

THE OFFICIAL GAZETTE 18TH DECEMBER, 2008
LEGAL SUPPLEMENT — C

BILL No. 26 of 2008

Thursday 18th December, 2008

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

18th December, 2008.

The following Bill which will be introduced in the National Assembly is published for general information.

S.E. Isaacs,
Clerk of the National Assembly.



GUYANA

BILL No. 26 of 2008

CHILD CARE AND PROTECTION AGENCY BILL 2008

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A BILL
Intituled

AN ACT to provide for the establishment of a Childcare and Protection Agency the duties of which are to implement the policy and decisions in relation to the laws governing children.

A.D. 2008

Enacted by the Parliament of Guyana:-

PART 1
PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Childcare and Protection Agency Act 2008 and shall come into operation on a date to be appointed by the Minister by Order.

Interpretation.

2. (1) In this Act, unless the context otherwise requires -
"abuse" includes -

- (a) the physical infliction of injury or harm on a child by a person having authority, care or custody over a child;
- (b) the sexual exploitation of a child, molestation of a child, or the involvement of a child in unlawful sexual activity, prostitution or pornography; and
- (c) any other unlawful act likely to cause physical, psychological or emotional harm to a child;

"Agency" means the Childcare and Protection Agency established by section 3;

"child" means a person under the age of eighteen years and shall also include a person who attains the age of eighteen years while under care or protection in accordance with any law or is, because of some disability, certified by the Director as being in need of care or protection on and after attaining that age for such period as may be specified by the Director;

"childcare facility" means a place where children are cared for and includes a children's home, a foster home, a children's nursery and a pre-school;

"Director" means the Director of the Agency appointed under section 7;

"Minister" means the Minister responsible for social services;

"neglect" means the failure or refusal, without reasonable cause, of a person having care of a child to provide the child with basic needs such as food, clothing, shelter, adequate supervision or medical attention.

PART II
ESTABLISHMENT AND FUNCTIONS OF CHILDCARE
AND PROTECTION AGENCY

Establishment
of Agency.

3. There is established an Agency of the Government to be known as the Childcare and Protection Agency comprising the Director and other officers and employees of the Agency.

Duty of Agency
in implementa-
tion of policies
and decisions.

4. (1) Notwithstanding any other law, the Agency shall have responsibility for the implementation of the policy and decisions in relation to the laws governing children which include -

- (a) child care and development services, foster homes and voluntary organisations;
- (b) status of children;
- (c) adoption of children;
- (d) protection of children; and
- (e) custody, contact, guardianship and maintenance of children.

(2) Where there is a board or other body administering any of the laws mentioned in subsection (1), the Agency shall be responsible for implementing the policy and decisions of that board or other body, as the case may be and where there is no board or other body the Agency shall be responsible for implementing the policy enshrined in the law and the decisions taken under such law.

(3) In relation to matters not covered by the laws in subsection (1) the Agency has complete and final jurisdiction in relation to those matters.

Functions of
Agency.

5. (1) The functions of the Agency include -

- (a) to provide and maintain child care centres and facilities for children in need of care and protection in order to promote care and protection for children;
- (b) to provide counselling and other services, including basic services such as shelter, food, education, for children in need of care and protection, and to provide counselling and similar services for the parents and guardians of those children;
- (c) to place children in foster homes or orphanages or other places of care where protection of the children can be obtained;
- (d) to supervise foster children and foster parents;
- (e) to promote prescribed standards and other requirements of care for children who are in childcare facilities or in any other setting to ensure the best development of the child and that regulations are complied with and minimum standards are met by private orphanages and other such homes and centres where children are being cared for;
- (f) to promote good parenting education, parental responsibility and practices;

- (g) to assess applications for foster care, guardianship and adoption and to make recommendations and provide assistance to the courts and other authorities involved in determining such applications;
- (h) to make timely interventions in cases where the actions or conduct of a person, where that person has authority, care or custody of a child, have resulted in or are likely to give rise to abuse of the child;
- (i) to provide services for the recovery and rehabilitation of children who have suffered abuse;
- (j) to investigate allegations, reports or complaints of abuse or neglect of children;
- (k) to provide care and protection for children under special vulnerability including orphans, children infected with or affected by HIV/AIDS and children with mental or physical disabilities;
- (l) to provide training for persons engaged in the care and protection of children;
- (m) to co-ordinate and monitor the activities of other persons, including non-governmental organizations engaged in the management of cases of child abuse and neglect;
- (n) to take any necessary action against any private person or organisation to ensure that safety and well being of children under the care of that person or organisation are promoted and protected;
- (o) to promote the rights of the child and to promote public awareness of those rights;
- (p) to license and register private childcare facilities and to ensure their compliance with the standards and regulations;
- (q) to liaise with regional and international organizations in matters relating to the welfare of children;
- (r) to make proposals and recommendations on the enactment or improvement of laws relating to the welfare of children.

(2) In discharging its functions, the Agency shall act in accordance with this and any other law, the directions of the Minister and the policy of the Government.

Policy.

6. The Agency shall formulate and recommend policies and programmes of the Agency for approval by the Minister.

PART III DIRECTOR AND STAFF OF AGENCY

Director and
staff of the
Agency.

7. (1) The Minister shall appoint a Director of the Agency and may on the recommendation of the Director, engage such other officers and employees as may be required from time to time for the discharge of the functions of the Agency.

(2) The Director shall be responsible for the discharge of the functions of the Agency and the management of the affairs of the Agency.

PART IV GUIDING PRINCIPLES AND PROTECTION OF PRIVACY

Welfare of child
paramount.

8. (1) In determining any matter relating to -

- (a) the welfare or upbringing of a child; or
- (b) the administration of a child's property or income, the person who has authority to determine the matter shall ensure that the welfare of the child is paramount.

(2) In all matters relating to a child, whether before a court or any other authority, regard shall be had to the need to determine the matter without undue delay in order to ensure that the welfare of the child is not prejudiced or adversely affected by the delay.

Criteria for
decisions.

9. In determining any question relating to the circumstances provided for in section 8, the person who has authority to determine the question shall have regard in particular to -

- (a) the ascertainable wishes and feelings of the child concerned, in the light of the child's age and capacity to understand the matter to be determined;
- (b) the child's physical, emotional and educational needs;
- (c) the likely effects of any changes in the child's circumstances;
- (d) the age, sex and background of the child and any other relevant factors;
- (e) any harm or injury the child has suffered, or is likely to suffer; or
- (f) the capacity of the child's parents, guardians or other persons involved in the care of the child in meeting the needs of the child.

Protection of
privacy in
proceedings.

10. (1) In any proceedings involving a child, whether before a court or any other authority established by or under any law, and for the purpose of protecting the welfare of the child, the court or other authority may exclude from the proceedings any person whose presence is not necessary for the conduct or determination of those proceedings.

(2) Subject to the regulations made under subsection (5), no person shall publish any information relating to the proceedings referred to in subsection (1) in a manner that discloses -

- (a) the name of the child or any information from which the identity of the child may be inferred; or
- (b) the name of a person concerned in the matter or any information on that person from which the identity of the person may be inferred.

(3) For the purposes of subsection (2), proceedings involve a child if the child

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- (a) the subject of the proceedings;
- (b) a witness in the proceedings;
- (c) a person aggrieved by or the victim of the alleged abuse or neglect in the proceedings.

(4) Subsection (2) shall not be construed as prohibiting the disclosure of information

- (a) in the course of the administration of this Act or the administration of justice;
- (b) to a professional or other person engaged in the care or supervision of a child;
- (c) in order to ensure the safety of the child or other persons if the child poses a risk of serious harm or injury to himself or to other persons; or
- (d) if the disclosure of the information is necessary to assist in apprehending the child in connection with a criminal offence or for the purpose of placing or restoring the child under care or protection.

(5) The Minister may make regulations providing for additional circumstances, conditions and other matters under which the information referred to in subsection (2) may be published.

PART VI MISCELLANEOUS

Power of
Minister to give
directions.

11. The Minister may give the Agency directions of a general nature relating to the performance of its functions and may direct the Agency on any matter which, in the opinion of the Minister, affects Government policy and the Agency shall be bound to carry out the directions.

Regulations.

12. The Minister may make regulations for carrying out the purposes of this Act.

EXPLANATORY MEMORANDUM

This Bill provides for the establishment of a childcare and protection Agency and for other matters relating to the care and protection of children.

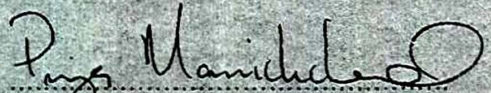
Part 1 (Preliminary) Sets out the short title and defines expressions used throughout the Act. It also provides that the Agency shall implement the policies and decisions in relation to the laws governing children.

Part 2 (Establishment and functions of childcare and protection Agency) It provides for the establishment of the Childcare and Protection Agency and sets out the functions of the Agency, which include monitoring childcare facilities. It allows the Agency to intervene in cases where there is child abuse and to protect vulnerable children.

Part 3 (Director and staff of the Agency) It provides for the Minister to appoint the Director and other officers and employees who shall be responsible for the management of the Agency in accordance with directions issued by the Minister under the Act.

Part 4 (Guiding Principles and protection of privacy) It states that the welfare of the child is paramount and matters relating to a child whether before a court or any other authority shall be determined without undue delay, taking into consideration certain criteria set out including the wishes of the child, his age and capacity to understand the matter to be determined. Disclosure of information relating to the identity of a child is prohibited in proceedings. However there are circumstances where disclosure may be necessary such as for ensuring the safety of the child.

Part 5 (Miscellaneous) It allows the Minister to give directions to the Agency on matters affecting government policy. It gives the Minister the power to make regulations.



**Minister of Human Services
and Social Security.**