

PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

NOTICE 3558 OF 2025

MS ALEXANDRA ABRAHAMS, MP

NOTICE OF INTENTION TO INTRODUCE A PRIVATE MEMBER'S BILL AND INVITATION FOR COMMENT ON THE DRAFT BILL, NAMELY THE CHILDREN'S AMENDMENT BILL, 2025

Ms Alexandra Abrahams, MP, acting in accordance with section 73(2) of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), intends to introduce The Children's Amendment Bill, 2025, in the National Assembly of Parliament. An explanatory summary of the draft Bill is hereby published in accordance with Rule 276(1)(c) of the Rules of the National Assembly.

Section 28(1)(d) of the Constitution of the Republic of South Africa, 1996 ("the Constitution") affords all children the right to be protected from maltreatment, neglect, abuse or degradation. Section 28(2) of the Constitution also pronounces that a child's best interests are of paramount importance in every matter concerning the child. The Constitution further protects a child's right to life in terms of section 11. In addition, the Children's Act, 2005 (Act No. 38 of 2005) ("the Children's Act"), seeks to provide comprehensive protection for children.

However, in a country where the protection of children is of utmost importance, the proliferation of the unsafe abandonment of neonates (i.e children who are under 28 days old), is alarming and of pressing social concern. According to a 2018 study¹ conducted by the South African Medical Research Council, about 3 500 children survive abandonment each year and that for every child that was found alive, at least two were dead. The study further found that 65 percent of the abandoned children were newborns, while 90 percent were under the age of one. Neonates are found dumped in places like dumpsters, drains, toilets, open fields, on the side of the road and on doorsteps. The unsafe abandonment of neonates violates their right to life, and right to be free of maltreatment, neglect, abuse and degradation

There are many reasons as to why children are abandoned. These, *inter alia*, include, but are not limited to, poverty, gender-based violence, teenage or unwanted pregnancy, lack of sufficient pregnancy counselling, child conceived as a result of rape, lack of access to family planning services like contraception, incest, failed illegal abortions, lack of family support and financial issues. Another cause of child abandonment is the fact that the current South African laws are reactive in nature in that while the laws punish the crime of child abandonment, they fail to provide safe alternatives to the act of unsafe abandonment of neonates either via 'baby savers' or 'baby safe havens'.

Baby savers and baby safe havens serve as a critical safety net which can save a neonate's life and allow for the dignified and safe relinquishment of a neonate. They offer a humane and

¹ The Borgen Project. (2020). *Abandoned Babies in South Africa*. [Online]. Available at: <https://borgenproject.org/abandoned-babies-in-south-africa/#:~:text=each%20garment%20sold,-.Abandoned%20Baby%20Rate%20in%20South%20Africa,30%20percent%20increase%20in%20orphans>

safe alternative to abandoning neonates in hazardous locations and thus upholds a child's right to life and protecting the child from maltreatment and neglect.

The Children's Amendment Bill, 2025 ("the draft Bill") thus seeks to amend the Children's Act so as to provide for the safe relinquishment of a neonate into a baby safe or with a baby safe haven. The draft Bill seeks to give legal recognition to 'baby savers' and 'baby safe havens' and to regulate such facilities. Furthermore, the draft Bill expressly excludes the safe relinquishment of a neonate at a baby saver or at a baby safe haven, from the definition of "abandoned child", thereby clarifying that such safe relinquishment does not constitute a crime. However, the Bill expressly states that the fact of a safe relinquishment of a neonate does not indemnify a person who committed an offence in respect of the neonate prior to the safe relinquishment. Allowing for the safe relinquishment of a neonate in a baby safe or with a baby safe haven will assist in the protection of children's rights as entrenched in the Constitution.

Interested parties and institutions are invited to submit written representations on the proposed content of the draft Bill to the Speaker of the National Assembly within 30 days of the publication of this notice. Representations can be delivered to the Speaker, New Assembly Building, Parliament Street, Cape Town; mailed to the Speaker at PO Box 15, Cape Town 8000; or e-mailed to speaker@parliament.gov.za and copied to legislation@da.org.za.

Copies of the draft Children's Amendment Bill, 2025 may, after introduction, be obtained from the Democratic Alliance by requesting a copy from legislation@da.org.za