

SPECIAL ISSUE

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SENATE BILLS, 2025

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**THE COUNTER-TRAFFICKING IN PERSONS
(AMENDMENT) BILL, 2025**

A Bill for

AN ACT of Parliament to amend the Counter-Trafficking in Persons Act to provide specific provisions prohibiting child trafficking in orphanages; and for connected purposes

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Counter-Trafficking in Persons (Amendment) Act, 2025.

Short title.

2. Section 2 of the Counter-Trafficking in Persons Act, in this Act referred to as “the principal Act”, is amended by inserting the following new definitions in their proper alphabetical sequence —

Amendment of
section 2 of Cap
61.

“childcare services” includes the provision, to children who are orphaned, abandoned, at risk, or in conflict with the law, of —

- (a) residential care;
- (b) temporary custody;
- (c) rehabilitation; and
- (d) protection;

“grooming” has the meaning assigned to it under the Children Act;

Cap. 141.

“orphanage” means an entity, whether registered or unregistered, that provides child-care services analogous to those provided by the following institutions as defined in the Children Act —

- (a) charitable children’s institutions;
- (b) childcare facilities;
- (c) foster care placements;
- (d) children’s rescue centres;
- (e) places of safety;
- (f) rehabilitation institutions or schools;

- (g) residential facilities;
- (h) children's remand homes; or
- (i) borstal institutions.

3. Section 4 of the principal Act is amended in subsection (1) by inserting the following new paragraphs immediately after paragraph (c) —

Amendment of
section 4 of Cap
61.

- (d) establishes or operates an orphanage;
- (e) facilitates the placement of a child in an orphanage through fraudulent documentation;
- (f) engages in grooming of a child;
- (g) deliberately separates a child from his or her living parents or legal guardians for placement in an orphanage;
- (h) promotes or facilitates tourism activities involving children in orphanages; or
- (i) produces, distributes, displays, publishes, sells transmits or possesses digital images or photographs of a child in an orphanage.

4. Section 28 of the principal Act is amended by inserting the following new paragraph immediately after paragraph (a) —

Amendment of
section 28 of Cap
61.

- (aa) measures to prevent child trafficking in orphanages.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of the Bill is to amend the Counter-Trafficking in Persons Act, Cap 61 of the Laws of Kenya, to address the emerging issues of child trafficking in orphanages. The lack of proper regulations and guidelines with regard to the prevention of these practices exposes children to exploitation by the perpetrators against the best interests of the children.

The Bill seeks to provide for the definitions of “orphanage” and “grooming” to align the Counter trafficking in Persons Act with the Children Act, Cap 141 of the Laws of Kenya. The Bill also seeks to amend section 4 of the Act to criminalize acts related to child trafficking in orphanages, grooming and tourism related to children in orphanages.

The enactment of this Bill will strengthen the protection of vulnerable children in orphanages, address gaps in the current legislation, and align Kenya’s legal framework with international best practices in child protection.

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 concerns county governments in that it contains provisions that affect the functions and powers of the county governments as set out in the Constitution. Under paragraph 9 of Part II of the fourth schedule to the Constitution, the regulation of child care facilities is a devolved function.

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 21st May, 2025.

CATHERINE MUYEKA MUMMA,
Senator.

Section of 4 of Cap 61 of the Laws of Kenya which it is proposed to amend —

4. Acts that promote child trafficking

(1) A person who for the purpose of trafficking in persons —

- (a) adopts a child or offers a child for adoption;
- (b) fosters a child or offers a child for fostering; or
- (c) offers guardianship to a child or offers a child for guardianship, commits an offence.

(2) A person who initiates or attempts to initiate adoption, fostering or guardianship proceedings for the purpose of subsection (1) commits an offence.

(3) A person who commits an offence under this section is liable to imprisonment for a term of not less than thirty years or to a fine of not less than twenty million shillings or to both and upon subsequent conviction, to imprisonment for life.

Section of 28 of Cap 61 of the Laws of Kenya which it is proposed to amend —

28. Regulations

The Cabinet Secretary may, in consultation with the Advisory Committee, make Regulations regarding—

- (a) any matter which is required or permitted by this Act to be prescribed;
- (b) the inter-sectoral implementation of this Act;
- (c) the repatriation process;
- (d) the conduct of affairs of the Board of Trustees; and
- (e) any other matter, which is necessary or expedient to prescribe in order to achieve or promote the objects of this Act.