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THE PRESIDENCY

No. 610

19 June 2006

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 38 of 2005: Children's Act, 2005.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

CHAPTER 4
CHILDREN'S COURTS
Part 1
Establishment, status and jurisdiction
Children's courts and presiding officers

42. (1) For the purposes of this Act, every magistrate's court, as defined in the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), shall be a children's court and shall have jurisdiction on any matter arising from the application of this Act for the area of its jurisdiction.

(2) Every magistrate shall be a presiding officer of a children's court and every additional magistrate shall be an assistant presiding officer of a children's court for the district of which he is magistrate, additional magistrate or assistant magistrate.

(3) For the purposes of this Act, the Minister for Justice and Constitutional Development may, after consultation with the head of an administrative region defined in section 1 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), appoint a magistrate or an additional magistrate as a dedicated presiding officer of the children's

(4) The presiding officer of the children's court is subject to the administrative control of the head of an administrative region, defined in section 1 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944).

(5) The presiding officer of the children's court must perform such functions as may

(6) For purposes of giving full effect to this Act, magistrates or additional magistrates may be designated as presiding officers for one or more children's courts.

(7) The Minister for Justice and Constitutional Development may, after consultation with the head of an administrative region, by notice in the *Gazette* define the area of jurisdiction of each children's court and increase or reduce the area of jurisdiction of each children's court in the relevant administrative region.

(8) The children's court hearings must, as far as is practicable, be held in a room which court, within existing resources be assigned to him or her under this Act or any other law.

(a) is furnished and designed in a manner aimed at putting children at ease;

(b) is conducive to the informality of the proceedings and the active participation of all persons involved in the proceedings without compromising the prestige of the court;

(e) is not ordinarily used for the adjudication of criminal trials; and is accessible to disabled persons and persons with special needs.

(9) A children's court sits at a place within the district or province designated by the Minister for Justice and Constitutional Development as a magistrate's court.

(10) The publication of a notice referred to in subsection (7) does not affect proceedings which have been instituted but not yet completed at the time of such publication Status

CHAPTER 2 GENERAL PRINCIPLES

6 (1) (a) The general principles set out in this section guide the implementation of all legislation applicable to children, including this Act;

(b) all proceedings, actions and decisions by any organ of state in any matter concerning a child or children in general.

6 (2) All proceedings, actions or decisions in a matter concerning a child must-

(a) respect, protect, promote and fulfil the child's rights set out in the Bill of Rights, the best interests of the child standard set out in section 7 and the rights and principles set out in this Act, subject to any lawful limitation;

(b) respect the child's inherent dignity;

(c) treat the child fairly and equitably;

(d) protect the child from unfair discrimination on any ground, including on the grounds of the health status or disability of the child or a family member of the child;

(e) recognise a child's need for development and to engage in play and other recreational activities appropriate to the child's age; and

(f) recognise a child's disability and create an enabling environment to respond to the special needs that the child has.

6(3) If it is in the best interests of the child, the child's family must be given the

6(4) (a) In any matter concerning a child-

(b) respect the child's inherent dignity; 5 opportunity to express their views in any matter concerning the child. 15

(a) an approach which is conducive to conciliation and problem-solving should be followed and a confrontational approach should be avoided; and

(b) a delay in any action or decision to be taken must be avoided as far as possible.

6(5) A child, having regard to his or her age, maturity and stage of development, and a person who has parental responsibilities and rights in respect of that child, where appropriate, must be informed of any action or decision taken in a matter concerning the child which significantly affects the child.

Best interests of child paramount

9. In all matters concerning the care, protection and well-being of a child the standard that the child's best interest is of paramount importance, must be applied.