

CHILD CARE AND PROTECTION ~~AMENDMENT~~ BILL NO. 2015

Substitution for clause 238 of the following clause:

"Persons unfit to work with children

238. (1) A person may not employ a person convicted of an offence listed in subsection (8) in an institution referred to in subsection (3).

(2) A person may not act in a capacity referred to in subsection (3) if convicted of an offence listed in subsection (8).

(3) Subsection (1) and (2) applies to -

- (a) a person who manages, operates, participates or assists in managing or operating an institution providing welfare services to children, including a child protection organisation, residential child care facility, place of care, early childhood development centre, shelter, school or association providing welfare services to children;
- (b) a person who works with or have direct access to children at an institution providing welfare services to children, including a child protection organisation, residential child care facility, place of care, shelter, early childhood development centre, school or association providing welfare services to children;
- (c) an alternative care giver or adoptive parent; and
- (d) a person who works in any other form of employment or activity as may be prescribed.

(4) Subsection (1) applies to employment on a part-time, full-time or volunteer basis.

(5) Before employing a person as contemplated in subsection (1) the employer must ensure that the person submits a valid clearance certificate stating that the person has not been convicted of an offence listed in subsection (8), within 10 years before the date of assumption of duty.

(6) An employer or a person who has reason to believe that a person who has been convicted of an offence listed in subsection (8) is employed or acting in such capacity as contemplated in subsection (3), must inform the registrar referred to in subsection (13).

(7) The registrar, referred to in subsection (13), who receives information in terms of subsection (6) must deal with the information in the prescribed manner.

(8) For the purpose of this section the offences are:

- (a) murder;
- (b) rape;
- (c) indecent assault;
- (d) incest;
- (e) kidnapping;
- (f) any statutory sexual offence;
- (g) any offence relating to the manufacture, distribution or possession of pornography; or

(h) any offence relating to human trafficking;

(i) abduction, excluding the wrongful removal or retention of a child by a parent with parental responsibilities, whether domestic or as contemplated in the Hague Convention on International Child Abduction; or

(j) assault with intent to cause grievous bodily harm.

(9) A person who contravenes subsection (1) or (2) commits an offence and is liable to a fine not exceeding N\$20 000.00 or imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(10) A designated social worker may in the prescribed manner inspect institutions contemplated in subsection (3) to determine compliance with this section.

(11) For the purpose of subsection (10) the designated social worker may make copies of clearance certificates and submitted in compliance with subsection (1) or (2).

(12) The registrar referred to in subsection (13) must keep a register in which is recorded -

(a) the names of persons convicted of offences listed in subsection (8); and

(b) other prescribed information.

(13) The Minister must for the purpose of subsection (12) designate a staff member as a registrar, who will have the function of keeping a register and such other function as may be prescribed.

(14) A court which has convicted a person of an offence listed in subsection (8) must ensure that the prescribed information on convictions are submitted to the registrar referred to in subsection (13).

(15) The Minister may prescribe requirements relating to clearance certificates, duties of employers for the purpose of this section and register to be kept in terms of this section.”