

MEMO

TO : THE DEPUTY CLERK OF THE NATIONAL ASSEMBLY

③ 9/10-250
DL 8 P
Process
8/3/21

~~DL 8 P~~
DL 8 P
Facilitate tabling
8/4/3/21

THRO' : DIRECTOR, LEGAL SERVICES- NATIONAL ASSEMBLY

Forwarded. The petition meets the stipulated requirements and may be tabled for consideration.
Damm. 25/02/21

THRO' : DEPUTY DIRECTOR, LEGAL SERVICES- NATIONAL ASSEMBLY

THRO' : PRINCIPAL LEGAL COUNSEL- NATIONAL ASSEMBLY

The Petitioner is an expert in the areas covered in his prayer and the amendments to the Firearms Act (Cap 114) which is the subject matter of the petition is within the ambit of the National Assembly in terms of Article 119(1) and Article 94(3) of the Constitution, and may be forwarded to the Hon. Speaker for tabling in the House.

FROM : LEGAL COUNSEL I- NATIONAL ASSEMBLY

DATE : 23RD FEBRUARY, 2021

25/2/2021

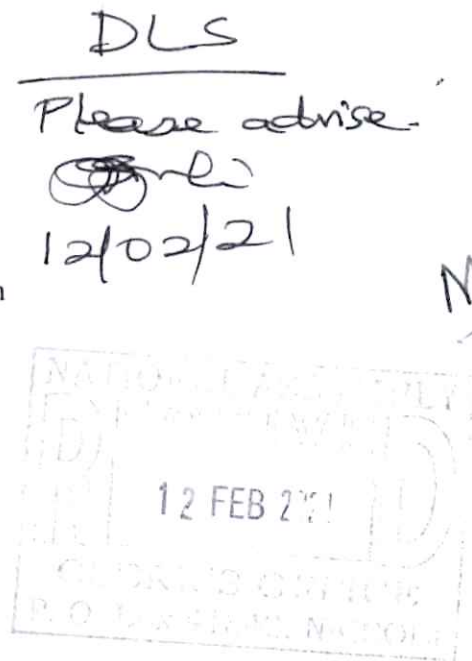
RE: PETITION TO AMEND THE FIREARMS ACT TO PROVIDE FOR THE PROTECTION OF LEGAL USE OF FIREARMS AND MENTAL EXAMINATION OF PROSPECTIVE FIREARM SEEKERS

The above matter refers and your instructions to the Legal Directorate to peruse and establish whether the petition by Dr. Machanga Mareko on the above subject matter, complies with the National Assembly Standing Orders.

We have perused the Constitution, the Petition to Parliament (Procedure) Act, 2012 and the National Assembly Standing Orders and advise as hereunder:

Dr.Machanga Mareko
P.O. Box, 26-00202
Tel:0724481658
Email: machangamarekog@gmail.com
My Ref: IVI/PET/011/2019
Date: 04/12/2020

The Clerk,
National Assembly,
P.O. Box 41842, Nairobi.



Ms. Christine Odhiambo
Please advise and
advise CNA.
15/2/2021

RE: PETITION TO THE NATIONAL ASSEMBLY FOR THE AMENDMENT OF THE FIREARMS ACT TO PROVIDE FOR THE PROTECTION OF LEGAL FIREARMS HOLDERS UPON LEGAL USE OF THEIR FIRE ARMS AND TO EXPRESSLY PROVIDE FOR A MENTAL EXAMINATION FOR PROSPECTIVE FIREARM SEEKERS.

Pursuant to article 119 of the constitution of Kenya 2010, and in accordance with the Petition to Parliament (Procedure) Act, 2012, I, the undersigned, a Kenyan citizen, a Firearms Examiner at Kenyatta National Hospital, and a Psychiatrist, ID NO. 6485106, hereby draw the attention of the House to the need to amend the firearms act, cap 114 of the laws of Kenya to provide for the protection of legal firearm holders upon legal use of their fire arms.

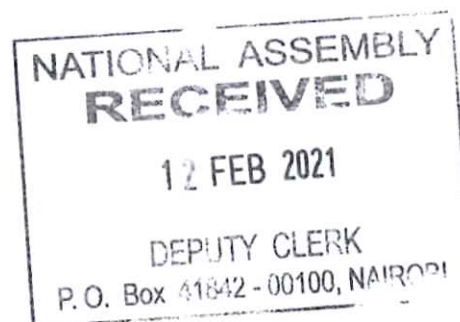
Aware that;

1. Some citizens are legal firearm holders as provided for by the firearms act;
2. The firearms act does not define what constitutes the "legal use of a firearm";
3. A firearm's purpose is to scare, disable, or kill depending on the level of the threat by the aggressor;
4. The firearms act, cap 114 of the laws of Kenya, does not expressly provide for mandatory mental examination for prospective firearms seekers;

Concerned that;

1. Some licensed firearm holders may use their firearms legally and cause death of their aggressors in the process;
2. Some licensed firearm holders may use their firearms legally and cause harm or injury of their aggressors in the process;

Mr Dime Dime
Please assign and
supervise - 15/2/2021



PETITION TO THE NATIONAL ASSEMBLY FOR THE AMENDMENT OF THE FIREARMS ACT TO PROVIDE FOR THE PROTECTION OF LEGAL FIREARMS HOLDERS UPON LEGAL USE OF THEIR FIRE ARMS AND TO EXPRESSLY PROVIDE FOR A MENTAL EXAMINATION FOR PROSPECTIVE FIREARM SEEKERS.

3. There is no legal protection of persons who use their legal firearms;
4. The firearms act, cap 114 of the laws of Kenya, does not prescribe the circumstances under which a legal firearm holder can use his firearm;
5. There are no regulations stipulating the circumstances under which a legal firearm holder can use his firearm;
6. Subjecting prospective firearm seekers to a mental examination presupposes that they are either of unsound mind or of intemperate habits as per the provisions of the firearms act, cap 114 of the laws of Kenya;
7. Under the current laws, a person who uses his or her legal firearm to cause death to an aggressor is a murder suspect;
8. Under the current laws, a person who uses his or her legal firearm to cause injury to an aggressor is a criminal suspect;
9. Under the current laws, an aggressor enjoys more protection than the aggressed;
10. Under the current laws, the conviction for a person who causes death using a legal firearm is a non-custodial sentence without a fine option;
11. Such legal use of a firearm will make the user to have a criminal record that will deny him certain privileges and services;

THAT

No previous efforts have been made to have this matter addressed, as the issues raised are domiciled in the National Assembly.

THAT

I confirm that the issues in respect of which this petition is made are not pending before any court of law or legal body.

PETITION TO THE NATIONAL ASSEMBLY FOR THE AMENDMENT OF THE FIREARMS ACT TO PROVIDE FOR THE PROTECTION OF LEGAL FIREARMS HOLDERS UPON LEGAL USE OF THEIR FIRE ARMS AND TO EXPRESSLY PROVIDE FOR A MENTAL EXAMINATION FOR PROSPECTIVE FIREARM SEEKERS.

AND HEREFORERE YOUR HUMBLE PETITIONER PRAYS THAT:

Parliament (National Assembly) AMENDS THE FIREARMS ACT, CHAPTER 114, as follows:

1. To insert:

5.10

Prescribed use of a firearm by a licensed firearm holder whose consequences shall not fall under the charge of murder or attract criminal prosecution.

1. When the life of a legal firearms holder is in danger from an aggressor;
2. Where failure of the legal firearm holder to use the firearm would result in the killing of the legal firearms holder by the aggressor;
3. Where grave circumstances require a licensed firearm holder to shoot to scare away or immobilize the aggressor;
4. Where a licensed firearm holder uses his firearm to rescue or save another person or persons from an aggressor or aggressors.

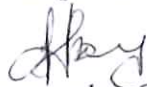
2. To insert:

5.11

All firearm seekers shall undergo a mandatory mental examination as a precondition to acquiring a firearms license.

And your PETITIONER will ever pray.

Dr Mareko Machanga, Consultant Psychiatrist, Kenyatta National Hospital; Mental Examiner for Prospective Firearms License Seekers.



Emai; machangamarekog@gmail.com

Phone: 0724481658

P.O Box 26-00202. Nairobi