



PROBATION OFFICERS

A probation officer is a court official who works directly with people accused of committing crimes. A probation officer works with people who have been given an alternative punishment to imprisonment. A probation officer may also assist the magistrate or judge to make a decision about whether a sentence should be probation or imprisonment during the trial.

In Namibia, all probation officers must be social workers registered with the Social Work and Psychology Council. The Ministry of Gender Equality and Child Welfare registers all probation officers, including those who work for the Ministry of Health and Social Services, the Prisons and Correctional Services of the Ministry of Safety and Security, parastatals, non-governmental organisations and social workers in private practice.

The current powers and duties of probation officers are:

- ④ to enquire into and report to the court on the character and environment of children under age 21 who are on trial, and the circumstances contributing to their conflict with the law
- ④ to devise and carry out measures to address the conditions of children coming into conflict with the law
- ④ to supervise or control any child or adult convicted of an offence and placed under the supervision of the probation officer
- ④ to perform any other duties imposed on them by the Children's Act or any other law, or by the Minister.

The draft Child Care and Protection Act

The draft Child Care and Protection Act gives the Minister of Gender Equality and Child Welfare the power to appoint probation officers to fulfil duties imposed on them under the Child Care and Protection Act, or any other law. Existing probation officers will take on these new duties as well. The additional duties are as follows:

- ④ to assess persons accused of crimes and provide appropriate intervention services, including mediation and family group conferencing
- ④ to investigate the circumstances of the accused and provide a pre-trial report recommending whether or not prosecution should proceed
- ④ to investigate the circumstances of an accused, compile a pre-sentencing report and recommend an appropriate sentence and appropriate assistance to the accused's family
- ④ to assist convicted criminals who are on probation in complying with the conditions of their probation in order to improve their social functioning
- ④ to supervise probation and report to the court on compliance with the probation conditions – including immediate reporting when a convicted criminal who is on probation violates the conditions of the probation.

The additional duties describe the type of screening that some social workers are already doing in practice. The proposed law would clarify and strengthen these responsibilities, while the Child Justice Bill is still being finalised.

For example, the new law will make it a requirement that a child who has been arrested must be assessed by a probation officer as soon as reasonably possible to decide if prosecution should proceed, or if alternative approaches such as mediation or counselling would be more appropriate. It should be noted that the proposed draft does not limit these options to children, but would also make them available in theory to adults accused of crimes.

The proposed law would also make it a crime to hinder or obstruct a probation officer in the performance of his or her duties. The penalty is a fine of up to N\$ 20 000, imprisonment for up to 5 years, or both.

The role of probation workers in some countries is broader than what Namibia is proposing. For example, in the United Kingdom probation officers also work with offenders who have been sentenced to a year or more in prison and with the victims of the crime. In the Isle of Man, probation officers provide a range of rehabilitation programmes to address offending behaviour. Some states in America, such as California, have volunteer probation officers who assist with this type of work. Studies have been undertaken to assess the value of probation versus imprisonment. These show that probation can be less expensive than court proceedings and imprisonment, and that probation can have long-term benefits. Therefore it is important that the role of probation officers in Namibia is carefully considered to ensure that the correct responsibilities are assigned to probation officers.

ISSUES FOR DISCUSSION

- ⑨ What Ministry should appoint and supervise probation officers?
- ⑨ Are the proposed responsibilities for probation officers broad enough? Should probation officers be asked to fulfil a more proactive role? Should probation officers also work with crime victims?
- ⑨ Do the provisions on probation officers belong in the Child Care and Protection Act since they deal with both adults and children, or should they be dealt with by an amendment to the Criminal Procedure Act, the forthcoming Child Justice Act or some other law? Should provisions about probation officers and screening be placed in the Child Care and Protection Act as an interim measure, until the forthcoming Child Justice Act is in place?
- ⑨ What topics should be covered in the regulations concerning probation officers? For example, when a report is written should it be a requirement that a copy is sent to the Channelling Officer at the Ministry responsible for the Act, for verification and monitoring purposes?

WHAT DO YOU THINK?

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