

REPUBLIC OF KENYA



PARLIAMENT

THE SENATE

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

TWELFTH PARLIAMENT- THIRD SESSION

REPORT ON THE CARE AND PROTECTION OF CHILD PARENTS BILL,
2019 (SENATE BILLS NO. 11 OF 2019)

CLERK'S CHAMBERS
THE SENATE
PARLIAMENT OF KENYA
NAIROBI

NOVEMBER, 2019

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PREFACE

1. The Standing Committee on Labour and Social Welfare was constituted in December, 2017 during the First Session of the Twelfth (12th) Parliament pursuant to the provisions of Senate standing order 218.

The Committee is mandated to consider all matters related to: *manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare; national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.*

2. In executing its mandate, the Committee oversees -

- a) Ministry of Labour and Social Protection;
- b) Ministry of Public Service, Youth and Gender Affairs; and
- c) Ministry of Sports and Heritage.

3. The Committee comprises the following Members:

1. Sen. Sakaja Johnson Arthur, CBS, MP	-Chairperson
2. Sen. (Dr.) Milgo Alice Chepkorir, MP	-Vice Chairperson
3. Sen. Madzayo Stewart Mwachiru, MP	-Member
4. Sen. Poghio Samuel Losuron, EGS, MP	-Member
5. Sen. (Dr.) Mwaura Isaac, CBS, MP	-Member
6. Sen. Cherarkey Samson Kiprotich, MP	-Member
7. Sen. Makori Beatrice Kwamboka, MP	-Member
8. Sen. (Dr.) Gertrude Musuruve Inimah, MP	-Member
9. Sen. Petronila Were Lokorio, MP	-Member

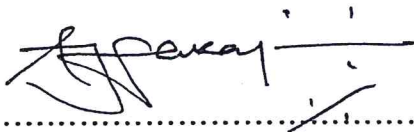
ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Committee wishes to acknowledge the time and considerable effort made by all parties who volunteered information before it. I also wish to express my gratitude to my colleagues for their thoughtful input and engaged contributions to the matter. Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating all the actions that led to the production of this report. The Committee also wishes to recognize the commitment and dedication of the staff of the Committee that made the work of the Committee and the production of this report possible.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 143 (1), to present and lay on the table of the House the report of the Committee on Labour and Social Welfare on the Care and Protection of Child Parents Bill, 2019 (Senate Bill No. 11 of 2019) for consideration by the House.

SIGNED.......... DATE *Wednesday*.....*23/10/19*.....

**SEN. JOHNSON SAKAJA.
CHAIRPERSON,
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE.**

1.0 INTRODUCTION

Mr. Speaker Sir,

The Care and Protection of Child Parents Bill, 2019 (Senate Bills No. 11 of 2019) originated in the Senate and was gazetted on 11th June, 2019. The Bill was sponsored by Senator Beatrice Kwamboka Makori.

The Bill was read a first time in the Senate on Tuesday, 10th September, 2019 and committed to the Standing Committee on Labour and Social Welfare pursuant to Standing Order 140(1).

Pursuant to Article 118 of the Constitution and Standing Order No. 140 (5), of the Senate Standing Order, the Standing Committee of the Senate on Labour and Social Welfare invited the public to make oral and written submission of their views on the Bill on Thursday, 26th September, 2019 through advertisements in the Newspapers dated 23rd September, 2019. This was to take into account the views and recommendations of the public while preparing this report.

The bill seeks to provide a legal framework for the care and protection of child parents within the counties.

The Committee at its meetings held on 26th September, 2019, 3rd October, 2019 and 23rd October, 2019 deliberated on the Bill and considered the submissions from the public hearing and stakeholders and recommended that the Care and Protection of Child Parents Bill, 2019 be adopted subject to the amendments contained in Annex I to be moved at the Committee Stage.

The Bill has been processed by the Committee and is now ready for presentation to the House for consideration.

2.0 OVERVIEW OF THE CARE & PROTECTION OF CHILD PARENTS BILL (SENATE BILLS NO. 11 OF 2019)

2.1 Overview of the Bill

The Bill provides a legal framework for the care and protection of child parents within the counties. The framework is intended to ensure that an expectant underage girl or a child parent may actualize their right to basic education and at the same time ensure proper care of their children as enshrined in Article 53 of the Constitution which states—

(1) Every child has the right—

(a) to a name and nationality from birth;

(b) to free and compulsory basic education;

(c) to basic nutrition, shelter and health care;

(d) to be protected from abuse, neglect, harmful cultural practices, all forms of violence, inhuman treatment and punishment, and hazardous or exploitative labour;

(2) A child's best interests are of paramount importance in every matter concerning the child

Currently, the school re-entry policy that was passed in 1994 for pregnant girls and the National School Health Policy, 2009 have failed to address the care, protection and reintegration of child parents back to school and society. This Bill therefore seeks to provide a legal framework—

(a) for the protection of the rights set out under Article 53(1)(c) and (d) of the Constitution in relation to child parents;

(b) through which the expectant girl child and a child parent can realise their right to education and at the same time, ensure the care and protection of his or her child; and

(c) of standards for the establishment and regulation of care centres for child parents by county governments.

2.2 Key provisions of the Bill

The Bill prohibits schools from expelling students who become pregnant, disallows compulsory pregnancy tests on girls and requires schools to ensure harassment-free environments for child parents.

In particular, the Bill provides, among other things—

- (a) obligations of the National Government with respect to child parents that include through the National Council for Children's Services established under section 30 of the Children Act to—
 - (i) put in place mechanisms to establish a comprehensive capacity building programme for child parents to ensure they practice responsible family life; and
 - (ii) establish, in consultation with the Cabinet Secretary responsible for matters relating to education, non-discriminatory enrolment, back to school or other training programmes;
- (b) obligations of a county government with respect to the care of neglected children which include collaboration with the County Education Board and the county executive committee member responsible for education in—
 - (i) establishing programmes to ensure that expectant children and child parents have access to education services; and
 - (ii) formulating and implementing county specific programmes for the integration of expectant children and child parents into society and institutions of basic education within the respective County; and
 - (iii) establishing child care centres for child parents for child parents who intend to enrol back to school and who do not have access to support services for the care of their child;
- (c) role of national and county governments in the prevention of school drop out by formulating policies and developing programmes and interventions for the re-admission and integration of children who have dropped out of school by reason of pregnancy;
- (d) rights of pregnant and parenting students be readmitted or enrolled into an institution of basic education;

(e) management of teenage pregnancies in school; and

(f) obligations of parents and guardian.

The Bill further provides for transition of existing care centres that are currently registered under the Children's Act, 2001 to be considered as registered under the Bill.

2.3 Consequences of the Bill

The Bill provides a framework for the implementation of the right to education for all children including child parents. It imposes an obligation on the National and county governments to put mechanisms in place and establish programmes that ensure that not only is this right realised in relation to child parents, but also ensure that the rising cases of child pregnancies and the dropping out of school by child parents is curbed.

In addition, the Bill imposes an obligation on the county governments to establish care centres for child parents and sets out the standards that a county government or any other person who intends to establish a care centre is required to meet. The Bill empowers the county governments to provide a county specific framework for the registration, licensing, monitoring and inspection of the care centres.

3.0 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

The Committee scheduled a public hearing on 26th September, 2019 on the Care and Protection of Child Parents Bill, 2019 and received oral and written submissions from Ministry of Labour and Social Protection, United Nations Children’s Fund (UNICEF), the Centre for Study of Adolescence, the Council of Governors and the County Assemblies Forum as detailed below.

3.1 Submission by the Ministry of Labour and Social Protection

(a) PART II- CARE OF EXPECTANT MOTHERS AND CHILD PARENTS

- (i) Sections 4 and 5 which fall under this part outlines the obligation of the National Council for Children’s Services (NCCS) and the obligation of the County Government with respect to the Child Parents and care of neglected children.
- (ii) The functions of NCCS are well spelt out in Section 32 of the Children’s Act, 2001. The section gives the Council overall mandate to exercise general supervision, and control over the planning, financing and coordination of child rights and welfare activities and to advise the government on all aspects thereof.
- (iii) In crafting section 4(3) the Bill ignores the mandate of Director Children’s Services and specifically section 38 (1) (e) (f)and (g). The Bill attributes some of these mandates to the NCCS and the County Government thus duplication of roles.
- (iv) This part of the Bill creates two centers of power with regard to the NCCS and the County Executive Committee member. In the Bill, the roles of NCCS is complementary whereas the County Executive Committee Member’s role is mandatory thus negating the provisions of the Children Act which confers powers to NCCS on matters concerning children.

(b) PART III SCHOOL DROPOUT PREVENTION AND RE-ENTRY PROGRAMMES

- (i) The part running from Section 6 to Section 15 articulates issues around education of the child mothers, identification of factors leading to child pregnancies and school drop-outs and programmes addressing the same.
- (ii) The Basic Education Act 2013 and the regulations ably handles most of what this part of the bill purport to advance.
- (iii) Section 34 (2) states that, “A school or person responsible for admission shall not discriminate against any child seeking admission on any ground, including ethnicity, gender, sex, religion, race, colour or social origin, age, disability, language or culture”.
- (iv) Further, the principles of the National Education Board as provided in the Act provides for non-discrimination of children in accessing education on any ground whatsoever. One of the key roles of the Board under section 5(2)d & e states that the board will put measures in place to ensure all children attend and remain in school to complete basic education requirement and where applicable to transition to the next level of education especially for the vulnerable and marginalized children.
- (v) The Basic Education Act 2013 adequately caters for the protection of the would-be child mothers. Further legislation may only lead to more confusion in addressing the plight of these vulnerable children

(c) PART IV – ESTABLISHMENT OF CARE CENTRES

- (i) The whole of this part duplicates what is already in existence in the Children Act 2001 Section 58 and the Charitable Children Institution Regulation of 2005 with regard to the establishment and Management of Charitable Children Institutions
- (ii) Though the intention of creating specific care centers for children borne of child parents may be noble, however, the initiative does not address the root cause of child pregnancy. The centers if established may end up

promoting the vice. Though the Bill stresses non-discrimination of the targeted beneficiary children, by establishing Care Centers specifically for this category of children, discrimination (labelling) shall be inevitable.

(d) GENERAL OBSERVATIONS AND RECOMMENDATION

- (i) The Bill does not provide the process of admission of the targeted children to the proposed care centers which is against the existing practice where children have to be admitted in childcare facilities through care orders by a court of law. In the absence of this, children are likely to be exposed to abuse, neglect and trafficking.
- (ii) Secondly, the Bill contradicts the spirit of our constitution in Article 45 which states; the family is the natural and fundamental unit of society and the necessary basis of social order and shall enjoy the recognition and protection of state. Instead of strengthening the family unit to adequately take care of children as per article 53 of the constitution which obligates the parents to protect children, the Bill promotes separation. In the absence of a caregiver and child mother is to be enrolled back to school, other alternative forms of care which include but not limited to kinship care, guardianship, Foster care and Kafaalah should be preferred.
- (iii) The Bill does not promote family-based care for children in need of care and protection and only elevates institutionalization which should only come as a last resort. In so doing, this Bill contradicts the policy direction of the Ministry whose focus is family-based care and deinstitutionalization.
- (iv) There are already institutions in place including Government run Children Rescue Centers and Charitable Children's Institutions that take care of children as young as one day old. There are estimated 45,000 children living in 854 privately owned Children's Institutions - overseen by the National Council of Children Services assisted by the Department of Children's Services. In addition, there are estimated 1,000 -1,200

children living in 30 Government-run institutions, including rehabilitation, remand, reception and rescue centers.

- (v) The existing legal framework on institutional care is adequate but not fully implemented. Instead of coming with further legislations as the Bill proposes, the implementation of the existing legal provisions and policies should be strengthened.
- (vi) The Children Act 2001 in sections 40 to 45 recognizes the role of Local authorities, the precursor of the County Government. These provisions if implemented shall go a long way in addressing the plight of vulnerable children including the category targeted by the Bill.

3.2 Submission by the Centre for Study of Adolescence

- (a) parenting responsibility seems to be heavily put on one child parent instead of putting emphasis on both child parents; and
- (b) human sexuality education has not been clearly identified as a strategy/program to prevent teen pregnancy.

3.3 Submission by the United Nations Children's Fund (UNICEF)

- (a) it notes the Government of Kenya's policy on upholding and promoting the right of the child to parental care as per the Constitution of Kenya Article 53 (e) and the promotion of family-based alternative care as outlined in the national Guidelines for the Alternative Family Care of Children;
- (b) the Ministry of Labour and Social Protection has reiterated the Government's intention to enforce the prohibition of registration of new charitable children's institutions, affirming the Government's intention to scale up the de-institutionalization in favour of progressively removing children from institutions and promotion of family-based care;
- (c) the national guidelines and policies also address the concerns raised by the UN Committee on the Rights of the Child regarding the large number of children in care institutions in Kenya, contrary to the Government's stated policy to prioritize family-based care;

- (d) the promotion of family-based care options and a progressive move from an over reliance on institutional care reflect international good practice, as outlined in the UN Guidelines on Alternative Care;
- (e) while residential care facilities and family-based care complement each other in meeting the needs of children, there is extensive evidence gathered over the last eighty years that clearly illustrate the potential harm for children growing up in institutions;
- (f) county level legislation that relates to care of children, should promote family-based care in line with the national guidelines and policies as well as the government's commitment to regional and international conventions;
- (g) eighty years of research has demonstrated the potentially severe negative impact of putting children in residential/children homes for care and protection.

3.4 Submission by the County Assemblies Forum

The County Assemblies Forum supported the Bill and called for harmonisation of the definition of the term “child parent” with the Constitution’s definition. It also called for allocation of more funds to the counties.

Their submissions and the Committee Observations and Recommendations are outlined in the matrix below -

STAKEHOLDER VIEWS ON THE CARE AND PROTECTION OF CHILD PARENTS BILL, 2019
(SENATE BILLS NO. 11 OF 2019)

No	CLAUSE	STAKE HOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
1.	Arrangement of clauses	Centre for Study of Adolescence	Replace students with learners under clause 8	No justification	Align with the terms used in the Basic Education Act and Children Act.
2.	1	Council of Governors	On the definition of a "Council" – Amend section 31 of the Children Act on the representation from county governments by inserting the following new paragraph— <i>(j) two representatives nominated by the Council of Governors</i>	Given the obligations of the county governments under the Bill, there is need to amend the Children Act to include representation of county governments in the composition of the Council.	Rejected. There is no need for piecemeal amendments.
3.	2	Ministry of Labour and Social Protection	Align the definition of the term "child and parent" to the Constitution.	The Bill defines Child Parents as a person who is 20 years of age or below and who is a parent to a child. This conflicts with the universally accepted definition of a child. Further, UNCRC defines a child as any human being under the age of 18 years. The Constitution (Article 260) defines a child as an individual who has not attained the age of 18 years.	Allowed. Align the Bill to the Constitution.

No	CLAUSE	STAKE HOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
4.	4	Centre for Study of Adolescence	Amend clause 4— (i) in paragraph (a) by replacing family life with parenting; (ii) in paragraph (d) by replacing students with learners; (iii) in paragraph (h) (ii) by replacing students with learners.		Approved the replacement of family life with parenting. Align the terms used with the Basic Education Act and the Children Act.
5.	5	Council of Governors	Amend the introductory part of paragraph (f) by inserting the following words immediately before the word “establish” — <i>“Collaborate with the Council”</i>	There is need for an integrated approach in the establishment of the centres so as to guarantee utmost care of child parents.	Rejected. Countries should be capacitated to deal with such issues.
6.	6 & 7	Centre for Study of Adolescence	Amend subclause (1)— (i) by inserting the word “comprehensive” immediately before the words “information and education” appearing in paragraph (d); (ii) by inserting the words “sexual reproductive health” immediately before the words “entrepreneurial skills” appearing in paragraph (e); (iii) by replacing family life with parenting; and (iv) replacing family with children replacing children with learners wherever they appear. In clause 7 (2) by inserting the word		Align the Bill with the Basic Education Act and Children Act. Delete the word “entrepreneurial” in clause 6 (1) (e). Disallow the amendment to clause 7 (2) as the amendment is trivial.

No	CLAUSE	STAKE HOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
7.		Council of Governors	<p>“uniquely before the word “confidentially”</p> <p>Amend sub-clause (2) by deleting the words “encouraging positive sexual behaviour amongst children in the institution” appearing immediately after the words “pregnancies and” in paragraph (a) and substituting therefor the following new words—</p> <p>“prioritize sex education”</p>	Sex education is a holistic education and therefore should be made a priority so as to instil correct concepts of sex to children as early as possible and hence address issues of teenage pregnancies.	Amend the paragraph to read— (a) <i>put in place programmes with the aim of preventing teenage pregnancies;</i>
8.	10	Council of Governors	Introduce a new clause immediately after clause 10 (1) to read as follows— <i>(1a) The principal of the institution shall inform the parent or guardian of a child's pregnancy before any measure is taken.</i>	The involvement of parents or guardians in the management of teenage pregnancies in school before the head of the institutions can decide to refer the children to health institutions is necessary. In addition, counselling of the parents or guardians and children should be prioritised	Approved. A parent should always be the first point of contact.
9.	11	Council of Governors	Amend subclause (3) to read— <i>In circumstances where the welfare of the child or of other children in the institution of basic education is considered to be at risk, the institution shall put in place measures to maintain confidentiality.</i>	In order to maintain the dignity of a child, every case of a child who is pregnant ought to be treated with confidentiality.	Approved. This also stops stigmatisation.
10.	12	Centre for Study of	We recommend unconditional readmission		Rejected

No	CLAUSE	STAKE HOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
		Adolescence	of the learner to school.		
		Council of Governors	Amend subclause (2) to read as follows— <i>The National Education Board in consultation with the County Education Boards shall issue guidelines for the conditions for the re-admission of children into institutions of basic education under subsection (1).</i>	Considering that implementation of the guidelines shall be at the county level, it is necessary that development of the same is done in collaboration with the County Education Boards.	Rejected. Public participation is enshrined in the Constitution as one of the values and principles of governance.
11.	13	Centre for Study of Adolescence	We recommend the deletion of the part on producing medical report to ensure unconditional readmission.		Rejected. This is appropriate.
12.	14	Centre for Study of Adolescence	We recommend the reduction of the lapse period to six months or at the beginning of the next school/academic year.		Delete subclause (2). The matter should be treated on a case to case basis.
13.	15	Centre for Study of Adolescence	In subclause (1) © insert the words “human sexuality education” before the words “and life skills”. Insert the words “administration, teachers and support staff” before the words “within the school” appearing in subclause (2).		Rejected. Already catered for under strategies.
14.	23	Council of Governors	Amend subclause (2) paragraph (a) to read— <i>(a) issues to the licensee, a written notice of at least fourteen days of the intention to revoke the license.</i>	This is to avoid ambiguity, the clause should expressly state that any notice shall be in writing.	Allowed. This will help in streamlining licensing

4.0 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

4.1 Committee Observations

The Committee noted that the Ministry of Labour and Social Protection and United Nations Children's Fund (UNICEF) had very strong reservations against the bill due to its institutionalizing nature given that the global and national trend is against institutionalizing children but providing for them in alternative family based care options. The Committee also observed that the Ministry of Labour and Social Protection had announced the stopping of registering of any new children homes and establishments.

4.2 Committee Recommendations

The Committee recommends that the Care and Protection of Child Parents Bill, 2019 (Senate Bill No. 11 of 2019) be passed with the following amendments to take care of the unique group of vulnerable children who cannot be handled like other vulnerable children -

1. **THAT** the Bill be amended to align the terms used in the Bill with the terms used in the Children Act, 2001 and the Basic Education Act, 2013.
2. **THAT** clause 2 of the Bill be amended by deleting the definition of the term "child parent" and substituting the following new definition—

"child parent" means a person who has not attained the age of eighteen years and who is a parent to a child;

3. **THAT** Clause 6 (1) (e) be amended by deleting the word "entrepreneurial" before "skills"
4. **THAT** clause 7 of the Bill be amended in subclause (2) by deleting paragraph (a) and substituting the following new paragraph—

(a) put in place programmes with the aim of preventing teenage pregnancies;

5. **THAT** clause 10 of the Bill be amended by inserting the following new subclause immediately after subclause (1)—

(1a) The principal of the institution shall inform the parent or guardian of a child's pregnancy before any measure is taken.

6. **THAT** clause 11 of the Bill be amended by deleting subclause (3) and substituting the following new subclause—

(3) In circumstances where the welfare of the child or of other children in the institution of basic education is considered to be at risk, the institution shall put in place measures to maintain confidentiality.

7. **THAT** clause 14 of the Bill be amended by deleting subclause (2).

8. **THAT** clause 23 of the Bill be amended in subclause (2) by deleting paragraph (a) and substituting the following new paragraph—

(a) issues to the licensee, a written notice of at least fourteen days of the intention to revoke the license;

9. **THAT** the Bill be amended by incorporating the provisions of National Guidelines for the Alternative Family Care of Children in the Bill.

SPECIAL ISSUE

Kenya Gazette Supplement No. 81 (Senate Bills No. 11)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2019

NAIROBI, 11th June, 2019

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**THE CARE AND PROTECTION OF CHILD
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THE CARE AND PROTECTION OF CHILD
PARENTS BILL, 2019

A Bill for

AN ACT of Parliament to provide a framework for the care and protection of child parents within the Counties; to provide a framework through which an expectant girl child or a child parent may actualise their right to basic education and at the same time ensure the care of their children; and for connected purposes.

ENACTED by the Parliament of Kenya, as follow—

PART I—PRELIMINARY

1. This Act may be cited as the Care and Protection of Child Parents Act, 2019.

Short title.

2. In this Act—

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for matters related to children;

“child care” means services that have as their primary purpose the care and supervision of children as defined under this Act;

“child parent” means a person who is twenty years of age or below and who is a parent to a child;

“care centre” means facility that provides child care services, but does not include a family home;

“Council” means the National Council for Children’s Services established under section 30 of the Children Act; and

“county executive committee member” means the county executive committee member responsible for matters relating to social services.

No. 8 of 2001.

3. The object of this Act are to—

Objects

(a) provide a framework for the protection of the rights set out under Article 53(1)(c) and (d) of the Constitution in relation to child parents;

(b) provide a framework through which the expectant girl child and a child parent can realise their right to education and at the same time, ensure the care and protection of his or her child; and

- (c) provide a framework of standards for the establishment and regulation of care centres by county governments.

**PART II – CARE OF EXPECTANT CHILDREN
AND CHILD PARENTS**

4. (1) The national government shall, to the extent of its constitutional mandate, promote the care and protection of expectant children and child parents.

Obligations of the National Government with respect to child parents.

(2) In ensuring that the National Government fulfils its obligations under subsection (1), the Council shall —

- (a) put in place mechanisms that will help establish a comprehensive capacity building programme for child parents to ensure they practice responsible family life;
- (b) establish, in consultation with the Cabinet Secretary responsible for matters relating to education, non-discriminatory enrolment, back to school or other training programmes and initiate necessary strategies that will identify persons within this group to benefit from the programmes;
- (c) identify, in consultation with personnel of institutions of basic learning and such other institutions as it may consider appropriate, children who are pregnant and who are in need of interventions to enable them realise the rights conferred on a child under Article 53 of the Constitution;
- (d) address any educational and related barriers faced by pregnant and parenting students; and
- (e) guarantee funding and sustainability of the initiative and other child welfare programmes aimed at benefiting child parents.

(3) In performing its functions under subsection (1), the Council shall —

- (a) collaborate with the relevant public entities in the establishment of mechanisms that ensure that expectant children and child parents have access to community and State based care support systems;
- (b) collaborate with the county governments and relevant State and private agencies in carrying out

activities for the provision of such pre-natal, post-natal and other health services, education and other support services to expectant children and child parents within the respective counties;

(c) conduct research, analysis of data and disseminate information on the welfare of expectant children and child parents in the Republic; and

(d) collaborate with the county governments in —

(i) establishing a mechanism for the care of expectant children and child parents to ensure that the rights conferred on a child under Article 53 of the Constitution are attained with respect to such children; and

(ii) expanding and strengthening the educational framework and the community and family based care and support systems for the care of expectant children and child parents; and

(e) perform such other functions as may be necessary for the implementation of this Act.

(4) The Council may, for the purpose of subsection (3), conduct inquiries, including public inquiries, into any matter relating to the welfare, care and protection of expectant children and child parents within a County.

5. Each county executive committee member shall —

(a) put in place management plans and strategies for the delivery of social services and child care support services to expectant children and child parents within the County;

(b) collaborate with the County Education Board and the county executive committee member responsible for education in establishing —

(i) programmes to ensure that expectant children and child parents have access to education services; and

(ii) academic support programmes that ensure that students with extended absences for reasons related to pregnancy and parenting are able to enrol back into school or to such other education facility in order to access education services;

Obligations of a county government with respect to the care of neglected children.

- (c) formulate and implement county specific programmes for the integration of expectant children and child parents into society and institutions of basic education within the respective County;
- (d) design, in collaboration with the Council and within the policy framework established by the national government, county specific programmes for the prevention of child pregnancies and programmes for the support, mentorship and development of expectant children and child parents;
- (e) put in place and implement in consultation with the relevant public entities, interventions for the care, protection and alleviation of the plight of expectant children and child parents –
 - (i) with special needs or requiring special care and attention within the County; and
 - (ii) living in conditions of acute hardship including street children and children who abuse drugs or who suffer any form of child abuse;
- (f) establish such child care centres and implement such programmes as may be necessary for the provision of child care services to child parents who intend to enrol back to school and who do not have access to support services for the care of their child; and
- (g) collaborate with the Council in the provision of such technical assistance, information and facilities as may be necessary to ensure the efficient delivery of social services with respect to expectant children and child parents within the county.

**PART III — SCHOOL DROPOUT PREVENTION
AND RE-ENTRY PROGRAMMES**

6. (1) The National and county governments shall –
- (a) formulate policies for the re-admission and integration of children who have dropped out of school by reason of pregnancy;
 - (b) put in place programmes and interventions–

Role of national and county governments in the prevention of drop out.

- (i) for the identification of factors leading to child pregnancies and the dropping out of institutions of basic education, by children; and
 - (ii) that prevent the dropping out of children from institutions of basic education; and
 - (c) put in place programmes for the assistance and education of vulnerable children and children in areas identified as having a high dropout rate owing to child pregnancy;
 - (d) collaborate with the relevant stakeholders in the establishment of dropout prevention programmes that provide information and education to build upon the children's own knowledge, skills, values and attitudes; and
 - (e) put in place programmes for the capacity building of child parents that aim at imparting skills including entrepreneurial skills to ensure that they practice responsible family life and that they are able to support their family.
- (2) Prevention programmes established under subsection (1) shall —
- (a) involve the parents and guardians of the children in the governance of institutions of basic education and in the development of the code of conduct of the institution and strategies to prevent teenage pregnancies;
 - (b) encompass the provision of relevant information and support for the prevention of teenage pregnancies;
 - (c) include the sensitisation of children and their parents on issues that have a negative impact on the school attendance of children;
 - (d) create linkages between institutions of basic education and the communities they serve with the aim of encouraging school attendance, sensitization and collaboration on issues affecting school attendance; and
 - (e) promote healthy lifestyles through positive role modelling and encouraging children to participate in activities and advocacy and awareness programmes that have a positive impact and encourage a healthy lifestyle.

7. (1) Each institution of basic education shall develop a management plan for the support of any child who falls pregnant while in school.

Management plans.

(2) The management board of an institution of basic education shall –

- (a) put in place programmes with the aim of preventing teenage pregnancies and encouraging positive sexual behaviour amongst children in the institution;
- (b) treat each case of a child who falls pregnant while in an institution of basic education confidentially and professionally;
- (c) adopt an inclusive approach that involves the support of the child and parents or guardians of the affected child or children who are at risk of dropping out of school; and
- (d) in putting in place interventions or responses in situations of child drop out, ensure that the educational interests of the child are upheld.

8. (1) Every child who —

Rights of pregnant and parenting students.

- (a) while in an institution of basic education, falls pregnant and as a result, drops out of school; or
- (b) is of school going age but falls pregnant while out of school, shall have the right to be readmitted or enrolled into an institution of basic education.

(2) Every child under subsection (1) shall have the right to —

- (a) remain in school and to receive the necessary support to continue with their education and participate fully during their pregnancy or as a parent student;
- (b) fully participate in educational programs and activities of the institutions of basic education; and
- (c) guidance and support to enable the child to return to her regular education programme after delivery and after the baby is weaned.

9. (1) The National and county governments shall –

Role of governments in ensuring re-admission of drop out children.

- (a) develop and implement a plan for identifying and re-engaging –

- (i) children who have dropped out of institutions of basic education owing to teenage pregnancies; and
 - (ii) vulnerable children who have dropped out of, or who are likely to drop out of institutions of basic education owing to factors beyond their control, in order to ensure that they are readmitted and integrated into the education system;
-
- (b) establish partnerships with community based organisations, education providers and other relevant stakeholders in order to –
 - (i) provide a broad range of educational options and services for children who drop out of school under this Part; and
 - (ii) counsel children in schools on adolescent sexuality, responsible behaviour and the consequence of child pregnancies; and
 - (c) ensure that the education system in place takes into account the best interests of children who fall pregnant while in school.

(2) In this section, a “vulnerable child” means a child who faces circumstances that increase the likelihood of dropping out of an institution of basic education owing to child pregnancy.

10. (1) Where a child falls pregnant or a teacher or person in authority within the school has a reason to believe that a child within an institution of basic education is pregnant, the matter shall be referred to the principal of the institution.

Management of
teenage
pregnancies in
school.

(2) Where the principal of the institution of basic education is of the opinion that child may be pregnant, the principal shall refer the child to a health institution for a medical examination and such other health examination as may be necessary to determine the status of the child.

(3) A child shall not be compelled to undergo a medical examination where she refuses to undergo the examination.

(4) Where a child refuses to undergo a medical examination under subsection (3), the institution of basic education shall not be held liable for any consequences that

may arise from the failure by the child to undergo the medical examination.

(5) The health professionals under subsection (2) shall provide the child with pre and post-natal health information and such other information as may be necessary, including any risks that may arise, to ensure the health and best welfare of the child is maintained.

(6) ~~The school shall provide the necessary counselling services to the pregnant child and to her parents or guardians regarding the management of the pregnancy, the provision of support services to the child and the parents to ensure the child's emotional stability and wellbeing the child during and after pregnancy and the importance of continuing with education after delivery.~~

11. (1) Subject to subsection (3), every case of a child who falls pregnant which in an institution of basic education shall, be handled by the management of the institution of basic education in a manner that ensures confidentiality.

Confidentiality.

(2) The management of an institution of basic education shall not inform the parents or guardians of a child who while in the institution, falls pregnant unless the child has been consulted on the matter.

(3) The provision of subsection (1) shall not apply where the welfare of the child or of other children in the institution of basic education is at risk.

12. (1) Every child who drops out of school by reason of pregnancy shall, subject to the provisions of this Act, be admitted back into an institution of basic education unconditionally and shall be allowed to join at the level at which she left prior to dropping out.

Right to re-admission.

(2) The National Education Board shall issue guidelines for the conditions for the re-admission of children into institutions of basic education under subsection (1).

13. (1) Before returning to school, a child shall produce a medical report declaring that she is fit to resume classes.

Re-admission.

(2) An institution of basic education shall ensure that the rights of a newly born baby are protected and shall not readmit a child to school unless it is satisfied that proper

arrangements have been made for the care and safety of the child.

(3) An institution of basic education shall not discriminate against a child who falls pregnant while in school or who is readmitted in school and shall put in place measures to ensure the re-integration of the child back into the school.

14. (1) A parent or guardian of a child who falls pregnant shall not be discharged from their responsibilities regarding the pregnant child and shall collaborate with the institution of basic education in supporting and monitoring the health of the child and ensuring that the child continues with her education after delivery and the baby is weaned.

Obligations of parents and guardians.

(2) For the purposes of subsection (1), a child shall not be re-admitted to the institution of basic education unless a period of twelve months has lapsed from the date the child delivers the baby.

15. (1) The management of an institution of basic education shall—

Obligations of the institution of basic education.

- (a) allow a child who falls pregnant while in school to continue with classes for as long as possible prior to delivery;
- (b) counsel the child and her parents or guardians on the importance of ensuring good outcome of the pregnancy by attending ante-natal clinic and ensuring safe delivery, and the possibilities of continuing with education after delivery;
- (c) provide academic support, parenting and life skills classes and strategies to prevent future unplanned pregnancies; and
- (d) assist pregnant and parenting students to gain access to affordable child care facilities.

(2) The management of an institution of basic education shall not discriminate against a child who falls pregnant while in school and shall put in place, enforceable rules and such other mechanisms to ensure that the other children within the school do not mistreat or in any way discriminate against the child.

(3) The management of an institution of basic education shall not exclude a child under this part from any programmes of the school or force the child to attend

different programs from those of her peers only for the reason of the child being pregnant.

(4) A child who falls pregnant while in school shall be given an opportunity to make up for any missed classes or examinations in the case of pregnancy-related absences.

16. Where an institution of basic education refuses to re-admit a child under this Part, the principal and each member of the management board of the institution ~~commits an offence and shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.~~

Offence.

PART IV – ESTABLISHMENT OF CARE CENTRES

17.(1) A county government may establish and maintain such care centres as it may consider necessary for the care of children of not more than three years of age.

Establishment of care centres.

(2) A county government may, for the purposes of sub-section (1), establish care centres in, or within the vicinity of an institution of basic education in order to ensure access to such facilities by a child parent.

(3) A person shall not establish or manage a care centre unless the centre is registered and a licence issued in accordance with the provisions of this Act.

(4) The provisions of subsection (3) shall not apply with respect to a care centre that is established by a county government.

18. A care centre established under this Act may render services for the care of children who are not more than three years and who are born to—

Services rendered in a care centre.

- (a) child parents who intend to resume with their education and who have no access to care services; or
- (b) such other persons within the county who have no person to care for the child or access to child care services.

19. In establishing a care centre, a county government shall ensure that the –

Requirements in relation to a care centre.

- (a) premises of the care centre meet the requirements set out under this Act and prescribed under the relevant county legislation;

- (b) design of the care centre premises allows for adequate supervision of children;
- (c) day care services delivered in the care centre are affordable;
- (d) care centre is accessible, taking into account the needs of a child and any special needs that a child may have;
- (e) children cared for in the care centre will not be exposed to any undue threat to their health or safety arising from the nature of the premises or their environs;
- (f) personnel within the care centre are qualified to provide day care services and handle any illnesses and emergencies that may arise in relation to a child cared for in the care centre; and
- (g) care centre is equipped with suitable equipment for the delivery of child care services as may be prescribed by the county executive committee member.

20. (1) A person shall not own or operate a care centre unless—

- (a) the care centre is registered in accordance with this Act; and
- (b) such person is issued with a licence to operate the care centre under this Act.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

21. (1) A person who intends to establish a care centre shall make an application to the county executive committee member in the prescribed form for registration and the issuance of a licence to operate the care centre.

(2) Legislation by each county government shall set out the —

- (a) criteria for the registration of care centre within the respective county;
- (b) information required to be submitted by an applicant for registration;

Requirement for registration and licensing of a care centre.

Registration of care centres and licensing of applicants by a county government.

- (c) process of determination of an application for registration of a care centre;
- (d) the conditions for the issuance of a licence under this Act;
- (e) the grounds for and the process of rejecting an application or cancelling a licence issued under this Act; or
- (f) the process of issuance of a licence to an applicant for the management of a care centre; and
- (g) process of application for the renewal of licences, de-registration and revocation of a licence issued to an applicant under this Act.

22. (1) An application for registration and licencing shall undertake and submit, together with the application for registration under section 21, a location assessment report setting out evidence of the steps taken to ensure that the premises used for the purposes of the care centre are appropriately and suitably located.

Location
assessment of
intended care
centre.

(2) A location assessment report shall contain the following information—

- (a) whether the premises are suitably located so that children cared for in the care centre are —
 - (i) effectively safeguarded; and
 - (ii) able to access services to meet the needs identified for their care;
- (b) accessibility of the care centre and distance from institutions of basic education within the county;
- (c) whether there are environmental factors that would represent a hazard to children within the care centre; and
- (d) such other criteria as the county executive committee member shall determine.

(3) A person who is licensed under this Act shall undertake a location assessment to review the appropriateness and suitability of the location of the premises at least once in every four calendar years.

23. (1) The county executive committee member may, subject to the provisions of section 24, cancel a licence issued to an applicant under this Act in accordance with regulations made under subsection (4).

Cancellation of a
licence.

(2) The county executive committee member shall not cancel a licence under subsection (1) unless the committee member—

- (a) issues to the licensee, a notice of at least fourteen days of its intention to revoke the license; and
- (a) grants the licensee, an opportunity to be heard on the revocation.

~~(3) The county executive committee member shall cancel the licence issued to an applicant in relation to, and de-register, a care centre which has ceased to be a care centre or which has been closed down.~~

(5) County legislation shall prescribe the grounds for, and the process of, cancelling a licence issued to a person to manage a care centre under this Act.

24. (1) A county executive committee member shall, before cancelling the licence issued to a person to manage a care centre under this Act issue to the licensee a compliance notice in the prescribed form.

Notice of non-compliance.

(2) A compliance notice issued under subsection (1) shall—

- (a) be in writing;
- (b) notify the licensee of the non-compliance and the steps required to be undertaken in order to comply; and
- (c) inform the licensee of the time period within which the manager is required to comply with the notice.

(3) The county executive committee member may, upon request by the licensee and, where there are sufficient grounds shown by the licensee, extend the period of compliance for such period as the committee member may consider necessary to ensure compliance.

25. (1) Where a licensee intends to close down a care centre for any other reason other than the de-registration of the care centre, the licensee shall —

Closure of a care centre.

- (a) inform the county executive committee member of the intention to close down the care centre and submit a report to the committee member containing information regarding—

- (i) the children that have been cared for in the care centre;
- (ii) the management and persons employed in the care centre;
- (iii) any investigations or cases that may have been carried out or instituted against the care centre or that are pending in relation to the care centre; and

(iv) such other information as the county executive committee member may require.

(2) A licensee shall not close down the care centre unless the licensee has applied for and obtained the approval of the county executive committee member in the prescribed form.

(3) The county executive committee member shall, upon receipt of an application to close a care centre under subsection (2), consider the application within a period of thirty days and approve the application for such closure except where -

- (a) the manager fails to comply with subsection (2); or
- (b) such closure would be against public interest.

26. (1) The licensee under this Act shall, within three months from the end of each financial year, submit to the county executive committee member and the Council, a report on the management of the care centre containing the following information—

- (a) compliance with the standards for service delivery, prescribed in this Act for any other law;
- (b) the average number of children that are cared for on a daily basis in the care centre;
- (c) compliance with principles of sound management systems;
- (d) compliance with the conditions for continued registration; and
- (e) such other information as the county executive committee member may require.

(2) When the manager of a care centre fails to submit a report in accordance with sub-section (1), the county

Submission of reports on the management of a care centre.

executive committee member may revoke the licence issued to the licensee and de-register of the care centre or take such action, as the county executive committee member may consider necessary to ensure compliance.

27. A county executive committee member may establish a committee and appoint such authorized officers as may be necessary for the implementation of the provisions of this Act.

Establishment of committees and appointment of authorised officers.

PART V - CARE OF CHILDREN WITHIN A CARE CENTRE

28. In delivering child care services under this Act, a licensee shall ensure—

Delivery of child care in a care centre.

- (a) that there is established a system for sharing with parents, information on matters that may affect the children cared for in the care centre;
- (b) the protection and promotion of the welfare of each child in the care centre;
- (c) that every child receives personalised care;
- (d) that all children are within the sight and sound of the personnel in the care centre; and
- (e) that each child is provided with the basic necessities including food.

29. A licensee shall ensure that—

Management of a care centre.

- (a) the number of children resident in the care centre at any time shall not exceed the number specified in the licence;
- (b) a child who is not within the age limits specified in the licence is not admitted into the care centre;
- (c) the standards set out in -
 - (i) legislation enacted by the county government pursuant this Act; or
 - (ii) any other legislation applicable to a care centre, issued, are observed in relation to the care centre; and
- (d) the licence is displayed in a conspicuous place in the care centre.

30. The licensee of a care centre shall keep or cause to be kept a register containing all available information on

Records relating to children in a care centre.

the status, health and welfare of a child and such information as relating to the parents of the child as the county executive committee member may prescribe.

31. The licensee of a care centre registered under this Act shall ensure that the following services are provided in the care centre—

Services rendered within a care centre.

(a) continuous care services to children in the care centre;

(b) care and supervision services to children in the care centre who may have special needs and those in need of special care and attention;

(c) counselling and rehabilitation to a child parent who has sought the services of the care centre;

(d) outreach programmes; and

(e) recreational activities.

32. (1) The licensee of a care centre shall—

Role of management of a care centre.

(a) ensure that the premises used for the purposes of the care centre are designed and furnished so as to—

(i) meet the needs of each child; and

(ii) enable each child to participate in the daily life of the care centre;

(b) ensure that any care that is arranged or provided for a child that relates to the child's development;

(c) seek to develop and maintain effective professional relationships with such persons, bodies or organizations as may be appropriate having regard to the range of needs of children to whom the care centre provides care and accommodation;

(d) ensure the provision of quality service in the care centre;

(e) ensure the continuous training of the personnel in the care centre;

(f) apply principles of sound financial management and submit quarterly financial reports to the county executive committee member; and

(g) monitor activities at the care centre in order to deal speedily with any incidents of abuse of the children in the care centre and takes steps to report such incidents to the appropriate authority.

(2) The licensee of a care centre shall ensure that –

(a) the standard of care provided in the care centre is reviewed from time to time to ensure that the obligations with respect to the provision of care in the care centre under this Act are met;

(b) the care is delivered by persons who –

(i) have the experience, knowledge and skills to deliver that care; and

(ii) are under the supervision of a person who is appropriately skilled and qualified to supervise that care; and

(c) there is in place a medical facility within the vicinity of the care centre.

PART VI – INSPECTION AND EVALUATION OF SAFETY IN A CARE CENTRE

33. (1) The licensee of a care centre under this Act shall–

Safety in a care centre.

(a) maintain premises that meet the requirements of the occupational health, safety regulations and building standards;

(b) ensure the welfare and safety of the children within the care centre;

(c) put in place fire fighting equipment, first aid and other emergency equipment and non-prescription medicine as the county executive committee member may prescribe; and

(d) have a list of the contacts of emergency service providers including hospitals, readily available to all members of staff.

(2) In providing the equipment specified under subsection (1)(c), the licensee shall ensure that such equipment is accessible during an emergency.

(3) The equipment and medicine under subsection (1) shall be maintained or kept by a centre in such manner as to

ensure that it is out of the reach of children and ensures that the safety of the children is not compromised.

(4) The county executive committee member shall prescribe minimum standards for the health and safety of children and for a satisfactory environment for the housing of the children in the care centre.

34. (1) The county executive committee member shall, for the purposes of monitoring and evaluating the provision of services by care centres registered under this Act, designate such authorised officers or other county public officers as inspectors as the county executive committee member may consider appropriate.

Appointment of
inspectors.

(2) The County Public Service Board shall, in consultation with the county executive committee member, issue to every inspector appointed under subsection (1) in writing or in such form as the County Public Service Board may determine, a certificate of appointment and authority to act as an inspector.

(3) A person appointed as an inspector under subsection (1) may, at all reasonable times, enter a care centre and—

- (a) enter the care centre and to have access to every part thereof;
- (b) interview any personnel in the care centre;
- (c) inspect, photocopy, print out, or copy onto disk any documents, whether held in electronic or paper form, that the person believes on reasonable grounds to be those of the care centre; or
- (d) remove any document specified in paragraph (c), whether in its original form or as an electronic or paper copy.

(4) Every person exercising any power under this section shall, at the time of inspection, possess the appropriate written authorisation and evidence of identity, and shall produce them to the person in charge of the care centre concerned or, as the case may be, the person having possession or control of the books, records, or accounts concerned—

- (a) on first entering the premises; and
- (b) whenever subsequently reasonably required to do so by the person in charge.

(5) For the purposes of this section, inspection, in relation to any care centre, includes meeting and talking with the children residing in the care centre.

(6) The county executive committee member shall make regulations for the conduct of inspections of care centres under this Act.

35. (1) Every written authorisation issued to an inspector under section 34 shall contain—

Powers of an inspection officer.

- (a) a reference to this section;
- (b) the full name of the person authorised; and
- (c) a statement of the powers conferred on that person by this section.

PART VII - MISCELLANEOUS PROVISIONS

36. A person who is convicted of an offence under this Act for which no penalty is provided is liable to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding two years, or to both.

General penalty

37. (1) The Cabinet Secretary may, in consultation with the Council, make regulations generally for the better carrying out of the provisions of this Act.

Regulations.

(2) Notwithstanding the generality of subsection (1), the Cabinet Secretary may make regulations—

- (a) setting out the standards required to be adhered to by County Governments in the establishment of care centres;
- (b) prescribing the programmes that may be administered in a care centre; and
- (c) prescribing the qualifications required to be held by persons managing, employed in or rendering services in a care centre.

(3) Regulations made under subsection (2) may prescribe different standards and other requirements—

Cap. 2.
No. 23 of 2013.

(a) for services of different types or descriptions rendered in relation to children cared for in a care centre; and

(b) in respect of different types of licences.

(4) For the purposes of Article 94(6) of the Constitution—

- (a) the authority of the county executive committee member to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

38. (1) Subject to subsections (2), (3), and (6), every care centre that, immediately before the commencement of this Act, was registered as a care centre under any other law shall be deemed to be registered as a care centre under this Act, and continues to be so registered for the relevant period of registration subject to such conditions of registration as may be imposed under this Act.

Saving of existing care centres.

No. 8 of 2001.

(2) Despite subsection (1), the county executive committee member may give written notice to the registered owner of a care centre registered under subsection (1), requiring a person who manages that centre to apply for registration under section 21 within three months of the date of that notice, and if the person —

- (a) fails to apply for registration within the specified period, the care centre ceases to be registered under subsection (1) at the end of that period; or
- (b) applies for registration within the required period, the centre shall continue to be a registered care centre under subsection (1) until that application has been determined.

(3) Despite subsection (1), if subsection (4) applies, the county executive committee member may, by written notice to a person who operates a care centre that is deemed to be registered under subsection (1), declare that the care centre is no longer registered under subsection (1) and the notice has effect accordingly.

(4) The county executive committee member may give a notice under subsection (3) only if it is satisfied that the person managing the care centre has failed to comply with —

- (a) this Act on the requirements of registration; or

(b) any conditions for registration.

(5) The county executive committee member may, despite the fact that the care centre concerned does not meet the minimum requirements for registration prescribed under this Act, issue to the person managing the care centre a transitional certificate in such manner as the county executive committee member may prescribe and subject to such conditions as the committee member may impose.

(6) Where the county executive committee member is not satisfied that the conditions specified in a certificate issued under subsection (5) are being complied with, the county executive committee member may, by written notice to the person managing the care centre, cancel the certificate of registration.

(7) Every notice under subsection (3) or subsection (6) shall set out the reasons for the action taken.

(8) Subsections (1) to (6) shall not limit any powers to cancel or suspend the registration of a care centre in the manner prescribed by the county executive committee member.

MEMORANDUM OF OBJECTS AND REASONS**Statement of the Objects and Reasons for the Bill**

In Kenya, a majority of young girls drop out of school due to pregnancy, with a few of them resuming school. This is despite the fact that there is in existence, a school re-entry policy which was passed in 1994 and which aims at ensuring that girls who fall pregnant are admitted back to school and that extensive guidance and counselling is imparted on such children. The National School Health Policy was also launched in 2009 by the Ministry of Education in collaboration with the Ministry responsible for Public Health. This policy also deals with teenage pregnancy and articulates the need for, and the process of, re-admission into school of teenage mothers.

Despite the existence of these policies, a majority of teenage mothers are unable to return due to stigma and ridicule from teachers, peers and the communities and as a result, they miss out on the benefits that accrue from education. Teenage mothers have been constantly isolated and stigmatized by the fellow pupils with hardly any effective interventions from teachers. The school environment is also not always conducive for the young school going mothers and the community is also always not willing to support young mothers who want to return to school.

The problem of teenage pregnancies is compounded by the fact that a majority of teenage parents are from poor households and are faced by other socio-economic problems including lack of income and skills that would enable them support their family. This Bill therefore seeks to provide a framework for—

- (1) the return to school, of girls who fall pregnant while in school;
- (2) the fair treatment of girls who are pregnant and in school and drop out of school and in this case, the girls should not face discrimination by being forced to attend different programs or schools from those of their peers;
- (3) provide academic support, parenting and life skills classes and strategies to prevent future unplanned pregnancies;
- (4) help pregnant and parenting students to gain access to affordable child care, and revise school policies and practices to remove barriers that hinder the attainment of education by all children; and
- (5) provide for enforcement and monitoring mechanisms by the Ministry of Education by taking legal action against school heads, teachers and parents who are unwilling to re-admit those who drop out due to pregnancy or childbirth.

This Bill also seeks to provide a framework for the provision of care centres which would provide facilities for the care of children born to child parent and who would wish to resume with their studies but have no person to take care of their child. The Bill imposes an obligation on the county governments to establish care centres for this purpose and sets out the standards that a county government or any other person who intends to establish a care centre is required to meet. The Bill leaves it to the county governments to provide a framework for the registration and licensing of the centres and the manner in which they are to be monitored and inspections carried out in relation to the centres.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit the fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill provides a framework for the implementation of the right to education for all children including teenage parents. It imposes an obligation on the National and county governments to put mechanisms in place and establish programmes that ensure that not only is this right realised in relation to teenage parents, but also ensure that the rising cases of teenage pregnancies and the dropping out of school by teenage parents is curbed. The Bill is therefore a Bill concerning county governments in terms of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 6th May, 2019.

BEATRICE KWAMBOKA,
Senator.

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**THE CARE AND PROTECTION OF CHILD
PARENTS BILL, 2019**

A Bill for

AN ACT of Parliament to provide a framework for the care and protection of child parents within the Counties; to provide a framework through which an expectant girl child or a child parent may actualise their right to basic education and at the same time ensure the care of their children; and for connected purposes.

ENACTED by the Parliament of Kenya, as follow—

PART I—PRELIMINARY

1. This Act may be cited as the Care and Protection of Child Parents Act, 2019.

Short title.

2. In this Act—

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for matters related to children;

“child care” means services that have as their primary purpose the care and supervision of children as defined under this Act;

“child parent” means a person who is twenty years of age or below and who is a parent to a child;

“care centre” means facility that provides child care services, but does not include a family home;

“Council” means the National Council for Children’s Services established under section 30 of the Children Act; and

No. 8 of 2001.

“county executive committee member” means the county executive committee member responsible for matters relating to social services.

3. The object of this Act are to—

Objects

(a) provide a framework for the protection of the rights set out under Article 53(1)(c) and (d) of the Constitution in relation to child parents;

(b) provide a framework through which the expectant girl child and a child parent can realise their right to education and at the same time, ensure the care and protection of his or her child; and

- (c) provide a framework of standards for the establishment and regulation of care centres by county governments.

**PART II – CARE OF EXPECTANT CHILDREN
AND CHILD PARENTS**

4. (1) The national government shall, to the extent of its constitutional mandate, promote the care and protection of expectant children and child parents.

Obligations of the National Government with respect to child parents.

(2) In ensuring that the National Government fulfils its obligations under subsection (1), the Council shall —

- (a) put in place mechanisms that will help establish a comprehensive capacity building programme for child parents to ensure they practice responsible family life;
- (b) establish, in consultation with the Cabinet Secretary responsible for matters relating to education, non-discriminatory enrolment, back to school or other training programmes and initiate necessary strategies that will identify persons within this group to benefit from the programmes;
- (c) identify, in consultation with personnel of institutions of basic learning and such other institutions as it may consider appropriate, children who are pregnant and who are in need of interventions to enable them realise the rights conferred on a child under Article 53 of the Constitution;
- (d) address any educational and related barriers faced by pregnant and parenting students; and
- (e) guarantee funding and sustainability of the initiative and other child welfare programmes aimed at benefiting child parents.

(3) In performing its functions under subsection (1), the Council shall —

- (a) collaborate with the relevant public entities in the establishment of mechanisms that ensure that expectant children and child parents have access to community and State based care support systems;
- (b) collaborate with the county governments and relevant State and private agencies in carrying out

activities for the provision of such pre-natal, post-natal and other health services, education and other support services to expectant children and child parents within the respective counties;

(c) conduct research, analysis of data and disseminate information on the welfare of expectant children and child parents in the Republic; and

(d) collaborate with the county governments in —

(i) establishing a mechanism for the care of expectant children and child parents to ensure that the rights conferred on a child under Article 53 of the Constitution are attained with respect to such children; and

(ii) expanding and strengthening the educational framework and the community and family based care and support systems for the care of expectant children and child parents; and

(e) perform such other functions as may be necessary for the implementation of this Act.

(4) The Council may, for the purpose of subsection (3), conduct inquiries, including public inquiries, into any matter relating to the welfare, care and protection of expectant children and child parents within a County.

5. Each county executive committee member shall —

(a) put in place management plans and strategies for the delivery of social services and child care support services to expectant children and child parents within the County;

(b) collaborate with the County Education Board and the county executive committee member responsible for education in establishing —

(i) programmes to ensure that expectant children and child parents have access to education services; and

(ii) academic support programmes that ensure that students with extended absences for reasons related to pregnancy and parenting are able to enrol back into school or to such other education facility in order to access education services;

Obligations of a county government with respect to the care of neglected children.

- (c) formulate and implement county specific programmes for the integration of expectant children and child parents into society and institutions of basic education within the respective County;
- (d) design, in collaboration with the Council and within the policy framework established by the national government, county specific programmes for the prevention of child pregnancies and programmes for the support, mentorship and development of expectant children and child parents;
- (e) put in place and implement in consultation with the relevant public entities, interventions for the care, protection and alleviation of the plight of expectant children and child parents –
 - (i) with special needs or requiring special care and attention within the County; and
 - (ii) living in conditions of acute hardship including street children and children who abuse drugs or who suffer any form of child abuse;
- (f) establish such child care centres and implement such programmes as may be necessary for the provision of child care services to child parents who intend to enrol back to school and who do not have access to support services for the care of their child; and
- (g) collaborate with the Council in the provision of such technical assistance, information and facilities as may be necessary to ensure the efficient delivery of social services with respect to expectant children and child parents within the county.

PART III — SCHOOL DROPOUT PREVENTION AND RE-ENTRY PROGRAMMES

6. (1) The National and county governments shall –
- (a) formulate policies for the re-admission and integration of children who have dropped out of school by reason of pregnancy;
 - (b) put in place programmes and interventions–

Role of national and county governments in the prevention of drop out.

- (i) for the identification of factors leading to child pregnancies and the dropping out of institutions of basic education, by children; and
 - (ii) that prevent the dropping out of children from institutions of basic education; and
 - (c) put in place programmes for the assistance and education of vulnerable children and children in areas identified as having a high dropout rate owing to child pregnancy;
 - (d) collaborate with the relevant stakeholders in the establishment of dropout prevention programmes that provide information and education to build upon the children's own knowledge, skills, values and attitudes; and
 - (e) put in place programmes for the capacity building of child parents that aim at imparting skills including entrepreneurial skills to ensure that they practice responsible family life and that they are able to support their family.
- (2) Prevention programmes established under subsection (1) shall —
- (a) involve the parents and guardians of the children in the governance of institutions of basic education and in the development of the code of conduct of the institution and strategies to prevent teenage pregnancies;
 - (b) encompass the provision of relevant information and support for the prevention of teenage pregnancies;
 - (c) include the sensitisation of children and their parents on issues that have a negative impact on the school attendance of children;
 - (d) create linkages between institutions of basic education and the communities they serve with the aim of encouraging school attendance, sensitization and collaboration on issues affecting school attendance; and
 - (e) promote healthy lifestyles through positive role modelling and encouraging children to participate in activities and advocacy and awareness programmes that have a positive impact and encourage a healthy lifestyle.

7. (1) Each institution of basic education shall develop a management plan for the support of any child who falls pregnant while in school.

Management plans.

(2) The management board of an institution of basic education shall –

- (a) put in place programmes with the aim of preventing teenage pregnancies and encouraging positive sexual behaviour amongst children in the institution;
- (b) treat each case of a child who falls pregnant while in an institution of basic education confidentially and professionally;
- (c) adopt an inclusive approach that involves the support of the child and parents or guardians of the affected child or children who are at risk of dropping out of school; and
- (d) in putting in place interventions or responses in situations of child drop out, ensure that the educational interests of the child are upheld.

8. (1) Every child who —

- (a) while in an institution of basic education, falls pregnant and as a result, drops out of school; or
- (b) is of school going age but falls pregnant while out of school, shall have the right to be readmitted or enrolled into an institution of basic education.

Rights of pregnant and parenting students.

(2) Every child under subsection (1) shall have the right to —

- (a) remain in school and to receive the necessary support to continue with their education and participate fully during their pregnancy or as a parent student;
- (b) fully participate in educational programs and activities of the institutions of basic education; and
- (c) guidance and support to enable the child to return to her regular education programme after delivery and after the baby is weaned.

9. (1) The National and county governments shall –

- (a) develop and implement a plan for identifying and re-engaging –

Role of governments in ensuring re-admission of drop out children.

- (i) children who have dropped out of institutions of basic education owing to teenage pregnancies; and
- (ii) vulnerable children who have dropped out of, or who are likely to drop out of institutions of basic education owing to factors beyond their control, in order to ensure that they are readmitted and integrated into the education system;

(b) establish partnerships with community based organisations, education providers and other relevant stakeholders in order to –

- (i) provide a broad range of educational options and services for children who drop out of school under this Part; and
 - (ii) counsel children in schools on adolescent sexuality, responsible behaviour and the consequence of child pregnancies; and
- (c) ensure that the education system in place takes into account the best interests of children who fall pregnant while in school.

(2) In this section, a “vulnerable child” means a child who faces circumstances that increase the likelihood of dropping out of an institution of basic education owing to child pregnancy.

10. (1) Where a child falls pregnant or a teacher or person in authority within the school has a reason to believe that a child within an institution of basic education is pregnant, the matter shall be referred to the principal of the institution.

Management of teenage pregnancies in school.

(2) Where the principal of the institution of basic education is of the opinion that child may be pregnant, the principal shall refer the child to a health institution for a medical examination and such other health examination as may be necessary to determine the status of the child.

(3) A child shall not be compelled to undergo a medical examination where she refuses to undergo the examination.

(4) Where a child refuses to undergo a medical examination under subsection (3), the institution of basic education shall not be held liable for any consequences that

may arise from the failure by the child to undergo the medical examination.

(5) The health professionals under subsection (2) shall provide the child with pre and post-natal health information and such other information as may be necessary, including any risks that may arise, to ensure the health and best welfare of the child is maintained.

(6) The school shall provide the necessary counselling services to the pregnant child and to her parents or guardians regarding the management of the pregnancy, the provision of support services to the child and the parents to ensure the child's emotional stability and wellbeing the child during and after pregnancy and the importance of continuing with education after delivery.

11. (1) Subject to subsection (3), every case of a child who falls pregnant while in an institution of basic education shall, be handled by the management of the institution of basic education in a manner that ensures confidentiality.

Confidentiality.

(2) The management of an institution of basic education shall not inform the parents or guardians of a child who while in the institution, falls pregnant unless the child has been consulted on the matter.

(3) The provision of subsection (1) shall not apply where the welfare of the child or of other children in the institution of basic education is at risk.

12. (1) Every child who drops out of school by reason of pregnancy shall, subject to the provisions of this Act, be admitted back into an institution of basic education unconditionally and shall be allowed to join at the level at which she left prior to dropping out.

Right to re-admission.

(2) The National Education Board shall issue guidelines for the conditions for the re-admission of children into institutions of basic education under subsection (1).

13. (1) Before returning to school, a child shall produce a medical report declaring that she is fit to resume classes.

Re-admission.

(2) An institution of basic education shall ensure that the rights of a newly born baby are protected and shall not readmit a child to school unless it is satisfied that proper

arrangements have been made for the care and safety of the child.

(3) An institution of basic education shall not discriminate against a child who falls pregnant while in school or who is readmitted in school and shall put in place measures to ensure the re-integration of the child back into the school.

14. (1) A parent or guardian of a child who falls pregnant shall not be discharged from their responsibilities regarding the pregnant child and shall collaborate with the institution of basic education in supporting and monitoring the health of the child and ensuring that the child continues with her education after delivery and the baby is weaned.

Obligations of parents and guardians.

(2) For the purposes of subsection (1), a child shall not be re-admitted to the institution of basic education unless a period of twelve months has lapsed from the date the child delivers the baby.

15. (1) The management of an institution of basic education shall—

Obligations of the institution of basic education.

- (a) allow a child who falls pregnant while in school to continue with classes for as long as possible prior to delivery;
- (b) counsel the child and her parents or guardians on the importance of ensuring good outcome of the pregnancy by attending ante-natal clinic and ensuring safe delivery, and the possibilities of continuing with education after delivery;
- (c) provide academic support, parenting and life skills classes and strategies to prevent future unplanned pregnancies; and
- (d) assist pregnant and parenting students to gain access to affordable child care facilities.

(2) The management of an institution of basic education shall not discriminate against a child who falls pregnant while in school and shall put in place, enforceable rules and such other mechanisms to ensure that the other children within the school do not mistreat or in any way discriminate against the child.

(3) The management of an institution of basic education shall not exclude a child under this part from any programmes of the school or force the child to attend

different programs from those of her peers only for the reason of the child being pregnant.

(4) A child who falls pregnant while in school shall be given an opportunity to make up for any missed classes or examinations in the case of pregnancy-related absences.

16. Where an institution of basic education refuses to re-admit a child under this Part, the principal and each member of the management board of the institution ~~commits an offence and shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.~~

Offence.

PART IV – ESTABLISHMENT OF CARE CENTRES

17. (1) A county government may establish and maintain such care centres as it may consider necessary for the care of children of not more than three years of age.

Establishment of care centres.

(2) A county government may, for the purposes of sub-section (1), establish care centres in, or within the vicinity of an institution of basic education in order to ensure access to such facilities by a child parent.

(3) A person shall not establish or manage a care centre unless the centre is registered and a licence issued in accordance with the provisions of this Act.

(4) The provisions of subsection (3) shall not apply with respect to a care centre that is established by a county government.

18. A care centre established under this Act may render services for the care of children who are not more than three years and who are born to—

Services rendered in a care centre.

- (a) child parents who intend to resume with their education and who have no access to care services; or
- (b) such other persons within the county who have no person to care for the child or access to child care services.

19. In establishing a care centre, a county government shall ensure that the –

Requirements in relation to a care centre.

- (a) premises of the care centre meet the requirements set out under this Act and prescribed under the relevant county legislation;

- (b) design of the care centre premises allows for adequate supervision of children;
- (c) day care services delivered in the care centre are affordable;
- (d) care centre is accessible, taking into account the needs of a child and any special needs that a child may have;
- (e) children cared for in the care centre will not be exposed to any undue threat to their health or safety arising from the nature of the premises or their environs;
- (f) personnel within the care centre are qualified to provide day care services and handle any illnesses and emergencies that may arise in relation to a child cared for in the care centre; and
- (g) care centre is equipped with suitable equipment for the delivery of child care services as may be prescribed by the county executive committee member.

20. (1) A person shall not own or operate a care centre unless—

- (a) the care centre is registered in accordance with this Act; and
- (b) such person is issued with a licence to operate the care centre under this Act.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

21. (1) A person who intends to establish a care centre shall make an application to the county executive committee member in the prescribed form for registration and the issuance of a licence to operate the care centre.

(2) Legislation by each county government shall set out the —

- (a) criteria for the registration of care centre within the respective county;
- (b) information required to be submitted by an applicant for registration;

Requirement for registration and licensing of a care centre.

Registration of care centres and licensing of applicants by a county government.

- (c) process of determination of an application for registration of a care centre;
- (d) the conditions for the issuance of a licence under this Act;
- (e) the grounds for and the process of rejecting an application or cancelling a licence issued under this Act; or
- (f) the process of issuance of a licence to an applicant for the management of a care centre; and
- (g) process of application for the renewal of licences, de-registration and revocation of a licence issued to an applicant under this Act.

22. (1) An application for registration and licencing shall undertake and submit, together with the application for registration under section 21, a location assessment report setting out evidence of the steps taken to ensure that the premises used for the purposes of the care centre are appropriately and suitably located.

Location assessment of intended care centre.

(2) A location assessment report shall contain the following information—

- (a) whether the premises are suitably located so that children cared for in the care centre are —
 - (i) effectively safeguarded; and
 - (ii) able to access services to meet the needs identified for their care;
- (b) accessibility of the care centre and distance from institutions of basic education within the county;
- (c) whether there are environmental factors that would represent a hazard to children within the care centre; and
- (d) such other criteria as the county executive committee member shall determine.

(3) A person who is licensed under this Act shall undertake a location assessment to review the appropriateness and suitability of the location of the premises at least once in every four calendar years.

23. (1) The county executive committee member may, subject to the provisions of section 24, cancel a licence issued to an applicant under this Act in accordance with regulations made under subsection (4).

Cancellation of a licence.

(2) The county executive committee member shall not cancel a licence under subsection (1) unless the committee member—

- (a) issues to the licensee, a notice of at least fourteen days of its intention to revoke the licence; and
- (a) grants the licensee, an opportunity to be heard on the revocation.

~~(3) The county executive committee member shall cancel the licence issued to an applicant in relation to, and de-register, a care centre which has ceased to be a care centre or which has been closed down.~~

(5) County legislation shall prescribe the grounds for, and the process of, cancelling a licence issued to a person to manage a care centre under this Act.

24. (1) A county executive committee member shall, before cancelling the licence issued to a person to manage a care centre under this Act issue to the licensee a compliance notice in the prescribed form.

Notice of non-compliance.

(2) A compliance notice issued under subsection (1) shall—

- (a) be in writing;
- (b) notify the licensee of the non-compliance and the steps required to be undertaken in order to comply; and
- (c) inform the licensee of the time period within which the manager is required to comply with the notice.

(3) The county executive committee member may, upon request by the licensee and, where there are sufficient grounds shown by the licensee, extend the period of compliance for such period as the committee member may consider necessary to ensure compliance.

25. (1) Where a licensee intends to close down a care centre for any other reason other than the de-registration of the care centre, the licensee shall —

Closure of a care centre.

- (a) inform the county executive committee member of the intention to close down the care centre and submit a report to the committee member containing information regarding—

- (i) the children that have been cared for in the care centre;
- (ii) the management and persons employed in the care centre;
- (iii) any investigations or cases that may have been carried out or instituted against the care centre or that are pending in relation to the care centre; and

(iv) such other information as the county executive committee member may require.

(2) A licensee shall not close down the care centre unless the licensee has applied for and obtained the approval of the county executive committee member in the prescribed form.

(3) The county executive committee member shall, upon receipt of an application to close a care centre under subsection (2), consider the application within a period of thirty days and approve the application for such closure except where -

- (a) the manager fails to comply with subsection (2); or
- (b) such closure would be against public interest.

26. (1) The licensee under this Act shall, within three months from the end of each financial year, submit to the county executive committee member and the Council, a report on the management of the care centre containing the following information—

- (a) compliance with the standards for service delivery, prescribed in this Act for any other law;
- (b) the average number of children that are cared for on a daily basis in the care centre;
- (c) compliance with principles of sound management systems;
- (d) compliance with the conditions for continued registration; and
- (e) such other information as the county executive committee member may require.

(2) When the manager of a care centre fails to submit a report in accordance with sub-section (1), the county

Submission of reports on the management of a care centre.

executive committee member may revoke the licence issued to the licensee and de-register of the care centre or take such action, as the county executive committee member may consider necessary to ensure compliance.

27. A county executive committee member may establish a committee and appoint such authorized officers as may be necessary for the implementation of the provisions of this Act.

Establishment of committees and appointment of authorised officers.

PART V - CARE OF CHILDREN WITHIN A CARE CENTRE

28. In delivering child care services under this Act, a licensee shall ensure—

Delivery of child care in a care centre.

- (a) that there is established a system for sharing with parents, information on matters that may affect the children cared for in the care centre;
- (b) the protection and promotion of the welfare of each child in the care centre;
- (c) that every child receives personalised care;
- (d) that all children are within the sight and sound of the personnel in the care centre; and
- (e) that each child is provided with the basic necessities including food.

29. A licensee shall ensure that—

Management of a care centre.

- (a) the number of children resident in the care centre at any time shall not exceed the number specified in the licence;
- (b) a child who is not within the age limits specified in the licence is not admitted into the care centre;
- (c) the standards set out in -
 - (i) legislation enacted by the county government pursuant this Act; or
 - (ii) any other legislation applicable to a care centre, issued, are observed in relation to the care centre; and
- (d) the licence is displayed in a conspicuous place in the care centre.

30. The licensee of a care centre shall keep or cause to be kept a register containing all available information on

Records relating to children in a care centre.

the status, health and welfare of a child and such information as relating to the parents of the child as the county executive committee member may prescribe.

31. The licensee of a care centre registered under this Act shall ensure that the following services are provided in the care centre—

Services rendered within a care centre.

(a) continuous care services to children in the care centre;

(b) care and supervision services to children in the care centre who may have special needs and those in need of special care and attention;

(c) counselling and rehabilitation to a child parent who has sought the services of the care centre;

(d) outreach programmes; and

(e) recreational activities.

32. (1) The licensee of a care centre shall—

Role of management of a care centre.

(a) ensure that the premises used for the purposes of the care centre are designed and furnished so as to—

(i) meet the needs of each child; and

(ii) enable each child to participate in the daily life of the care centre;

(b) ensure that any care that is arranged or provided for a child that relates to the child's development;

(c) seek to develop and maintain effective professional relationships with such persons, bodies or organizations as may be appropriate having regard to the range of needs of children to whom the care centre provides care and accommodation;

(d) ensure the provision of quality service in the care centre;

(e) ensure the continuous training of the personnel in the care centre;

(f) apply principles of sound financial management and submit quarterly financial reports to the county executive committee member; and

(g) monitor activities at the care centre in order to deal speedily with any incidents of abuse of the children in the care centre and takes steps to report such incidents to the appropriate authority.

(2) The licensee of a care centre shall ensure that –

(a) the standard of care provided in the care centre is reviewed from time to time to ensure that the obligations with respect to the provision of care in the care centre under this Act are met;

(b) the care is delivered by persons who –

(i) have the experience, knowledge and skills to deliver that care; and

(ii) are under the supervision of a person who is appropriately skilled and qualified to supervise that care; and

(c) there is in place a medical facility within the vicinity of the care centre.

PART VI – INSPECTION AND EVALUATION OF SAFETY IN A CARE CENTRE

33. (1) The licensee of a care centre under this Act shall–

Safety in a care centre.

(a) maintain premises that meet the requirements of the occupational health, safety regulations and building standards;

(b) ensure the welfare and safety of the children within the care centre;

(c) put in place fire fighting equipment, first aid and other emergency equipment and non-prescription medicine as the county executive committee member may prescribe; and

(d) have a list of the contacts of emergency service providers including hospitals, readily available to all members of staff.

(2) In providing the equipment specified under subsection (1)(c), the licensee shall ensure that such equipment is accessible during an emergency.

(3) The equipment and medicine under subsection (1) shall be maintained or kept by a centre in such manner as to

ensure that it is out of the reach of children and ensures that the safety of the children is not compromised.

(4) The county executive committee member shall prescribe minimum standards for the health and safety of children and for a satisfactory environment for the housing of the children in the care centre.

34. (1) The county executive committee member shall, for the purposes of monitoring and evaluating the provision of services by care centres registered under this Act, designate such authorised officers or other county public officers as inspectors as the county executive committee member may consider appropriate.

Appointment of
inspectors.

(2) The County Public Service Board shall, in consultation with the county executive committee member, issue to every inspector appointed under subsection (1) in writing or in such form as the County Public Service Board may determine, a certificate of appointment and authority to act as an inspector.

(3) A person appointed as an inspector under subsection (1) may, at all reasonable times, enter a care centre and—

- (a) enter the care centre and to have access to every part thereof;
- (b) interview any personnel in the care centre;
- (c) inspect, photocopy, print out, or copy onto disk any documents, whether held in electronic or paper form, that the person believes on reasonable grounds to be those of the care centre; or
- (d) remove any document specified in paragraph (c), whether in its original form or as an electronic or paper copy.

(4) Every person exercising any power under this section shall, at the time of inspection, possess the appropriate written authorisation and evidence of identity, and shall produce them to the person in charge of the care centre concerned or, as the case may be, the person having possession or control of the books, records, or accounts concerned—

- (a) on first entering the premises; and
- (b) whenever subsequently reasonably required to do so by the person in charge.

(5) For the purposes of this section, inspection, in relation to any care centre, includes meeting and talking with the children residing in the care centre.

(6) The county executive committee member shall make regulations for the conduct of inspections of care centres under this Act.

35. (1) Every written authorisation issued to an inspector under section 34 shall contain—

Powers of an inspection officer.

- (a) a reference to this section;
- (b) the full name of the person authorised; and
- (c) a statement of the powers conferred on that person by this section.

PART VII - MISCELLANEOUS PROVISIONS

36. A person who is convicted of an offence under this Act for which no penalty is provided is liable to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding two years, or to both.

General penalty

37. (1) The Cabinet Secretary may, in consultation with the Council, make regulations generally for the better carrying out of the provisions of this Act.

Regulations.

(2) Notwithstanding the generality of subsection (1), the Cabinet Secretary may make regulations—

- (a) setting out the standards required to be adhered to by County Governments in the establishment of care centres;
- (b) prescribing the programmes that may be administered in a care centre; and
- (c) prescribing the qualifications required to be held by persons managing, employed in or rendering services in a care centre.

(3) Regulations made under subsection (2) may prescribe different standards and other requirements—

Cap. 2.
No. 23 of 2013.

- (a) for services of different types or descriptions rendered in relation to children cared for in a care centre; and

(b) in respect of different types of licences.

(4) For the purposes of Article 94(6) of the Constitution—

(a) the authority of the county executive committee member to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and

(b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

38. (1) Subject to subsections (2), (3), and (6), every care centre that, immediately before the commencement of this Act, was registered as a care centre under any other law shall be deemed to be registered as a care centre under this Act, and continues to be so registered for the relevant period of registration subject to such conditions of registration as may be imposed under this Act.

Saving of existing care centres.

No. 8 of 2001.

(2) Despite subsection (1), the county executive committee member may give written notice to the registered owner of a care centre registered under subsection (1), requiring a person who manages that centre to apply for registration under section 21 within three months of the date of that notice, and if the person —

- (a) fails to apply for registration within the specified period, the care centre ceases to be registered under subsection (1) at the end of that period; or
- (b) applies for registration within the required period, the centre shall continue to be a registered care centre under subsection (1) until that application has been determined.

(3) Despite subsection (1), if subsection (4) applies, the county executive committee member may, by written notice to a person who operates a care centre that is deemed to be registered under subsection (1), declare that the care centre is no longer registered under subsection (1) and the notice has effect accordingly.

(4) The county executive committee member may give a notice under subsection (3) only if it is satisfied that the person managing the care centre has failed to comply with —

- (a) this Act on the requirements of registration; or

(b) any conditions for registration.

(5) The county executive committee member may, despite the fact that the care centre concerned does not meet the minimum requirements for registration prescribed under this Act, issue to the person managing the care centre a transitional certificate in such manner as the county executive committee member may prescribe and subject to such conditions as the committee member may impose.

(6) Where the county executive committee member is not satisfied that the conditions specified in a certificate issued under subsection (5) are being complied with, the county executive committee member may, by written notice to the person managing the care centre, cancel the certificate of registration.

(7) Every notice under subsection (3) or subsection (6) shall set out the reasons for the action taken.

(8) Subsections (1) to (6) shall not limit any powers to cancel or suspend the registration of a care centre in the manner prescribed by the county executive committee member.

MEMORANDUM OF OBJECTS AND REASONS**Statement of the Objects and Reasons for the Bill**

In Kenya, a majority of young girls drop out of school due to pregnancy, with a few of them resuming school. This is despite the fact that there is in existence, a school re-entry policy which was passed in 1994 and which aims at ensuring that girls who fall pregnant are admitted back to school and that extensive guidance and counselling is imparted on such children. The National School Health Policy was also launched in 2009 by the Ministry of Education in collaboration with the Ministry responsible for Public Health. This policy also deals with teenage pregnancy and articulates the need for, and the process of, re-admission into school of teenage mothers.

Despite the existence of these policies, a majority of teenage mothers are unable to return due to stigma and ridicule from teachers, peers and the communities and as a result, they miss out on the benefits that accrue from education. Teenage mothers have been constantly isolated and stigmatized by the fellow pupils with hardly any effective interventions from teachers. The school environment is also not always conducive for the young school going mothers and the community is also always not willing to support young mothers who want to return to school.

The problem of teenage pregnancies is compounded by the fact that a majority of teenage parents are from poor households and are faced by other socio-economic problems including lack of income and skills that would enable them support their family. This Bill therefore seeks to provide a framework for—

- (1) the return to school, of girls who fall pregnant while in school;
- (2) the fair treatment of girls who are pregnant and in school and drop out of school and in this case, the girls should not face discrimination by being forced to attend different programs or schools from those of their peers;
- (3) provide academic support, parenting and life skills classes and strategies to prevent future unplanned pregnancies;
- (4) help pregnant and parenting students to gain access to affordable child care, and revise school policies and practices to remove barriers that hinder the attainment of education by all children; and
- (5) provide for enforcement and monitoring mechanisms by the Ministry of Education by taking legal action against school heads, teachers and parents who are unwilling to re-admit those who drop out due to pregnancy or childbirth.

This Bill also seeks to provide a framework for the provision of care centres which would provide facilities for the care of children born to child parent and who would wish to resume with their studies but have no person to take care of their child. The Bill imposes an obligation on the county governments to establish care centres for this purpose and sets out the standards that a county government or any other person who intends to establish a care centre is required to meet. The Bill leaves it to the county governments to provide a framework for the registration and licensing of the centres and the manner in which they are to be monitored and inspections carried out in relation to the centres.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit the fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill provides a framework for the implementation of the right to education for all children including teenage parents. It imposes an obligation on the National and county governments to put mechanisms in place and establish programmes that ensure that not only is this right realised in relation to teenage parents, but also ensure that the rising cases of teenage pregnancies and the dropping out of school by teenage parents is curbed. The Bill is therefore a Bill concerning county governments in terms of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 6th May, 2019.

BEATRICE KWAMBOKA,
Senator.

NEWS GENERAL

AGES BETWEEN NINE AND 13

Girls to be vaccinated to stop cancer deaths

NIERI MBUGUA/At least one woman will be at risk of dying of cancer every three minutes by 2030 if girls aged between nine and 13 are not vaccinated against human papillomavirus.

A meeting of Commonwealth Women Affairs ministers in Nairobi last week made a resolution to ensure all girls between the ages of nine and 13 have access to immunity against HPV by 2030.

The ministers also agree to prioritise cervical, cancer in health projects during their 12th forum.

In Kenya, the Health ministry said all 10-year-old girls will receive the vaccine at the end of this month.

The World Health Organization recommends that girls above 10 should get two doses of the vaccine given six to 12 months apart.

The decision to vaccinate 10-year-olds is because there is a shortage of the vaccine due to roll out in many countries. The vaccine

will be given for free at about 9,000 health facilities countrywide.

Health CS Sicily Kariuki last week told the Star the vaccine will be offered through an existing network of private, public, faith-based and NGO hospitals.

"Prior to the introduction, the government will roll out intensive advocacy and community sensitisation and mobilisation," Sicily said.

Most people get a genital HPV infection through direct sexual contact. The virus can, however, be passed over to another person through skin contact.

"If no action is taken on cervical cancer by 2030, cases of cervical cancer will rise by 55 per cent and death-related cases will rise by 62 per cent," Commonwealth health adviser Dr. Mbololwa Mbi-kusita-Lewanika told the meeting.

According to the health ministry, about 2,451 women die in Kenya every year due to cervical cancer.

2,451 WOMEN DIE IN KENYA EVERY YEAR DUE TO CERVICAL CANCER

REPUBLIC OF KENYA



TWELFTH PARLIAMENT THE SENATE

PUBLIC HEARINGS/ RECEIPT OF MEMORANDA

The Care and Protection of Child Parents Bill (Senate Bills No. 11 of 2019) was read a First Time in the Senate on Tuesday, 10th September, 2019 and was thereafter committed to the Senate Standing Committee on Labour and Social Welfare for consideration.

Pursuant to the provisions of Article 118 (1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Senate Standing Committee on Labour and Social Welfare now invites interested members of the public and stakeholders to submit their views on the Bill. The views may be submitted in the following manner-

1. Public Hearing for the Bill shall be held on **Thursday, 26th September, 2019 at the Shimba Hills Hall, 1st Floor, KICC Building, Nairobi** from 11.30 am to 1.00 pm.
2. Written Memoranda may be forwarded to the **Clerk of the Senate/ Secretary, Parliamentary Service Commission, P.O. Box 41842-00100, Nairobi**, hand-delivered to the **Office of the Clerk of the Senate/ Secretary, Parliamentary Service Commission, First Floor, Main Parliament Buildings, Nairobi** or emailed to **csenate@parliament.go.ke**, to be received on or before **Thursday, 26th September, 2019 at 5:00 p.m.**

The Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/senate>.

CLERK OF THE SENATE/ SECRETARY, PARLIAMENTARY SERVICE COMMISSION.

REPUBLIC OF KENYA



NATIONAL ASSEMBLY TWELFTH PARLIAMENT - THIRD SESSION

In the matter of consideration by the National Assembly The National Government Constituencies Development Fund (Amendment) Bill (National Assembly bill No. 58 of 2019

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, the National Assembly Standing Order 127(3) requires the Departmental Committee to which a Bill is committed to facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House.

The National Government Constituencies Development Fund (Amendment) Bill (National Assembly bill No. 58 of 2019 seeks to amend the National Government Constituencies Development Fund Act, 2015 to provide for the adjustment of the ceiling of the fund to reflect an equitable sharing of the fund amongst the constituencies.

The National Government Constituencies Development Fund (Amendment) Bill, 2019 has undergone First Reading in accordance with the provisions of Standing Order 127(1) and is now committed to the **Select Committee on National Government Constituencies Development Fund** for consideration and thereafter report to the House.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee invites members of the public to submit representations they may have on the said Bill. The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk of the National Assembly, First Floor, Main Parliament Buildings, Nairobi; or emailed to **clerk@parliament.go.ke**; to be received on or before **Monday, 30th September, 2019 at 5.00 pm.**

Copy of the Bill may be downloaded from parliamentary website: <http://www.parliament.go.ke/the-national-assembly/house-business/bills>

**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**

REPUBLIC OF KENYA



NATIONAL ASSEMBLY TWELFTH PARLIAMENT - THIRD SESSION

In the Matter of consideration by the National Assembly The Accession of the Convention on the International Hydrographic Organization (IHO)

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, Section 8 of the Treaty Making and Ratification Act, 2012 provides for the consideration and Ratification of Treaties by Parliament and subsection(3) states that, "the relevant Parliamentary Committee shall, during its consideration of the Treaty, ensure Public Participation in the ratification process in accordance with laid down parliamentary procedures".

The National Assembly is in receipt of the above-mentioned Convention for approval for ratification by the Government of the Republic of Kenya. The main purpose of the Convention is to provide for coordinated hydrographic activities, surveys and information to provide for orderly exploitation of marine resources, within the vast water areas.

The convention has been committed to the **Departmental Committee on Defence and Foreign Relations** pursuant to Standing Order 216(5)(fa) for consideration and thereafter report to the House.

Pursuant to Article 118 (1)(b) of the Constitution and section 8 of the Treaty Making and Ratification Act, 2012, the Committee invites members of the public to submit any representations they may have on the said Convention. The full text of the Convention and its accompanying memorandum to Parliament may be accessed from the parliamentary website at www.parliament.go.ke. The representations or written submissions may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the Office of the Clerk, **First Floor, Main Parliament Building, Nairobi**; or emailed to **clerk@parliament.go.ke**; to be received on or before **Monday, 30th September, 2019 at 5.00 pm.**

**MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY**

EACC seeks Sh68m from Kidero

State, through EACC, aims to recover money lost during his tenure as Nairobi governor

by Eric Wainaina
@EWainaina

The woes bedeviling former Nairobi Governor Evans Kidero have deepened after the anti-graft agency moved to recover Sh68 million that was allegedly lost in irregular deals during his tenure at City Hall. Although the Ethics and Anti-Corruption Commission (EACC) has already charged Kidero and 15 others, it wants to recover the money from them on grounds that they fraudulently made the payments as legal fees to Stephen Mburu of Wachira, Mburu, Mwangi and Company Advocates in 2014. Mburu is now deceased.

In April, Kidero and his co-accused denied charges of corruption including money laundering, abuse of office and unlawful acquisition of public property when they appeared in Milimani law courts and were freed on bail.

But in a letter dated September 12, EACC has written to Kidero, his former chief of staff George Wainaina and Nyakach MP Aduma Owuor, who was the Director of Legal Affairs at the Nairobi City County, among others, giving them two weeks to refund the amount.

Acts of omission

Others accused are former Nairobi Mayor and ex-Embakasi Central MP John Ndirangu, Paul Mutunga, Manasseh Karanja, Philomena Nzuki, Ng'ang'a Mungai, Charity Muringo, Peterson Njiru, Ekaya Alumas, James Mbugua, Elizabeth Wanjiru, Alice Njeri, Hannah Muthoni and John Ngari.

"As a consequence of your negligent acts of commission and omission the govern-



Former Nairobi Governor Evans Kidero in court recently. PD/FILE

ment of Kenya incurred a loss of Sh68 million. In light of the foregoing you are jointly and severally liable to compensate government Sh68 million together with interest," reads part of the letter signed by David Too, the director legal services, EACC.

According to the anti-graft body, the amount was paid to Mburu on January 7, 2014 which then transferred Sh15 million to Cups Ltd whose directors — Wainaina and Ngari — are the former governor's associate.

The following day, Cups Ltd transferred Sh14.4 million to Kidero. The advocate firm also transferred Sh18.9 million to the account of Ndirangu, Sh11 million to Muthoni and Sh7 million to Mutunga.

EACC detectives believe that the beneficiaries of the money conspired to defraud City Hall and therefore must return the money.

The anti-graft body has given them three options of refunding the money, with the

DAVID TOO

As a consequence of your negligent acts the government of Kenya incurred a loss of Sh68 million

first one being organising among themselves to ensure they jointly return the money.

Recovery proceedings

Secondly, Kidero, Nzuki, Ng'ang'a, Alumas, Mbugua, Wanjiru, Njeri, Wainaina and Ngari are required to jointly refund Sh58 million while Mutunga, Karanja, Muringo, Aduma and Njiru have been asked to return Sh10 million.

In the last option, Kidero, Wainaina and Ngari have been asked to pay Sh14.4 million, while the latter two have been asked to pay Sh600,000 to ensure the Sh15 million that was received from Kariuki before being sent to Kidero is refunded.

EACC has asked Ndirangu to pay back the Sh18.9 he allegedly received from the late lawyer while Muthoni and Mutunga have been asked to pay Sh11 million and Sh7 million respectively.

Failure to pay the money within the period which will lapse tomorrow, EACC said it would institute recovery proceedings against them.

BRIEFLY

Waiguru given 14 days to issue title

Kirinyaga Governor Anne Mumbi has been given a two-week ultimatum to release title deed of 100 acres of land belonging to the Kenya Medical Research Institute. The land is earmarked for the construction of a Sh15 billion ultra-modern research institute and a referral hospital. The project hangs in the balance following what local leaders said was failure by the county government to release the document. Interior Cabinet secretary Fred Matiangi, who chairs a committee mandated to supervise government projects, recently told Waiguru to release the document by September 30. -Githinji Mwangi

Disband Nairobi county, says MP

Kiambaa MP Paul Koinange has proposed the abolishment of Nairobi County Government. He said the county should be done away with and its activities undertaken by the national government. Koinange, who doubles up as the National Assembly's security committee chairman, wants Nairobi to be run by a Cabinet Secretary appointed by the President to ensure efficiency and accountability. Speaking to *People Daily*, he said the current leadership has failed on development. -Clement Kamau

Murgor family finally resolves 24-year Sh1b property dispute

by Winstone Chiseremi
@Wchiseremi

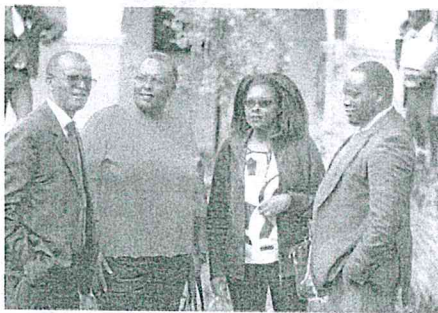
After 24 years of court battles, the children of the late former Rift Valley Provincial Commissioner Charles Murgor have settled a succession dispute in the multi-billion shilling estate.

Through court-annexed mediation, lawyer Philip Murgor and his siblings finally agreed to equally share the Sh1 billion property.

The dispute ended last weekend after three years of mediation at the High Court in Eldoret, Uasin Gishu county, following the advice of presiding judge Hellen Omondi.

"As we start this case remember the Murgor name is reputable. My advice to you is not to expose private family affairs to the public through the media. Think of mediation," said Omondi.

The process, led by accredited mediator Dennis Magare, saw the 17 children arrive at a unanimous agreement to



The Murgors—Philip, Enit and Sheila—with their lawyer George Oduor outside Eldoret High Court in June. PD/FILE

settle the dispute.

The estate under protracted battle include 250 acres of agricultural land in Uasin Gishu and 212 Chebenyiny farm in Elgeyo Marakwet county.

Other properties at the centre of the family feud include prime plots in Eldoret and Iten towns.

The agreement has now put to rest two decade-long suc-

cession battle that was threatening to tear apart the empire of the late former Kanu-era powerful administrator.

The former PC left behind four widows namely Selinah Murgor (five children), Hannah (two children), Christine Chebor (six children) and Dinah (four children).

Murgor is the first born son of Chebor, now deceased.

REPUBLIC OF KENYA



TWELFTH PARLIAMENT THE SENATE

PUBLIC HEARINGS / RECEIPT OF MEMORANDA

The Care and Protection of Child Parents Bill (Senate Bills No. 11 of 2019) was read a First Time in the Senate on Tuesday, 10th September, 2019 and was thereafter committed to the Senate Standing Committee on Labour and Social Welfare for consideration.

Pursuant to the provisions of Article 118 (1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Senate Standing Committee on Labour and Social Welfare now invites interested members of the public and stakeholders to submit their views on the Bill. The views may be submitted in the following manner-

1. Public Hearing for the Bill shall be held on **Thursday, 26th September, 2019 at the Shimba Hills Hall, 1st Floor, KICC Building, Nairobi** from 11.30 am to 1.00 pm.
2. Written Memoranda may be forwarded to the **Clerk of the Senate / Secretary, Parliamentary Service Commission, P.O. Box 41842-00100, Nairobi**, hand-delivered to the **Office of the Clerk of the Senate / Secretary, Parliamentary Service Commission, First Floor, Main Parliament Buildings, Nairobi** or emailed to cSenate@parliament.go.ke, to be received on or before **Thursday, 26th September, 2019 at 5.00 p.m.**

The Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/senate>.

**CLERK OF THE SENATE/ SECRETARY,
PARLIAMENTARY SERVICE COMMISSION.**

**MINUTES OF THE 46TH MEETING OF THE STANDING COMMITTEE ON
LABOUR & SOCIAL WELFARE HELD ON WEDNESDAY, 23RD OCTOBER, 2019
AT THE GROUND FLOOR BOARDROOM, RED CROSS BUILDINGS FROM
10.00 AM.**

MEMBERS PRESENT

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Madzayo Stewart Mwachiru | - Member |
| 4. Sen. Cherarkey Samson Kiprotich | -Member |
| 5. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |
| 6. Sen. Lokorio Petronila Were | -Member |

ABSENT WITH APOLOGIES

- | | |
|--------------------------------------|---------|
| 1. Sen. Poghisio Samuel Losuron, EGH | -Member |
| 2. Sen. (Dr.) Mwaura Isaac, CBS | -Member |
| 3. Sen. Makori Beatrice Kwamboka | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|-------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Philemon Okinda | - SAA |
| 4. Mr. Robert Rop | - Audio Officer |

MINUTE SEN/SCLSW/218/2019: PRELIMINARIES

The Chairperson called the meeting to order at 10.15 am with a word of prayer.

MINUTE SEN/SCLSW/219/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Petronila Were and seconded by Sen. Gertrude Musuruve as follows –

AGENDA

1. Preliminaries (Prayers)
2. Adoption of the Agenda;
3. Confirmation of Minutes 45, 44 and 43;
4. Consideration and Adoption of the Report on the Establishment of Children's Homes Bill, 2019;
5. Consideration and Adoption of the Report on the Care and Protection of Child Parents Bill, 2019;
6. Consideration and Adoption of the Report on the 12th Session of the Conference of State Parties to the CRPD;
7. Any Other Business & Adjournment

MINUTE SEN/SCLSW/220/2019: CONFIRMATION OF MINUTES 45, 44 & 43;

1. The Minutes of the 45th Sitting held on Wednesday, 3rd October, 2019 in Committee Room 5, Main Parliament Buildings from 11.30 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Petronila Were and seconded by Sen. Alice Milgo.
2. The Minutes of the 44th Sitting held on Wednesday, 3rd October, 2019 in Committee Room 5, Main Parliament Buildings from 11.30 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Petronila Were and seconded by Sen. Alice Milgo.
3. The Minutes of the 43rd Sitting were postponed due to lack of quorum of Members present.

MINUTE SEN/SCLSW/221/2019: CONSIDERATION & ADOPTION OF THE REPORT ON THE ESTABLISHMENT OF CHILDREN'S HOMES BILL, 2019;

Members considered the report on the Establishment of Children's Homes Bill, 2019 and adopted it after being proposed by Sen. Musuruve and seconded by Sen. Petronila.

MINUTE SEN/SCLSW/222/2019: CONSIDERATION & ADOPTION OF THE REPORT ON THE CARE AND PROTECTION OF CHILD PARENTS BILL, 2019;

Members considered the report on the Care and Protection of Child Parents Bill, 2019 and adopted it after being proposed by Sen. Musuruve and seconded by Sen. Cherargey.

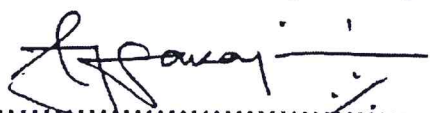
MINUTE SEN/SCLSW/223/2019: CONSIDERATION & ADOPTION OF THE REPORT ON THE 12TH SESSION OF THE UNCRPD;

Members considered the report on the 12th Session of the Conference of State Parties to the Convention on the Rights of Persons with Disabilities that was held in New York from 11th to 13th June, 2019 and adopted it after being proposed by Sen. Musuruve and seconded by Sen. Cherargey.

SEN/SCLSW/224/2019: ANY OTHER BUSINESS AND ADJOURNMENT

1. The Committee deliberated on the treatment of Sen. Mwaura during the 2019 United Nations General Assembly where he was part of the delegation from Parliament and resolved that Parliament should make a formal complaint to the Ministry of Foreign Affairs through the Committees of National Security and Legal Affairs that were represented there; and
2. Senator Musuruve requested members support in her Kenya Sign Language Bill that is due for second reading.

There being no other business the meeting was adjourned at 11.18 am in readiness for the next meeting.

SIGNATURE.....
(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE..... 24th October 2019.....

THE SENATE

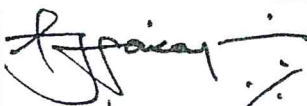
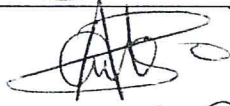
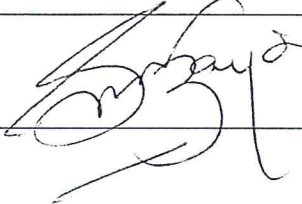



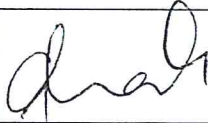
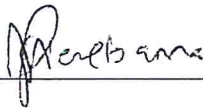
ATTENDANCE REGISTER

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

Purpose.....*Consideration and Adoption of the Care & Protection of Child Parents Bill, 2019.*.....

Venue.....*Ground Floor Boardroom, Red Cross Building*.....

Date.....*Wednesday 23rd Oct 2019*..... **Time**.....*10:15 am*.....

No.	NAME	SIGNATURE	REMARKS
1.	Sen. Sakaja Johnson Arthur, CBS		<i>Chairman</i>
2.	Sen. (Dr.) Milgo Alice Chepkorir		<i>vice chairperson</i>
3.	Sen. Madzayo Stewart Mwachiru		<i>Member</i>
4.	Sen. Poghisio Samuel Losuron, EGH		
5.	Sen. (Dr.) Mwaura Isaac, CBS		
6.	Sen. Cherarkey Samson Kiprotich		
7.	Sen. Makori Beatrice Kwamboka		
8.	Sen. (Dr.) Inimah Gertrude Musuruve		
9.	Sen. Lokorio Petronila Were		<i>Member</i>

Committee Clerk

Ms. Mwanate Shaban

Mwanate Shaban

MINUTES OF THE 44TH MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON THURSDAY, 3RD OCTOBER, 2019 AT THE COMMITTEE ROOM 5, MAIN PARLIAMENT BUILDINGS FROM 10.30 AM.

MEMBERS PRESENT

- | | |
|-------------------------------------|-------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Lokorio Petronila Were | -Member |

ABSENT WITH APOLOGIES

- | | |
|--|---------------------------|
| 1. Sen. Poghio Samuel Losuron, EGH | -Member (Ag. Chairperson) |
| 2. Sen. Madzayo Stewart Mwachiru | - Member |
| 3. Sen. Cherarkey Samson Kiprotich | -Member |
| 4. Sen. (Dr.) Mwaura Isaac, CBS | -Member |
| 5. Sen. Makori Beatrice Kwamboka | -Member |
| 6. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|-------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Philemon Okinda | - SAA |

MINUTE SEN/SCLSW/206/2019: PRELIMINARIES

The Chairperson called the meeting to order at 10.45 am followed by prayers.

MINUTE SEN/SCLSW/207/2019: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Alice Milgo and seconded by Sen. Petronila Were as follows –

AGENDA

1. Preliminaries (Prayers)
2. Adoption of the Agenda;
3. Confirmation of Minutes 39 and 40;
4. Correspondence before the Committee;
5. Consideration of Amendments on the Establishment of Children's Homes Bill, 2019;
6. Consideration of Amendments on the Care and Protection of Child Parents Bill, 2019;
7. Legislative Business Before the Committee
 - Bills
 - a) The National Museums and Heritage (Amendment) Bill, 2019
 - b) The Establishment of Children's Homes Bill, 2019
 - c) The Care and Protection of Child Parents Bill, 2019.
 - Petitions
 - a) Petition by job applicants on clearance requirements
 - b) Petition on dumping of street children in Nakuru County

- **Statements**
 - a) **Non-compliance with article 54 (2) of the Constitution on the representation of PWD in elective and appointive posts;**
 - b) **Digital hailing cab applications**
 - c) **Recognition of PWDs who have brought honour to the country;**
 - d) **The announcement by government on hiring of public servants on contract terms**
 - e) **Pension plans for county government officers seconded from the national government for devolved functions;**
 - f) **Inclusion of PWD in the labour market;**
 - g) **Recruitment of senior personnel at GDC.**

- **Correspondence**
 - a) **Letter by Mr. Daniel Kirui proposing to launch a walk of fame in Eldoret town.**
 - b) **Letter by Sports Kenya requesting for a meeting with the Board**
 - c) **Letter by Maxwel Owaka requesting for the establishment of a youth parliament in Kenya**
 - d) **Letter from Population Council requesting the Committee to nominate one member to represent the Senate in the National Steering Committee**

8. Any Other Business & Adjournment

MINUTE SEN/SCLSW/208/2019: CONFIRMATION OF PREVIOUS MINUTES

1. The Minutes of the 39th Sitting held on Wednesday, 11th September, 2019 in the Ground Floor Boardroom, County Hall Building from 10.00 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Milgo and seconded by Sen. Sakaja.
2. The Minutes of the 40th Sitting held on Wednesday, 11th September, 2019 in the Ground Floor Boardroom, County Hall Building from 11.55 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Milgo and seconded by Sen. Sakaja.

MINUTE SEN/SCLSW/209/2019: CORRESPONDENCE BEFORE THE COMMITTEE

1. The Committee noted the Letter from the national Council for Population and Development requesting for a nominee to represent the Senate in the Steering Committee of the Nairobi Summit – ICPD25 meeting that will be held in November, 2019. The Committee resolved that Senator Alice Milgo should represent the Senate in the steering committee.
2. The Committee deferred all other correspondence to a later date.

MINUTE SEN/SCLSW/210/2019: CONSIDERATION OF THE PUBLIC HEARING SUBMISSIONS TO THE ESTABLISHMENT OF CHILDREN'S HOMES BILL, 2019

1. Members considered the public hearing submissions from the Ministry of Labour and Social Protection, United Nations Children Fund, Children Homes Founders Association of Kenya and Alternative Family Kenya.
2. The Committee agreed with the Ministry and UNICEF on the promotion of family-based alternative care as outlined in the national Guidelines for the Alternative Family Care of Children, but acknowledged the need to regulate the already existing homes, thus the need for the bill.
3. The Committee resolved that the Ministry should provide a framework on how it intends to implement the shift in policy to realign Kenya to family based care options through policy or proposed legislation and funding commitments.

MINUTE SEN/SCLSW/211/2019: CONSIDERATION OF THE PUBLIC HEARING SUBMISSIONS TO THE CARE AND PROTECTION OF CHILD PARENTS BILL, 2019

1. The Committee noted the Ministry of Labour's concern on establishing of centres for child parents which go against the national and international guidelines and recommendations of providing solutions to children in their own home environments.
2. UNICEF also shared the same concerns which were against institutionalization of children.
3. Members observed that that the rate of implementation of the government's shift in policy was slow and resolved that the Ministry should submit an implementation framework on how to address the issues raised in the bill.
4. Members also noted that there had been pilot implementation programs by the Ministry since 2014 and resolved that the Ministry should submit progress reports on the same.
5. The Ministry submitted that it was consolidating all legislations that deal with children and overhaul the Children's Act, 2001 to align it to the Constitution and also the international laws that Kenya is a signatory to. The Committee directed the Ministry to submit a draft copy of the new legislation for the Committee to sponsor.
6. Members also noted that the Ministry should make regulations for specific cases under the children's Act noting that child parents in homes have unique needs to other categories of neglected or abandoned children.

STAKEHOLDER VIEWS ON THE CARE AND PROTECTION OF CHILD PARENTS BILL, 2019
(SENATE BILLS NO. 11 OF 2019)

No	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
1.	Arrangement of clauses	Centre for Study of Adolescence	Replace students with learners under clause 8	No justification	Align with the terms used in the Basic Education Act and Children Act.
2.	1	Council of Governors	On the definition of a "Council" – Amend section 31 of the Children Act on the representation from county governments by inserting the following new paragraph— <i>(j) two representatives nominated by the Council of Governors</i>	Given the obligations of the county governments under the Bill, there is need to amend the Children Act to include representation of county governments in the composition of the Council.	Rejected. There is no need for piecemeal amendments.
3.	2	Ministry of Labour and Social Protection	Align the definition of the term "child parent" to the Constitution.	The Bill defines Child Parents as a person who is 20 years of age or below and who is a parent to a child. This conflicts with the universally accepted definition of a child. Further, UNCRC defines a child as any human being under the age of 18 years. The Constitution (Article 260) defines a child as an individual who has not attained the age of 18 years.	Allowed. Align the Bill to the Constitution.

No	CLAUSE	STAKEH OLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
4.	4	Centre for Study of Adolescen ce	Amend clause 4— (i) in paragraph (a) by replacing family life with parenting; (ii) in paragraph (d) by replacing students with learners; (iii) in paragraph (h) (ii) by replacing students with learners.		Approved the replacement of family life with parenting. Align the terms used with the Basic Education Act and the Children Act.
5.	5	Council of Governors	Amend the introductory part of paragraph (f) by inserting the following words immediately before the word “establish” — <i>“Collaborate with the Council”</i>	There is need for an integrated approach in the establishment of the centres so as to guarantee utmost care of child parents.	Rejected. Counties should be capacitated to deal with such issues.
6.	6 & 7	Centre for Study of Adolescen ce	Amend subclause (1)— (i) by inserting the word “comprehensive” immediately before the words “information and education” appearing in paragraph (d); (ii) by inserting the words “sexual reproductive health” immediately before the words “entrepreneurial skills” appearing in paragraph (e) (iii) by replacing family life		Align the Bill with the Basic Education Act and Children Act. Delete the word “entrepreneurial” in clause 6 (1) (e).

No	CLAUSE	STAKEHOLDERS	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
			<p>with parenting; and</p> <p>(iv) replacing family with children</p> <p>replacing children with learners wherever they appear.</p> <p>In clause 7 (2) by inserting the word "uniquely before the word "confidentially"</p>		Disallow the amendment to clause 7 (2) as the amendment is trivial.
7.	7	Council of Governors	<p>Amend subclause (2) by deleting the words "encouraging positive sexual behaviour amongst children in the institution" appearing immediately after the words "pregnancies and" in paragraph (e) and substituting therefor the following new words—</p> <p>"prioritize sex education"</p>	Sex education is a holistic education and therefore should be made a priority so as to instill correct concepts of sex to children as early as possible and hence address issues of teenage pregnancies.	Amend the paragraph to read— (a) <i>put in place programmes with the aim of preventing teenage pregnancies;</i>
8.	10	Council of Governors	<p>Introduce a new clause immediately after clause 10 (1) to read as follows—</p> <p><i>(1a) The principal of the institution shall inform the parent or guardian of a child's pregnancy before any measure is taken.</i></p>	The involvement of parents or guardians in the management of teenage pregnancies in school before the head of the institutions can decide to refer the children to health institutions is necessary. In addition, counselling of the parents or guardians and children should be prioritised	Approved. A parent should always be the first point of contact.

No	CLAUSE	STAKEH OLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
9.	11	Council of Governors	Amend subclause (3) to read— <i>In circumstances where the welfare of the child or of other children in the institution of basic education is considered to be at risk, the institution shall put in place measures to maintain confidentiality.</i>	In order to maintain the dignity of a child, every case of a child who is pregnant ought to be treated with confidentiality.	Approved. This also stops stigmatisation.
10.	12	Centre for Study of Adolescence	We recommend unconditional readmission of the learner to school.		Rejected
		Council of Governors	Amend subclause (2) to read as follows— <i>The National Education Board in consultation with the County Education Boards shall issue guidelines for the conditions for the re-admission of children into institutions of basic education under subsection (1).</i>	Considering that implementation of the guidelines shall be at the county level, it is necessary that development of the same is done in collaboration with the County Education Boards.	Rejected. Public participation is enshrined in the Constitution as one of the values and principles of governance.
11.	13	Centre for Study of Adolescence	We recommend the deletion of the part on producing medical report to ensure unconditional readmission.		Rejected. This is appropriate.
12.	14	Centre for Study of Adolescence	We recommend the reduction of the lapse period to six months or at the beginning of the next		Delete subclause (2). The matter should be treated on a case to case basis.

No	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
13.	15	Centre for Study of Adolescence	<p>school/academic year.</p> <p>In subclause (1) © insert the words “human sexuality education” before the words “and life skills”.</p> <p>Insert the words “administration, teachers and support staff” before the words “within the school” appearing in subclause (2).</p>		Rejected. Already catered for under strategies.
14.	23	Council of Governors	<p>Amend subclause (2) paragraph (e) to read—</p> <p><i>(a) issues to the licensee, a written notice of at least fourteen days of the intention to revoke the license.</i></p>	This is to avoid ambiguity, the clause should expressly state that any notice shall be in writing.	Allowed. This will help in streamlining licensing

SEN/SCLSW/212/2019: LEGISLATIVE BUSINESS BEFORE THE COMMITTEE

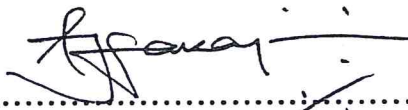
Members considered the bills, petitions and statements before the Committee and resolved the following –

1. To meet Petitioners and Institutions on Petition on Clearance requirements by the Public service bodies on application for jobs in Kenya on Wednesday, 23rd October, 2019.
2. To meet the Public Service Commission on hiring of public servants on contracts on 24th October, 2019;
3. To conduct Narok, Bomet, Kericho and Nakuru county visit from 31st October to 3rd November, 2019;
4. To meet stakeholders on the state of the creative economy industry on Wednesday, 6th November, 2019;
5. To hold a committee retreat on Culture and Sports in Kitale from 8th – 11th September, 2019;
6. To meet stakeholders on digital hailing cab applications on Wednesday 20th November, 2019;
7. To meet stakeholders on the SGR enquiry on Thursday, 21st November, 2019
8. To Conduct Eastern county visits from 21st – 26th November, 2019

SEN/SCLSW/213/2019: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business the meeting was adjourned at 11.45 am.

SIGNATURE.....



(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE.....

Wednesday, 23rd October 2019

MINUTES OF THE 43 MEETING OF THE STANDING COMMITTEE ON LABOUR & SOCIAL WELFARE HELD ON THURSDAY, 26TH SEPTEMBER, 2019 AT THE SHIMBA HILLS HALL, KICC FROM 11.30 AM.

MEMBERS PRESENT

- | | |
|--------------------------------------|---------------------------|
| 1. Sen. Poghizio Samuel Losuron, EGH | -Member (Ag. Chairperson) |
| 2. Sen. Madzayo Stewart Mwachiru | - Member |
| 3. Sen. Makori Beatrice Kwamboka | -Member |

ABSENT WITH APOLOGIES

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, CBS | -Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir | -Vice Chairperson |
| 3. Sen. Cherarkey Samson Kiprotich | -Member |
| 4. Sen. (Dr.) Mwaura Isaac, CBS | -Member |
| 5. Sen. (Dr.) Inimah Gertrude Musuruve | -Member |
| 6. Sen. Lokorio Petronila Were | -Member |

SENATE SECRETARIAT

- | | |
|-------------------------|--------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Paul Vitus Okech | - Research Officer |
| 4. Ms. Julia Gichohi | - SAA |

IN ATTENDANCE

1. Ministry of Labour and Social Welfare
2. County Assemblies Forum
3. UNICEF

MINUTE SEN/SCLSW/202/2019: PRELIMINARIES

The Chairperson called the meeting to order at 11.45 am with a word of prayer. This was followed by a word of prayer and introductions by all present.

MINUTE SEN/SCLSW/203/2019: ADOPTION OF THE AGENDA/ PROGRAM

The agenda of the meeting was adopted after being proposed by Sen. Kwamboka and seconded by Sen. Madzayo as follows –

1. Preliminaries (Prayers and introductions)
2. Adoption of the Agenda;
3. **Public Hearing on the Care and Protection of Child Parents Bill, 2019;**
4. Any Other Business & Adjournment

MINUTE SEN/SCLSW/204/2019: PUBLIC HEARING ON THE CARE AND PROTECTION OF CHILD PARENTS BILL, 2019;

The Chairperson welcomed all present and stated the Committee's mandate as to consider all matters relating to manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare; national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.

a) Presentation by the Ministry of Labour and Social Protection

1. The Children's Act 2001 has provisions for various categories of children. The Ministry had reviewed the Act but the amendments were too many and it was resolved that the whole Act be reviewed;
2. The Bill's definition of a child contradicts the globally accepted definition and that in the Constitution; and
3. The Bill also ignores the Director of Children's Services role.

b) Presentation by the County Assemblies Forum -

1. The definition of the word child in the Bill is erroneous;
2. County governments are concerned about the responsibilities that the Bill places on them especially the financing aspect;
3. Opposes Section 11 of the Bill on confidentiality and maintains that parents need to be informed when the Child gets pregnant;
4. The bill does not address the fate of the persons who make children pregnant; and
5. The Bill also does not address the plight of early marriages.

c) The United Nations Children's Fund (UNICEF) presented as follows —

1. Part 4 of the Bill creates centres. The world and the Country is moving away from putting children in centres;
2. Studies have shown that children put in institutions suffer from emotional, psychological and psychosocial development disorders;
3. The Bill also misses some prevention aspects; and
4. Boys also become vulnerable when they become parents.

d) Women Empowerment Centre – Mr. Odhiambo

1. Is in total support of the Bill; and
2. The Ministry of Labour and Social Protection seems not to be sure of what to do with children.

e) Members Responses and Way Forward

1. There seems to be a gap in implementation and most public centres are in horrible conditions lacking basic needs;
2. Child mothers cannot be put in the same centres as other children because of their unique special needs;
3. The governments need to decide on where children are domicile – is it with the Ministry of Education or Ministry of Labour and Social Protection;
4. The Ministry is missing out on a critical niche of children who are unwanted by their parents, cultures and religion;
5. The Ministry should submit the draft copy of the revised Children's Act for the Committee to sponsor; and
6. The Ministry should also look inwards about implementation and make regulations for specific cases.

MINUTE SEN/SCLSW/205/2019: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, the meeting was adjourned at 1.45 pm.

SIGNATURE.....


(CHAIRPERSON: SEN. JOHNSON SAKA)

DATE..... 19th November 2019, Tuesday.....