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**NATIONAL ASSEMBLY QUESTION FOR WRITTEN REPLY**

**QUESTION NUMBER: 150**

**DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 11 FEBRUARY 2021**

**INTERNAL QUESTION PAPER NUMBER: 1 - 2021**

**150. Ms B S Masango (DA) to ask the Minister of Social Development:**

(a) What recourse does her department have in place for women in a case such as the one in September 2020 where a victim of gender-based violence (GBV) had her child taken away without her permission by the father who was the alleged perpetrator of GBV, and the SA Police Service have not assisted the mother to get the child back and (b)(i) on what legal provisions did the Children’s court rely to close the case in Gauteng and transfer it to Venda without informing the mother and the social worker working on the case (details furnished) and (ii) what is the proper procedure in such an instance? NW153E

**REPLY:**

1. The member is encouraged to provide specific details of the case mentioned in the question of September 2020 in order for a detailed response on same to be provided. Nontheless, it is important to highlight that the Department provides psychosocial services to victims of GBV, they are two issues involved in this regard. 1) is the provision of psycho social services to the victim of GBV. 2) The provision of Child protection services to the affected child. The latter entails assisting the victim to secure an interdict against the party that is taking away the child; in terms of section 151 and 152 of the children’s act, a child may be removed from a person to temporary safe care; the recourse therefore entails the provision of psycho social services to the victim of GBV and assisting the victim to secure the removal of the child from the perpetrator.

Over and above the Department of Social Development (DSD) is currently advocating for the establishment of the Victim Friendly Rooms/Facilities (VFR/F) in Police Stations across the country to address challenges of cases such as the one referred here. There are currently over 1000 Victim Friendly Facilities in Police Stations across the country. The DSD has currently resourced majority of the VFR/F within the Police Station with social work professionals who are capacitated to deal with cases of GBV. They are assisting in ensuring that GBV cases are not solely dealt with by SAPS members. But that social workers as mandated by the legislation, Children’s Act 38 of 2005 form part in provision of holistic services in these types of cases especially in ensuring that the best interest of a child is considered as of paramount importance at all times. Similarly, the victim as stipulated in the Victims Charter, should be offered information and has the right to be treated with fairness and with respect for her dignity and privacy.

Furthermore, the recent appointment and deployment of GBV social workers at provincial and local level is meant to limit cases of this nature whereby the rights of the victims are violated. With regards to the perpetrator, SAPS is mandated as a law enforcement agency to arrest perpetrators of an unlawful conduct such as violent crime. The Department of Correctional Services also has a critical role to play in terms of perpetrator reform. For example, there are various perpetrator programmes conducted within the correctional facilities including perpetrator programmes on issues of domestic violence.

Further, the department is currently developing legislation, viz, Victim Support Services Bill, that is aimed at protecting the rights of victims and affording victims support services as the situation may require. The Bill will provide for, amongst others, registration of victim facilities that will ensure provision of quality services to victims and a further protection of their rights in this regard.

b) (i) The Children’s Courts are managed and run independently of the Department and where these matters are adjudicated, the department only participates in the proceedings but the final verdicts and rationale thereof lies with the presiding officer. Thus, in the absence of the court judgment, it is difficult to ascertain what provisions did the court rely on in this regard; Even if the court relied on certain provision of the children’ s act; such provision would have been used taking various factors in ordinary cause of event. It must however be noted that there is no provision in the Children’s Act 38 of 2005 that indicates that a child can be transferred to another magisterial district without informing the mother and a social worker involved in the case. However, section 44 of the Children’s Act 38 of 2005 states that the children’s court that has jurisdiction in matter of a child is the court in the area in which the child involved in the matter is ordinarily a resident. This means the court where the child is will preside over the case.

(ii) Section 35 of the Children’s Act provides for a co-holder of parental responsibility and right to inform the other party when there is an intention to move with a child from the address that is known by the other party. Where there is dispute over parenting, a parenting plan through mediation is supposed to be drafted and agreed upon by the co-holders of parental responsibilities and rights. The development of a parenting plan minimises dispute over parenting.