by social workers, psychologists, psychiatrists, professional nurses, social auxiliary workers and lay counsellors.

National Prosecuting Authority Facilities

36. (1) Whenever Thuthuzela care centres are established, such must be reported to the Director-General, to enable the department to provide adequate victim support services.

(2) Thuthuzela care centres must co-ordinate service that includes medical examination and intervention, evidence collection and preservation, counselling, victim support, and awareness campaigns.

South African Police Service facilities

37. The South African Police Services must provide a private room where victims may be interviewed and statements taken in a confidential respectful and dignified manner.

Provision of funding of facility

38. The member of the executive council responsible for the relevant departments must, from money appropriated by the relevant provincial legislature, provide and fund facilities for victims of violent crime in the respective province.

Provision and accreditation of victims' support programmes and service providers

39. (1) The Minister, in consultation with Ministers responsible for justice, education, correctional services, health and safety and security and the non-governmental sector must: -

- (a) create a policy framework to develop the capacity within all spheres of government and non-governmental sector to establish, maintain and develop programmes for victim support services;
- (b) establish and maintain a system for accreditation, as prescribed, of programmes for victim support service; and
- (c) ensure the availability of resources to implement victim support service programmes as prescribed.

(2) The system for accreditation referred to in subsection 1(b) must contain-

- (a) criteria for the evaluation of victim support service programmes to ensure that they comply with the minimum norms and standards;
- (b) the criteria for evaluation of the content of victim support service programmes to ensure that they reflect a meaningful and adequate response to the harm caused by the offence committed, to achieve the object of victim support service;
- (c) mechanisms to monitor victim support service programmes and victim support service providers in respect of their ability to render quality service in achieving the object of victim support service and their ability to promote compliance with victim support service; and
- (d) measure for removal of victim support service programmes and victim support service providers from the system, where appropriate.

(3) The Minister, must issue a prescribed certificate of accreditation to each victim support service programme that is offered by a victim support service provider.

(4) A certificate of accreditation referred to in subsection (3) is valid for a maximum period of five years from the date of accreditation.

(5) Programmes or services including psychosocial services rendered by other relevant departments must be accredited by the Department.

CHAPTER 6

GENERAL PROVISIONS

Regulations

- 40.** (1) The Minister may make regulations regarding-
- (a) the manner in which a victim may be assessed for admission to a service provider;
 - (b) the information to be obtained from the South African Police Service regarding the victim;
 - (c) the manner in which information may be provided to the victim with regard to the case;
 - (d) the procedure and conduct of meetings of the national committee for victim support services and the national coordinating sub-committee for victim support service;

- (e) the establishment of the national and provincial and local committee for victim support service and the respective sub-committees;
- (f) the selection and appointment of members of the national and provincial and local committee for victim support service and the respective sub-committees;
- (g) the registration of service providers that provide victim empowerment services;
- (h) the procedure to be followed in connection with the lodging and consideration for registration or renewal or suspension of a facility;
- (i) the format in which the annual report on the service provider's register must be published;
- (j) the format that the annual report must conform to; for submission by the provincial heads of department on the service provider register;
- (k) the annual reports to be submitted by a service provider;

- (l) the manner in which the registration of a service provider may be cancelled or suspended;
- (m) the voluntary deregistration of the service provider;
- (n) the norms and standards in respect of delivery of any service to a victim;
- (o) the norms and standards in respect of registration, renewal of registration or accreditation, and suspension and cancellation of registration or of a service provider or facility;
- (p) norms and standard in respect of accreditation
- (q) the establishment of and composition of an appeal tribunal to consider and adjudicate on appeals lodged by victims or service provider regarding any decision taken or act performed in terms of this Act;
- (r) any form required to be completed in terms of this Act;
- (s) the minimum requirements that the different types of facilities have to comply with;

- (t) the procedure to be followed with regard to the management of a victim if a facility is closed down;
- (u) the prevention strategies and programmes; and
- (v) any other matter which the Minister deems necessary or expedient to be prescribed in order to achieve the objects of this Act.

(2) Any regulation made under subsection (1)-

- (a) which may result in expenditure for the State, must be made in consultation with the Minister of Finance;
- (b) which may impact on the mandate of another organ of state must be made in consultation with the respective executive authority, member of the executive council responsible for social development or provincial head of department responsible for that organ of state as the case may be; and
- (c) may provide that any person who contravenes a provision thereof or fails to comply therewith shall be guilty of an offence and on conviction is liable to a fine or to imprisonment for a

period not exceeding three years, or to both such fine and imprisonment.

Delegation of power

41.(1) The Minister may-

- (a) delegate to the Director-General any power conferred on the Minister by this Act, except the power to make regulations; or
- (b) authorize the Director-General to perform any duty imposed on the Minister by this Act.

(2) The Director-General may-

- (a) delegate to any employee of his or her department any power assigned to him or her in terms of subsection (1) and the Act; or
- (b) authorise that employee to perform any duty he or she is authorised to perform in terms of the Act.

(3) The member of the executive council responsible for social development may-

- (a) delegate to the provincial head of department any power conferred on the member of the executive council responsible for social development by this Act; or

- (b) authorize the provincial head of department to perform any duty imposed on the member of the executive council responsible for social development by this Act.
- (4) The Provincial Head of Department may-
 - (a) delegate to any employee of his or her provincial department any power delegated to him or her in terms of this Act; or
 - (b) authorize that employee to perform any duty he or she is authorised to perform in terms of this Act.
- (5) A delegation in terms of subsections above-
 - (a) is subject to any limitations, conditions and directions which the Minister, Director-General, member of the executive council responsible for social development or the relevant provincial head of department may impose;
 - (b) must be in writing; and
 - (c) does not divest the Minister, Director-General, member of the executive council responsible for social development or the relevant

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provincial head of department of the responsibility concerning the exercise of the power or the performance of the duty.

(6) Any person to whom any power has been delegated or who has been authorised to perform a duty under this section must exercise that power or perform that duty subject to such conditions as the person who effected the delegation or granted the authorisation considers necessary.

Transitional arrangement

42. A service provider which existed at the time of commencement of this Act and which provided services to victims; and intends to continue to operate and provide such services after the commencement of this Act may continue to render such services and apply for accreditation within 12 months of this Act coming into operation.

Short title and commencement

43. This Bill is called the Victim Support Services Bill, 2018, and comes into operation on a date fixed by the President in the *Gazette*.



social development

Department:
Social Development
REPUBLIC OF SOUTH AFRICA

MEMORANDUM ON THE OBJECTS OF THE BILL

-VICTIM SUPPORT SERVICES BILL, 2020-

1. PURPOSE OF THE BILL

Gender based violence, Femicide and abuse of women and children under general is a challenge in the South Africa. There are victims every minute of the day who require services from government in order to curb or mitigate victimhood or deal with after effects thereof. The challenge is that there are various organs of state that provide services to victims of violent crime or crime under general in the country. However, there is a gap in the justice system because the system is only centred around the perpetrator and the victim is often left in isolation. The purpose of the Bill is therefore to bring the victim to the centre of the justice system in order to ensure that the rights applicable to a perpetrator are also extended to a victim to the extent that is applicable.

2. BACKGROUND OF THE BILL

It is widely acknowledged that South Africa has one of the world's most progressive and expansive constitution. There are a range of laws that deal with child protection, domestic violence, sexual offences and other aspects of violence against women and children. Despite the country's progressive Constitution and laws, and having ratified several international human rights treaties, South Africa, still has among the highest rates of violence against women and children in the world.

The Department of Social Development commissioned a feasibility study to assess whether there is a need for a comprehensive victim empowerment legislation. A consortium of NGOs was appointed to conduct such a study. A feasibility report was

presented to the Department of Social Development senior management, Victim Empowerment Management Team and other interest groups. The study recommends that a comprehensive legal framework be developed to assess the gaps in the existing victim empowerment legislation. This Bill has therefore been developed to address such gap taking into account that the criminal justice system is perpetrator friendly and interests of a victim are not recognised at equal footing as those of a perpetrator.

3. OBJECTS OF THE BILL

The object of the Bill is to provide a framework within which victim support services may be provided to victims of violent crime. It seeks to protect the rights of victims and direct that all service providers dealing with a victim treat such victim with dignity and respect regardless of their citizenship, race, gender, culture, religious and personal circumstances.

The Bill further seeks to ensure that a victim is assisted to access victim support service programmes and services from the Department and relevant service providers. It clarifies the roles and responsibilities of different service providers in the provision of victim empowerment services; mitigate secondary victimisation; make provisions for the relevant institutional arrangements.

It also provide for intersectoral programmes or support services that seeks to promote integrated service delivery for victim empowerment programme; for the registration of a facility; for accreditation of any programmes; for vetting of staff members; and minimum standards for the strengthening of security at service providers' premises. It provides for the procedure for the registration, the period of validity of such registration and the renewal thereof. It also caters for suspension of registration and voluntary deregistration.

4. CLAUSE BY CLAUSE ANALYSIS

Clause 1: Definitions and Interpretations

This clause provides for the definitions and interpretations of the clauses of the Act. It provides for general definitions and content based definitions such as the definition of a victim in the context of the Bill.

Clause 2: Objects of the Act

This clause provides for the objects of the Act and outlines what the Bill seeks to achieve including the issue which includes the paradigm shift of the justice system from being perpetrator based to being victim oriented. It places the victim of crime at the centre of the justice system and creates rights for victims of crime in the same context as rights of perpetrators.

Clause 3: Application of the Act

This clause provides for the application of the Act. It is understood that there are various definitions of the victim of crime. There may also be many types of victims. This clause limits the scope of the Act to certain category of victims and places its emphasis on victims of violent crimes. It also addresses the issue of indirect victims and limit the scope of application thereof to family members as it recognises that there can be various types of indirect victims and with the understanding that everyone in South Africa may be or is construed as an indirect of a violent crime in one way or another. It also applies to service providers and relevant departments.

Clause 4: Limitations of the Act

In the same context as in clause 3, this Bill acknowledges the broad scope of the definition of a victim and thus provides the extent to which one may be recognised as a victim of a crime not undermining that for every crime there is a victim but for the purposes of provision of psychosocial services there is a need to limit the application so as to be able cost the services to be provided.

Clause 5: Rights of victim

Currently the justice system focuses more on the rights of an arrested person, accused person in line with section 35 of the Constitution of the Republic of South Africa, 1996. When a person is charged with a crime the rights of such a person are read out to the arrested person and that also happens when the person appears before the court. However, this does not happen with regard to a victim despite the Constitution of the Republic of South Africa, 1996 providing that everyone is equal before the law and has equal benefit and protection of the law. This clause therefore seeks to cure such defect.

Clause 6: Screening and assessment of victim

This clause also acknowledges that there are many types of victims of crime and that there may be victims who are not contemplated in this Bill. It therefore provides for the screening of victims so as to ensure that the person concerned is indeed a victim of crime for the purposes of providing services contemplated in this Bill.

Clause 7: Secondary victimisation

This clause acknowledges that there is always a possibility of secondary victimisation and therefore creates a prohibition against such. It provides that secondary victimisation is illegal and needs to be prevented at all times as it makes a victim to relive the ordeal and therefore not different from the victimisation itself.

Clause 8: Services rendered to victim

This clause provides for a list of services that should be provided to victims. It provides that for each department or organ of state to provide services to a victim in line with each department's constitutional mandate. It places psychosocial services at the centre and also other services that can be provided by other departments since the services that a victim requires are often intersectoral and multisectoral. It also provides for medical services, witness protection services and such other relevant services.

Clause 9: Implementation of Act

This clause recognises that there are so many departments or organs of state that play a role when a person is a victim. It therefore creates a mechanism that must be utilised to ensure that each department organ of state plays its role in implementing the provisions of this Bill.

Clause 10: Minister responsible for Social Development

The clause provides for the Minister of Social Development to play a co-ordinating and facilitation role for the development the programmes and services to be rendered to victims. It also provides for the delivery of services through partnerships with service providers so as to ensure that such services are rendered in compliance with the norms and standards to be prescribed by the Minister. These services include statutory social work support services to the victim; provision of a victim with information regarding services available to them within their area of residence; provision of psycho-social and support services and trauma counselling under general.

Clause 11: Minister responsible for Health

This clause empowers the Minister responsible for health to provide professional, accessible, medical and psychological services to victims admitted to its medical facilities. It also provides for the designation of any public health establishment for the purposes of providing Post Exposure Prophylaxis to victims and carrying out compulsory HIV testing.

Clause 12: Minister responsible for Police

This clause provides for the protection of a victim from the time a matter is reported in the police station throughout the trial until the perpetrator is convicted. It requires that the manner in which a crime is reported should be protective of a victim and that a victim should be notified of the state and progress of a case. It also provides for a victim to be made aware when a bail is be granted so as to avoid a victim meeting his or her perpetrator surprisingly on the street and have his or her life jeopardised again.

It empowers the Minister of Police to ensure that there are victim friendly rooms for the victims to be able to report a crime in privacy.

Clause 13: Civilian Secretariat for Police

This clause empowers the Civilian Secretariat for Police to monitor the implementation of this legislation by the South African police and to report on subsection to the national committee for victim support services on annual basis.

Clause 14: Department responsible for Justice

This clause provides for the Minister responsible for justice ensure that victims and witnesses are treated with dignity and respect during criminal proceedings and in respect to support services in relation to such proceedings and to coordinate plans and programmes for the development, management, implementation, monitoring, evaluation, review, of the victim's charter.

Clause 15: Department responsible for Correctional Services

This clause provides for the National Commissioner responsible for correctional services provide a victim with the name and location of the correctional facility where the perpetrator is incarcerated when requested to do so. It also provides for the victim to be afforded an adequate opportunity to make written or oral representations for parole purposes and provide information relating to the consideration of parole for the perpetrator and for the victim to be notified of the official date of any release of the perpetrator.

Clause 16: Department responsible for Basic and Higher Education

This clause provides for the Minister responsible for education to protect learners within the learning environment from victimization; protect, and provide support to learners or students should they be victimised within or outside the premises of the learning institution; and to develop supporting policies and practice guidelines which

include abolishing any programme, practice or culture that may lead to the victimisation of learners within the learning institution.

Clause 17: Department responsible for Women

This clause provides for the Minister responsible for women to develop policy guidelines to reduce gender based violence; provide for the implementation of gender mainstreaming by relevant departments and to monitor same.

Clause 18: National Prosecuting Authority

This clause provides for the National Prosecuting Authority to notify the victim of a decision to prosecute, or not to prosecute, and the reasons in case the latter applies. It also provides for notification of a victim with regard to the court where a case is enrolled as well as the case number and issues of whether the bail has been granted or not so as to avoid a situation where a victim accidentally meets his or her perpetrator without having been informed about the progress or status of the case. The notification should also be about the status of the case throughout the trial process until the case is finalised.

Clause 19: Legal Aid South Africa

This clause provides that Legal Aid South Africa is expected to provide legal aid to victims so that they can be able to litigate against perpetrators. This is in the context that an accused has a right to legal representation paid for by the state in an event where an accused cannot pay for such by himself or herself. This Bill recognises this discrepancy in the legal system and requires that a victim must too be entitled to legal representation in an event where a victim decides to sue a perpetrator for damages.

Clause 20: Procedure for registration of victim support facility

There is a need for every facility that provides services to victims to register with the Department of Social Development. This clause provides for the procedure that must

be followed by a person who intends to register a victim support facility. It provides a process map for ease of registration.

Clause 21: Requirements for registration of facility

This clause spells out the requirements for registration of a facility. It must be noted that every facility needs to be registered in terms of clause 20 and this clause recognises that not every facility is eligible to register as some may have a history of abuse of women and children which therefore automatically excludes them from qualifying for registration.

Clause 22: Provincial register for registered service provider

This clause creates an obligation for a provincial head of social development to keep a register of all service providers who render services to victims in his or her province. This register must also contain the nature of services provided, operating hours and such other details that will enable victims to know how and when to access such services.

Clause 23: National register of registered service provider

This clause creates an obligation on the Director-General of social development to keep a consolidated record of all the provincial registers of service providers. The consolidated report must contain the details of the nature of services provided in each province, the registration details and registration status of each service provider in every province.

Clause 24: Vetting of staff members of service provider

This clause provides for the vetting of all staff of the service providers. It ensures that persons who have a history of abuse of women and children or any such violent behaviour that may further jeopardise victims or expose them to secondary

victimisation are prohibited from working for service providers or service providers with such history are not registered as for provision of victim support services.

Clause 25: Suspension of registration

This clause for circumstances upon which a service provider may be removed from a registration record or suspended. It provides that once the qualifying criteria requirements have been violated a service provider's registration may be suspended.

Clause 26: Voluntary deregistration and winding up or dissolution of a service provider

This clause provides for a service provider to deregister or be dissolved as a service provider. This helps the department of social development to know who is still providing services so as to know areas where the department should be intervene.

Clause 27: National norms and standards for facilities

This clause provides for the Minister of Social Development to develop minimum norms and standards so as to ensure that all the facilities or service providers provide services in a manner that is consistent with the ideals of this legislation.

Clause 28: Registration and cancelation of registration of facility

This clause provides for registration requirements and registration of facilities that provide services to victim. Each facility is expected to register in compliance with requirements set in the Act.

Clause 29: Notice of enforcement

This clause provides a process of ensuring that steps are taken in an event where a facility is not registered. It also gives powers to the head of department of social development to give a notice to the facility to stop operating as a facility. It is a procedural provision that takes into account the developmental efforts of the department to assist the facility to comply with the registration requirements before a facility can be closed.

Clause 30: Monitoring of registered facilities

This clause provides for the monitoring of facilities that have been registered by the department of social develop. It monitors whether the facilities continue to comply with registration requirements and whether norms and standards are adhered to at all times. The committee tasked with monitoring the registered facilities has a power to enter premises, inspect records and interview any person who is believed to be in possession of information that may assist for monitoring purposes.

Clause 31: Death or injury in the facility

This clause provides for a manager of a centre to report any death or injury that happens in a facility to the police, next of kin and provide a full report to the head of social development in the relevant province within a period of 48 hours from the time of the incident.

Clause 32: Management structure of facility

This clause provides that each facility must have management structure in order to ensure good quality service and proper running of the facility. It provides for the development of regulations to spell out how the members of the management structure should be appointed and who qualifies to be in such a structure.

Clause 33: Record and strategy of facility

This clause provides for the empowerment of a provincial head of social development to maintain a record of all facilities in the province. The record must indicate type of facility and the total number of each type of facility that renders services in a province. It also provides for the development and implementation of a provincial strategy for the provision of facilities which must include facilitating the establishment and operation of sufficient facilities in that province.

Clause 34: Department of Social Development facilities

This clause provides for identification of various and different types of facilities in terms of the services they provide including Khuselekas, One-centres and white doors.

Clause 35: Department of Health facilities

Whenever the department of health designates health facilities to provide assessment of victims, such must be reported to the Director-General, to enable the department to provide adequate victim support services.

Clause 36: National Prosecuting Authority facilities

This clause creates an obligation on the National Prosecuting Authority to ensure that whenever Thuthuzela care centres are established, such centres are reported to the Director-General of social development in order for the Director-General of social development to be able ensure that the department of social development provides adequate victim support services.

Clause 37: South African Police Service facilities

This clause provides for the South African Police Services to provide a private room where victims may be interviewed and statements taken in a confidential respectful and dignified manner. It seeks to ensure that the dignity of a victim is further impaired by being exposed to secondary victimisation.

Clause 38: Provision of funding of facility

This clause creates a power for the member of the executive council responsible for the relevant departments to budget for facilities responsible for providing services to victims. It also mandates the member of the executive council responsible for substance abuse to ensure that the relevant provincial legislature appropriates funding for the purposes of providing funding to facilities for victims of violent crime in each province.

Clause 39: Provision and accreditation of victims' support programmes and service provider

This clause empowers the Minister to develop a policy in consultation with other ministers identified in the clause for the accreditation of victim support programmes. This helps to ensure uniformity of programmes and that programmes are evidence based. This in a way ensures that victims receive proper programmes that have been tested and proven to be reliable.

Clause 40: Regulations

This clause empowers the Minister to make regulations for the purposes of implementation of the Act. It recognise that some provisions cannot be easily implemented and in that way provides a platform for the Minister to make regulations.

Clause 41: Delegation of power

This clause recognises that crime takes places in every corner of the country and in that way the Minister, MEC, Director and Heads of Department of Social Development need to empower through delegations officials closer to the implantation of the Act to have the necessary legislative ammunition to implement the Act.

Clause 42: Transitional arrangement

As service providers are expected to register in terms of this Bill it is acknowledged that there are service providers that will have been in existence at the time of commencement of this Act who will then be given a period of 12 months from commencement of this Act to sort out their registration status.

Clause 43: Short title and commencement

This clause provides for the name of the Act and date upon which it is anticipated to come into force.

5. PERSONS CONSULTATED

It must be noted that intensive consultations were held with the Government Departments, non-governmental organisations, local municipalities, FBOs, CBOs and members of the general public in every Province including National. The JCPS Cluster, Social Protection Cluster and their technical committees were also consulted during the process of development of this Bill. Further consultations were also done with African Diaspora Forum, Department of Public Service and Administration, Interim Steering Committee for Gender Based Violence and Religious Sector (National Association for Spiritual Care Givers and Chaplain). Inputs that were received were effected into VSS Bill where necessary.

6. FINANCIAL IMPLICATIONS FOR THE STATE

A cost analysis of the Bill is in the process of being finalised and while Departments are budgeting for victim support services, bids to National Treasury to ensure that this is prioritised in their budgets must be made.

7. PARLIAMENTARY PROCEDURE

7.1 The State Law Advisers and the Department of Social Development are of the opinion that the Bill should be dealt with in terms of the procedure prescribed by the provisions of section 75 and 76 of the Constitution since it falls within a

functional area listed in Schedule 4 to the Constitution, namely "Welfare Services" which is a concurrent competence.

7.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18 (1) (a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

7.3 Further, the relevant Socio-economic Impact Assessment (SEIAS) has been approved.

DATE

DEPARTMENT OF SOCIAL DEVELOPMENT