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Western Cape  
Government

BETTER TOGETHER

Department van Gesondheid  
Department of Health  
iSebe lezeMpilo

Datum  
Date  
Umhla

9 February 2015

**For attention:**

Hon. M Motshekga, chairperson  
The Portfolio Committee on Justice and Constitutional Development  
Parliament  
cbalie@parliament.gov.za

**Submitted by**

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**Endorsed by:**

Dr Eva Perez (Principal Medical Officer, School Health, Mitchell's Plain/Klipfontein Substructure)  
Sr Ursula Lakay (School Nurse, Southern-Western Substructure)  
Sr Marilyn Paterson (School Nurse, Northern-Tygerberg Substructure)  
Dr Carol Cragg (HIV/TB/STI Medical programme manager, Khayelitsha-Eastern Substructure)  
Mr Mzwamadoda Gaji (Facility-based Services, Khayelitsha-Eastern Substructure)

**Submission to the Portfolio Committee on Justice and Correctional Services on the  
Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Bill**

I would like to thank the committee for the opportunity to make submissions on the abovementioned bill.

I am a medical officer employed by the Department of Health, working in schools in the Khayelitsha-Eastern Substructure. Part of my portfolio is to support health facilities to create adolescent friendly health services for young people. I also hold a PhD in Public Health which addressed the youth friendliness of providing HIV testing at schools.

I fully support the current provisions of the Criminal Law [Sexual Offences and Related Matters] Amendment Act Amendment Bill B18 of 2014 (the bill) in as far as they relate to the decriminalisation of consenting sexual activity between certain adolescents. I feel that the current provisions of the Criminal Law [Sexual Offences and Related Matters] Amendment Act No. 32 of 2007 (SOA) are not protective of adolescents and in fact put them more at risk of harm. I justify my position regarding this below.

According to the National Youth Risk Behaviour Survey of 2008 15 % of young women between the age of 15-19 in the Western Cape have ever been pregnant (Reddy et al. 2010). The consequences of these teenage pregnancies are both health (e.g. increased maternal and infant mortality) and socio-economic (e.g. school dropout), and therefore prevention of teenage pregnancy needs to be given top priority (Panday et al. 2009).

I understand that this is one of the reasons why the original bill was put forward – to decrease the risks that are associated with early sexual debut. However, I feel strongly that criminalising consensual sex between adolescents of a similar age is not the answer to this problem.

I agree that programmes should be put in place that delay sexual debut. However should an adolescent decide to engage in sexual activity, he/she needs to know that he/she can access ways of preventing pregnancy, HIV and other sexually transmitted infections. If adolescents know that health care workers are obliged to report them if they request these sexual and reproductive health services (including HIV treatment), they are unlikely to access these services.

The World Health Organisation advocates that we provide adolescent friendly health services for adolescents (WHO, 2002). A service cannot be adolescent friendly if its clients fear being reported should they disclose that they are sexually active. This would essentially be working against the objective of adolescent friendly health services, which is to educate, guide and support adolescents to make decisions which are healthy.

In conclusion I support the proposed amendments relating to the de-criminalisation of consenting sexual activity between adolescents of similar age, and hope that my concerns will be taken into account.

### References

Panday, S., Makiwane, M., Ranchod, C., & Letsoalo, T. (2009). *Teenage pregnancy in South Africa- with a specific focus on school-going learners*. Child, Youth, Family and Social Development, Human Sciences Research Council. Pretoria: Department of Basic Education.

Reddy SP, James S, Sewpaul R, Koopman F, Funani NI, Sifunda S, Josie J, Masuka P, Kambaran NS, Omardien RG (2010) *Umthente Uhlaba Usamila - The South African Youth Risk Behaviour Survey 2008*. Cape Town: South African Medical Research Council

World Health Organisation (2002) *Adolescent friendly health services an agenda for change*