

How will the *Victim Support Services Bill* change the law, **in simple terms**?

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This document is a brief, plain-language summary of the changes to the law that the Victim Support Services Bill will make, if it becomes an Act of Parliament. **This document contains no analysis, or critique, or advice. It is intended to be read with the Bill itself and is not a replacement for the Bill.**

The Bill is part of government’s response to sexual and gender-based violence and femicide (SGBVF). For now, the Bill is still being worked on by the Department of Social Development (DSD), and they have asked members of the public to tell them what we think of their Bill so far. This is your chance to have our say, before the DSD sends the Bill to parliament.

Once the Bill is sent to parliament, it becomes the responsibility of the Portfolio Committee on Social Development. The Committee will also have to ask the public for comment on the Bill, before it can become law – this is the public participation process, on which our participatory democracy is built. This means that whatever we do not get to say to the DSD now, we will have another chance to say during the parliamentary comments and participation process.

## THE BILL IN A NUTSHELL

### **The Bill's states that its objectives are to:**

- (a) set a framework for giving support services to **all victims of violent crime**;
- (b) set out the rights of victims;
- (c) make it law for all service providers, dealing with a victim, to treat them with dignity and respect regardless of their citizenship, race, gender, culture, religious and personal circumstances;
- (d) set legal rules for how and when victims are referred to a service provider;
- (e) set legal rules for who must help victims to access support services and programmes, and services from the DSD and other service providers;
- (f) clarify the roles and responsibilities of service providers and the other executive departments in providing of victim empowerment services;
- (g) reduce secondary victimisation;
- (h) set out how all this will be managed, and by whom;
- (i) make legal rules about intersectoral programmes, or support services, that prioritise integrated service delivery;
- (j) make it law for all victim service facilities to be registered;
- (k) make it law for all victim empowerment programmes to be accredited;
- (l) make it law for all staff member to be vetted; and
- (m) to set out legal minimum standards for the security measures that all services providers will have to implement.

### **The Bill will apply to:**

- all victims of violent crime (a very wide range of people, as you will in the definitions),
- all service providers (another wide range of people, as you will in the definitions), and
- certain executive departments.

## CHAPTER 1: DEFINITIONS

To understand the full meaning and impact of the Bill, we must look at some of the important definitions in Chapter 1. Wherever you see these words being used in the Bill, these are the intended meanings, and you will see an asterix (\*) in this document to remind you when a word has a specific definition:

Definition	Explanation
<p><b>“accreditation”</b> means the process of certification of the programmes required to provide victim support services in accordance with the norms and minimum standards;</p>	<p>One of the objectives of the Bill is to make it law for all programmes to be “accredited”. To be accredited, your programme must comply with norms and standards (still be to decided), and apply for a certificate confirming that you do.</p>
<p><b>“associated professions”</b> includes psychological, medical, forensic, or such other professions applying the social sciences;</p>	<p>As you will see later, the Bill puts a legal obligation on all these types of people to “screen” and “assess” victims with whom they come in contact.</p>
<p><b>“facility”</b> 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;</p>	<p>This means regardless of where your facility is, how big it is, whether it is your home, or an organisation where you work – the facility will have to be registered.</p>
<p><b>“service provider”</b> means any registered facility as contemplated in section 39;</p>	<p>Anyone who provides services for victims of violent crime, from medical professionals to medical aids; from counselling services to churches; from shelters to children’s and old-age homes; and many others.</p>

<p><b>“victim”</b> 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;</p>	<p>This definition means the Bill and all the rights and obligations in it, apply to a very wide group of people.</p>
<p><b>“victim empowerment”</b> 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;</p>	<p>This definition means the Bill and all the rights and obligations in it, apply to a very wide range of formal and informal services and help for victims.</p>
<p><b>“victim support”</b> means the emotional and practical support, and management and referral to professional or other support services where necessary;</p>	<p>This definition means the Bill and all the rights and obligations in it, apply to a very wide range of actions.</p>
<p><b>“violence”</b> includes emotional, and economic abuse as well as physical harm or threats of physical harm.</p>	<p>This definition means the Bill understands violence to be a very wide range of things people do, or don’t do, to others.</p>

### Section 5: Rights of the Victim

This section sets out all the rights of a victim, including:

- (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) to apply for compensation and restitution in terms of the Criminal Procedure Act;
- (g) to be provided with a lawyer, **at the cost of the state**, when that victim decides to claim civil law damages (money) from a perpetrator - and the victim but informed of this right promptly; and
- (h) to exercise their right to remain silent if they are not ready to testify, and to be informed promptly of the consequences of remaining or not remaining silent.

### Section 6: Screening of assessment of victim

Every time-

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

comes into contact with a victim or a person suspected to be a victim, this individual must

- (i) without delay, but no later than 24-hours, figure out whether the person concerned is indeed a victim (using a process/documents that will later be prescribed by the Minister in regulations still to come); and
- (ii) if necessary, refer that victim to a suitable registered service provider for assessment – unless the person has already been assessed.

## Section 7: Secondary Victimization

In order to prevent secondary victimisation, every executive department listed in this Bill, associated profession, and service provider must create and implement a **code of conduct** that tells employees to treat victims in accordance with their rights (in section 5).

## Section 8: Services rendered to a victim

A service provider or relevant executive department **must provide** the following services to a victim, as 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

### Section 9: Implementation of the Bill

- (1) All the executive departments mentioned in this Bill, associated professionals\* together with the service providers\* **must-**
  - (a) promote, implement, and enforce the rights of victims (in section 5), each as per their line of work;
  - (b) render relevant services to victims in an integrated and coordinated way, each as per their line of work;
  - (c) provide clear and consistent information, at the right time, about relevant support service and assistance that is available to victims;
  - (d) provide care, support, and protection to victims; and
  - (e) when it is necessary, refer victims to other relevant support services, and service providers that provide legal assistance.

- (2) Also, every relevant department and **service provider must ensure that there is adequate human and financial resources** to be able to do what the Bill says.

## **Section 10: The Minister responsible for Social Development**

- (1) The Minister must
- (a) co-ordinate and facilitate the programmes and services for victims in terms of this Bill;
  - (b) deliver services through **partnerships** with service providers, and make sure that these services comply with the **norms and standards** (that will be prescribed by the Minister in regulations still to come);
  - (c) provide statutory social work support services to the victim;
  - (d) provide each victim with information about services available to them that are close to where the victim lives;
  - (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, make regulations about what services are given by the 24-hour 7-days toll free line, which includes the following services -
- (a) a toll-free number for reporting of complaints of victimisation from any member of the public;
  - (b) acknowledging each complaint, and giving every victim that has supplied their contact details a reference; and
  - (c) analysing each complaint, and then referring the victim to an appropriate service provider or relevant government department service provider.
- (4) The Minister **must** consult the ministers responsible for justice, education, correctional services, health and safety and security, and must then-

- (a) create a policy framework to develop the capacity of all levels of government **and the non-governmental sector** to establish, maintain and develop victim support programmes;
  - (b) establish and maintain a system for accreditation\* (as will be prescribed by the Minister in regulations still to come) of victim support programmes, services, and service providers; and
  - (c) **make sure there are resources to implement these victim support services and programmes.**
- (5) This system for accreditation must contain-
- (a) criteria for **how** victim support service **programmes will be evaluated**, to make sure they comply with the minimum norms and standards (still to come);
  - (b) criteria for **how** the **content** of victim support service programmes **will be evaluated**, to make sure programmes are meaningful and adequate to reduce harm to victim, and to achieve every programmes' goal;
  - (c) mechanisms to **monitor programmes and service providers, to make sure they give quality services, and are complying with the Bill**; and
  - (d) rules for **how programmes and service providers can be removed** from the system, where appropriate.
- (6) The Minister must issue a **certificate** of accreditation **to each programme** that is accredited.
- (7) This certificate of accreditation is valid for a maximum period of five years from the date of accreditation (at which point you must re-apply).
- (8) All **programmes or services**, including psychosocial services rendered by government departments other than DSD, **must be accredited by the DSD.**

## **Section 11: Minister responsible for health**

- (1) The Minister responsible for health must-
- (a) provide professional, accessible, medical- and psychological services to victims who are admitted to state medical facilities;



- (b) designate any public health facility for-
  - (i) providing Post Exposure Prophylaxis to victims; and
  - (ii) doing compulsory HIV testing.
- (2) A health care professional must give a victim information, as prescribed in regulations (still to come) about–
  - (a) Post Exposure Prophylaxis, to prevent disease including HIV infection as a result of a sexual offence;
  - (b) an application by a victim, or interested person for, HIV testing of an alleged sex offender, in terms of section 30 Sexual Offences Act of 2007;
  - (c) any other health services available to the victim.

## **Section 12: The Minister Responsible for Police**

- (1) The Minister responsible for police must, as prescribed in regulations (still to come) and 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, whether on bail, warning, or not being charged;
  - (g) information about services available to victims;
  - (h) if a suspect 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) If the police do not send a case to the persecuting authority within 30 days of the victim's charge, a police officer must notify the victim, and give reasons-

- (a) why the case reported by the victim does not constitute a crime;
- (b) steps taken in the investigation against the perpetrator; or
- (c) why there is not enough evidence to even send the case to the prosecuting authority at all (for a final decision to prosecute or not).

### **Section 13: Civilian Secretariat for Police**

The Civilian Secretariat **must**-

- (a) monitor whether the SA police are doing what this Bill says;
- (b) report their findings every year to the national committee for victim support services.

### **Section 14: The Minister responsible for Justice**

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 the support services in relation to such proceedings;
- (b) witness fees are provided as prescribed in the Criminal Procedure Act of 1977
- (c) intermediary services in terms of section 170A of the Criminal Procedure Act of 1977 are provided;
- (d) facilities for 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.

## **Section 15: Department responsible for correctional services**

The National Commissioner responsible for correctional services **may-**

- (a) upon request of the victim, give the victim the name and location of the correctional facility where the perpetrator is incarcerated;
- (b) if the victim requested to be notified of the process where they decide which prison a perpetrator goes to (“placement consideration”), notify the victim in writing of the dates for the process;
- (c) give the victim an adequate opportunity to have their voice heard when parole is considered (in writing or in person);
- (d) give information about the consideration of parole; and
- (e) notify the victim of the official date of any release of the perpetrator.

## **Section 16: Departments responsible for basic and higher education**

The Minister responsible for education **must-**

- (a) protect learners from victimisation in the learning environment;
- (b) protect, and provide support to **learners or students**, when they are victimised inside or outside the premises of a 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 in the learning institution;
  - (ii) preventing any victimization in a learning institution;
  - (iii) facilitating immediate access by learner victims to victim support services; and
  - (iv) acting against perpetrators, as well as protecting the learner against further victimization.

## **Section 17: Department responsible for women**

The Minister responsible for women **must**-

- (a) develop policy guidelines to reduce gender-based violence; and
- (b) implement and monitor gender mainstreaming by other departments.

## **Section 18: National Prosecuting Authority**

The National Prosecuting Authority **must**-

- (a) notify the victim of a decision to prosecute, or not to prosecute, and the reasons why (if the victim asks for reasons in writing);
- (b) where a case is enrolled (for hearing in a court), 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;
  - (iii) the date of 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 criminal proceedings;
- (d) inform a victim about court processes and the victim's right to attend court proceedings, unless the courts decide otherwise, or the court processes do not require the victim to be present in court;
- (e) where there is capacity, and if the victim is going to testify, give court preparation services to the victim; and
- (f) where appropriate, present the evidence of the victim, including the impact that the crime had on the victim, at the trial.

## Section 19: Legal Aid South Africa

The Legal Aid South Africa **may**-

- (a) give or make available legal aid and legal advice to victims of violent crime in civil proceedings;
- (b) give legal representation to a victim in civil proceedings, where a case meets the requirements for legal representation at state expense in a civil case; and
- (d) give education and information concerning legal rights and obligations.

## CHAPTER 4: REGISTRATION OF VICTIM SUPPORT\* FACILITIES\*

### Section 20: Procedure for registration of victim support facility

- (1) **No person may establish or manage any victim support facility that gives physical, psychological, spiritual or social services, unless their facility registered** in terms of this Bill.
- (2) Any person who wants to establish or manage a victim support facility must apply (in terms of regulations still to come) to the provincial head of DSD for the registration of their facility.
- (3) The provincial head of DSD may-
  - (a) consider an application and any other information they get; and
  - (b) if they are satisfied that the facility complies with the prescribed requirements (still to come) for the reception of, and services to victims, **grant the application** for registration **and issue a registration certificate**.
- (4) The provincial head of DSD **may** grant a conditional registration, on whatever conditions that they deem fit and specify, for a maximum period of 12 months.
- (5) The conditional registration may be extended, but only for a maximum period of another 12 months under the same conditions.
- (6) The provincial head of DSD may at any time change or cancel a registration certificate, but only after three months' notice of their intention to do so, and after consideration

of any representation (information of explanation) received from the person who wants to establish the victim service facility,

- (7) A registration certificate granted by the provincial head of DSD is valid for a period of five (5) years and can be renewed every five years on application by the owner or manager of a facility. The owner must apply for this renewal six months before the expiry date.
- (8) The provincial head of DSD may refuse an application for registration if, after considering the application, they are not satisfied that the facility is or will be managed and maintained in terms of minimum norms and standards (still to come).
- (9) If a **re**-registration application is refused, or if registration is cancelled, the provincial head of DSD and the owner or manager of the facility must take reasonable steps to ensure that all victims admitted in the facility are admitted in **another registered facility** or with persons who, in the opinion of a social worker, are fit and proper persons for accommodating the victims.
- (10) The changing or cancellation of a registration certificate must be done by notice in writing and comes into operation on a date specified in the notice. However, that specified date must be at least three months into the future - unless the provincial head of DSD and the holder of the registration certificate have agreed otherwise.
- (11) A registration certificate not transferable.
- (12) The holder of a registration certificate may, after three months' written notice, surrender (give back) the certificate to the provincial head of DSD.
- (13) Whenever a registration certificate is refused or cancelled or surrendered (given back), the powers and duties under this Bill will fall on the provincial head of DSD.
- (14) **A person who contravenes or fails to comply with these rules or conditions, is guilty of an offence, and will be fined and/or imprisoned for a maximum of 12 months.**

### **Section 21: Requirements for registration of facility**

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

## **Section 22: Provincial register for registered service providers**

- (1) The provincial heads of DSD must-
  - (a) compile and maintain a register containing the details of all registered service providers in their respective provinces; and
  - (b) must submit the register to the Director-General every year by 31 March.
- (2) The Director-General must provide a copy of the register to the national committee to reduce violence\*, and to the Minister of DSD, every year. They must also publish the contents of the register in the Government Gazette.

## **Section 23: National register of registered service providers**

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

## **Section 24: Vetting of staff members of service provider**

- (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;

(b) national register for sex offenders;

(c) register for abuse of older persons, or any crime or offence related to the abuse of older persons;

(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 a 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.

## **Section 25: Suspension of registration**

- (1) If a provincial head of DSD finds that a service provider contravened-
  - (a) any provision of this Act; or
  - (b) any term or condition of a registration certificate issued,they may-
  - (i) order the service provider, by written notice, to fix the contravention within 90 days; or
  - (ii) give the service provider the opportunity to make representations (information and explanations) within the 90 days.
- (2) If a service provider fails to fix the contravention, **their registration will be suspended until they fix the contravention, and reapply for registration.**
- (3) The written notice must set out-
  - (a) the name of the service provider;
  - (b) the provisions and conditions that were contravened, with details of how these were contravened;



- (c) the steps that the service provider must take to fix the situation, and the timeframe in which those steps must be taken; and
  - (d) any other prescribed information.
- (4) The suspended service provider must address their application for **re-registration** to the provincial head DSD, who must-
- (a) re-instate the registration of a service provider, if the service provider has fixed the cause of the suspension on time; or
  - (b) give written reasons for the refusal of re-registration, or renewal of registration.

### **Section 26: Voluntary deregistration and winding up or dissolution of a service provider**

- (1) A registered service provider may **voluntarily deregister** by sending the provincial head of DSD-
- (a) a written notice-
    - (i) stating its intention to deregister voluntarily and the reasons thereof; and
    - (ii) specifying a date at least two months into the future, on which the deregistration will take effect; and
  - (b) a copy of the prescribed reports for the period from its previous financial year, up to the date of the written notice.
- (2) If a registered service provider decides to wind-up or otherwise dissolve itself, or is being wound-up in terms of any law, it must, before the winding-up or dissolution process, send the provincial head of DSD-
- (a) a **written notice**-
    - (i) explaining their decision to wind-up or dissolve; and
    - (ii) containing certified copies of all documents confirming the winding-up or dissolution; and
  - (b) a **copy of reports** for the period from its previous financial year, up to the date of the written notice.

- (3) When the provincial head of DSD receives such notice from a service provider, they must within 30 days–
- (a) cancel the service provider’s certificate of registration, and send an updated provincial register to the Director-General within 30 days, who will then update 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.

### **Section 27: National norms and standards for facilities**

- (1) The Minister must, within 12 months and after consultation with the social development MECs in provinces, prescribe national norms and standards for facilities for victims of crime and violence\*.
- (2) The national norms and standards will set out the requirements for facilities, including-
- (a) structural construction;
  - (b) size;
  - (c) safety;
  - (d) hygiene;
  - (e) security; and
  - (f) relevant building regulations of the local municipality.

### **Section 28: Registration and cancelation of registration of facility**

- (1) A person who is an accredited service provider, or renders services to victims in terms of another law, may apply to establish, register and operate a facility provided that the facility-
- (a) is managed and maintained in accordance with any condition for its registration; and
  - (b) complies with the national norms and standards and any other requirements as may be prescribed (by the Minister of DSD in regulations still to come).

## Section 29: Notice of enforcement

- (1) Whenever a provincial head of DSD is informed of an unregistered facility they **may**, by way of written notice, instruct the person operating or owning an unregistered facility to-
  - (a) declare and account for all victims accommodated or served at such the facility;
  - (b) stop operating that facility; and
  - (c) apply for registration within a prescribed period which must be specified in the notice.
- (2) Where a facility is registered, but not managed in accordance with this law; this may be reported to **provincial committee for victim support services**.
- (3) This provincial committee for victim support service must monitor the registered facility to ensure compliance with the norms and standards.

## Section 30: Monitoring of registered facilities

- (1) The chairperson of a **provincial committee for victim support services** must nominate members of the committee to serve as a monitoring and enforcement sub-committee of the committee.
- (2) The sub-committee may serve for as long as the Committee's own term of office.
- (3) A member of the provincial committee, social worker in the employ of the DSD, or a provincial department, or a police officer, may upon written instructions of the Director-General or a provincial head of DSD, 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 any record or document relating a facility, to submit it for inspection;
  - (d) submit a report within 72-hours of an inspection, to the Director-General or the provincial head of DSD, on the findings of the inspection;
  - (e) give the operator of the facility 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 DSD.

(4) It will be an offence to-

(a) obstruct or hinder a social worker or service provider or official in the performance of their functions; or

(b) refuses to give a social worker or service provider or official access to a victim cared for or accommodated in a facility,

and if found guilty, a person will be liable to a fine and/or imprisonment for a period not longer than 3 years.

### **Section 31: Death or injury in a facility**

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

(a) police officer in the relevant area;

(b) relevant provincial head of department; and

(c) the victim's next of kin.

(2) Where the Minister, Director-General, MEC responsible for social development or provincial head of DSD thinks it necessary, they must cause an investigation to be done into the circumstances of the incident, and take appropriate action including cancellation, suspension or changing the registration certificate of the facility.

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

### **Section 32: Management structure of facility**

(1) The Minister may prescribe (in regulations still to come) the management and control structure of a facility.

(2) A management structure of a facility may have members as prescribed (in regulations still to come).

- (3) The members of the management structure of a facility, must ensure that a facility-
  - (a) provides the services referred to in this law;
  - (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.

### **Section 33: Record and strategy of facility**

A provincial head of DSD 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 facilities, which must also facilitate 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\***

### **Section 34: DSD facilities**

- (1) A Khuseleka One-Stop Centre is a facility that receives, assesses, cares for and supports victims, including victims of violent crime, by a multi-disciplinary team.
- (2) A Khuseleka One Stop Centre must render the following services to a victim referred there by a social worker, associate professional, or a relevant provincial head-
  - (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;
- (4) A shelter must immediately render within its available resources, psycho-social services to any victim who is referred there, **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.

### **Section 35: Department of Health facilities**

- (1) Whenever the Department of Health designates health facilities to provide assessment of victims, this must be reported to the Director-General of Social Development, to enable the DSD 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.

### **Section 36: National Prosecuting Authority Facilities**

- (1) Whenever Thuthuzela Care Centres are established, this must be reported to the Director-General of Social Development, to enable the DSD 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.**

### **Section 37: South African Police Service facilities**

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.

### **Section 38: Provision of funding of facility**

The MEC responsible for the relevant departments (at the provincial level) must, from money appropriated by the provincial legislature, provide and fund facilities for victims of violent crime in their province.

### **Section 39: Provision and accreditation\* of victims' support programmes and service providers**

(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 victim support service programmes;**

(b) establish and maintain **a system for accreditation for victim support service programmes;** and

(c) **ensure there are resources to implement** victim support service programmes.

(2) The system for accreditation must contain-

(a) **criteria for the evaluation of such programmes** to ensure that they comply with the minimum norms and standards;

(b) the **criteria for evaluation of the content** of such programmes to ensure that they meaningful and adequately reduce harm caused to the victim;

(c) **mechanisms to monitor** such **programmes and service providers**, to make sure they render quality service, and promote compliance with the Bill; and

(d) measure for removal of **programmes and 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 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 state departments, must be accredited by the DSD.

## CHAPTER 6: GENERAL PROVISIONS

### Section 40: Regulations

**LAW TIP:** Whenever you see the word “prescribed” in a Bill or an Act, it means something is going to be further explained and governed through regulations. Regulations are usually made after the Bill becomes a law (and Act). They are made by the Minister of a department and are published in the Government Gazette.

- (1) The Minister (of Social Development) may make regulations about-
- (a) the way a victim may be assessed for admission to a service provider;
  - (b) the information to be obtained from the SAPS about the victim;
  - (c) the way information about their case may be provided to the victim;
  - (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 subcommittees;
  - (f) the selection and appointment of members of the national and provincial and local committees for victim support service, and the sub-committees;
  - (g) the registration of service providers that provide victim empowerment services;
  - (h) the procedure to be followed for the lodging and consideration of 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 submissions by the provincial heads of DSD on the service provider register;
  - (k) the annual reports to be submitted by a service provider;
  - (l) the way a service provider’s registration may be cancelled or suspended;
  - (m) the voluntary deregistration of the service provider;
  - (n) the norms and standards for delivery of any service to a victim;



- (o) the norms and standards for registration, renewal, or accreditation, and suspension and cancellation of registration, of either **a service provider or a facility**;
- (p) norms and standard in respect of accreditation;
- (q) the establishment and composition of **an appeal tribunal** to consider and adjudicate on **appeals lodged by victims or service providers** regarding any decision taken, or action taken, in terms of this Bill;
- (r) any form that must to be completed in terms of this Bill;
- (s) the minimum requirements that different types of facilities have to comply with;
- (t) the procedure to be followed for the management of a victim, if a facility is closed down;
- (u) prevention strategies and programmes; and
- (v) any other matter which the Minister thinks is “necessary or expedient” to be prescribed in regulations.

(2) Any regulation made-

- (a) that may result in money-spending by the State, must be made in consultation with the Minister of Finance;
- (b) that may impact on the mandate of another organ of state, must be made in consultation with that organ of state, MEC for social development, or provincial head of DSD; and
- (c) may create an offence (with a fine or imprisonment) for any person who contravenes a regulation.

## **Section 42: Transitional arrangements**

A service provider that:

- existed at the time that this Bill becomes a law, and
- which provides services to victims; and
- which intends to continue to operate and provide such services after the commencement of this law;

may continue to provide such services but must apply for accreditation within 12 months of this Bill becoming a law.

## WHAT NOW?

Written comment on this Bill must be submitted to:

- Siza Magangoe on [Sizam@dsd.gov.za](mailto:Sizam@dsd.gov.za); or
- Luyanda Mtshotshisa on [LuyandaMt@socdev.gov.za](mailto:LuyandaMt@socdev.gov.za); or
- Anna Sithole on [Annas@dsd.gov.za](mailto:Annas@dsd.gov.za)

by no later than **Wednesday, 16 September 2020**.

All comments should be submitted in the following format:

Clause commented on	Proposal	Motivation

