



**planning, monitoring  
& evaluation**

Department:  
Planning, Monitoring and Evaluation  
REPUBLIC OF SOUTH AFRICA



**ANNEXURE J**

**SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)**

**REVISED (2018): FINAL IMPACT ASSESSMENT TEMPLATE –PHASE 2**

**NAME OF THE PROPOSAL: CHILDREN'S AMENDMENT BILL**

**21 DECEMBER 2018**

**SECRET**

*Please keep your answers as short as possible. Do not copy directly from any other document.*

**1. Conceptual Framework, Problem Statement, Aims and Theory of Change**

**1.1. What socio-economic problem does the proposal aim to resolve?**

South Africa has committed, through ratification of the Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC), to realise children's rights to survive, be protected from harm, and develop to their full potential. To give effect to its international obligations, South Africa's Constitution recognises and protects the rights of all children. The Children's Act No.38 of 2005 give effect to certain rights of children as contained in the Constitution as well as the UNCRC and the ACRWC.

In November 2017, the North Gauteng High Court issued an order instructing the Minister of Social Development to prepare and introduce in Parliament the necessary amendments to the Children's Act to produce a comprehensive legal solution regarding the foster care system, within 15 months. The Department hence explored different options and drafted the Children's Amendment Bill, which has to be introduced in Parliament before the end of February 2019.

The proposed amendment Bill was part of the different options explored to address the challenges and is the preferred option to address them. Other options include strengthening the Regulations; and developing a Policy, guidelines, programmes and protocols. This judgement came as a result of backlogs and bottlenecks in the foster care system, which is used to respond to the plight of orphans in the country. The bottlenecks emanated from the high intake of foster care applications and system failure to process the applications in time hence resulting in backlogs. Secondly, the children's courts issue foster care orders that need to be reviewed and if necessary, be extended every two years. This provision places a further strain on the system and results in backlogs for extension of orders. This resulted in orders lapsing. It is against this backdrop that the North Gauteng High Court ordered the Minister to amend the Children's Act to find a legal solution to this problem.

This has to be reviewed because a large numbers of orphaned children in the care of their relatives do not access the social assistance they need, because of the historical diversion of these families into the foster care system, as a mechanism to access the foster child grant (FCG). South Africa experienced a massive growth in the number of children orphaned by HIV and AIDS in the early 2000s, which resulted in a swelling of the numbers of children and caregivers who had to be processed through the foster care system. The system was designed and intended to support children removed from their families and placed in foster care on a temporary basis for protection in situations of abuse, neglect or exploitation. The foster care

placement is reviewed every two years to assess the situation of the child and the family and establish whether reunification is feasible.

1.2. What are the main roots causes of the problem identified above?

What socio-economic problem does the proposal aim to resolve	What are the main roots or causes of the problem
<p><b>ECD:</b> There is a high proportion of children under the age of 6 years who do not have access to early childhood development (ECD) services.</p> <p>Secondly, the quality of ECD services is poor in many areas in the country especially poor and rural areas.</p>	<p>Many poor parents cannot afford to enrol their children for ECD education and therefore wait until the children are of school-going age and qualify to attend school.</p>
<p><b>Foster care:</b> South Africa does not have a social assistance system or grant for orphans and other vulnerable children. Therefore a large number of orphaned and abandoned children who are cared for by relatives and in need of financial assistance are channelled through the foster care system to access the FCG. This is seen as a problem because most of these children are not in need of care and protection, but in need of financial assistance.</p> <p>A large number of relatives caring for orphaned and abandoned children cannot apply for guardianship at the High Court due to the cost associated with such applications.</p>	<ul style="list-style-type: none"> <li>• Deficiencies in the package of care and protection support provided to children and families.</li> <li>• Systemic and structural problems with the child care and protection system and associated gaps and challenges, including the following: <ul style="list-style-type: none"> <li>- Lack of effective integration, coordination, leadership and management of the multiple parts of the system and the individual components and programmes.</li> <li>- Inadequate population and evidence-based and planning.</li> <li>- Inadequate infrastructure.</li> <li>- Inadequate public funding.</li> <li>- Inadequate disaggregated data collection and monitoring to inform targeted planning and monitoring of progress towards achievement of child-wellbeing.</li> <li>- Inadequate participation and inclusion of children in processes and decisions that affect them, especially the most marginalised to ensure children’s access to child care and protection services.</li> <li>- the misalignment or mismatch of the design, procedures and services provided by the child protection system.</li> </ul> </li> </ul> <p>Limited support, care and protection of all children especially vulnerable children from violence, abuse, neglect, exploitation which hinders development to their full potential.</p>

**Violence against children:**

Over the years, the country has recorded an increasingly high proportion of cases of violence against children across different settings, specifically in the home environment.

Many parents, caregivers and people who work with children use violent ways to discipline children. On the other hand, children present problems and behaviours that their parents and caregivers find difficult to deal with.

There is a serious lack of community based programmes and services to assist parents and caregivers, as well as children presenting behaviour that parents cannot control.

The World Health Organisation Global Plan of Action to address interpersonal violence, in particular against women and girls, and against children, 2018 recognises that no single factor explains the increased risk of victimization or perpetration of the different forms of violence, or why violence is more prevalent in some countries and communities than others. Rather, there are multiple risk factors associated with both perpetration and victimization at the individual, relationship, community and societal levels. Violence against women and girls, and against children both have unique risk factors that require specific attention. There are several risk factors/determinants that cut across all forms of interpersonal violence. These common underlying risk factors/determinants include: gender inequality, unemployment, harmful norms on masculinity, poverty and economic inequality, high rates of crime in the community, firearm availability, ease of access to alcohol, drug dealing and inadequate enforcement of laws. Addressing these common risk factors/determinants can strengthen standalone programmes for each type of violence, and combining programming where appropriate can result in synergies and efficiencies.

**1.3. Summarise the aims of the proposal and how it will address the problem in no more than five sentences.**

South Africa has a constitutional duty to ensure that children are protected from violence, abuse, neglect, maltreatment, degradation and exploitation, as well as the unnecessary separation from their parents, caregivers, families and communities as regulated by the Children’s Act. The Bill addresses key gaps in this regard as follows:

The Bill is urgent and amongst others, seeks to comply with the North Gauteng High Court order issued on the 28<sup>th</sup> of November 2017 in relation to foster care orders. The High Court has given the Minister 15 months to comply. The Bill is providing a comprehensive legal solution in respect of the foster care system. It provides for a strengthened institutional framework, mechanism, structures and services to ensure that the foster care system operates effectively and avoids the backlogs currently experienced. E.g. children who are in the care of family members and not in need of care and protection will be dealt with administratively thus avoiding the current problem of an overburdened system including children’s courts and social work investigations. In addition, the amendment of section 24, is proposed to give effect to the promotion of access to justice, as applications for guardianship in the children’s courts would be far less expensive. The amendment clarifies that assignment of guardianship may be granted by the high court or children’s court in respect of family members caring for orphaned or abandoned children.

**1.4. Please describe how the problem identified could be addressed if this proposal is not adopted. At least one of the options should involve no legal or policy changes, but rather rely on changes in existing programmes or resource allocation.**

<b>Option 1.</b>	Administrative processes in key departments strengthened.
<b>Option 2.</b>	Maintain the current situation

**PART TWO: IMPACT ASSESSMENT**

**2. Policy/Legislative alignment with other departments, behaviours, consultations with stakeholders, social/economic groups affected, assessment of costs and benefits and monitoring and evaluation.**

2.1. Are other government laws or regulations linked to this proposal? If so, who are the custodian departments? Add more rows if required.

Government legislative prescripts	Custodian Department	Areas of Linkages	Areas of conflict
Child Justice Act – Referral to children’s court  Mediation in Certain Divorce Matters Act (24 of 1987)	DOJCD	The magistrates presides over all cases brought its attention and issues child care and protection orders for children found to be in need of care and protection. The high court currently deals with guardianship it is proposed that this function is also performed in children’s courts.	none
Domestic Violence Act 116 of 1998	SAPS; DOJCD	Joint management of investigations on all forms of violence involving children	none

2.2. **Proposals inevitably seek to change behaviour in order to achieve a desired outcome. Describe (a) the behaviour that must be changed, and (b) the main mechanisms to bring about those changes. These mechanisms may include modifications in decision-making systems; changes in procedures; educational work; sanctions; and/or incentives.**

a) What and whose behaviour does the proposal seek to change? How does the behaviour contribute to the socio-economic problem addressed?

Identified Problem	Behaviour giving rise to the identified problem	Groups whose behaviour give rise to the identified problem?	Why does the behaviour arise?
A large number of orphaned and abandoned children who are cared for by relatives and in need of financial assistance are channelled through the foster care system to access the FCG.	Poor forecasting and planning.  The Socio-economic status of many families in South Africa, poverty and inequality lead to many poor people relying on social grants. Those who do	The Department of Social Development  The country’s economy should create job opportunities and a conducive environment for entrepreneurship to enable poor people to earn an income to	Over the years there has been poor evidence-based policy and decision making on the side of the department.  There is a policy and legislative gap to address the plight of orphaned children.

Identified Problem	Behaviour giving rise to the identified problem	Groups whose behaviour give rise to the identified problem?	Why does the behaviour arise?
	not qualify devise alternative means of access. Foster child grant is used as a poverty alleviation alternative.	support themselves and their families. This will result in people not relying on social grants for a living.  Members of the public should be made aware of the purpose of foster care and alternative options available for relatives caring for orphaned and abandoned children.	
A large number of relatives caring for orphaned and abandoned children cannot apply for guardianship at the High Court due to the cost associated with such applications.	The socio-economic status of poor people who cannot lodge matters in the high court disadvantages them in applying for guardianship in the High Court.	The Department of Justice in collaboration with other stakeholders should review relevant legislation to promote access to justice for poor people needing to apply for guardianship.	The behaviour emanates from the fact that the High Courts have exclusive jurisdiction over guardianship.
Over the years, the country has recorded an increasingly high proportion of cases of violence against children across different setting.	Many parents and caregivers do not apply non-violent forms of discipline when trying to correct undesirable behaviour of children.  Some parents/caregivers blatantly abuse their children	The behaviour, attitude and openness of parents to alternative forms of discipline. Many of whom are earnestly using violence with good intentions to instil order and discipline in their children.	Children are evolving beings, exploring and committing mistakes in the process of growing up. On the other hand, parents and caregivers have a responsibility to guide and assist them so that they grow up to be responsible citizens in future.

Identified Problem	Behaviour giving rise to the identified problem	Groups whose behaviour give rise to the identified problem?	Why does the behaviour arise?
	<p>The Bill addresses this by affirming the provisions to deal with such behaviour as provided for in section 110 of the Children’s Act.</p> <p>Government has not been prioritising programmes, support and services to assist parents, caregivers and educators not to use non-violent forms of discipline.</p> <p>Furthermore, many children are aware of their rights, more than they are cognisant of their responsibilities.</p>	<p>Government should promote and support programmes offered to parents, children and communities.</p> <p>Children’s should be made aware of their responsibilities associated with all the rights they have.</p>	<p>Most often parents administer violent forms of punishment and discipline in an attempt to admonish their children and dissuade them from undesirable conduct or behaviour.</p> <p>Many parents are not aware of alternative forms of discipline and government has a responsibility to create awareness on the consequences and violence against children.</p>
<p>There is a high proportion of children under the age of 6 years who do not have access to early childhood development (ECD) services.</p> <p>Secondly, the quality of ECD</p>	<p>Poor availability and the costs associated with ECD of early learning opportunities for poor children under school going age.</p> <p>Provision of poor quality ECD services</p>	<p>Government should prioritise funding and provision of early childhood development education for children from poor families.</p>	<p>The problem arise as a result of persistently poor funding of ECD services especially for poor, marginalised and rural communities, as well as poor children.</p>

Identified Problem	Behaviour giving rise to the identified problem	Groups whose behaviour give rise to the identified problem?	Why does the behaviour arise?
services is poor in many areas in the country especially poor and rural areas.	by underqualified personnel.  There is inadequate regulation and quality assurance in the sector		

### 2.3. Consultations

- a) Who has been consulted inside of government and outside of it? Please identify major functional groups (e.g. business; labour; specific government departments or provinces; etc.); you can provide a list of individual entities and individuals as an annexure if you want.

**SEE LIST PROVIDED IN ANNEXURE**

SECRET

Consulted Government Departments, Agencies and Other Organs of State

Department's name	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal? If yes, under which section?
<p>Government Departments and Agencies (Name them)</p> <p>The Bill was consulted with nine provincial departments of Social Development and twenty six National Departments (list of stakeholders consulted is attached)</p>	<p><b>Benefits:</b> Government departments supported the draft Bill as it will enhance the care and protection of children in the country.</p> <p>New proposals to regulate care of children in the care of family members were accepted. Furthermore, they supported the section dealing with discipline of children.</p> <p><b>Costs:</b> They foresee Costs relating to provision of prevention and early intervention services that needs to be strengthened.</p>	<p>The Bill generally received support from government departments.</p>	<ul style="list-style-type: none"> <li>• Definition of Orphan to include maternal and double orphan.</li> <li>• Re-evaluate the need to establish the interdepartmental committee as there are existing committees</li> <li>• DSD to provide reasons why mediation should not be reviewed by court.</li> <li>• On residence of the child the court should have powers where parents do not agree on the residence of the child.</li> <li>• Funding for facilities must be a "must"</li> <li>• The inclusion of child parent on consent for</li> </ul>	<p>Yes- All inputs received were considered and those applicable incorporated into the Bill.</p> <p>The definitions of "orphan" has been revised.</p> <p>The Memorandum of Objects clarifies why mediation should not be reviewed the courts.</p> <p>The clause on residence of a child has been amended to clarify the powers of the court where parents do not agree on the residence of a child.</p>

	<b>Risks:</b> Lack of / inadequate and shortage of staff and resources funding are viewed as a risk		<p>medical treatment must be deleted.</p> <ul style="list-style-type: none"> <li>• The Bill to accommodate more on children with disabilities.</li> <li>• Definition of Social Service Practitioner to make reference to professionals registered with the SACSSP.</li> </ul>	<p>The Bill was revised to accommodate children with disabilities.</p> <p>The definition of a social service practitioner has been revised.</p>
--	---	--	---	---

#### Consulted stakeholders outside government

<b>Name of Stakeholder</b>	<b>What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u></b>	<b>Do they <u>support</u> or <u>oppose</u> the proposal?</b>	<b>What <u>amendments</u> do they propose?</b>	<b>Have these amendments been <u>incorporated</u> in your proposal?</b>
1. Civil Society Seventy Seven (77) Civil Society Organisations were consulted (list attached).	<b>Benefits:</b> The sector support the proposal in section 32 whereby the Minister may prescribe a process permitting the provincial head of social development to recognise the exercising of parental responsibilities and rights by a person other than a parent	The Bill was generally supported by Civil society organisations	<p><b>The following proposals were made:</b></p> <ul style="list-style-type: none"> <li>• Removal of the definition of “child minder” as the term is not used anywhere in the Act.</li> <li>• Addition of the definition of child pornography.</li> <li>• Addition of the definition for corporal punishment and other cruel, inhuman or degrading punishment.</li> <li>• Insertion of the term “Grade R” on the definitions of ECD programme and centre.</li> </ul>	Yes- All inputs received were considered and those applicable incorporated into the Bill

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
	<p>caring for a child. This process includes an administrative process of recognising kinship care than channelling all orphaned children through court-ordered foster care. It is perceived that this will challenges with the current foster system.</p> <p>The proposal on discipline of children was widely welcomed.</p> <p><b>Costs:</b> Costs related to adequate funding of NGOs to enable them to provide quality services to children and families.</p> <p><b>Risks:</b> Inadequate funding of NGOs.</p> <p>Shortage of staff to assessment of all orphaned</p>		<ul style="list-style-type: none"> <li>• Addition of “<b>best interest of the child</b>” on the definition of intercountry adoption.</li> <li>• Removal of naming professions in the definition of Social Service Practitioner.</li> <li>• To remove the wording “who is not a citizen of the Republic” on the definitions of Unaccompanied migrant child and separated migrant child.</li> <li>• Adoptable children to be allowed to be placed in temporary safe care with the prospective adoptive parents</li> <li>• Intersectoral implementation of the Act to include civil society representatives.</li> <li>• Section 6A to 6C to make reference to existing legislation.</li> <li>• On application of the Act to include Asylum seekers, Refugees and Stateless children. Others proposed deletion of the clause</li> <li>• Prohibition of corporal punishment was supported but strengthen the provision of prevention and Early intervention services.</li> <li>• Merging of section 23 and 24 of the Act.</li> <li>• Repeal of section 24 of the Act.</li> </ul>	

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
	children and to render prevention and early intervention programmes.		<ul style="list-style-type: none"> <li>• Regulation for section 32 on administrative process dealing with kinship care to be clear to avoid practice challenges. In this regard a form should be devised for the simplest process possible, which simply recognises rights that the caregiver already has. Social work reports should not be necessary</li> <li>• The amendment for the provision of a declaratory court order or administrative DSD process to assess and recognise these s32 rights was rejected.</li> <li>• On the strategy concerning partial care, the Minister must monitor the implementation of the strategy.</li> <li>• On Notice of enforcement the onus must be on DSD.</li> <li>• New proposal on appeal against and review of certain decisions, to ensure that the time-frames should be shortened from 90 days to 60 days for both the lodging of the appeal and the consideration thereof.</li> <li>• DSD must assist, they have a list of available partial care facilities. The DSD has a duty to ensure that children’s access to ECD is not interrupted.</li> <li>• Part B of the Register be removed in its entirety.</li> <li>• section 120(4)(a) and (5) be expanded to include all the new sexual offences provided for in the Criminal Law Sexual Offences Amendment Act,</li> </ul>	

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
			<ul style="list-style-type: none"> <li>• A child parent may consent to the performance of a surgical operation on him or her or his or her child.</li> <li>• Section 150 (1) (a) to include children not in the care of family member.</li> <li>• It is not clear why amendment to section 159 is necessary.</li> <li>• Section 239 letters must be waived if DSD doesn't answer within 30 days of a request for a letter.</li> </ul>	
<p>2. Other groupings (Name them)</p> <p>4 Faith Based Organisations</p>	<p><b>Benefits:</b> The draft Bill was not supported by the sector especially the proposed section dealing with discipline of children. The argument was that parents should be allowed to moderately chastise their children.</p> <p><b>Costs:</b> more funds needed to strengthen prevention and</p>		<p>The proposal from the Faith Based Organisation was that the proposed section 12A dealing with discipline of children be deleted from the Bill as it is an infringement of religious freedom, infringement of parents rights and infringement of the privacy of the home.</p> <p>The organisations support reasonable or moderate chastisement of children.</p>	<p>No – there is a High Court ruling on the matter already of which the appeal was lodged with the Constitutional Court. The outcome of the Constitutional Court will provide guidance on the</p>

Name of Stakeholder	What do they see as main <u>benefits, Implementation/ Compliance costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> do they propose?	Have these amendments been <u>incorporated</u> in your proposal?
	<p>early intervention programs and services.</p> <p><b>Risks:</b> the sector raised concerns about the removal of the common law defence of reasonable chastisement that parents have as this take away parental powers over their children and may create a society where children to as they please.</p>			restructuring of this section.
3. The Public	The Bill was published for comments for 30 days between 29 October and 29 November 2018.	See attached document for full details.	See attached document for full details.	See attached document for full details.

b) Summarise and evaluate the main disagreements about the proposal arising out of discussions with stakeholders and experts inside and outside of government. Do not give details on each input, but rather group them into key points, indicating the main areas of contestation and the strength of support or opposition for each position

- Main disagreements arose from section 12A dealing with discipline of children
- Definition of separated migrant children to include internal migration.

**2.4. Assessment of costs and benefits to stakeholders inside and outside of government**

MAIN STAKEHOLDERS	COSTS	BENEFITS
Orphaned and vulnerable children	Re- skilling of practitioners Increased number of facilities and upgrading provided for in conditional grant. Subsidies to ECD centres. The ECD costing report is attached.	Realisation of Constitutional & human rights to survival, growth, development and participation
Parents and caregivers	Transport Care for children when attending training/programmes	Support, education, access to ECD facilities – benefits such as access to employment & development opportunities.
Child protection system & all relevant service providers both government – including SAPS, DBE, Justice, DSD.  And Non-governmental organisations such as designated child protection organisations.	Up-skilling of social service practitioners  Prevention and early intervention services  Transfers to designated child protection organisations provided for in the national and provincial budget framework	Improved institutional mechanisms and service delivery where the roles and responsibilities are defined and platforms for collaboration and coordination strengthened for improved access and regulation of ECD, foster care and the prevention and response to violence committed against children.
Treasury and national and provincial departments of social development	Revise and improve current budget framework and resourcing of child welfare services	South Africa’s children especially those who are in need of care and protection will realise their full potential, wellbeing contribute to a healthy and productive citizenry.

2.5. Describe the groups that will benefit from the proposal, and the groups that will face a cost. These groups could be described by their role in the economy or in society. Note: NO law or regulation will benefit everyone equally so do not claim that it will. Rather indicate which groups will be expected to bear some cost as well as which will benefit. Please be as precise as possible in identifying who will win and who will lose from your proposal. Think of the vulnerable groups (disabled, youth women, SMME), but not limited to other groups.

Identified Problem	Behaviour giving rise to the identified problem	Groups whose behaviour give rise to the identified problem?	Why does the behaviour arise?
<p><b>ECD:</b> There is a high proportion of children under the age of 6 years who do not have access to early childhood development (ECD) services.</p> <p>Secondly, the quality of ECD services is poor in many areas in the country especially poor and rural areas.</p>	<p>Poor availability of early learning opportunities for poor children under school going age.</p> <p>Some poor parents and caregivers cannot afford early childhood development services for their children.</p> <p>The ECD Diagnostic review conducted in 2012 provides evidence and the report is attached.</p>	<p>Government should prioritise funding and provision of early childhood development education for all children prioritising children from poor families and communities.</p>	<p>The problem arise as a result of persistently poor funding of ECD services especially for poor, marginalised and rural communities, as well as poor children.</p>
<p><b>Foster care:</b> South Africa does not have a social assistance system or grant for orphans and other vulnerable children. Therefore a large number of orphaned and abandoned children who are cared for by relatives and in need of financial assistance are channelled through the foster care system to access the FCG. This is seen as a problem because most of these children are not in need of care and protection, but in need of financial assistance.</p>	<p>Poor forecasting and planning.</p> <p>The Socio-economic status of many families in South Africa, poverty and inequality lead to many poor people relying on social grants. Those who do not qualify devise alternative means of access. Foster child grant is used as a poverty alleviation alternative.</p>	<p>The Department of Social Development</p> <p>The country's economy should create job opportunities and a conducive environment for entrepreneurship to enable poor people to earn an income to support themselves and their families. This will result in people not relying on social grants for a living.</p> <p>Members of the public should be made aware of the purpose of foster care and alternative options available for relatives caring for orphaned and abandoned children.</p>	<p>Over the years there has been poor evidence-based policy and decision making on the side of the department.</p> <p>There is a policy and legislative gap to address the plight of orphaned children.</p> <p>The systemic structures, mechanisms and resources for foster care were designed to deal with children who are removed from their home environment temporarily, whilst services are rendered to their parents or caregiver before they are reunited with them.</p> <p>The system is currently not coping with the high volumes of children that are processed through the system, the majority of whom are orphans placed in long-term foster care.</p>
<p>A large number of relatives caring for orphaned and abandoned children cannot apply for</p>	<p>The socio-economic status of poor people who cannot lodge matters in the high court disadvantages</p>	<p>The Department of Justice in collaboration with other stakeholders should review relevant legislation to promote</p>	<p>The behaviour emanates from the fact that the High Courts have exclusive jurisdiction over guardianship.</p>

Identified Problem	Behaviour giving rise to the identified problem	Groups whose behaviour give rise to the identified problem?	Why does the behaviour arise?
guardianship at the High Court due to the cost associated with such applications.	them in applying for guardianship in the High Court.	access to justice for poor people needing to apply for guardianship.	
<p><b>Violence against children:</b> Over the years, the country has recorded an increasingly high proportion of cases of violence against children across different settings, specifically in the home environment.</p>	<p>Many parents and caregivers do not apply non-violent forms of discipline when trying to correct undesirable behaviour of children.</p> <p>There is a significant increase of child abuse cases by parents, and caregivers within the home environment.</p> <p>Government has not been prioritising programmes, support and services to assist parents, caregivers and educators to refrain from using violent forms of discipline.</p> <p>Furthermore, many children are aware of their rights, more than they are cognisant of their responsibilities.</p>	<p>The behaviour, attitude and openness of parents to alternative forms of discipline. Many of whom are earnestly using violence with good intentions to instil order and discipline in their children.</p> <p>Government should promote and support programmes offered to parents, children and communities.</p> <p>Children's should be made aware of their responsibilities associated with all the rights they have.</p>	<p>Children are evolving beings, exploring and committing mistakes in the process of growing up. On the other hand, parents and caregivers have a responsibility to guide and assist them so that they grow up to be responsible citizens in future.</p> <p>Most often parents administer violent forms of punishment and discipline in an attempt to admonish their children and dissuade them from undesirable conduct or behaviour.</p> <p>Many parents are not aware of alternative forms of discipline and government has a responsibility to create awareness on the consequences and violence against children.</p>

**2.6. Identify the major social and economic groups affected by the problem, and how are they affected. Who benefits and who loses from the current situation?**

Identified Problem	Groups (Social/Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
South Africa does not have a social assistance system or grant for orphans and other vulnerable children. Therefore a large number of orphaned and abandoned children who are cared for by relatives and in need	Orphaned children in the care of relatives	<p>These children do not need to go through the foster care system to access a grant.</p> <p>Some of them need a guardian to care for them.</p>	These children benefit financially from the foster child grant.

Identified Problem	Groups (Social/ Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
<p>of financial assistance are channelled through the foster care system to access the FCG.</p> <p>This is seen as a problem because most of these children are not in need of care and protection, but in need of financial assistance.</p>			
	Caregivers	<p>They are affected socially and economically because take the responsibility to approach social workers and the courts to apply for foster care and subsequently SASSA to apply for the foster child grant.</p> <p>They also take care of the social, emotional, financial and educational needs of the orphans in their care.</p>	<p>Some benefit financially from the foster child grant.</p> <p>Most of the children in foster care are placed with their grandparents, who are often older. These caregivers lose from the current situation because they have to raise and educate young children, whilst battling with deteriorating health, finances and support. They also face intergenerational challenges that accompany skip generation families. These challenges pertain to discipline, guidance, educational support etc.</p>
	Social workers	<p>Foster care is a very technical and intensive social work process.</p> <p>Before a child is placed in foster care a social worker is required to conduct a thorough investigation into the circumstances of the child and the foster parents.</p> <p>If they qualify, the social worker has to prepare a report and present the matter in court.</p>	<p>Social workers are losing from the current situation. The high caseloads affect the quality of their work and often impede them from attending to other matters requiring their attention.</p>

Identified Problem	Groups (Social/ Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
		<p>After a foster care order is granted, the social worker is required by law to periodically extend the foster care order; monitor foster care placements; compile and periodically review individual development, permanency and care plans.</p> <p>These processes are labour intensive and are not necessary for children who are not in need of care and protection; are in the care of relatives and have stability.</p> <p>Another potential negative consequence may be inundated social workers and this may lead to poor quality work</p> <p>Those children who are placed in foster care need to be monitored and supervised on a regular basis. Some do not need supervision services but only financial assistance and it is not always necessary to place them in foster care and monitor their placement.</p>	
	Children's courts	There are bottlenecks and backlogs at the court level, emanating from cases brought by social workers for foster care applications and extension of foster care orders. Hence the North Gauteng High Court issued a judgement directing the Department of Social Development to extend some foster care	Children's courts are losing from the current situation due to bottlenecks and backlogs. Furthermore, some orders lapse before they can be extended, hence requiring new court proceedings to be instituted.

Identified Problem	Groups (Social/Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
		orders because some children's courts were not coping with the high demand for extension of orders.	
A large number of relatives caring for orphaned and abandoned children cannot apply for guardianship at the High Court due to the cost associated with such applications.	Relatives who are poor and care for orphaned and abandoned children.	Most caregivers need some form of security and recognition when they care for orphans and abandoned children.	They are not benefitting from the current situation because they are disadvantaged from acquiring guardianship status due to their socio-economic position.
Over the years, the country has recorded an increasingly high proportion of cases of violence against children across different settings, specifically in the home environment.	Children, parents and caregivers.	<p>Children experience violence in different settings including the home environment. Most children receive physical punishment when they transgress or do things that their parents do not like. This has a negative effect on their psychological wellbeing and long-term development. Some children tend to use violence in order to resolve problems or settle misunderstandings.</p> <p>The social and emotional development of infants and young children who are exposed to violence in their families and communities (including corporal punishment), and who do not enjoy the protective buffering of strong and supportive caregiving, is compromised. They are at a greater risk of insecure attachments and behaviour problems, reduced levels of pro-social behaviour, increased aggressive behaviour, and</p>	Exposure to violence has multiple negative consequences for children and their families. The public health impact is significant, with substantial cost to society. Beyond the immediate risk of fatal or non-fatal physical injuries, experiencing or witnessing violence has a known impact on a child's cognitive, social, psychological and emotional development. Some of these effects include (a) changes in brain structure and function; (b) behavioural responses, such as sleep disturbances and eating problems; (c) responses indicative of poor emotional regulation, such as temper tantrums and excessive anger (d) psychosomatic responses, such as stomach problems and headaches; (e) academic and social difficulties at school; (f) aggression and depression; (g) Post Traumatic Stress Disorder (PTSD); (h) risk-taking behaviour, such as alcohol abuse, substance abuse and risky sexual behaviour; (i) difficulties in peer and intimate partner

Identified Problem	Groups (Social/ Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
		<p>an inability to regulate their own emotions</p> <p>Parents are also affected by the problem because most parents do not have skills to apply non-violent, positive discipline methods.</p>	<p>relationships; and (j) HIV and other sexually transmitted infections (STIs).</p>
	Police	They are responsible to investigate matters that are reported to them.	They are not benefitting from the current situation.
	Educators	Many children who experience violence at home tend to become violent in other settings including the school environment. Some children are violent towards educators.	They personally and the education system as a whole are not benefitting from the current situation
	Society and the State	<p>South Africa experiences high levels of violence. This emanates from how our society socialise children.</p> <p>Violent adults do not become violent instantaneously they learn that behaviour from an early age and often find it difficult to overcome it.</p> <p>It is for this reason that some parents are violent towards their children, their spouses, and other people.</p> <p>Government invests large sums of money to address medical cases that result from violence; psychological intervention for people who are victims of violence; criminal prosecution of perpetrators of violence;</p>	<p>Violence has no benefits for society.</p> <p>Significant effects of violence on children and their families impose a further cost to society. This cost is incurred by government through health care for the treatment of victims, by law enforcement and the criminal justice system for prosecuting offenders, and by child social services for the protection of children who have been victims of, and those who are vulnerable to, violence. There is also the broader, long-term cost to society through the intergenerational transmission of violence and the lowered productivity, absenteeism and poorer quality of life resulting from the effects of violence suffered by workers in their childhood.</p>

Identified Problem	Groups (Social/Economic)	How are they affected by the identified problem?	Are they benefitting or losing from the current situation?
		reform of violent offenders etc.	
<p>There is a high proportion of children under the age of 6 years who do not have access to early childhood development (ECD) services.</p> <p>Secondly, the quality of ECD services is poor in many areas in the country especially poor and rural areas.</p>	Children under school going age.	<p>Young children who do not get access to quality early childhood are at a disadvantage that those who receive it.</p> <p>The sensitivity of the brain in this early period makes the structure and functioning of the child's early brain (and hence, later child) developmentally vulnerable to biological, social and environmental risk factors.</p> <p>Poor quality ECD provided by a person who is not trained, results in negative outcomes for children.</p>	<p>Children who do not receive quality ECD education miss opportunities of early development which is a strong foundation for schooling.</p> <p>Those opportunities once missed may never be retrieved.</p>

2.7 Describe the costs and benefits of implementing the proposal to each of the groups identified above, using the following chart. Please do not leave out any of the groups mentioned, but you may add more groups if desirable. Quantify the costs and benefits as far as possible and appropriate. Add more lines to the chart if required.

*Note: "Implementation costs" refer to the burden of setting up new systems or other actions to comply with new legal requirements, for instance new registration or reporting requirements or by initiating changed behaviour. "Compliance costs" refers to on-going costs that may arise thereafter, for instance providing annual reports or other administrative actions. The costs and benefits from achieving the desired outcomes relate to whether the particular group is expected to gain or lose from the solution of the problem.*

*For instance, when the UIF was extended to domestic workers:*

- The implementation costs were that employers and the UIF had to set up new systems to register domestic workers.*
- The compliance costs were that employers had to pay regularly through the defined systems, and the UIF had to register the payments.*
- To understand the inherent costs requires understanding the problem being resolved. In the case of UIF for domestic workers, the main problem is that retrenchment by employers imposes costs on domestic workers and their families and on the state. The costs and*

*benefits from the desired outcome are therefore: (a) domestic workers benefit from payments if they are retrenched, but pay part of the cost through levies; (b) employers pay for levies but benefit from greater social cohesion and reduced resistance to retrenchment since workers have a cushion; and (c) the state benefits because it does not have to pay itself for a safety net for retrenched workers and their families.*

<b>Group</b>	<b>Implementation costs</b>	<b>Compliance costs</b>	<b>Costs/benefits from achieving desired outcome</b>	<b>Comments</b>
<b>Orphaned and vulnerable children</b>	N/A	N/A	<b>Care, protected &amp; rights realised</b>	
<b>Parents and caregivers</b>	<b>Re - New commitments to the care and protection of their children</b>	Transport costs	Feel supported; received services and contribute positively to the wellbeing of their children.	
Child protection system & all relevant service providers both government – including SAPS, DBE, Justice, DSD.  And Non-governmental organisations such as designated child protection organisations.	The setting up of new coordination and implementing systems and improved service delivery for <ul style="list-style-type: none"> <li>- Access and regulation of ECD</li> <li>- Foster care</li> <li>- Prevention and response to violence against children</li> </ul>	Training and reskilling social service practitioners  Supervision of placements  Prevention and early intervention programmes	An improved effective and efficient functioning child protection system.	

Group	Implementation costs	Compliance costs	Costs/benefits from achieving desired outcome	Comments
Treasury , national and provincial departments of social development	Improved Investment in both the costing and financing of child care and protection services. Currently the full costs of these services has not been fully costed. There is a current process underway towards this end. This process must be completed urgently.	Treasury to commit to the revision. National must provide the overarching uniformity through a service delivery framework and provincial governments MUST implement and ensure that the resources for child welfare services are allocated for this purposes at provincial level.	An improved effective and efficient functioning child protection system. Children that thrive and contribute as productive citizens. Decreased costs associated with the consequences of child abuse, neglect, exploitation (violence) and parental deprivation.	
Other government departments	Current functions Including M&E and data availability	Current functions Including M&E and data availability	An improved effective and efficient functioning child protection system. Children that thrive and contribute as productive citizens. Decreased costs associated with the consequences of child abuse, neglect, exploitation (violence) and parental deprivation.	

2.8. Cost to government: Describe the changes that the proposal will require and identify where the affected agencies will need additional resources

- a) Budgets, has it been included in the relevant Medium Term Expenditure Framework (MTEF) and

The proposed amendments to the Children’s Act will be costed to indicate new categories of costs. Most of the proposals are existing obligations and functions of the various government departments. Costs associated with training and reskilling of social service practitioners; supervision

of placements; prevention and early intervention programmes should be determined through the costing exercise.

- b) Staffing and organisation in the government agencies that have to implement it (including the courts and police, where relevant). Has it been included in the relevant Human Resource Plan (HRP)

This proposed amendments does not indicate new costs. These are existing obligations and functions of the various government departments. It rather calls for improved or shifts within the existing functions. The latter may mean upskilling and further training for all categories of government officials involved in child protection and have some additional costs.

It must however be noted that children’s services has been historically underfunded.

*Note: You MUST provide some estimate of the immediate fiscal and personnel implications of the proposal, although you can note where it might be offset by reduced costs in other areas or absorbed by existing budgets. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.*

- 2.9. Describe how the proposal minimises implementation and compliance costs for the affected groups both inside and outside of government.

**For groups outside of government (add more lines if required)**

Group	Nature of cost (from question 2.6)	What has been done to minimise the cost?
Care givers who wish to formalise care and protection rights though guardianship	Guardianship is matters assigned to high Courts and thus more costly	Proposal – that guardianship be devolved also to children’s courts/magistrate courts which is a less costly option.
Designated child protection organisations	Qualified registered social workers must take cases to court to have care and protection orders issued. Supervision and visits to vulnerable children could also be done by child& youth care and auxiliary SW workers which is more cost effective	Orphaned children who are not in need of care and protection but receive state support/child supports grants may need additional support services. The proposals deal with this category of children by keeping them out of formal statutory services through administrative mechanisms within the department of social development.

**For government agencies and institutions:**

Agency/institution	Nature of cost (from question 2.6)	What has been done to minimise the cost?
Treasury , national and provincial departments of social development	In the beginning there may be an increase to set up the institutional mechanisms necessary.	In the medium to longer term the system will be much more effective by reducing the numbers of children in state care e.g. foster care and residential care through child and youth care centres these costs are much higher than investing in prevention and early intervention services. Thus the proposed

Agency/institution	Nature of cost (from question 2.6)	What has been done to minimise the cost?
		amendments to the sections described above.
SAPS	Same as existing cost. No changes anticipated	N/A
DOJCD	Same as existing cost. No changes anticipated	Further consultations during the gazetting for comments phase.
<p>In general –</p> <p>(i) The proposed amendments are based on the principle of reprioritisation of existing budgets to ensure that children have equitable access to services and opportunities, while maximising current resources to achieve targets.</p> <p>(ii) Costs will be reduced by strengthening coordination internally and across different stakeholders, so as to reduce red tape and duplication of services.</p> <p>(iii) If the system is well coordinated and strengthened government will maximise the benefits and minimise costs contributing towards common causes.</p>		

## 2.10 Managing Risk and Potential Dispute

- a) Describe the main risks to the achievement of the desired outcomes of the proposal and/or to national aims that could arise from implementation of the proposal. Add more lines if required.
- b) Describe the measures taken to manage the identified risks. Add more rows if necessary.

*Mitigation measures means interventions designed to reduce the likelihood that the risk actually takes place.*

Identified Risk	Mitigation Measures
A weakening economy may result in additional resources not being available for the proposed amendments e.g. strengthening the capacities of DSD provincial and sub provincial offices to deal with the administrative functions	<p>To mitigate this risk, the NDSD will continue to work with treasury who has already committed to work with DSD to resolve the funding and resourcing of social welfare services as per the court orders.</p> <p>In addition, DSD/government will partner with donors, private sector to fund projects.</p> <p>In addition, partnerships within government, and NGOs will be strengthened through the finalising of the Financing Policy. Agreements will be drawn on how budgets and resources may be shared in relation to common strategies and programmes.</p>
Poor coordination of implementation of the policy can lead the policy objectives not met and delays. It may also result in stakeholders not performing their functions.	The Department of Social Development will lead the process of developing a coordinated, integrated intersectoral implementation plan with the buy in of all relevant stakeholders. The implementation plan will be costed, monitored and reviewed regularly.

- c) What kinds of dispute might arise in the course of implementing the proposal, whether (a) between government departments and government agencies/parastatals, (b) between government agencies/parastatals and non-state actors, or (c) between non-state actors? Please provide as complete a list as possible. What dispute-resolution mechanisms are expected to resolve the disputes? Please include all of the possible areas of dispute identified above. Add more lines if required.

*Note: Disputes arising from regulations and legislation represent a risk to both government and non-state actors in terms of delays, capacity requirements and expenses. It is therefore important to anticipate the nature of disputes and, where possible, identify fast and low-cost mechanisms to address them.*

Groups	Disputes	System for settling the dispute
Non-Government Organisations (NGOs)	<p>Disputes may arise from children or members of the public who are not satisfied with the services they receive from NGO providing services in partnership with the Department of Social Development.</p> <p>Disputes are most likely to come from NGOs regarding insufficient and uncoordinated funding.</p> <p>Disputes may arise from NGOs, whose proposals for funding are rejected.</p>	<p>Develop an integrated, accessible and user-friendly complaints management system.</p> <p>Finalise the Policy on Financial Awards and funding models to regulate and manage funding of NGOs. Fund NGOs which are eligible in terms of, and to the extent permitted by current legislation and Funding Policy.</p> <p>Develop mechanisms for dispute resolution, as well as appeal procedures, relating to funding of NGOs.</p>
Faith based organisations and members of the public.	It is anticipated that some faith organisations and members of the public might raise concerns about the removal of the common law defence of reasonable chastisement that parents have.	<p>Conduct public education and awareness programmes on the benefits of positive and constructive discipline of children and the risks and disadvantages physical punishment and violent approaches to discipline of children.</p> <p>The policy proposal tackles the issue of corporal punishment and violence against children at different levels.</p>

Groups	Disputes	System for settling the dispute
	<p>There is a recent court judgment stating that parents can no longer use the defence of reasonable chastisement when found guilty of administering corporal punishment to children.</p>	<p>Starting with public awareness programmes on positive parenting and alternative non-violent measures of discipline of children.</p> <p>It goes further to non-statutory programmes to assist parents who administer corporal punishment and need to learn alternative forms of discipline.</p> <p>The policy proposal advocates for out of court measures to assist parents and children through community-based early intervention programmes.</p> <p>The policy seeks to, as far as possible not to criminalise parents who earnestly try to discipline their children and correct their behaviour. However, aims to address violence against children.</p>

### 2.11 Monitoring and Evaluation

- a) When is implementation expected to commence after the approval of the proposal?

The commencement of implementation will be dependent on the Bill being signed by the President, which is anticipated to be in 2020.

- b) Describe the mechanisms that you will apply to monitor the implementation of the proposal after being approved.

The Department of Social Development (Government) will develop and implement:

- A centralised national child care and protection monitoring, evaluation and quality assurance framework which will annually measure progress towards achievement of the implementation of the Children's Act.
- A monitoring, evaluation and quality assurance framework to assess child care and protection services;
- Mechanisms for facilitation of the use of evaluation and research results by line departments and other stakeholders to improve planning and implementation of child care and protection services;

- In collaboration with relevant line departments, develop regulations, norms and standards for the delivery of quality child care and protection services through all models of service delivery.

The national child care and protection monitoring, evaluation and quality assurance framework will be centrally designed and implemented to collect and provide information for reporting on the progress South Africa has made as a country towards the realisation of the overarching policy vision.

To achieve this, Government will:

- Receive and collate reliable and timely data on progress made by different line departments and associated stakeholders in the provision of child care and protection services;
- Develop indicators and disaggregate data to measure progress against all elements of children's rights, including availability and accessibility of services, accessibility including children with disabilities against prescribed standards;
- Develop indicators that measure child care and protection services, strengthening of obligations and coordination of child care and protection efforts;
- Monitor progress against the national child care and protection goals and objectives, to ensure that the evaluation results are fed back into the planning cycle to ensure on-going improvement;
- Develop, through collaborative agreements, processes for feeding the evaluation results into annual departmental planning cycles.

The relevant departments responsible for delivery of the various child care and protection services will be responsible for implementation of the relevant monitoring and quality control and improvement systems, practices and interventions.

- c) Who will be responsible for monitoring the implementation of this proposal?

The national department together with the provincial departments of Social Development.

- d) What are the results and key indicators to be used for monitoring? Complete the table below:

Results	Indicators	Baseline	Target	Responsibility
<b>Impact:</b> long term result (change emanating from the implementation of the proposal in the whole of society of parts of it)	Number of children accessing ECD services	827 338	2 179 740 children accessing registered ECD programmes by 2018/19	DSD
	Number of children in foster care with valid court orders	446 475 are currently in foster care	100% of children placed in foster care with valid foster care orders	DOJCD AND DSD
	Number of criminal	Between 2011 and	Reduction in the	SAPS AND DOJCD

	convictions on charges of violence committed against children	2018, a total of 1 254 persons were convicted of violence against children	numbers of crimes committed against children	
Outcome: medium term result (what beneficiaries achieve as a result of the implementation of the proposal)	Increased numbers of children accessing ECD services	827 338	2 179 740 children accessing registered ECD programmes by 2018/19	DSD
	The number of children in alternative statutory – court ordered care has been reduced.	446 475 are currently in foster care	100% of children placed in foster care with valid foster care orders	DOJCD AND DSD
	There is a reduction in the numbers of crimes committed against children (violence)	Between 2011 and 2018, a total of 1 254 persons were convicted of violence against children	Reduction in the numbers of crimes committed against children	SAPS AND DOJCD

- e) When will this proposal be evaluated on its outcomes and what key evaluation questions will be asked? Below please find evaluation questions for your consideration:
- The proposed amendments if they are endorsed by the sector through the further consultation during the gazetting phase followed by the government regulatory processes and the finally Cabinet, Parliament and signed off by the President will become part of the comprehensive legislative framework that governs the care and protection of children in South Africa.
  - The proposed amendments are completed in the context and aligned to the Child care and Protection Policy. The NDS has recently completed the Implementation Plan of the said Policy.
  - The Implementation Plan will integrate the improvements necessary to implement the Policy as well as to address this proposed amendments.
  - The implementation Plan which are attached as Annexure 2 will include the M&E framework which will include the evaluation of the new proposed amendments. This will be scheduled with the DPME and DSD evaluation specialist. The following evaluation questions will be included:
    - How well was the amendments implemented and adapted as needed?
    - Did the amendments achieve its intended results (activities, outputs and outcome) as per the Monitoring and Evaluation plan?
    - What unintended results (positive and/or negative) did the implementation of the amendments produce?
    - What were the barriers and enablers that made the difference between successful and failed implementation and result?
    - How valuable were the results to the intended beneficiaries?
- f) Provide a comprehensive implementation plan (see Annexure 2) aligned to 2.10 (b)
- The Implementation Plan is attached as Annexure 2**
- g) Please identify areas where additional research would improve understanding of then costs, benefit and/or of the legislation.
- Costing of social welfare services
  - The experiences of children who are in need of care and protection and in alternative care
  - Children who are orphaned and in the care of family members
  - The competencies and support systems of social service professionals in making care and protection decisions

***For the purpose of building a SEIAS body of knowledge please complete the following:***

<b>Name of Official/s</b>	<i>R September</i>
<b>Designation</b>	<i>Chief Director</i>
<b>Unit</b>	<i>Governance, legislation &amp; M&amp;E</i>
<b>Contact Details</b>	<i>012312 7267/</i>
<b>Email address</b>	<i>roselines@dsd.gov.za</i>

### PART THREE: SUMMARY AND CONCLUSIONS

- Briefly summarise the proposal in terms of (a) the problem being addressed and its main causes and (b) the measures proposed to resolve the problem.

The proposed Amendments to the Children's Act affirms Government's commitment to pursue a rights-based developmental approach to child care and protection that:

- There is a number of gaps in the current Act that leads to practice barriers and constitutional challenges. There has thus been a couple of related litigations.
- This Bill seek to address these. It responds to children's guaranteed rights, to be protected from violence, abuse, neglect and exploitation and from unnecessary separation from their families, but also to develop to their full potential.
- It further seeks to strengthen the child care and protection system and improve the quality and access to child care and protection services including ECD.
- A well-functioning child protection system will enhance public confidence and contribute to a capable and effective state.

Identify the social groups that would benefit and those that would bear a cost, and describe how they would be affected. Add rows if required.

<b>Groups</b>	<b>How they would be affected</b>
<b>Beneficiaries</b>	
1. Children and families	Access to quality services; development opportunities Wellbeing Safety Care and protection Support and responsive service delivery
2. Organisations providing services to children and families.	Clarity of roles and responsibilities More effective regulatory and partnership frameworks and practice Empowering and participatory quality assurance
3. The State and South Africans	A responsive, effective and capable government Meeting international and national child rights obligations Thriving, aspirational children that will contribute to the goals and aspirations of a developmental state
<b>Cost bearers</b>	
1.	Children, parents, caregivers and communities – taking up opportunities and sharing commitments where indicated.

2.	Non-government stakeholders and donor partners – contributions and shared costs e.g. early childhood development.
3.	Government – Treasury, relevant government departments such as DSD; DOJCD; SAPS, DBE, COGTA and municipalities

2. What are the main risks from the proposal in terms of (a) undesired costs, (b) opposition by specified social groups, and (b) inadequate coordination between state agencies?
- (a) Sustained weak economic climate/outlook that increases prices and its significant impact on the poor which constitute the key beneficiaries of these services.
  - (b) The Non-governmental stakeholders – especially designated child protection organisations are already under immense pressure. The scope of need in the sector is so big that it is not possible for government to render these services on its own.
  - (c) These services demands intersectoral/governmental coordination and effective implementation of joint protocols. The present collaboration at national level is good. It could be better strengthened through utilization of the DD Clusters.
  - (d) To minimise implementation and compliance costs, it will be prudent to stipulate clear criteria for application for the grant and the declaratory order; qualification criteria; conditions that the caregiver should comply with; measures to protect the child and the caregiver. This requires that DSD and SASSA work closely together.

3. **Summarise the cost to government in terms of (a) budgetary outlays and (b) institutional capacity.**

The Department of Social Development is the primary department responsible for child care and protection in the country.

Some of the measures contained in the proposed Amendment Bill are already catered for in the current Departmental budgets.

The total provincial and national DSD budget allocation for services to children and families for the 2018/19 financial year is R8 476 884 000.00. These services include early childhood development, child protection, prevention and early intervention services, adoptions, international social services, services to orphans and vulnerable children, advocacy and governance, policy development and implementation support, as well as services to families.

There are areas that may require improvement, reprioritisation or new allocations. These are outlined in the Implementation Plan.

It does not require the Department of Social Development to introduce new categories of personnel or occupations.

The workforce comprises of social service practitioners such as, child and youth care workers social workers and social auxiliary workers.

**4. Given the assessment of the costs, benefits and risks in the proposal, why should it be adopted?**

To comply with government’s International, regional and constitutional obligations. In addition there has been a number of court judgements pertaining to the call to strengthen the child care and protection system including compliance with the current High Court order.

South Africa has made enormous strides over the past 20-years to ensure that the basic needs of the 18.5 million children<sup>1</sup> (Delany, 2016) are being met through firstly policy and legislative reforms, and secondly through the provision of and access to basic education, health and social services for children. Today 97.8% children are attending educational institutions and there has been a decline in food poverty from 60% in 2003 to 12% in 2016. These outcomes give effect to fulfilling South Africa’s international obligations under the *United Nations Child Rights Convention (UNCRC)* and *African Charter on the Rights and Welfare of the Child (ACRWC)* child rights treaties and the *Constitutional* commitments of realizing all children’s rights. **However**, despite these gains, in 2016, 63% (approximately 9.3 million) of children live in poverty; approximately 16% (3,860,000) children are orphans; 0.3% (261,465) live in child-headed households; and 12.3% (2,277,000) live in households where there is reported child hunger (Delany, 2016), and over 350,000 children are living with HIV (HSRC, 2016).

**5. Please provide two other options for resolving the problems identified if this proposal were not adopted.**

<b>Option 1.</b>	Administrative processes in key departments strengthened.
<b>Option 2.</b>	Maintain the current situation

**6. What measures are proposed to reduce the costs, maximise the benefits, and mitigate the risks associated with the legislation?**

- Unlike previous amendments this Bill is now preceded by the National Child Care and Protection Policy which directs the amendments and implementation of the Act.
- Improve and scale up prevention and early intervention services – to prevent children going deeper into formal and alternative care, which is much more expensive.
- Improve support to families. Improve access to ECD will contribute to keep children safer in their own families. ECD has proven benefits to improve school readiness and performance thus improved outcomes.
- The Bill proposes a number of institutional mechanisms to improve coordination and effective services to mitigate the failures in the system.
- The implementation plan includes a well-designed and monitored improvement plan. This involves the development and implementation of an M&E and quality assurance framework for child care and protection services.

<sup>1</sup> A child, as articulated in the South African Constitution and the Children’s Act (No. 38 of 2005) defines a child as any person under the age of 18 years.

**7. Is the proposal (mark one; answer all questions)**

	Yes	No
a. Constitutional?	YES	
b. Necessary to achieve the priorities of the state?	YES	
c. As cost-effective as possible?	YES	
d. Agreed and supported by the affected departments?	YES	

**8. Which NDP priorities would be most supported by this proposal?**

The NDP envisions a South Africa where everyone feels free yet connected to others; where everyone embraces their full potential, a country where opportunity is determined not by birth, but by ability, education and hard work. Realising such a society will require transformation of the economy and focused efforts to build the country's capabilities. To eliminate poverty and reduce social and economic inequality, the economy must grow faster and in ways that benefit all South Africans (NDP, 2013: 24). The NDP further asserts that by 2030 children should be benefitting from (NDP, 2013: 363):

- Services and benefits aimed at facilitating access to nutrition, health care, education, social care and safety,
- The elimination of problems such as hunger, malnutrition and micronutrient deficiencies that affect physical growth and cognitive development, especially among children, and that
- Vulnerable group<sup>2</sup> such as children, orphans the elderly, children living with HIV, patients with chronic illnesses and people with disabilities should enjoy the full protection provided for under the constitution. Cash grants should be used to ensure their income is above the poverty line. The proposed amendments directly or indirectly supports all the goals of the NDP.