



DEPARTMENT OF SOCIAL DEVELOPMENT

Home-based Supervision

Building a people's contract to strengthen families and communities for a better life for children



Home-based Supervision

Introduction:

The aims of *home-based supervision* are:

- To place high risk or children in trouble with the law under a very strict form of supervision at their home within the community
- To reduce re-offending
- To decrease the population of children awaiting trial in prisons or places of safety
- To ensure a sustainable service for children in trouble with the law that is cost-effective.
- Where applicable, to assist the child to change his or her behaviour in the family setting with parental assistance

With *home-based supervision* the use of detention in prison or other residential facilities can be decreased if there are sufficient human resources and effective programmes.

History:

Home-based supervision was started through a pilot project in 1997 by the Department of Social Services, Western Cape, in Bellville. The pilot project emanated from frustration with the lack of vacancies in places of safety that resulted into children having to await trial in prisons. *Home-based supervision* was strengthened after the appointment of additional assistant probation officers in the Western Cape Province.

Home-based supervision is a new approach to the monitoring of children within their families and communities. The programme has contributed to the notion of family preservation and children staying with their families in their communities.

Definition of home-based supervision:

Home-based supervision is defined in terms of section 1(c) of the Probation Services Amendment Act, Act No. 35 of 2002 that means: "... supervision under certain conditions where an arrested, accused, convicted or sentenced child in the care of his or her parents or guardian or in the custody of any other person, is monitored by an assistant probation officer".

Description of home-based supervision in terms of the definition

Home-based supervision is for high-risk children or those who allegedly have committed a criminal offence and are under the age of 18 years. It can be used as (a) an alternative placement option and (b) as a diversion programme, or (c) as a sentencing option.

The child must be placed in the custody of his or her parents or guardian or another appropriate adult. The monitoring of the child has to be rendered by an assistant probation officer as stipulated in Act 35 of 2002. This can only be done after the court has issued an order in this regard. The court's order should be preceded by developmental assessment done by a probation officer after the arrest, or, in relation to sentencing, after the conviction of the child. A pre-trial or a pre-sentence report can also be submitted to the court with a recommendation by the probation officer for this purpose.

Where children are placed in *Home-based supervision* as an alternative to pre-trial detention the child will stay under the order until such time as the criminal matter is concluded. Where home based supervision is used for diversion or sentence the court will determine the period of time for which it can be used. Regular report backs are provided to the court by the probation officers and assistant probation officers, at pre-determined intervals or whenever requested.

Legal framework for home-based supervision

1. SA Constitution Act, Act No. 108 of 1996

Section 28 1(g) stipulates that no child shall be detained except as a measure of last resort and then for the shortest possible period of time.

2. Criminal Procedure Act, Act No. 51 of 1977

Although the Act does make specific reference to *home-based supervision*, but in section 71(f) an arrested person, child or adult can be placed under certain conditions on correctional supervision whilst awaiting trial.

The court can also postpone or suspend a sentence under certain conditions in terms of section 297, and *home-based supervision* could be such a condition.

3. Probation Services Amendment Act, Act No. 35 of 2002

This Act introduced *home-based supervision*, and spells out the role of the assistant probation officer. *Home-based supervision* is one of the duties stipulated in section 4A (2)(a) of the said Act to be performed by the assistant probation officers.

Home-based supervision is supervision under certain conditions. These conditions have to be determined by the court after a recommended by the probation officer. The supervision with conditions forms the basis of home-based supervision.



Who supervises children that are under home-based supervision?

The occupational class of assistant probation officer has been created to, amongst other duties, render home-based supervision as stipulated in term of section 4A (2)(a) of the Probation Services Amendment Act, Act No. 35 of 2002.

Home-based supervision as an alternative to detention whilst awaiting trial

The Probation Services Amendment Act provides that arrested children are to be assessed. After assessing the child the Probation Officer may make a recommendation to the court that instead of being referred to a prison or some other residential facility such as a secure care facility, the child may instead be placed under home-based supervision. This is suitable for children who are considered to be at risk of absconding or getting into further trouble if they are simply released to their families.

Home-based supervision ensures that the child remains at home, attends schools and other activities whilst being kept away from negative influences. It also ensures that the child returns to court to stand trial, as the chances of abscondment are substantially reduced whilst the child is under home-based supervision.

At the same time the assistant probation officer who is supervising can get to know the family through home visits, and is able to provide support to the family. Because a child who is awaiting trial is considered by law to be innocent, the home based supervision for such a child does not involve asking the child to take responsibility for the crime, but it may deal with support to the child and family in relation to more general behaviour problems if they are identified and where this is considered appropriate.

Home-based supervision as a diversion option

Diversion means diversion from the formal court procedure with or without conditions (section 1 (c) of Act No. 35 of 2002). The diversion programme takes place within the family and community but the child has to admit the alleged offence. The aim is to keep the child away from the formal criminal justice system, under normal circumstance whilst taking responsibility for the offence. Behavioural change is the aim of this option as the child is placed on certain programmes.

This process takes place during the pre-trial phase and certain conditions have to be attached to the diversion option, for a fix period of time. The monitoring is done by the assistant

probation officer, and the probation officer has to co-operate with and report back to the court as stipulated.

If the child responds well and the programme is successfully completed then the prosecutor will not proceed with the charges. The child is thus given a chance to avoid a criminal record. If the child does not co-operate and breaches the conditions, he or she will then find him or herself back in court facing the original charge.

Home-based supervision as a sentencing option

Home-based supervision as a sentencing option which may be ordered by the court after an assessment and pre-sentence report by a probation officer. The seriousness of the crime, the child's developmental needs and home circumstances are assessed. The supervision period, conditions and programme are guided by the facts of the crime and circumstances surrounding the child that comes to the fore during the assessment.

The same reporting system will take place as that relating to diversion. The duration of the programme could be between six months and one year, but in exceptional cases it might be longer. The probation officer can recommend the period but the court will make the final decision in this regard.

Questions that will be considered when considering the suitability of home-based supervision

- Are the child and parents prepared to take co-responsibility?
- Will they agree and be able to adhere to the conditions?
- Is the family sufficiently stable to cope?
- Is the environment sufficiently stable and predictable?
- Can the risks be managed?

Conditions

The conditions under which a child is going to be placed are very important. The probation officer and assistant probation officer will discuss the conditions with each other and with the child and family before the court hearing. The conditions will be stipulated in the court order. These conditions will be discussed with the child and the parents before *home-based supervision* commences, to make sure that they fully understand the conditions.



Objectives of home-based supervision

Home-based supervision is:

- To promote family preservation by allowing the child to stay with their family
- To enable children to make a positive contribution toward their own lives and that of their community
- To ensure a network of programmes during service delivery
- To create an alternative that is well structured to limit institutionalisation
- To assist children to overcome criminal behaviour at a early stage of their lives
- To keep the numbers in places of safety and prisons down
- To assist parents to take control and be responsible for their child's life style
- To prevent further crimes being committed

Cost-Effectiveness of home-based supervision

This alternative placement over that in a facility is a very cost-effective option, as the State will save between R80 to R100 per day per children on *home-based supervision*.

Advantages of home-based supervision

- *Home-based supervision* is not just monitoring. It is much more intensive and involves a comprehensive developmental programme
- It promotes family preservation as frequent visits to the home of a child are made, and support is provided
- The child has to be encouraged and motivated to: continue schooling, undergo life skills training and attend youth empowerment camps with wilderness training to improve his or her behaviour
- *Home-based supervision* can prevent re-offending
- With appropriate referrals and supportive services a network of community resources can be established
- *Home-based supervision* can eliminate the trauma of detention and imprisonment as the child is placed with his/her family
- It is in line with international instruments that promote the best interest of the child
- It involves the parents and other family members in programmes
- It can enhance co-operation between state organs and other non-governmental organisations in communities
- It allows the child to stay in contact with his or her family, go to school or work place and have access to other services that are available

Forms to be utilised during the process of home-based supervision

1. **COURT ORDER AND CONDITIONS:** In this form all the conditions are stipulated. These conditions should be discussed with the child and parents and signed by relevant parties such as: child, parents or guardian, probation officer and magistrate.
2. **CONTRACT:** The contract stipulates the agreement between the child supported by the parents with the assistant probation officer who will take charge of the home-based supervision process.
3. **MONITORING FORM:** The assistant probation officer will complete this form with every visit to the house and should be signed by all relevant parties, such as: child, parent or guardian or anyone present at home and also the assistant probation officer.
4. **EVALUATION OR OBSERVATION FORM:** This form has to be completed by the assistant probation officer regarding his or her evaluation or observation of the case's progress or not that is under supervision.
5. **PROCESS NOTES:** It's a report the assistant probation officer has to write after home visits.
6. **WRITTEN WARNING:** This form has to be filled in and handed to the child and relative whenever the child had failed to adhere to the conditions as stipulated in the court order. The assistant probation officer issues this warning.
7. **AFFIDAVIT:** This affidavit is recorded when the case is referred back to the court after warnings were issued without positive result. In addition to this affidavit, the probation officer also submits a short report and recommendation to the court.

Conclusion

Home-based supervision is tested to be a very successful programme for any high-risk or child in conflict with the law. It's a cost-effective manner to bring behavioural changes within these children. The parents have to be co-responsible in dealing with their children to achieve these changes. Different programmes can be utilised during *home-based supervision*. The assistant probation officer is responsible for the supervision but the probation officer stays the case manager. Regular consultations should take place between probation officer and assistant probation officer to achieve the best results.



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