Official reply: 02 March 2016

**NATIONAL ASSEMBLY**

**QUESTION 149/2016**

**FOR WRITTEN REPLY**

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**149. Ms K de Kock (DA) to ask the Minister of Social Development:**

(a) How many lawyers have been (i) reported to the law societies and (ii) successfully prosecuted for (aa) hiding the must-mediate requirement of section 6(4) of the Children's Act, Act 38 of 2005, from their divorcing clients and (bb) for selling a litigation strategy, and (b) what is her department doing to close the gaps and enforce the Act to protect children in divorces? NW149E

**Reply:**

1. There are no lawyers (i) who have been reported to the law society and (ii) successfully prosecuted for (aa) hiding the must-mediate requirement of section 6(4) of the Children’s Act, 2005 (Act No. 38 of 2005), from their divorcing clients and (bb) for selling a litigation strategy. A relationship between a client and his or her legal representative is privileged and therefore it is not possible for the Department to be aware of the conducts in question unless it is reported to the Department by either the clients or some other whistle blower who has inside information. In this regard, no cases have so far been reported to the Department. (b) The protection of children involved in a divorce is regulated by section 6 of the Divorce Act, 1979 (Act No. 70 of 1979) section 4 of the Mediation in Certain Divorce Matters Act, 1987 (Act No. 24 of 1987). It is therefore not necessary for this matter to be regulated under the Children’s Act.