

# **Submission to the National Assembly on the Children's Amendment Bill (B19B- 2006)**

## **From the South African Congress for Early Childhood development and Early Learning Resource Unit (ELRU): August 2007**

**This submission has been endorsed by the  
following organisations:**

**RAPCAN**

**SASPCAN**

**ACCESS**

**Johannesburg Child Welfare Society**

**Children's Rights Centre**

**Children's Institute**

**Wozabona**

**Foundation for Community Work (FCW)**

**TREE**

**New Beginnings**

**Gauteng Early Childhood Resource and Training Forum.**

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### **Introduction and background information:**

- The definition of ECD remains problematic and should include children up to nine years in accordance with international instruments including the UN Convention on Children's Rights.
- There is a need to link the chapters in the Bill. ECD is not simply a Chapter 6 concern. A well coordinated, well managed and well resourced ECD system must link all the chapters in the Bill in order to address the needs of the very youngest vulnerable children and their families and particularly chapters 5 (Partial Care), 6 (ECD), 8 (Prevention and Early Intervention) and Chapter 13 (Child and Youth care centres).
- The MEC must (not may) provide funds for ECD services and ensure that funds designated for ECD are secured in provincial budgets..

- The strategy for ECD needs to take into consideration all of the special needs that children may have (including disability or chronic illness, HIV and AIDS and other 'at risk' situations).
- The involvement of parents in education and support (home visiting and family outreach programmes) is a critical part of ECD and forms part of the comprehensive and integrated approach to ECD provisioning that is envisaged in the National Integrated Plan for ECD which will soon be launched by the Directorate for ECD .
- NGO's. FBO's and CBO's are the service arm of government and therefore play a critical role in assisting the State to meet its obligations. These service providers struggle to stay afloat and must be adequately funded as if government itself was providing the service.
- Many ECD programmes serving the poorest communities are unlikely to have the funds and resources unless they become registered and subsidised. Regulations must be drafted carefully so that they do not act as barriers for ECD provisioning.
- Registration must be simplified and co-ordinated in single process.
- Reference to fees must be removed as they can be a barrier to accessing services.
- The per capita subsidy for ECD must cover basic necessities (salaries, fees, equipment, nutrition) for all ECD programmes, centre based and family education and support.
- The Child Support Grant is in URGENT need of means adjustment to ensure that children receive adequate nutrition and care. The present situation where ECD services rely on fees and the fees are paid from the child support grants defeats the purpose of the grant and puts children at risk.
- There is a need to highlight the ECD role of the Dept of Health in pregnancy and screening in the early years.
- There needs to be appropriate ECD training for all personnel dealing with children (e.g. ECD practitioners, health and community workers, family and community motivators and government officials).

**Note:**

A comprehensive service can include: preschools, nursery schools or educare centres, playgroups, crèches/day care, baby care, home visiting and parent education and support programmes, family education, health and nutrition programmes (White paper for Social Welfare 1997), Grade R/Reception Year, After school care, Summer camps, Programmes for disabled children, children with chronic illness (including those children infected and affected by HIV AIDS) and children with special needs. Developmental screening programmes.

**There are many relevant changes to this Bill accepted by the NCOP and related to strategies, systems and norms and standards. These are welcomed and should remain. However particular clauses in need of change or strengthening are noted below if this Bill is to come closer towards the realization of the wider ECD vision that we are all striving to achieve!**

Clause	Amendment proposed	Proposed amendment and motivation.
<b>78 B19B</b>	<p><b>Provision</b> The MEC for Soc Dev of province <b>may</b>, from money appropriated by the relevant provincial legislature, provide and fund partial care facilities and services for that province, taking into consideration the national and provincial strategies contemplated in section 77.</p>	<p><b>Amendment:</b> <u>The Minister MUST (not 'may') be obliged to provide funds for partial care, ECD (93(1) and prevention and early intervention (146(1)).</u></p> <p><b>Motivation:</b> It is imperative that the MEC is required to make a firm commitment to provide funding or ECD will remain vulnerable to provincial budgets as is presently the case.</p>
<p>Latest 79</p>	<p><b>Norms and standards.</b> <b>(1)The minister must determine N&amp;S by regulation after consultation with interested persons, including local government.</b></p>	<p><b>Amendment:</b> Insert : The Minister must..... after consultation <u>with NGO's, FBO's and CBO's with interested persons including local government.</u></p> <p><b>Motivation</b> It is important to mention the NGO's, FBO's and CBO's <b>who provide the bulk of services and programmes.</b></p>

80	<b>Partial care to be registered.</b>	<p><b>Amendment</b>  <b>New insert</b>  <i>d) Registration must take place at one venue for both facilities and programmes.</i>  <b>Motivation.</b>  <i>It appears that the registration process has not been simplified and that facilities will still have to register with other departments eg environmental health and safety and education which makes registration a costly and time consuming process.</i></p>
81	<p><b>Application for registration and renewal of registration.</b></p> <p><b>(c)</b> be accompanied by a report by a <b>social service professional on the viability of the application; and</b></p> <p><b>ii) any documents that may be prescribed by regulation.</b></p>	<p><b>Amendment:Insert</b>  <b>(d) new.</b>  <i>All officials involved in the different components of ECD should receive training on the principles and importance of ECD.</i>  <b>Motivation.</b>  Self explanatory</p> <p><b>Amendment: insert</b>  <b>(ii) any documents that may be prescribed by regulation must be <u>“user friendly”</u></b></p> <p>A key objective for ECD is to increase access to the large numbers of children outside of existing provision. The importance of ‘user friendly’ documents (documents appropriate to the language and level of language of the targeted population) must be underscored.</p>

82 2 b	<p><b>Consideration of application</b></p> <p><b>(b)</b>the applicant is a fit and proper person to operate a partial care facility</p> <p><b>(c)</b> the applicant has the necessary funds and resources available to provide the partial care services of the type applied for:</p>	<p><b>Amendment.</b></p> <p><b>Inserts</b></p> <p>(b) <u>Definition</u> of a “fit and proper person to operate a partial care facility” is required. Cross reference to regulations.</p> <p>(c)The applicant has the necessary <u>skills</u>, funds and resources .....</p> <p><b>Motivation</b></p> <p>Personnel must be appropriately trained or have experience and be in the process of being trained.</p>
83	<p><b>Conditional registration</b></p> <p>(c) providing for any other matters that may be prescribed.</p>	<p>Amendment</p> <p>(c) Insert: providing for any other matters that may be prescribed <u>by regulation</u>. (The relationship of <b>norms and standards (79) and (95)</b> to the proposed <b>regulations</b> and the recently published <b>Guidelines for ECD Services (Dept of Soc Dev 2005)</b> requires clarification and cross referencing.)</p>
84	<p><b>Cancellation of registration.</b></p> <p>(3) The provincial head of social development may assist a registration holder to comply with the prescribed norms and standards in (79) or any provisions of this Act where the cancellation was due to</p>	<p><b>Amendment, insert</b></p> <p>(3)... <i>may assist .....with advice or by means of a conditional grant</i></p> <p><b>Motivation:</b></p> <p>Assistance remains vague and says nothing about the need for funds. This needs to be linked to the vision to extend service provision to the vast number of vulnerable children and families who remain outside of service provision.</p>

	non-compliance with those N&S, conditions, requirements or provisions.	
85	<b>Notice of enforcement.</b> (3) New	<b>Amendment:</b> <b>Insert new (3):</b> <u><i>If a partial care facility is closed then alternative arrangements must be made with immediate effect.</i></u> <b>Motivation</b> Closure of partial care facilities often leads to great hardship for the parents/caregivers as alternative facilities, particularly with regard to disabled children and children with special needs are hard to find in many places.
87	<b>Record of and provision for partial care facility.</b>	<b>Amendment:</b> <b>Insert</b> (b) prioritising the types of facilities most urgently needed <u><i>for those children and families currently outside of service provision.</i></u> <b>Motivation.</b> <i>It is vitally important to ensure that provision is extended to include those categories of children who are presently outside of service provision</i>
90	<b>Regulations</b>	<b>Amendment</b> (g)the procedure to be followed in connection with the lodging and consideration of appeals with regard to fees in terms of this Chapter;..... <u><i>must not contradict the intentions of clause 87 (2)</i></u> <b>Motivation.</b> Fees act as a barrier to access for many vulnerable children and appeals are a costly and time consuming procedure. Income sources such as grants and subsidies other than fees are required in order to expand service provision.

		Child support grants(CSG) are extremely vulnerable to the demand for fees. Fees defeat the purpose of the CSG's which is to strengthen child growth and development and provide adequate nutrition.
CHAP 6 Clause 91	<p><b>EARLY CHILDHOOD DEVELOPMENT</b></p> <p><b>Early childhood development</b></p> <p>Definition ... birth to school going.</p> <p>(1) ECD for the purposes of this Act means the process of emotional, cognitive, spiritual, moral, physical and social dev or children from birth to school going age.</p> <p>(2) ECD services means services-</p> <p>(a) intended to promote ECD and</p> <p>(b) provided by a person, other than a child' parent or caregiver, on a regular basis to children up to school-going age.</p> <p>(3) An ECD programme means a programme</p>	<p>This section defining the ambit of ECD remains problematic.</p> <p><b>Amendment</b> (1)..... or children from <u>prebirth to nine years.</u></p> <p><b>Motivation.</b> Studies have shown the critical developmental importance of the prebirth period which highlights the importance of the Department of Health as a key ECD partner with the Departments of Social Development and Education. The definition 0 -9 is in line with international standards and the UNCRC to which South Africa is a signatory. The importance of <b>After care</b> for children up to nine years where parents or caregivers are working must be emphasized.</p> <p><b>Grade R provisioning</b> would also fall under this ambit. This section should however be explicit that the Department of Education is responsible for providing and regulating Grade R services that are attached to the formal schooling system and that <u>the Department of Social Development be responsible for all other ECD provisioning, including grade R offered at community, home based facilities and family outreach programmes.</u></p> <p>The Department of Social Development should be responsible for providing for and regulating all other ECD services outside the formal schooling system. This includes services for 6 – 9 year olds who are in the formal system but use ECD centres outside the formal system, such as <b>after school centres run by NGOs.</b></p> <p>The present situation is a bit of a grey area in that some of these are at schools but the subsidy is from DSD</p> <p>ECD is the first line of prevention and intervention for children and families.</p>

	<p>structured within an ECD service to provide leaning and support appropriate to the child's developmental age and stage</p>	<p>Therefore Chapter 8 clause 144 need to be cross referenced here so that early prevention is included in the holistic view of ECD as intended.</p> <p>Early childhood development programmes include a range of programmes to support child development including direct support for the role of parents as the child's first duty bearer.</p> <p>Programmes include those that provide support to parents of children with disabilities, chronic illnesses, special needs and to children and families living in poverty and difficult circumstances as well as to children and families in more well off circumstances.</p> <p>These programmes include parent support groups, parent advice services, counselling services, referral services and partial care and early childhood development centres and programmes. Children with disabilities and children living in poverty are more vulnerable to abuse and neglect if their parents are not adequately supported to care for their children's extra needs as caring for a child with a disability places strain on a family.</p> <p>In order to assist parents to move away from using violence (corporal punishment) to discipline their children, programmes that provide information and support to parents and to practitioners on alternative non-violent positive forms of discipline should be provided and funded.</p>
93	<ul style="list-style-type: none"> <li>• <b>Provision of ECD programmes.</b></li> <li>• <b>(1)</b>The MEC for social development of a</li> </ul>	<p><b>Amendment:</b>  <b>Insert:</b>  (1) <i>The MEC MUST.....</i>  <b>Motivation</b></p>



	<p>province may, from money appropriated by the relevant provincial legislature, provide and fund ECD programmes for that province.</p> <p>(4)The funding of ECD programmes in communities where families lack the means of providing proper shelter, food and other basic necessities of life to their children must be given priority.</p> <p>(5)ECD programmes must be provided by –</p> <p>(a)a partial care facility providing partial care services for any children up to school going age.; and</p> <p>(b)a child and youth care centre which has in its care any children up to school age.</p>	<p>The omission of budgetary commitment for ECD services and programmes completely undermines the integrity of this Bill and remains a serious omission. This is a vital provision if we want to ensure that budgetary requirements and procedures are in place to secure adequate funds for ECD services and programmes and to achieve the intention of 93(4).</p> <p><b>Amendment</b>  <b>Insert:</b>  <u>2(c) <i>determine measures to ensure that budgetary requirements and procedures are complied with to secure adequate funds for the provision of early childhood development services and programmes.</i></u></p> <p><b>Motivation:</b>  Mechanisms to ensure delivery must be in place:  <i>At a meeting of the Portfolio Committee on Socia Development on 20 June 2007, Musa Mbere(Director for Children, national Department of ocial Development) said that the national Department of Social Development had allocated R2.4 bn for ECD to provinces, but the provinces used some of these funds for other purposes which indicates that clear legislative mandates are required!</i><sup>1</sup></p> <p>Mechanisms are required to make things work, to ensure co-ordination between government departments involved in providing services and resourcing ECD sites. Most of the problems in the ECD sector are due to the lack of inter-sectoral collaboration. <i>“At provincial level ECD function is seldom stand-alone and typically falls under other Directorates. The location of ECD within provincial departments differs</i></p>
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<sup>1</sup> Proudlock, P, Budlender,D & Jamiseson, L Draft submission to the Natioanl Asembly on the Childrens Amendment Bill B19B. Children’s Institute, University of Cape Town July 2007

		<p><i>across provinces. They are managed in an ad hoc, inconsistent, uncoordinated manner”.</i><sup>2</sup></p> <p>The Department of Social Development must ensure:</p> <ul style="list-style-type: none"> <li>• An inter-sectoral ECD plan aimed specifically at ensuring better co-ordination and resourcing of ECD.</li> <li>• better inter-sectoral co-ordination that would bind all government departments and all civil society organisations providing prevention and intervention services for children.</li> </ul> <p>The 2001 White Paper on Early Childhood Development<sup>3</sup> seeks to increase the amount and quality of ECD provision through inter-sectoral collaboration. Key elements are the phasing in of a compulsory Reception Year (Grade R)<sup>4</sup> for children by 2010, a variety of programmes for children birth to 5 years including developmental screening, home based and family education outreach programmes, nutrition and health programmes; practitioner development and the development of a strategic plan for inter-sectoral collaboration with the other role players involved in pre-reception year provision. Integration was identified and supported unanimously by all parties as a major goal and as a challenge to be addressed in the development of the Guidelines for Daycare.(2005).</p> <ul style="list-style-type: none"> <li>• The role of <u>the Department of Health</u> in providing services for identifying early developmental lags and appropriate interventions as part of the well baby programmes in the early years is critical. The</li> </ul>
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<sup>2</sup> Ibid

<sup>3</sup> Op cit 3

<sup>4</sup> The South African Schools Act has been amended to the effect that admission age to Grade R is age 4 turning 5 by 30 June in the year of admission.

<sup>5</sup> Op Cit 2, p28

<sup>6</sup> Op Cit 20 ,p4

		<p>removal of <b>the Nutrition Programme</b> for children below school going age is a serious omission at a time when child growth and development can be severely compromised by under nutrition or malnutrition and the proven dire effects on brain development. The integrated Nutrition programme is school based and does not service children out of school. Child support grants(CSG) require means adjustment to ensure that the young child's developmental needs are met.</p> <p>The Department of Education is responsible for subsidising Grade R whereas the Department of Social Development subsidises all other ECD services.</p> <p>Subsidisation, as it currently stands, it is open to the interpretation of officials. Subsidies need to be covered in the regulations in such way that they are transparent, easy to administer, do not overload bureaucracy, and keep pace with inflation.</p> <p>The Interim Policy for ECD recognises the importance of public funding for ECD services. "The public funding of ECD programmes is justified on many grounds. It can help redress past discrimination against young children, protect the rights of children and women, promote human resource development, help prevent costly social pathologies, secure more efficient performance by children in school and improve the effectiveness and efficiency of the schooling system"<sup>5</sup></p> <p>The Report on the National ECD pilot project outlines the importance of a strong political will within provincial government to enhance ECD provisioning. This is particularly important with regard to budgeting processes because in certain provinces funding for ECD services are</p>
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		<p>absorbed for other expenditures.  It is proposed that funding for ECD projects <b>be ring fenced</b> so that they are not used for any other purposes, or provided through a conditional grant. ECD should be moved from the periphery of government to its core thus getting the appropriate budgeting attention it requires.<sup>6</sup></p>
<p>94  Latest version.</p>	<p><b>Norms and standards.</b>  94(1) The Minister must determine national norms and standards by regulation after consultation with interested persons, including the departments of Education and Health.</p> <p>.</p> <p>(3) Early childhood development programmes provided in terms of this section must be appropriate to the needs of the children for whom the services are provided, including children with disabilities, chronic illness and other special</p>	<p>There is confusion within the sector on what Norms and standards are currently in operation and how this relates to the “Regulations” and to the manual ‘Guidelines for Day Care’ (Dept of Social Development Oct 2005). One of the drafters of the manual stated that the “latest norms and standards are reasonable even for the poorest, otherwise the safety of children will be compromised. It doesn’t even stipulate that there should be running water on the property, only that it be nearby.”</p> <p><b>We submit that that the manual should be used as the basis for the development of the norms and standards and the regulations.</b></p> <p>94(3) must be cross referenced to Chapter 8 on Prevention and Early Intervention and to 194 2 (l) – see discussion below.</p>

	needs.	
95	<p><b>Early childhood programme to be registered.</b></p> <p>(1) A person operating or managing a partial care facility or a child and youth care centre where an early childhood development programme is provided must-</p> <p>(a) register the prog with the prov head of soc dev</p> <p>(b) provide the prog in accordance with any conditions subject to which the prog is registered; and</p> <p>© comply with the prescribed norms and standards(N&amp;S :94)</p> <p>(2) The Min by</p>	<p><b>Amendment</b>  <i>Insert 95 (1) (a)</i>  <u><i>ECD facilities should be allowed to apply for registration and subsidisation jointly to avoid unnecessary delays.</i></u></p> <p><b>Motivation:</b>  <i>Description of the current situation- Cash subsidies for crèches and for ECD programmes</i></p> <hr/> <p>ECD facilities are currently eligible for subsidies from the Department of Social Development if they are registered with the Department (or from the Education Department if they are registered grade R providers). But many facilities often operate in poor areas and are in need of state support/subsidies in order to comply with the standards required for registration. Registration is a lengthy and expensive process and facilities cannot apply for a subsidy until they are registered. This is a catch twenty two situation because if the registration requirements are examined, it is clear that facilities will need a stable source of income to meet some of the registration requirements. Often ECD facilities assume they will automatically receive subsidisation upon registration.<sup>7</sup> Refer discussion Clause 98 which allows conditional registration.</p>

	<p>regulation may exempt any person or org or any category of person or org from the requirement to register on such conditions as may be prescribed.</p> <p>(a) ECD programmes provided by a national or prov state dept responsible for soc dev or education need not comply with subsection (1)</p>	
96	<p><b>Application for registration and renewal of registration.</b></p> <p>96(1) An application for registration or conditional reg of an ECD prog or for the renewal of a registration must-</p> <p>(a) be lodged with the prov head of soc dev of the prov where the partial care facility or child and youth care centre is situated in accordance with a procedure prescribed by</p>	<p>The regulations are critical to this and following clauses. It is essential the NGO's, FBO's and CBO's are consulted with regard to the regulations that form the basis of this and following clauses.</p> <p><b>Amendment</b></p> <p><b>Insert:</b></p> <p><u>96(5) All officials involved in different components of ECD should receive basic training on the principles and importance of ECD.</u></p>

	regulation;	
97	<p><b>Consideration of application</b></p> <p>(1)The provincial head of social development must .....</p> <p>(b) issue to the applicant a cert of registration or conditional registration or renewal of registration in the form prescribed by regulation, if the application is granted; and .....</p>	<p><b>Amendment</b> <b>Insert:</b></p> <p>97(1)(b) <b><u>Regulations must be drafted so that they do not act as barriers for ECD provisioning.</u></b></p> <p>Many ECD programmes serving the poorest communities are unlikely to have the funds and resources unless they become registered and subsidised. If the Bill places the obligation on ECD service providers to meet all these requirements in order to register, the Department of Social Development should indicate its willingness to assist these service providers to meet these requirements.</p> <p>When considering an application for registration, the provincial head of social development must take into account all relevant factors including whether-</p> <p><b>Insert:</b></p> <p>(a) the early childhood development facility and programme complies with the minimum requirements prescribed by regulation; <u>or does not comply but submits a proposal that shows commitment towards compliance and has requested assistance for this purpose.</u></p> <p><b>Insert:</b></p> <p>(c) the applicant has the necessary skills, funds and resources</p>

		available to provide the early childhood development services in accordance with the early childhood development applied for; <b>or</b> <u>does not have the necessary skills, funds and resources, but submits a proposal that shows commitment towards obtaining them and has requested assistance for this purpose.</u>
98	<b>Conditional registration</b>	<p>Clause 98 allows for conditional registration of ECD service providers. Therefore ECD service providers are granted conditional registration and will be granted full registration on compliance with minimum standards. It would be effective for those facilities with few resources to be able to call upon the assistance of the departments of Education and Social Development to meet registration requirements, thus enabling them to apply for subsidies. It is recommended that facilities that are conditionally registered be in receipt of developmental subsidisation that would aid the facility to satisfy the conditions to be fully registered</p> <p>Refer 81. 83. 84 Partial care.</p> <p>A developmental grant (covered in section 100) to assist them to meet minimum standards and become fully registered.</p>
99	<b>Accepted</b>	
100	<b>Notice of Enforcement</b>	<p>Amendment Insert: <u>(d): the person where to go to gain access to an assistance programme that would aid towards the compliance with minimum standards</u></p> <p><b>Motivation</b> As has been recommended throughout the submission, where reference has been made to minimum requirements, the Department of social development should indicate access to assistance that would aid ECD</p>



		service providers to meet minimum requirements.
101	Assessment of ECD programmes.	<p><b>Amendment</b>  <b>Insert</b>  101(1) A provincial head of social development must in consultation with the Department of Education and the ECD Directorate authorise a suitably qualified person to assess the provision and content of ECD programmes, in order to determine whether the programme complies with the prescribed norms and standards (94) and such other requirements <u>including the quality assurance process</u> as may be prescribed.</p>
Latest 102	<p><b>Section 102- Assignment of functions to municipality.</b></p> <p>(1) Prov head may ....assign to municipal manager 95.96.97.98. 99.100. 101</p> <p>(3) THE Municipal manager refereed to in subsection (1) may delegate any power or duty assigned to him or her in terms of this section to a</p>	<p>Amendment 102(1)  Insert:  <u>Delegated personnel must be trained and sensitized to the needs of the ECD sector.</u></p> <p><b>Motivation:</b>  Municipality offices are more accessible to registration applicants than social development offices.</p> <p><b>Amendment</b>  <b>Delete and insert:</b>  <u>102 (3) social worker to social work professional as described elsewhere.</u></p>

	designated social worker in the employ of the municipality	
103	<p><b>Regulations</b></p> <p>103 The Minister may make regulations in terms of section 306 concerning-</p> <p>a) the N&amp;S that ECD <b>services</b> and programmes must comply with;</p> <p>(b) any other requirements with which ECD programmes must comply;</p> <p>(c) the procedure to be followed in connection with the lodging and consideration of applications for registration in terms of this Chap and for the renewal of such registrations;</p> <p>(d) the assessment and compulsory monitoring of ECD programmes offered at partial care facilities and child and youth care centres ....</p>	<p><b>Amendment</b></p> <p><b>Insert</b></p> <p><u>103. The minister must make regulatons in terms of section 306...</u></p> <p><b>Amendment</b></p> <p><b>Insert</b></p> <p>Error. Typo – d) is duplicated and in the last sub clause must become (e).</p>

