

Parliament passes the Children's Amendment Bill

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After one of the largest exercises in public participation in South African history, Parliament passed the Children's Amendment Bill [B19F-2006] in November 2007. Once signed by the President, it will amend the Children's Act (No. 38 of 2005) and South Africa will have a new, comprehensive Children's Act providing for the full range of social services needed to support vulnerable children and their families. The term 'social services' means the services that need to be delivered to give effect to children's right to social services in section 28(1)(c) of the Constitution.

Currently, South Africa has an outdated social services system that focuses on state protection services for children only after they have been abused. This system does not recognise or aim to prevent the root causes of child vulnerability. The Children's Amendment Bill is a remarkable step towards the realisation of a preventative and developmental approach to social services. It provides for the delivery of a range of social services that are primarily aimed at strengthening and supporting families and communities to care for and protect children. If families are unwilling or unable to care for their children, and the primary level of support to the family fails, the Bill provides for state alternative care.

The range of services include: partial care (e.g. crèches):

- early childhood development (ECD) programmes;
- primary prevention and early intervention programmes;
- protection services for children who have suffered abuse, neglect, abandonment or exploitation;
- support programmes for child-headed households;
- drop-in centres for vulnerable children to access basic services;
- foster care; and
- child and youth care centres.

The government has made a legislative commitment in the Bill to provide all these services either directly or indirectly through funding the non-profit organisations (NPOs) who currently deliver many of these services.

The Bill provides that applications for registration by NPOs to deliver the various services must be considered by the provincial departments of social development within six months of the application being made. This time limit is longer than the period normally considered reasonable, but given the backlogs and capacity constraints within the provincial departments, and the likely increase in applications once the new law is in force, six months was considered to be more pragmatic. This provision is aimed at ensuring that registrations are processed timeously so that NPOs can apply for government funding (a successful registration or conditional registration is a pre-requisite to qualify for state funding).

National and provincial governments are required to devise strategies to ensure that a sufficient spread of each service is available in every province. If there is not enough budget or capacity to provide partial care, ECD or drop-in centres for all vulnerable children, poor communities and children with disabilities must be prioritised. In drafting the strategies the Department of Social Development needs to consult other relevant departments such as Health, Transport and Education to ensure joint planning and co-ordinated service delivery.

Programmes aimed at stopping abuse or neglect before it starts (prevention and early intervention services) have for the first time been clearly legislated for. This means that the government has recognised their importance and is committed to improve the provision and funding of these essential social services. Services such as child and family counselling, parenting skills development, support groups for parents of children with disabilities, diversion of children from the criminal justice system and home-based care can soon be rolled out to reach more vulnerable children.

During community consultations the public expressed great concern over the phenomenon of child-headed households. NPOs currently run programmes that provide daily support to child-headed households. An example of such a programme is the Isibindi Model that is managed by the National Association for Child and Youth Care Workers. These support programmes to child-headed households need funding to reach more vulnerable children. The Bill legislates for them to be registered and funded by the government, which means these programmes can be rolled out to many more vulnerable children across the country.

The Bill is expected to be signed by the President in early 2008. While certain founding provisions of the Children's Act are already in effect, the full Act (as amended) requires regulations and cannot be put into effect until these are completed. The Department of Social Development will publish the regulations for comment in 2008. A second Amendment Bill, to deal with technical matters in the Act, is expected to be tabled in mid-2008 and full implementation of the Act may have to wait for this Bill to be finalised. Early 2009 is therefore an optimistic date for the Act (as amended) to come into full effect.

For more details on the Children's Amendment Bill, see the [5 November 2007 Progress Update](#) on the CI website at www.ci.org.za

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