

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO
CHILDREN'S AMENDMENT
BILL**

[B 19—2006]

*(As agreed to by the Portfolio Committee on Social Development
(National Assembly))*

[B 19C—2006]

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AMENDMENTS AGREED TO

CHILDREN'S AMENDMENT BILL
[B 19—2006]

CLAUSE 1

1. On page 2, in line 11, to omit “services”.

CLAUSE 2

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 1:

“Amendment of Table of Contents of Act 38 of 2005

2. The Table of Contents after the long title of the principal Act is hereby amended—
 - (a) by the insertion after “75. Regulations” of the following:

“CHAPTER 5

PARTIAL CARE

76. Partial care
77. Strategy concerning partial care
78. Provision of partial care
79. Norms and standards for partial care
80. Partial care facility to be registered
81. Application for registration and renewal of registration
82. Consideration of application
83. Conditional registration
84. Cancellation of registration
85. Notice of enforcement
86. Appeal against and review of certain decisions
87. Record and inspection of and provision for partial care facility
88. Assignment of functions to municipality
89. Serious injury, abuse or death of child in partial care facility
90. Regulations

CHAPTER 6

EARLY CHILDHOOD DEVELOPMENT

91. Early childhood development
92. Strategy concerning early childhood development
93. Provision of early childhood development programmes
94. Norms and standards for early childhood development programmes
95. Early childhood development programme to be registered
96. Application for registration and renewal of registration
97. Consideration of application
98. Conditional registration

99. Cancellation of registration
100. Notice of enforcement
101. Appeal against and review of certain decisions
102. Assignment of functions to municipality
103. Regulations".

(b) by the insertion after "**PROTECTION OF CHILDREN**" of the following:

“Part 1

Child protection system

104. Strategy concerning child protection
105. Provision of designated child protection services
106. Norms and standards for child protection
107. Designation of child protection organisation
108. Existing child welfare organisation
109. Withdrawal of designation
110. Reporting of abused or neglected child and child in need of care and protection".

(b) by the insertion after "134. Access to contraceptives" of the following:

“Part 4

Other protective measures

135. Application to terminate or suspend parental responsibilities and rights
136. Consideration of application to terminate or suspend parental responsibilities and rights
137. Child-headed household
138. Unlawful removal or detention of child
139. Unlawful taking or sending of child out of Republic
140. Child safety at place of entertainment
141. Child labour and exploitation of child".

(d) by the insertion after "142. Regulations" of the following:

“CHAPTER 8

PREVENTION AND EARLY INTERVENTION

143. Prevention and early intervention
144. Purposes of prevention and early intervention
145. Strategy for securing prevention and early intervention
146. Provision of prevention and early intervention programmes
147. Norms and standards for prevention and early intervention programmes
148. Court may order early intervention
149. Report to include summary of prevention and early intervention programmes".

(e) by the insertion after "166. Change of residence or work by respondent" of the following:

“CHAPTER 11

ALTERNATIVE CARE

167. Alternative care
168. Leave of absence
169. Child in alternative care prohibited from leaving Republic

170. Child absconding from alternative care
171. Transfer of child in alternative care
172. Change in residential care programme
173. Removal of child already in alternative care
174. Provisional transfer from alternative care
175. Discharge from alternative care
176. Remaining in alternative care beyond age of 18 years
177. Appeal against and review of certain decisions
178. Serious injury, abuse or death of child in alternative care facility
179. Regulations

CHAPTER 12

FOSTER CARE

180. Foster care
181. Purposes of foster care
182. Prospective foster parent
183. Cluster foster care
184. Determination of placement of child in foster care
185. Number of children to be placed in foster care per household
186. Duration of foster care placements
187. Reunification of child with biological parent
188. Responsibilities and rights of foster parent
189. Termination of foster care
190. Regulations

CHAPTER 13

CHILD AND YOUTH CARE CENTRES

191. Child and youth care centre
192. Strategy to ensure sufficient provision of child and youth care centres
193. Provision of child and youth care centres
194. Norms and standards for child and youth care centres

Part 1

Establishment and registration of child and youth care centre

195. Establishment of child and youth care centre by organ of state
196. Existing government children's home, place of safety, secure care facility, school of industry and reform school
197. Establishment of child and youth care centre
198. Existing registered children's home and registered shelter
199. Application for registration or renewal of registration
200. Consideration of application
201. Conditional registration
202. Amendment of registration
203. Cancellation of registration
204. Notice of enforcement
205. Voluntary closure of child and youth care centre
206. Child in child and youth care centre to be closed
207. Appeal against and review of certain decisions

*Part 2**Operation and management of child and youth care centre*

- 208. Management board
- 209. Manager and staff of child and youth care centre
- 210. Management system
- 211. Quality assurance process

*Part 3**Miscellaneous*

- 212. Regulations

CHAPTER 14**DROP-IN CENTRES**

- 213. Drop-in centres
- 214. Strategy concerning drop-in centres
- 215. Provision of drop-in centres
- 216. Norms and standards for drop-in centres
- 217. Drop-in centres to be registered
- 218. Application for registration and renewal of registration
- 219. Consideration of application
- 220. Conditional registration
- 221. Cancellation of registration
- 222. Notice of enforcement
- 223. Appeal against and review of certain decisions
- 224. Record and inspection of and provision for drop-in centres
- 225. Assignment of functions to municipality
- 226. Serious injury, abuse or death of child in drop-in centre
- 227. Regulations”.

CLAUSE 3

1. On page 6, after line 4, to insert the following definitions:

“ **‘after-care’** means the supportive service provided by a social worker or a social service professional to monitor progress with regard to the child developmental adjustment as part of—

- (a) family preservation or reunification services;
- (b) adoption or placement in alternative care; or
- (c) discharge from alternative care;”

2. On page 6, after line 12, to insert the following paragraph:

(b) by the insertion after the definition of “**artificial fertilisation**” of the following definitions:

“ **‘assessment of a child’** means a process of investigating the developmental needs of a child, his family environment or any other circumstances that may have a bearing on the child’s need for protection and therapeutic services;

‘assessment of a programme’ means a process of determine whether the provision and the content of a programme complies with prescribed norms and standards by a suitably qualified person;”.

3. On page 6, from line 22, to omit the definition of “cluster foster care scheme” and to substitute the following definitions:

“ **‘cluster foster care’** means the reception of children in foster care in accordance with a cluster foster care scheme registered by the provincial head of social development;
‘cluster foster care scheme’ means a scheme, managed by a non-profit organisation and registered by the provincial head of social development for this purpose, providing for the reception of children in foster care.”;

4. On page 6, in line 43, to omit “service” wherever it occurs and to substitute “programme”.
5. On page 6, in line 48, after “a” to insert “registered”.
6. On page 7, in line 2, after “metropolitan,” to insert “local or”.
7. On page 7, in line 2, to omit “or local”.
8. On page 7, in line 6, after “a” to omit “district” and to substitute “local”.
9. On page 7, in line 7, to omit “local” and to substitute “district”.
10. On page 7, from line 23, to omit the definition of “quality assurance process” and to substitute the following definition:

“ **‘quality assurance process’** means the process referred to in section 211;” and

11. On page 7, from line 40, to omit the definition of “secure care” and to substitute the following definition:

“ **‘secure care’** means the physical containment in a safe and healthy environment—
(a) of children with behavioural and emotional difficulties;
(b) of children in conflict with the law;”.

CLAUSE 4

1. On page 8, in line 1, after “of” to omit “the” and to substitute “medical”.
2. On page 8, in line 5, after “of” to omit “Finance, Health and Education” and to substitute “Education, Finance, Health, Provincial and Local Government and Transport.”
3. On page 8, in line 16, after “profile” to omit “from time to time” and to substitute “at the prescribed intervals”.
4. On page 8, in line 25, after “be” to omit “management” and to substitute “managed”.
5. On page 8, in line 35, after “section 79”, to add “and such other requirements as may be prescribed”.
6. On page 8, after line 35, to add:

“(4) The funding of partial care facilities must be prioritised—
(a) in communities where families lack the means of providing proper shelter, food and other basic necessities of life to their children; and
(b) to make facilities accessible to children with disabilities”.

7. On page 9, in line 5, after “children” to omit “and”.
8. On page 9, in line 7, to add “and”.
9. On page 9, after line 7, to add “(iii) basic therapeutic interventions.”
10. On page 9, in line 11, after “person”, to insert “or organisation”.
11. On page 9, from line 23, after “department” to omit “other than the national or provincial state department responsible for social development” and to substitute “or by a municipality”.
12. On page 9, line 38, after “a” to insert “prescribed” and to omit “prescribed by regulation”.
13. On page 9, in line 39, after “procedure” to omit “prescribed by regulation”.
14. On page 9, in line 40, after “the”, to insert “prescribed” and after “particulars” to omit “prescribed by regulation”.
15. On page 9, in line 44, after “prescribed” to omit “by regulation”.
16. On page 10, in line 3, after “(a)” to insert “within six months of receiving the application,”.
17. On page 10, from line 8, after “prescribed” to omit “by regulation”.
18. On page 10, in line 24, after “skills” to insert “and training”.
19. On page 10, in line 41, after “which the” to insert “conditional”.
20. On page 11, in line 9, after “any”, to omit “provisions” and to substitute “provision”.
21. On page 11, in line 11, after “or”, to omit “provisions” and to substitute “provision”.
22. On page 11, in line 15, after “person” to insert “or organisation”.
23. On page 11, in line 19, after “person” to insert “or organisation”.
24. On page 11, in line 23, after “person” to insert “or organisation”.
25. On page 11, from line 36, to omit subsection (1) and to substitute the following subsection:

(1) An applicant or a registration holder aggrieved by a decision of a provincial head of social development in terms of this chapter may lodge an appeal against that decision in the prescribed form within 90 days with the MEC for social development, who must decide the appeal within 90 days of receipt thereof.
26. On page 11, in line 41, after “applicant”, to insert “or a registration holder”.
27. On page 11, from line 50, to omit paragraph (c) and to substitute the following paragraph:

(c) conduct inspections at the prescribed intervals of partial care facilities in the province to enforce the provisions of this Act.

28. On page 11, from line 52, to omit:

(2) Provincial strategies must include strategies for the provision of partial care facilities in its area, which must include measures—

and to substitute:

(2) A provincial strategy contemplated in section 77(2) must include a strategy for the provision of partial care facilities in the province, which must include measures—.

29. On page 11, from line 54, to omit paragraph (a) and to substitute the following paragraph:

(a) facilitating the establishment and operation of sufficient partial care facilities in that province;

30. On page 12, in line 15, before “in” to omit “designated social worker” and to substitute “social service professional”.

31. On page 12, from line 27, to omit subsection (6) and to substitute the following subsection:

(6) An applicant or a registration holder aggrieved by a decision of an official in the employ of a municipality in terms of this chapter may lodge an appeal against that decision in the prescribed form within 90 days with the municipal council, who must decide the appeal within 90 days of receipt thereof.

32. On page 12, from line 51, to omit section 89 and to substitute the following section:

Serious injury, abuse or death of child in partial care facility

89. (1) If a child is seriously injured or abused while in partial care or following an occurrence at a partial care facility, the person operating the partial care facility or a person employed at the partial care facility must immediately report such injury or abuse to the provincial head of social development, who must cause an investigation into the circumstances of the serious injury or abuse to be conducted.

(2) If a child dies while in partial care or following an occurrence at a partial care facility, the person operating the partial care facility or a person employed at the partial care facility must immediately after the child’s death report such death to—

(a) the parent, guardian or care-giver of the child;

(b) a police official;

(c) the provincial head of social development; and

(3) The police official must cause an investigation into the circumstances surrounding the death of the child to be conducted by the South African Police Service, unless the police official is satisfied that the child died of natural causes.

33. On page 13, after line 21, to insert the following paragraph:

“(g) the procedure to be followed with regard to the children in a partial care facility if the partial care facility is closed down;”.

34. On page 13 in line 22 to re-number the paragraphs “(g)” and “(h)” to “(h)” and “(i)” respectively.
35. On page 13, from line 29, to omit subsection (1) and to substitute the following subsection:
- (1) Early childhood development, for the purposes of this Act, means the process of emotional, cognitive, sensory, spiritual, moral, physical, social and communication development of children from birth to school-going age.
36. On page 13, in line 42, after “Finance” to omit “and Health” and to substitute “, Health, Provincial and Local Government and Transport”.
37. On page 13, in line 53, after “profile” to omit “from time to time” and to substitute “at the prescribed intervals”.
38. On page 14, in line 5, after “(2)” to omit “Early childhood development programmes” and to substitute “An early childhood development programme”.
39. On page 14, in line 12, after “section 94” to insert “and such other requirements as may be prescribed”.
40. On page 14, from line 13, to omit subsection (4) and to substitute the following subsection:
- “(4) The funding of early childhood development programmes must be prioritised—
(a) in communities where families lack the means or providing proper shelter, food and other basic necessities of life to their children; and
(b) to make early childhood development programmes available to children with disabilities.
41. On page 14, in line 16, after “(5)” to omit “Early childhood development programmes” and to substitute “An early childhood development programme”.
42. On page 14, in line 26, after “development” to add “programmes”.
43. On page 14, in line 27, after “standards” to insert “for early childhood development programmes”.
44. On page 14, from line 39, to omit paragraph (f) and to substitute the following paragraph:
- (f) meeting the emotional, cognitive, sensory, spiritual, moral, physical, social and communication development needs of the children.
45. On page 14, in line 41, after “development” to omit “programmes” and to substitute “programme”.
46. On page 14, in line 43, before “provided” to omit “services are” and to substitute “programme is”.
47. On page 14, from line 46, to omit subsection (1) and to substitute the following subsection:
- “(1) A person or organisation providing an early childhood development programme must—”.

48. On page 15, from line 1, to omit subsection (3), and to substitute the following subsection:

“(3) An early childhood development programme provided by a national or provincial state department or a municipality must comply with subsection (1).”.

49. On page 15, from line 9, to omit paragraph (a) and to substitute the following paragraph:

(a) be lodged with the provincial head of social development of the province where the early childhood development programme is provided in accordance with a prescribed procedure;

50. On page 15, from line 12, to omit paragraph (b) and to substitute the following paragraph:

(b) contain the prescribed particulars; and

51. On page 15, from line 12, to omit paragraph (c) and to substitute the following paragraph:

(c) be accompanied by any documents that may be prescribed.

52. On page 15, in line 21, after “of” to omit “a partial care facility” and to substitute “an early childhood development programme”.

53. On page 15, in line 23, after “as” to insert “is”.

54. On page 15, in line 26, after “(a)”, to insert “within six months of receiving the application”.

55. On page 15, in line 31, after “the”, to insert “prescribed”.

56. On page 15, in line 31, after “form” to omit “prescribed by regulation”.

57. On page 15, in line 41, after “provide” to insert “an”.

58. On page 15, in line 42, after “development” to omit “services” and to substitute “programme”.

59. On page 15, in line 43, after “skills,” to insert “training”.

60. On page 15, from line 46, to omit paragraph (d) and to substitute the following paragraph:

“(d) the early childhood development programme meets the emotional, cognitive, sensory, spiritual, moral, physical, social and communication development needs of the children to whom the programme will be presented.”

61. On page 15, in line 51, before “programmes” to omit “services or”.

62. On page 15, in line 52, after “consider” to omit “a report of a social service professional”, and to substitute “the assessment referred to in subsection (6) of a suitably qualified person”.

63. On page 15, from line 55, to omit subsection (5) and to substitute the following subsection:

“(5) Notwithstanding the provisions of section 93(3), a provincial head of social development may assist a person providing an early childhood development programme to comply with the prescribed

norms and standards contemplated in section 94 and such other requirements as may be prescribed.”.

64. On page 16, after line 3, to add the following subsections:

“(6) A provincial head of social development must authorise a suitably qualified person to assess the provision and content of an early childhood development programme in order to determine whether the programme complies with the prescribed norms and standards contemplated in section 94 and such other requirements as may be prescribed.

(7) Section 304(2) and (3), read with such changes as the context may require, applies to any assessment in terms of subsection (6).”.

65. On page 16, in line 4, to omit the heading and to substitute the following heading:

“Granting of registration”

66. On page 16, in line 11, after “which the”, to insert “conditional”.
67. On page 16, in line 25, after “provide” to insert “an”.
68. On page 16, in line 25, after “development” to omit “programmes” and to substitute “programme”.
69. On page 16, from line 26, to omit paragraph (e) and to substitute the following paragraph:

(e) a person who is not a fit and proper person to provide or assist in the provision of an early childhood development programme provides or assists in the provision of such a programme.

70. On page 16, in line 51, after “(b)” to omit “{”.
71. On page 16, in line 52, after “provide”, to insert “an”.
72. On page 16, in line 53, before “but” to omit “programmes” and to substitute “programme”.
73. On page 17, in line 6, to omit the heading and to substitute the following heading:

“Appeal against, and review of certain decisions”

74. On page 17, from line 7, to omit section 101 and to substitute the following section:

101. (1) An applicant or a registration holder aggrieved by a decision of a provincial head of social development in terms of this chapter may lodge an appeal against that decision in the prescribed form within 90 days with the MEC for social development, who must decide on the appeal within 90 days of receipt thereof.

(2) An applicant or a registration holder that is not satisfied with the outcome of an appeal referred to in subsection (1) may apply to the competent division of the High Court to review that decision.

75. On page 17, in line 17, after “99”, to omit “, 100 and 101” and to substitute “and 100”.
76. On page 17, in line 26, before “in” to omit “designated social worker” and to substitute “social service professional”.
77. On page 17, in line 27, after “subsection” to omit “(2)” and to substitute “(3)”.
78. On page 17, from line 38, to omit subsection (6) and to substitute the following subsection:

(6) An applicant or a registration holder aggrieved by a decision of an official in the employ of a municipality in terms of this chapter may lodge an appeal against that decision in the prescribed form within 90 days with the municipal council, who must decide on the appeal within 90 days of receipt thereof.
79. On page 17, in line 45, after “applicant”, to insert “or a registration holder”.
80. On page 18, in line 15, after “programmes” to omit “offered at partial care facilities and child and youth care centres”.

CLAUSE 5

1. On page 18, in line 33, after “profile” to omit “from time to time”, and to substitute “at the prescribed intervals”.
2. On page 18, in line 36, after “of”, to insert “designated”.
3. On page 18, in line 38, after “fund”, to insert “designated”.
4. On page 18, in line 40, after “(2)”, to insert “Designated”.
5. On page 18, in line 46, after “the”, to insert “prescribed”.
6. On page 18, in line 47, after “section 106” to add “and such other requirements as may be prescribed”.
7. On page 19, in line 19, after “service”, to omit “that” and to substitute “as”.
8. On page 19, in line 19, after “prescribed” to omit “by regulation”.
9. On page 19, in line 20, after “standard” to omit “concerning” and substitute “for”.
10. On page 19, in line 21, after “standards” to insert “for child protection”.
11. On page 19, from line 24, to omit subsections (2) and (3) and to substitute the following subsection:

“(2) The norms and standards contemplated in subsection (1) must relate to the following:

<ol style="list-style-type: none"> (a) Prevention and early intervention programmes; (b) assessment; (c) therapeutic programmes; (d) after care; (e) family reunification and reintegration; (f) foster care services; (g) integration into alternative care;

- (h) adoption services;
- (i) permanency plans;
- (j) education and information; and
- (k) child-headed households.

12. On page 19, in line 55, after “head”, to omit “for”, and to substitute “of”.
13. On page 19, in line 56, before “to” to omit “delegate”, and to substitute “assign”.
14. On page 20, in line 1, after “(4)” to omit “Sections 303 and 304” and to substitute “Section 303”.
15. On page 20, in line 2, after “any” to omit “delegation” and to substitute “assignment”.
16. On page 20, in line 14, after “head” to omit “for” and to substitute “of”.
17. On page 20, from line 22, to omit subsection (2) and to substitute the following subsection:

(2) Before the designation of a child protection organisation is withdrawn as contemplated in subsection (1), the Director-General or provincial head of social development, as the case may be, must conduct quality assurance in the prescribed manner of the child protection organisation concerned.
18. On page 20, in line 26, after “of”, to insert “abuse or neglected child and”.
19. On page 20, in line 27, after “homeopath”, to insert “immigration official”.
20. On page 20, in line 29, after “therapist” to omit “police official”.
21. On page 20, in line 32, after “care facility” to omit “shelter”.
22. On page 20, in line 35, after “neglected” to omit “if it is in the best interest of the child concerned”.
23. On page 20, in line 36, after “conclusion”, to insert “in the prescribed form”.
24. On page 20, in line 36, after “organisation” to omit “or”.
25. On page 20, in line 37, after “development”, to add, “or a police official”.
26. On page 20, in line 39, after “protection” to omit “because of abuse, sexual abuse or deliberate neglect”.
27. On page 20, in line 49, after “subsection” to omit “(2)”, and to insert “(1) or (2) or who becomes aware of a child in need of care and protection”.
28. On page 20, in line 50, after “(a)” to omit “within 24 hours”.
29. On page 20, in line 52, after “(b)”, insert “within 24 hours”.
30. On page 21, from line 6, to omit paragraph (c) and to re-number the paragraphs respectively.
31. On page 21, in line 10, after “investigated” to omit “and”.
32. On page 21 in line 12, after “child”, to insert “and”.

33. On page 21, after line 12, to insert the following paragraph:

“(e) submit such particulars as may be prescribed to the Director-General for inclusion in Part A of the National Child Protection Register.”.

34. On page 21, from line 13, to omit subsection (6) and to substitute the following subsection:

(6) (a) A designated child protection organisation to whom a report has been made in terms of subsection (1), (2) or (4) must report the matter to the relevant provincial department of social development.

(b) The provincial head of social development must monitor the progress of all matters reported to it in terms of paragraph (a).

35. On page 21, in line 27, after “155” to omit the word “; and”, and substitute “.”.

36. On page 21, after line 27, to insert the following subsection:

(7) The provincial department of social development or designated child protection organisation who has conducted an investigation as contemplated in subsection (5) must report the possible commission of an offence to a police official.

37. On page 21, in line 31, to omit “Applications” and to substitute “Application”.

38. On page 21, from line 51, to omit subsections (3) and (4).

39. On page 21, after line 50, to insert the following section:

“Consideration of application to terminate or suspend parental responsibilities and rights

136. (1) When considering an application referred to in section 135 the court must—

(a) be guided by the principles set out in Chapters 2 and 3 to the extent that those principles are applicable to the matter before it; and

(b) take into account all relevant factors, including—

(i) the need for the child to be permanently settled, preferably in a family environment, taking into consideration the age and stage of development of the child;

(ii) the success or otherwise of any attempts that have been made to reunite the child with the person whose parental responsibilities and rights are challenged;

(iii) the relationship between the child and that person;

(iv) the degree of commitment that that person has shown towards the child;

(v) whether there had been any contact between the parent and the child over the year preceding the application; and

(vi) the probability of arranging for the child to be adopted or placed in another form of alternative care.

(4) Section 29, read with such changes as the context may require, applies in respect of any proceedings in terms of section 135 and this section.”.

40. On page 22, in line 14, to omit “136.” and to substitute “137.”.
41. On page 22, in line 16, after “parent,” to insert “guardian,” after “ill,” to omit “or” and after “died” to insert “or has abandoned the children in the household”.
42. On page 22, in line 19, to omit “15” and to substitute “16”.
43. On page 22, in line 20, after “household;” to insert “and”.
44. On page 22, from line 21, to omit paragraph (d).
45. On page 22, in line 23, to omit “(e)” and to substitute “(d)”.
46. On page 22, in line 31, to omit paragraph (b) and to substitute:
 - (b) be a fit and proper person to supervise a child-headed household.
47. On page 22, after line 31, to insert the following subsection:
 - “(4) A person unsuitable to work with children is not a fit and proper person to supervise a child-headed household.”.
48. On page 22, in line 32, to omit “(4)(a)” and to substitute “(5)(a)” and after “child” to omit “at the head of” and to substitute “heading”.
49. On page 22, in line 42, after “grant” to insert “in terms of the Social Assistance Act, 2004 (Act No. 13 of 2004)”.
50. On page 22, from line 40, to omit subsection (5).
51. On page 22, from line 46, after “subsection (2)”, to omit “and the organ of state or non-governmental organisation referred to in subsection (3)”.
52. On page 22, in line 51, after “child” to omit “at the head of” and to substitute “heading”.
53. On page 22, from line 55, after “household” to omit “as if that child was an adult care-giver”.
54. On page 22, after line 56, to insert:
 - (8) The child heading the household or, the given the age, maturity and stage of development of the other children, such other children, may report the supervising adult to the organ of state or non-governmental organisation referred to in subsection (2)(b) if the child or children are not satisfied with the manner in which the supervising adult is performing his or her duties.
55. On page 22, in line 57, to omit “(8)” and to substitute “(9)”.
56. On page 22, from line 58, after “programmes” to omit “for poor households and vulnerable children”.
57. On page 23, in line 2, to omit “137.” and to substitute “138.”.
58. On page 23, in line 13, to omit “138.” and to substitute “139.”.
59. On page 23, from line 31, to omit section 139.
60. On page 24, in line 37, after “section” to omit “297” and to substitute “304”.

61. On page 24, from line 41, to omit paragraph (a) and to substitute the following paragraph:

(a) use, procure or offer a child for slavery or practices similar to slavery including but not limited to debt bondage, servitude and serfdom, and forced or compulsory labour or provision of services;

62. On page 24, from line 45, after “for” to omit “illicit activities, including drug production and”.

63. On page 24, in line 46, after “trafficking;” to omit “or”.

64. On page 24, after line 46, to insert the following paragraph:

(d) use, procure or offer a child, or attempt to do so, for the commission of any offence listed in Schedule 1 or Schedule 2 of the Criminal Procedure Act, 1977; or

65. On page 24, in line 47, to omit “(d)” and to substitute “(e)”.

66. On page 24, from line 49, to omit subsection (2) and to substitute:

“(2) A social worker or social service professional who becomes aware of—
 (a) instances of contraventions of subsection (1)(a), (b), (c) and (d) must report it to a police official; and
 (b) any instance of child labour or contravention of the provisions of the Basic Conditions of Employment Act, 1979 (Act No. 75 of 1997) must report it to the Department of Labour.”

CLAUSE 6

1. On page 25, from line 12, to omit paragraph (d) and to substitute:

“(d)prescribing criteria for determining suitable persons who may conduct investigations into cases of illegal child abuse or neglect;
 (e) prescribing the powers and responsibilities of persons contemplated in paragraph (d).”

2. On page 25, in line 16, to omit “(e)” and to substitute “(f)”.

3. On page 25, from line 19, to omit paragraph (f).

CLAUSE 7

1. On page 25, from line 27, to omit subsection (1) and (2) and to substitute:

(1) Prevention programmes means programmes—
 (a) designed to serve the purposes mentioned in section 144; and
 (b) provided to families with children in order to strengthen and build their capacity and self-reliance to address problems that may or are bound to occur in the family environment which, if not attended to, may lead to statutory intervention;
 (2) Early intervention programmes means programmes—
 (a) designed to serve the purposes mentioned in section 144; and
 (b) provided to families where there are children identified as being vulnerable to or at risk of harm or removal into alternative care.”

2. On page 25, in line 42, after “children” to insert “including the promotion of positive, non-violent forms of discipline”.
3. On page 25, from line 43, to omit paragraphs (c) and (d) and to substitute:

“(c) developing appropriate parenting skills and the capacity of parents and care-givers to safeguard the well-being and best interests of children with disabilities and chronic illnesses;
(d) promoting appropriate interpersonal relationships within the family.”.
4. On page 25, in line 48, after “neglect,” to insert “exploitation”.
5. On page 26, after line 4, to add the following paragraphs:

<p>(c) providing families with information to enable them to access services;</p> <p>(d) supporting and assisting families with a chronically ill or terminally ill family member;</p> <p>(e) early childhood development; and</p> <p>(f) promoting the well-being of children and the realisation of their full potential.</p>

6. On page 26, in line 8, after “intervention” to add “programmes”.
7. On page 26, from line 10, to omit “Education of Finance and of Health” and to insert “Education, Finance, Health, Provincial and Local Government and Transport”.
8. On page 26, in line 13, to omit “services” and to substitute “programmes”.
9. On page 26, in line 16, after “at”, to insert “the provision of”.
10. On page 26, in line 17, after “intervention” to add “programmes”.
11. On page 26, in line 18, to omit “from time to time” and to substitute “at the prescribed intervals”.
12. On page 26, in line 21, to omit “services” and to substitute “programmes”.
13. On page 26, in line 22, to omit “may” and to substitute “must”.
14. On page 26, in line 31, after “section 47” to add “and such other requirements as may be prescribed”.
15. On page 26, from line 32, to omit subsection (4) and to substitute:

<p>(4) The funding of prevention and early intervention programmes must be prioritised—</p> <p>(a) in communities where families lack the means or providing proper shelter, food and other basic necessities of life to their children; and</p> <p>(b) to make prevention and early intervention programmes available to <u>children with disabilities</u>.</p>

16. On page 26, in line 37, after “standards” to insert “for prevention and early intervention programmes”.
17. On page 26, in line 38, after the first “of” to insert “Provincial and Local Government, of”.

18. On page 26, from line 40, to omit subsection (2) and to substitute:

(2) The norms and standards contemplated in subsection (1) must relate to the following:

- (a) Outreach services;
- (b) education, information and promotion;
- (c) therapeutic programmes;
- (d) family preservation;
- (e) skills development programmes;
- (f) diversion programmes;
- (g) temporary safe care;
- (h) assessment of programmes.

19. On page 26, from line 54, to omit subsection (3).

CLAUSE 8

1. On page 27, in line 36, after “section” to omit “136” and to substitute “137”.

CLAUSE 9

1. On page 27, from line 48, to omit subsection (2) and to substitute the following subsection:

(2) A child may not be in temporary safe care or be kept or retained at any place or facility, including a registered child and youth care centre, for longer than six months without a court order placing the child in alternative care.

2. On page 28, after line 4, to add the following subsection:

(4) As from the date on which this section takes effect an existing place of safety approved in terms of the Child Care Act must be regarded as having been approved as temporary safe care in terms of this section.

3. On page 28, in line 25, after “the child” to omit “to return”.
4. On page 28, in line 32, after “terms” to omit “on” and to substitute “of”.
5. On page 28, in line 33, after “may” to omit “prescribe” and to substitute “determine”.
6. On page 30, in line 5, after “child” to insert “taking into consideration the child’s age, maturity and stage of development”.
7. On page 30, in line 6, after “or” to omit “primary”.
8. On page 30, in line 39, after “subsection” to omit “(2)” and to substitute “(3)”.
9. On page 30, in line 50, after “whose” to insert “foster” and after “temporary” to insert “safe”.
10. On page 31, in line 20, after “or” to omit “permanently”.
11. On page 31, in line 39, after “the” to omit “alternate” and to substitute “alternative”.

12. On page 31, in line 41, after “care” to omit “after reaching” and to substitute “beyond”.
13. On page 31, from line 54, to omit subsection (1) and to substitute:

(1) A child or person aggrieved by a decision or action in terms of this chapter may lodge an appeal against that decision in the prescribed form within 90 days with the MEC, who must decide on the appeal within 90 days of reception thereof.

14. On page 32, from line 5, to omit section 178 and to substitute:

Serious injury, abuse or death of child in alternative care

178. (1) If a child in alternative care is seriously injured or abused, the management of the child and youth care centre or person organisation in whose care or temporary safe care the child has been placed must immediately report the matter to the provincial head of social development, who must cause an investigation into the circumstances of the abuse or serious injury to be conducted.

(2) If a child in alternative care dies, the management of the child and youth care centre or person in whose care or foster care the child has been placed must immediately after the child’s death report such death—

- (a) the parent or guardian of the child, if he or she can be traced;
- (b) to a police official;
- (c) the provincial head of social development; and
- (d) the social worker dealing with the matter.

(3) The police official must cause an investigation into the circumstances surrounding the death of the child to be conducted by the South African Police Service, unless the police official is satisfied that the child died of natural causes.

15. On page 32, in line 53, after “a” to insert “registered”.
16. On page 33, from line 10, to omit sections 182 and 183 and to substitute:

Prospective foster parent

182. (1) Before a children’s court places a child in foster care, the court must follow the children’s court processes stipulated in Part 2 of Chapter 9 to the extent that the provisions of that Part are applicable to the particular case.

(2) A prospective foster parent must be—

- (a) a fit and proper person to be entrusted with the foster care of the child;
- (b) willing and able to undertake, exercise and maintain the responsibilities of such care;
- (c) have the capacity to provide an environment that is conducive to the child’s growth and development; and
- (d) properly assessed by a designated social worker for compliance with paragraphs (a), (b) and (c).

(3) A person unsuitable to work with children is not a fit and proper person to be entrusted with the foster care of a child.

(4) Subsections (2) and (3), read with such changes as the context may require, apply to any person employed at or involved in a non-profit organisation managing a cluster foster care scheme.

Cluster foster care

183. (1) A cluster foster care scheme must be managed in the following manner:

- (a) The organisation operating or managing the cluster foster care scheme must be a non-profit organisation registered in terms of the Non-profit Organisations Act, 1997 (Act No. 71 of 1997);
- (b) The organisation referred to in paragraph (b) must—
 - (i) comply with the prescribed requirements; and
 - (ii) have been approved for offering cluster foster care by the head of the provincial department of social development;
- (c) The scheme in terms of which cluster foster care is provided must—
 - (i) comply with the prescribed requirements; and
 - (ii) have been registered with the provincial head of social development in the prescribed manner.

(2) The management of a cluster foster care scheme must be monitored by the provincial head of social development.

- 17. On page 33, in line 46, before “cluster” to omit “prescribed” and to substitute “registered”.
- 18. On page 34, in line 19, after “subsections” to omit “(2) and (3)” and to substitute “(1) and (2)”.
- 19. On page 34, in line 20, after “to” to insert “monitor and”.
- 20. On page 34, in line 49, after to omit “parenting” and to substitute “foster care”.
- 21. On page 34, in line 50, after “parent” to omit “in terms of section 33”.
- 22. On page 34, after line 51, to insert the following subsection:
 - (2) A foster parent may not take any decisions contemplated in section 31(1)(b) involving a child without giving due consideration to—
 - (a) any views and wishes expressed by the child, bearing in mind the child’s age, maturity and stage of development; and
 - (b) any views and wishes expressed by the parent or guardian of the child.
- 23. On page 34, in line 52, after “(2)” to insert “Notwithstanding subsection (2),”.
- 24. On page 35, after line 23, to insert the following paragraph:
 - (c) prescribing the requirements that non-profit organisations must comply with to be approved for the establishment and management of cluster foster care schemes;
- 25. On page 35, in line 24, after “schemes” to omit “and any foster care programmes provided in terms of such schemes,”.
- 26. On page 35, from line 34, after “programme” to omit “or programmes”.
- 27. On page 35, in line 47, to omit “otherwise” and to substitute “other”.
- 28. On page 36, in line 16, after “children;” to omit “or”.

29. On page 36, after line 16, to insert the following paragraph:
- (k) early childhood development;
30. On page 36, in line 23, after “therapeutic” to insert “and developmental”.
31. On page 36, in line 30, to omit “by regulation”.
32. On page 36, after line 30, to insert the following subsection:
- (4) The provincial head of social development must—
(a) approve any programme offered in terms of subsections (2) and (3) by a child and youth care centre; and
(b) before approving a programme, authorise a suitably qualified person to assess the content of the programme.
33. On page 36, from line 32, after the second “the” to insert “interested persons and”.
34. On page 36, in line 44, to omit “from time to time” and to insert “at the prescribed intervals”.
35. On page 37, after line 4, to omit subsection (3) and to substitute the following subsection:
- (3) An accredited organisation operating a child and youth care centre only qualifies for funding from money appropriated by a provincial legislature if it complies with the prescribed norms and standards as contemplated in section 194 and such other requirements as may be prescribed.
36. On page 37, from line 9, to omit subsection (1) and substitute:
- (1) The Minister must determine national norms and standards for child and youth care centres by regulation after consultation with interested persons, including the Ministers of Education, Health, Home Affairs and Justice and Constitutional Development.
37. On page 37, in line 15, to omit “development” and to substitute “developmental”.
38. On page 37, in line 22, to omit “with the purpose of prevention and early intervention”.
39. On page 37, in line 24, to omit paragraph (l) and to substitute:
- “(l) access to schooling, education and early childhood development;”.
40. On page 37, after line 24, to insert the following paragraph:
- (m) security measures for child and youth care centres; and

41. On page 38, after line 7, to insert the following subsections:

(3) A reformatory referred to in paragraph (e) which is the responsibility of a provincial department of education on the date when this section comes into operation becomes the responsibility of a provincial department of social development within two years of the coming into operation of this Act.

(4) All existing government children's homes, places of safety, secure care facilities, schools of industry and reform schools must be registered as child and youth care centres within two years of the coming of into operation of this Act.

42. On page 38, from line 22, to omit subsections (2) and (3).
43. On page 38, from line 8, after "centre" to omit "by accredited organisation".
44. On page 38, from line 10, to omit subsection (1) and to substitute:

Any national or provincial state department responsible for social development, any municipality and any accredited organisation may establish and operate a child and youth care centre provided that the centre—

45. On page 38, in line 33, to omit "196" and to substitute "197".
46. On page 38, after line 41, to omit section 199.
47. On page 39, in line 19, to omit "by regulation".
48. On page 39, in line 27, after "with" to insert "any applicable legislation; and".
49. On page 39, in line 40, before "consider" to insert "within six months of receiving the application,".
50. On page 40, after 24, to omit paragraph (b) and to substitute:

(b) stating the period for which the conditional registration will remain valid, which may not be longer than one year; and

51. On page 40, in line 26, after "prescribed" to omit "by regulation".
52. On page 40, in line 38, after "194" to omit "for child and youth care centres".
53. On page 41, after line 25, to add:

(6) The provincial head of social development, pending an appeal contemplated in section 207, may suspend the operation of a child and youth care centre, whether registered or not.

54. On page 41, after line 25, to insert the following section:

"Notice of enforcement

204. (1) A provincial head of social development may by way of a written notice of enforcement instruct—

(a) a person or organisation operating an unregistered child and youth care centre—

(i) to stop operating that centre; or

(ii) to apply for registration in terms of section 200 within a period specified in the notice; or

(b) a person or organisation operating a registered child and youth care centre otherwise than in accordance with the provisions of this Act or any conditions subject to which the registration was issued, to comply with those provisions or conditions.

(2) A person or organisation operating an unregistered child and youth care centre and who is instructed in terms of subsection (1)(a)(ii) to apply for registration within a specified period may, despite the provisions of section 197 regarding the establishment of child and youth care centres by accredited organisations, be given permission by the provincial head of social development to continue operating the centre during that period and, if that person applies for registration, until that person's application has been finalised.

(3) The Director-General or the provincial head of social development may apply to the High Court for an order to instruct a person or organisation operating a child and youth care centre, whether registered or not, to stop operating that centre.

(4) The High Court may grant an order for costs against the person or organisation referred to in subsection (3) if so requested by the Director-General or provincial head of social development.”.

55. On page 41, from line 27, to omit section 205 and to substitute:

205. The holder of a registration of a child and youth care centre who voluntarily closes a child and youth care centre must—
(a) give written notice to the provincial head of social development in the relevant province; and
(b) surrender the certificate of registration to the provincial head of social development for cancellation.

56. On page 41, from line 39, to omit subsection (1) and to substitute:

(1) An applicant or a registration holder aggrieved by a decision of a provincial head of social development in terms of this chapter may lodge an appeal against that decision in the prescribed form within 90 days with the MEC for social development, who must decide on the appeal within 90 days of reception thereof.

57. On page 42, in line 23, after “centre” to add “taking into consideration the age, maturity and stage of development of the children”.

58. On page 42, in line 32, to omit “regulation”.

59. On page 42, after line 37, to omit subsection (4).

60. On page 42, in line 48, after “prescribed” to omit “by regulation”.

61. On page 43, in line 2, to omit “for” and to insert “of”.

62. On page 43, in line 3, to omit “carried out” and to insert “conducted”.

63. On page 43, after line 4, to insert the following subsection:

(2) The quality assurance process must be done in the following manner:
(a) A team connected to the child and youth care centre conducts an internal assessment of the centre;
(b) a team not connected to the centre conducts an independent assessment of the centre;
(c) an organisational development plan for the centre containing the

- prescribed particulars is established between the teams by agreement; and
- (d) the team not connected to the centre appoints a mentor to oversee implementation of the plan by the management of the centre.
64. On page 43, in line 10, to omit “give advice to” and to insert “assist”.
65. On page 43, in line 11, to omit “on carrying out” and to insert “in conducting”.
66. On page 43, in line 27, to omit “matters” and to insert “conditions”.
67. On page 43, in line 40, after “centres” insert “including the number of staff appointed at or designated to a child and youth care centre”.
68. On page 44, in line 40, to omit section 213 and to substitute:
- “**213.** (1) A drop-in centre is a facility providing basic services aimed at meeting the emotional, physical and social development needs of vulnerable children.
- (2) A drop-in centre must offer any of the following basic services:
- (a) Provision of food;
- (b) school attendance support;
- (c) assistance with personal hygiene; and
- (d) laundry services.
- (3) A drop-in centre may offer any of the following additional programmes appropriate to the developmental needs of the children attending that centre:
- (a) Guidance, counselling and psychosocial support;
- (b) Social skills and life skills;
- (c) Educational programmes;
- (d) Recreation;
- (e) Community services;
- (f) School holiday programmes;
- (g) Primary health care in collaboration with the local health clinic;
- (h) Reporting and referral of children to social workers or social service professionals;
- (i) Promotion of family preservation and reunification;
- (j) Computer literacy;
- (k) Outreach services; and
- (l) Prevention and early intervention.”.
69. On page 44, from line 45, to omit “civil society and the relevant”.
70. On page 44, in line 46, after “Finance” to omit “and” and after “Health” to insert “Provincial and Local Government and Transport,”.
71. On page 45, in line 1, to omit “from time to time” and to insert “at the prescribed intervals”.
72. On page 45, in line 9, to omit “management” and to insert “managed”.
73. On page 45, after line 18, to insert the following subsection:
- “(4) The funding of drop in centres must be prioritised—
- (a) in communities where families lack the means of providing proper shelter, food and other basic necessities of life to their children; and
- (b) to make facilities accessible to children with disabilities.”.

74. On page 45, in line 20, after “standards” to insert “for drop-in centres”.
75. On page 45, after line 21, to omit subsection (2) and to substitute:
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| <p>“(2) The norms and standards contemplated in subsection (1) must relate to the following:</p> <p>(a) A safe environment for the children;</p> <p>(b) safe drinking water;</p> <p>(c) hygienic and adequate toilet facilities;</p> <p>(d) access to refuse disposal services or other adequate means of disposal of refuse; and</p> <p>(e) a hygienic area for the preparation of food for the children.</p> |
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76. On page 45, after line 39, to omit the subsections (3) and (4).
77. On page 46, in line 9, after “subsection” to omit “(4)” and to insert “(2)”.
78. On page 46, in line 12, after “section” to omit “84” and to insert “221”.
79. On page 46, after line 12, to omit section 218.
80. On page 46, in line 39, after “a” to insert “prescribed”.
81. On page 46, in line 39, after “procedure” to omit “prescribed by regulation”.
82. On page 46, in line 40, after the second “the” to omit “facility” and to substitute “drop-in centre”.
83. On page 46, in line 42, to omit paragraph (b) and to substitute:
- “(b)contain the prescribed particulars;” and
84. On page 46, as from line 43, after “prescribed” to omit “by regulation”.
85. On page 46, in line 57, after “of” to omit “a”.
86. On page 47, in line 4, to omit “on” and to insert “in”.
87. On page 47, in line 10, to omit “for drop-in centres”.
88. On page 47, in line 11, after “216” to insert “and such other requirements as may be prescribed”.
89. On page 47, in line 17, after “employed” to insert “at”.
90. On page 47, in line 20, after “skills” to insert “and training”.
91. On page 47, in line 37, after the second “the” to insert “conditional”.
92. On page 47, in line 38, after “prescribed” to omit “by regulation”.
93. On page 47, in line 39, to omit “give advice to” and to insert “assist”.
94. On page 47, in line 40, to omit “on complying” and to substitute “to comply”.

95. On page 48, after line 12, to insert the following section:

Notice of enforcement

222. (1) The provincial head of social development may by way of a written notice of enforcement instruct—

- (a) a person or organisation operating an unregistered drop-in centre—
- (i) to stop operating that drop-in centre; or
 - (ii) to apply for registration in terms of section 217 within a period specified in the notice; or
- (b) a person or organisation operating a registered drop-in centre otherwise than in accordance with the conditions subject to which the registration was issued, to comply with those conditions.

(2) A person or organisation operating an unregistered drop-in centre and who is instructed in terms of subsection (1)(a)(ii) to apply for registration within a specified period may, despite the provisions of section 217 be given permission by the provincial head of social development to continue operating the drop-in centre during that period and, if that person or organisation applies for registration, until that person's application has been finalised.

(3) The Director-General or the provincial head of social development may apply to the High Court for an order to instruct a drop-in centre, whether registered or not, to stop operating that centre.

(4) The High Court may grant an order for costs against the owner or manager of the drop-in care centre referred to in subsection (3) if so requested by the Director-General or provincial head of social development.

96. On page 48, from line 14, to omit subsection (1) and to substitute:

(1) An applicant or a registration holder aggrieved by a decision of a provincial head of social development in terms of this chapter may lodge an appeal against that decision in the prescribed form within 90 days with the MEC for social development, who must decide on the appeal within 90 days of receipt thereof.

97. On page 48, from line 31, to omit the words:

(2) A province's strategies must include strategies for the provision of drop-in centres in the province, which must include measures—

and to substitute:

(2) The provincial strategy referred to in section 214 must include strategies for the provision of drop-in centres in the province, which must include measures—

98. On page 48, in line 40, after "221" to omit the first "and" and after "222" to insert "and 224".
99. On page 48, from line 48 after "a" to omit "designated social worker" and to substitute "social service professional".
100. On page 48, in line 50, after "subsection" to omit "(2)" and to substitute "(3)".

101. On page 49, from line 5, to omit subsection (6) and to substitute:

“(6) An applicant or a registration holder aggrieved by a decision of an official in the employ of a municipality in terms of this chapter may lodge an appeal against that decision in the prescribed form within 90 days with the municipal council, who must decide on the appeal within 90 days of receipt thereof.”.

102. On page 49, from line 30, to omit section 226 and to substitute:

Serious injury, abuse or death of child in drop-in centre

226. (1) If a child is seriously injured or abused while in a drop-in centre or following an occurrence at a drop-in centre, the person operating the drop-in centre or a person employed at the drop-in centre must immediately report such injury or abuse to the provincial head of social development, who must cause an investigation into the circumstances of the serious injury or abuse to be conducted.

(2) If a child dies while in partial care or following an occurrence at a drop-in centre, the person operating the drop-in centre or a person employed at the drop-in centre must immediately after the child’s death report such death to—

(a) the parent, guardian or care-giver of the child, if he or she can be traced;

(b) a police official; and

(c) the provincial head of social development.

(3) The police official must cause an investigation into the circumstances surrounding the death of the child to be conducted by the South African Police Service, unless the police official is satisfied that the child died of natural causes.

103. On page 49, in line 50, after “different” to insert “programmes and”.

104. On page 49, in line 5, to omit “registrations” and to insert “registration”.

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