

## **“A CRISIS AVERTED”**

### **ORPHANED CHILDREN TO RECEIVE FOSTER CHILD GRANT WHILE LONG TERM SOLUTION BEING FINALISED**

**FOR IMMEDIATE RELEASE: 28 NOVEMBER 2017**

Today a court order was granted by agreement in the High Court, Pretoria, which will alleviate the crisis in South Africa’s foster care system. The foster care crisis results from the fact that the system is catering for 460 000 children when it is designed to cater for less than 100 000 children. The crisis occurred because relatives caring for orphaned and vulnerable children have been accessing the foster child grant instead of the child support grant because it is higher in value, with the foster child grant currently paying out R 920 per month as against R380. This has caused the system to be overburdened and social workers to be overworked and not able to adequately provide services to other vulnerable children.

The problem peaked in 2011 when over 100 000 foster care orders lapsed due to the overburdening of the system, and this placed the payment of grants at risk. The Centre for Child Law went urgently to court at that time, and with the National Department of Social Development’s agreement, got a court order that allowed for administrative extension of foster care orders. This arrangement was intended to last for only three years while a comprehensive legal solution was sought. However, in 2014 the system was still unable to cope with the large number of children in foster care and so the National Department of Social Development sought and was granted an extension of that order for a further three years, during which amendments to the Children’s Act were to be made that would resolve the crisis.

With the three year deadline looming at the end of 2017, the Centre for Child Law and the National Department of Social Development (DSD) have had several meetings this year in attempts to come to an understanding on the way forward in developing a comprehensive legal solution to the foster care crisis.

The order by agreement handed down in court today declares the current situation of the overburdened foster care system to be unconstitutional. The order also ensures that children whose foster care orders have lapsed or are due to lapse are reinstated or extended. The order requires DSD to put measures in place to ensure the necessary legislative amendments, that will bring about a comprehensive legal solution to the foster care crisis, to be concluded within a period of 2 years. The time period allows for the required Parliamentary processes to be

carried out. This will involve amendments to the Children's Act and the Social Assistance Act. The order also requires the Department to report to the Centre and the Court, every 6 months, on the progress made.

The other parties to the matter, the South African Social Assistance Agencies and the MECs for Social Development, did not oppose the agreement being made an order of court.

The National Department for Social Development and the Centre for Child Law will continue to work together to ensure that the deadlines are met for the finalization of a lasting solution. This week at the National Child Care and Protection Forum the Department spelled out its vision for a new child care and protection policy that recognizes that orphans in the care of relatives do not need to be in foster care, and that a model of kinship care supported through community social support and access to an increased child support grant is the desired approach.

**Ends.**

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