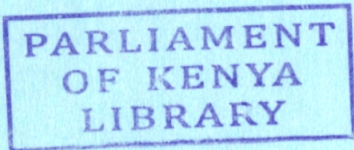


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THE CARE AND PROTECTION OF CHILD PARENTS BILL, 2023

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 follows —

PART I—PRELIMINARY

1. This Act may be cited as the Care and Protection of Child Parents Act, 2023.

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 has not attained the age of eighteen years and is a mother or a father of a child;

No. 29 of 2022.

“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 41 of the Children Act;

No. 20 of 2012.

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

“learner” has the meaning assigned to it under the Teachers Service Commission Act.

No. 14 of 2013.

“principal” means the lead educator or administrator in an institution of basic education and training and includes the proprietor or director of a private school or a person in charge of a borstal institution;

“institution of basic education and training” a public or private institution or facility used wholly or partly, regularly or periodically for conducting basic education and training and includes a school, a tuition facility, an educational centre, an academy, a research institution, a school correctional facility or a borstal institution;

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 parenting;
- (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) collaborate with the National Social Assistance Authority to ensure that needy child parents of children born with special needs or care takers of such needy parents, are beneficiaries of social assistance;

No. 24 of 2013.

- (d) 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;
 - (e) address any educational and related barriers faced by pregnant and parenting learners; and
 - (f) 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 —

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

(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 learners 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;

(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—
 - (i) for the identification of factors leading to child pregnancies and the dropping out of institutions of basic education and training, by children; and
 - (ii) that prevent the dropping out of children from institutions of basic education and training; 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—

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

- (i) aimed at capacity building for child parents to ensure that they are able to support their families; and
- (ii) for responsible parenting.

(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 training 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 training 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 and training shall develop a management plan for the support of any learner who falls pregnant while enrolled in the institution.

Management plans.

(2) The management board of an institution of basic education and training shall —

- (a) put in place programmes with the aim of preventing teenage pregnancies;
- (b) treat each case of a learner who falls pregnant while in an institution of basic education and training 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 enrolled in an institution of basic education and training, falls pregnant and as a result, drops out of school; or
- (b) is of school going age but falls pregnant while out of school,

Rights of pregnant and parenting learners.

shall have the right to be readmitted or enrolled into an institution of basic education and training.

(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 learner;
- (b) fully participate in educational programs and activities of the institution ;
- (c) guidance and support to enable the child to return to her regular education programme after delivery and after the baby is weaned; and
- (d) be re-admitted at the same level the child was in before they left the institution to deliver the baby unconditionally.

(3) Where a child intends to join an institution of basic education and training other than that which the child was in prior to her pregnancy, the principal shall, in consultation with the Sub-County Director of Education facilitate the child in gaining admission into another institution of basic education and training .

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 and training 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 an institution of basic education and training has a reason to believe that a child within the institution is pregnant, the matter shall be referred to the principal of the institution.

Management of
teenage
pregnancies in
school.

(2) The principal shall, upon receipt of the information under subsection (1) and before any action is taken, inform the parent or guardian of the child’s pregnancy.

(3) The principal shall not inform the parent or guardian of the child’s pregnancy where they have sufficient grounds to believe that it may prejudice the safety and wellbeing of the pregnant child.

11.(1)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.

Medical examination.

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

(3) Where a child refuses to undergo a medical examination under subsection (2), 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.

12.The health professionals under section (11) 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.

Provision of pre and post-natal health information.

13.The institution of basic education and training 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 during and after pregnancy and the importance of continuing with education after delivery.

Provision of counselling and support services.

14. Every case of a child who falls pregnant in an institution of basic education and training shall be handled by the management of the institution in a manner that ensures confidentiality.

Confidentiality.

15.(1) Where it is determined that the person responsible for the pregnancy is an adult, the principal shall report the case to the County Director of Education, the nearest police station and the Council.

Disclosure of the identity of the person responsible for a child's pregnancy.

(2) Where the person responsible for the pregnancy is determined, under subsection (1) to be a teacher, the principal shall make a report to the Teacher's Service Commission, in addition to the persons under subsection (1).

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

Right to re-admission.

(2) The Cabinet Secretary responsible for matters relating to basic education shall issue guidelines for the conditions for the re-admission of children into institutions of basic education and training under subsection (1).

17. 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.

Re-admission.

18. 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.

19. (1) The management of an institution of basic education and training 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 learners to gain access to affordable child care facilities.

(2) The management of an institution of basic education or training 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 and training 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.

20. Where an institution of basic education and training 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

21.(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 and training 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.

22. 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.

23. 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.

24. (1) A person shall not own or operate a care centre unless –

Requirement for registration and licensing of a care centre.

- (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.

25. (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.

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

(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;
- (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.

26. (1) An application for registration and licencing shall undertake and submit, together with the application for registration under section 25, 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 and training 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.

27. (1) The county executive committee member may, subject to the provisions of section 28, 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 in writing, of at least fourteen days of the intention to revoke the licence; and

(b) 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.

(4) 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.

28. (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.

29. (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.

30. (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—

Submission of reports on the management of a care centre.

- (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 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.

31. 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

32. 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.

33. 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.

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

Records relating to children in a care centre.

35. 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.

36. (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

37. (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.

38. (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.

39.(1) Every written authorisation issued to an inspector under section 38 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

40. 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.

41. (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.

Cap. 2.
No. 23 of 2013.

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

- (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.

42. (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 sizeable number of girls drop out from school and are unable to complete education when they become expectant while undertaking their basic education. In some instances, the school where the child was attending refuses to readmit the child thus denying them the opportunity to complete their basic education, stigma from the society and other learners while in other instances, the expectant children come from needy families and have to drop out of school so as to take care of their children once they give birth.

Although the Ministry of Education formulated the National Guidelines for School Re-Entry in Early Learning and Basic Education in 2020, the problem still persists, hence the need to ensure collaboration of the National Government and county governments in protecting such children and ensuring that there are structures supporting them to continue with their education.

The principal object of the Bill is to create a framework for the care and protection of pregnant children and child parents so as to ensure that their rights to education and health are protected, and additionally, to ensure that the needy child parents and their caretakers receive assistance from the National and county governments so as to enable them return to school and give them better prospects in life.

Part I of the Bill provides for preliminary matters. These are the short title and definition of various words used in the Bill.

Part II of the Bill describes the obligations of the National Government in the care and protection of expectant children and child parents, as well as the role of the county governments in ensuring the care and support of neglected children.

Part III provides for the role of both the National and county governments in preventing child parents from dropping out of schools and also for the re-entry of such children once the child is weaned. It also provides for the rights of expectant children and child parents, and also for how the school management should handle issues of expectant children.

Part IV of the Bill creates a framework for the establishment 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 also provides for the registration, licensing, monitoring and inspection of the centres.

Part V of the Bill deals with management of care centres and the services to be provided in care centres.

Part VI of the Bill contains provisions on inspection of care centres so as to ensure the health and safety of children in the centres.

Part VII of the Bill provides for miscellaneous provisions including formulation of regulations by the Cabinet Secretary, general offence and transition of existing care centres.

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

Clause 41 of the Bill confers on the Cabinet Secretary the powers to make regulations under the Act for the purposes of carrying into effect the provisions of the Act. The Bill does not limit any fundamental rights or 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

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

Dated the 23rd June, 2023.

MIRAJ ABDILLAHI ABDULRAHMAN,
Senator.

