

SPECIAL ISSUE

Kenya Gazette Supplement No. 22 (Nairobi City County Acts No. 7)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NAIROBI CITY COUNTY ACTS, 2021

NAIROBI, 23rd August, 2024

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**THE NAIROBI CITY COUNTY SEXUAL AND GENDER BASED
VIOLENCE PREVENTION, RESPONSE AND CONTROL
ACT, 2021**

No. 7 of 2021

Date of Assent: 16th October, 2021

Date of Commencement: See Section 1

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SCHEDULE

**CLERK
NAIROBI CITY
COUNTY ASSEMBLY**
P. O. Box 45844 - 00100,
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**THE NAIROBI CITY COUNTY SEXUAL AND GENDER BASED
VIOLENCE PREVENTION, RESPONSE AND CONTROL
ACT, 2021**

AN ACT of the Nairobi City County Assembly to provide measures for awareness, prevention and response to sexual and gender based violence, to provide for the protection, treatment, counselling, support and care of victims, reintegration back to the community, and for connected purposes

ENACTED by the Nairobi City County Assembly, as follows—

PART 1—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Nairobi City County Sexual and Gender Based Violence Prevention, Response and Control Act, 2021 and shall come into operation on such date as the County Executive Committee Member may appoint and different dates may be appointed for different parts or provisions.

Interpretation

2. In this Act, unless the context otherwise requires—

“Community Based Organization” means any non-profit organization incorporated for the purpose of providing services or other assistance to economically or socially disadvantaged persons within its designated community;

“child” has the meaning assigned to it under the Constitution and the Children’s Act;

“Essential Package of Healthcare Services” is the package of services that the government is providing or is aspiring to provide to its citizens in an equitable manner and which are often expected to achieve multiple goals including: improved efficiency, equity, political empowerment, accountability, and altogether more effective care;

“Gender Based Violence” is any act of violence visited upon a person and results in, or is likely to result in, physical, sexual or psychological harm or suffering to the person including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life and shall include physical, sexual, verbal, emotional, and psychological abuse, threats, coercion, and economic or educational deprivation, whether occurring in public or private life including rape, domestic violence, stalking, sexual slavery, incest, sexual harassment, acid

throwing, reproductive coercion, female infanticide, prenatal sex selection, obstetric violence, and mob violence; as well as harmful customary or traditional practices such as honour killings, dowry violence, genital mutilation, virginity testing, widow cleansing;

‘Governor’ means the Governor of Nairobi City County;

“harmful practices” means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of people as their right to life, health, dignity, education and physical integrity, freedom of choice;

“inhuman treatment” means to a cruel act; a deliberate infliction of pain and suffering, cruelty, abuse, ill-treatment, mistreatment, maltreatment - cruel or inhumane treatment;

“multi-sectorial approach” means the holistic inter-organizational and inter-agency efforts that promote participation of people of concern, interdisciplinary and inter-organizational cooperation, and collaboration and coordination across key sectors, including (but not limited to) health, psychosocial, legal/justice and security;

“self interest groups” means persons with disability, children, youth and women;

“safe house/shelter” is a residential facility providing short-term intervention for victims of sexual and gender based violence in crises. This intervention includes meeting basic needs as well as providing support, counselling and skills development;

“Sexual Based Violence” includes actual, attempted or threatened (vaginal, anal or oral) rape, including intimate partner violence; sexual abuse and exploitation; forced prostitution; transactional/survival sex; and sexual harassment, intimidation and humiliation;

“stakeholders” means both state and non-state actors and includes Police, Office of the Attorney General, Office of the Director Public Prosecution, Probation, Prisons, faith based organizations, public officials, healthcare providers, counsellors / psychologists, civil society organizations, donors, media, private sector, Community based organization, Council of elders, traditional leaders and other relevant stakeholders;

“temporary stay” means period of stay in a safe house for the victim of gender based violence for a period not exceeding six months;

“unwholesome treatment” means treatment not conducive to physical or mental health;

“victim” has the meaning assigned to it under Section 2 of the Victims Protection Act and also means any natural person who suffers injury, loss or damage as a consequence of an offence;

“Widow” means a woman who has not remarried after her husband’s death; and

“Widower” means a man who has not remarried after his wife’s death.

Object and purpose of the Act

3. The object and purpose of this Act is to—

- (a) promote public awareness about the causes, impacts, consequences, means of prevention and response to sexual and gender based violence;
- (b) provide protection to victims of sexual and gender based violence in line with existing laws and regulations which address sexual and gender based violence by—
 - (i) prohibiting harmful cultural and traditional practices;
 - (ii) outlawing gender discrimination in all its forms and subtleties;
 - (iii) ensuring protection and the maintenance of confidentiality for victims;
 - (iv) ensuring the provision of essential package of healthcare services;
 - (v) ensuring the provision of psycho-social support including guidance and counselling to victims of sexual and gender based violence;
 - (vi) ensuring availability of safe houses/shelters;
 - (vii) assisting victims access witness protection;
 - (viii) assisting victims reintegrate back to society;
- (c) positively address and seek to eradicate conditions that aggravate sexual and gender based violence by promoting and advocating for social justice;
- (d) support and facilitate the gathering of desegregated data (by age, sex, and disability);

- (e) establish a clear reporting and referral system to enable victims of and witnesses to sexual and gender based violence know to whom they should report;
- (f) prevent and respond to trafficking of persons for purposes of sexual exploitation and or forced labour; and
- (g) promote a safe working environment for employees free from discrimination and harassment on the basis of gender.

PART II—ADMINISTRATION OF JUSTICE

Co-ordinated multi-sectoral approaches to sexual and gender based violence

4. (1) The County Government shall in all its responses and prevention of sexual and gender based violence perspective of intersex persons' rights', adopt a multi-sectoral approach with all actors.

(2) The County Government shall, for purposes of directing and co-ordinating the functions provided under this Act and all laws and policies relevant in addressing sexual and gender based violence ensure—

- (a) efficient and effective coordination of the established units under this Act; and
- (b) where necessary, establish its own service delivery co-ordination units for purposes of co-ordination with the National Government and all relevant stakeholders.

(3) The effective co-ordination mechanism specific to sexual and gender based violence shall enhance strategic capacity information sharing and management.

(4) The County Government shall work with community to increase use of secondary prevention services and further primary prevention efforts to increase awareness of the intersection of sexual and gender based violence and gender inequality as well as existing laws on sexual and gender based violence.

(5) The County Government shall establish centres and integrated sexual and gender based violence services with referral linkages to police, health services, psychosocial support and legal aid in a collaborative manner.

Determination of sexual and gender based violence coordination mechanism

5. The County Government shall determine the type of sexual and gender based violence co-ordination units suitable within its jurisdiction for effective administration of justice to the victims of sexual and gender based violence.

PART III—COUNTY SEXUAL AND GENDER BASED VIOLENCE ADVISORY COMMITTEE

Establishment of County Sexual and Gender Based Violence Advisory Committee

6. (1) There is hereby established the County Sexual and Gender Based Violence Advisory Committee which shall consist of members appointed by the Governor with the approval of the County Assembly as follows—

- (a) a Chairperson who shall have more than ten years' experience in gender affairs and not an employee of the County Government, nominated by the Governor and approved by the County Assembly;
- (b) the Secretary of the Committee shall be the Director Social Services Department;
- (c) a representative from the civil society;
- (d) one person representing County Executive Committee Member responsible for Finance;
- (e) one person representing County Executive Committee Member responsible for Health;
- (f) a representative from the Law Society of Kenya;
- (g) one representative from the Inter-Religious Council of Kenya;
- (h) one person representing the youth; and
- (i) one person representing persons with disabilities.

(2) Appointment shall take into consideration gender, ethnicity, youth and persons with disabilities inclusion as well as compliance with Chapter six of the Constitution of Kenya, 2010.

(3) The Committee shall be established within twelve (12) months of the operationalization of this Act.

(4) Remuneration of the Committee shall be in accordance with Salaries and Remuneration Commission guidelines.

(5) A person shall be eligible for appointment as the chairperson of the Committee if the person—

- (a) possesses a university degree;
- (b) has at least 10 years' working experience in gender based violence issues;
- (c) is a person of integrity and meets the requirements of Chapter Six of the Constitution of Kenya; and
- (d) is not convicted of any criminal offence whose penalty does not exceed six (6) months.

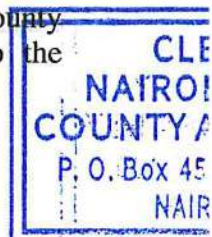
Term of Office

7. The County Sexual and Gender Based Violence Advisory Committee shall be appointed for a term of three years and are eligible for re-appointment once.

Functions of County Sexual and Gender Based Violence Advisory Committee

8. The County Sexual and Gender Based Violence Advisory Committee shall perform the following functions—

- (a) co-ordination and oversight of all prevention and response activities, sexual and gender based violence activities;
- (b) ensure that there are adequate financial and technical resources that correspond to the nature and scope of the activities planned for sexual and gender based violence intervention;
- (c) establish a policy implementation team to advise County Executive Committee Member on policy implementation, prevention and response strategies;
- (d) facilitate training in each sub-counties;
- (e) ensure that there is sufficient and adequately trained staff to carry out planned sexual and gender based violence interventions;
- (f) undertake and promote research on sexual and gender based violence;
- (g) ensure data collection (desegregated by sex, age, ability) as a basis for driving high quality and more relevant service development;
- (h) prepare and submit reports on a quarterly basis to the County Executive Committee Member and an annual report to the



County Assembly on the status of sexual and gender based violence prevention and response interventions under this Act;

- (i) develop a county sexual and gender based violence prevention and response Action Plan for prevention and response to sexual and gender based violence within one year of establishment;
- (j) develop, cultivate and promote effective linkages; and
- (k) perform any other function as may be assigned by legislation.

Vacancy of office

9. The Office of a member of the Sexual and Gender Based Violence Management Committee shall become vacant on any of the following grounds—

- (a) at the expiration of three years from the date of appointment;
- (b) mental incapacity rendering a member incapable of performing their functions;
- (c) gross misconduct;
- (d) incompetence or negligence of duty;
- (e) bankruptcy;
- (f) non-compliance with chapter 6 of the Constitution;
- (g) when a member is convicted of a criminal offence and sentenced to imprisonment for a term of more than six months; and
- (h) resignation in accordance with all relevant laws and regulations guiding a member's appointment to the Committee.

PART IV—SEXUAL AND GENDER BASED VIOLENCE EDUCATION AND INFORMATION

Sexual and gender based violence education and information

10. (1) The County Executive Committee Member through multi-sectoral approaches shall promote periodic public awareness campaigns about the causes, impacts, consequences, means of prevention and response to sexual and gender based violence through a comprehensive countywide educational and information campaign in collaboration with relevant state and non-state departments, agencies and stakeholders.

(2) The educational and information campaign referred to in subsection (1) shall—

- (a) employ pragmatic and innovative approaches;

- (b) focus on the family as the basic social unit;
- (c) confront the dangers and impact of Sexual and Gender Based Violence; and
- (d) be carried out in learning institutions, places of worship, in all communities within the County.

(3) In conducting the educational and information campaign referred to in this section, the County Government shall collaborate with relevant stakeholders to ensure the involvement and participation of victims and perpetrators of sexual and gender based violence.

Sexual and gender based violence education in institutions of learning

11. (1) The County Executive Committee Member responsible for Education shall work with relevant stakeholders to integrate instruction on the causes, impacts, consequences, means of prevention and response to sexual and gender based violence in subjects taught in public youth polytechnics and related institutions of Technical Industrial Vocational Education and Training.

(2) Promote sensitization and awareness creation on sexual and gender based violence in the learning institutions.

(3) The County Executive Committee Member responsible for matters dealing with Education shall in consultation with the relevant Ministry at the National level, utilizing official information provided by the Ministry, shall work together to integrate instruction on the causes, impacts, consequences, means of prevention and response to sexual and gender based violence in subjects taught in public and private schools at primary, secondary and tertiary levels, including informal, non-formal and indigenous learning systems.

Sexual and gender based violence education as a healthcare service

12. (1) Sexual and gender based violence education and information dissemination shall form part of the delivery of healthcare services by healthcare providers.

(2) For the purposes of sub-section (1), the County Government in collaboration with relevant stakeholders in the health sector shall ensure training of healthcare providers on proper information dissemination and education on sexual and gender based violence.

(3) The training of healthcare providers under this section shall include education on sexual and gender based violence-related ethical issues such as sensitivity, confidentiality, the duty to provide treatment,

and procedures on how to report to the relevant authorities for further action.

(4) Quality services provision and response, including their role and availability in courts as expert witnesses.

Sexual and gender based violence education in the workplace

13. (1) The Committee shall ensure the provision of basic information and instruction on sexual and gender based violence to—

- (a) employees of all County Government Ministries, Departments, authorities and other agencies; and
- (b) employees of private and informal sectors.

(2) The information provided under this section shall cover issues such as confidentiality in the work-place and mechanisms of reporting sexual and gender based violence perpetrators and cases victims.

(3) The Committee shall assist county sectors to develop sector-specific sexual and gender based violence prevention and response policies within the work place to address the problem in the County.

Sexual and gender based violence information in communities

14. (1) The Committee, in collaboration with all the relevant stakeholders, shall conduct an educational and information campaign on sexual and gender based violence within its area of jurisdiction.

(2) The information provided under this section shall cover issues such as details of where to get help and the processes involved.

PART V—ACCESS TO HEALTHCARE SERVICES

Access to healthcare services

15. (1) Every health institution, whether public or private, and every health management organization or medical insurance provider shall facilitate access to healthcare services to sexual and gender based violence victims without unnecessary impediments.

(2) The County Government shall facilitate and collaborate with relevant National Government agencies in the establishment of a County Forensic Laboratory for purposes of analysis of samples on sexual and gender based violence.

(3) The County Government shall ensure free access to essential post healthcare services for victims of sexual and gender based violence.

PART VI—SAFE HOUSES/SHELTER**Establishment of safe houses / shelter**

16. (1) The Committee shall facilitate the establishment of at least one safe house per sub-county.

(2) The Committee shall ensure access to essential healthcare services for victims within the safe house.

(3) The County Executive Committee Member shall make budgetary allocations for new and existing shelter programs.

(4) The Committee shall ensure better access to health care, law enforcement, and prosecution by fostering linkages through relevant government co-ordinating entities.

Functions of the safe houses/shelter

17. The safe house shall—

- (a) offer temporary stay for victims of sexual and gender based violence;
- (b) co-ordinate with relevant county sectors and departments and shall provide the most effective and efficient services in the most appropriate manner and by a multidisciplinary team where necessary;
- (c) be accountable for the delivery of an appropriate and quality service;
- (d) take consideration of the context of the community environment in terms of culture, sex, religion, disability, mental health; and
- (e) ensure access to a most empowering environment and programmes appropriate to victim's individual developmental and therapeutic needs.

Management of safe houses/shelters

18. (1) The County Executive Committee Member in consultation with the County Public Service Board shall competitively recruit a manager to be charged with the day-day management of the shelter.

(2) The manager appointed under section 18 (1) above shall report to the Sexual and Gender Based Violence County Management Committee.

(3) The manager shall be tasked with the preparation and submission of reports on the status of safe houses to the sexual and gender based violence County Management Committee bi-annually or upon request.

PART VII—FUNDING**Funding**

19. (1) The County Executive Committee Member In-charge of Finance shall ensure a sustained budget through its annual budgetary allocations for purposes of prevention of sexual and gender based violence and response.

(2) The County Executive Committee Member in charge of Finance may seek grants from the National Government, development and other implementing partners to facilitate its sexual and gender based violence programmes and activities to the County Assembly.

(3) The County Executive Committee Member in charge of Finance shall provide Annual Comprehensive financial statements/reports for the sexual and gender based violence programmes and activities to the County Assembly.

Regulations

20. (1) The County Executive Committee Member In-charge of Finance shall ensure a sustained budget through its annual budgetary allocations for purposes of prevention of sexual and gender based violence and response.

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Funding for Sexual and Gender Based Violence Programmes

21. (1) The County Executive Committee Member may make regulations for the better carrying out of the purposes and provisions of this Act and without prejudice to the generality of the foregoing, such regulations may provide for—

- (a) management of safe houses, shelters and safe spaces;
- (b) registration and inspection of safe houses;
- (c) procedures for dealing with evidence from survivors of sexual and gender based violence; and

- (d) preparation of annual action plans for the prevention and response to sexual and gender based violence.

CLERK
NAIROBI CITY
COUNTY ASSEMBLY
P. O. Box 45844 - 00100,
NAIROBI

SCHEDULE**PROVISION FOR THE CONDUCT OF BUSINESS AFFAIRS OF
THE COMMITTEE****Meetings**

1. The Committee may meet at such place in Kenya as the Chairperson may determine and the meetings will be convened by the Chairperson.

(1) The Committee shall have at least four meetings in every financial year and not more than three months than three months shall lapse between one meeting and the next meeting

(2) Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member by the Secretary of the Committee

(3) The Chairperson may, at his discretion or at the written request made by at least half of the members of the Committee and within seven days of the request convene an extraordinary meeting at such time and place as he may appoint.

(4) The Chairperson shall preside over all Meetings however, in his or her absence, the vice-chairperson shall preside over the meetings.

(5) The members of the Committee shall elect a Vice-chairperson from among themselves at the first sitting of the Committee and whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

(6) Where the chairperson or vice chairperson is absent, the members shall appoint from among themselves, a person to chair the meeting of the Committee.

(7) The Committee may invite any person to attend any of its meetings and to participate in the deliberations, but such person shall not have a vote in any decision of the Committee.

Conflict of interest

2. (1) If any person has a personal or fiduciary interest in deliberations regarding any deliberations and is present at a meeting of the Committee, at which any matter is the subject of consideration, that person shall at soon as practicable after the commencement of the meeting declare such interest and shall not take part in any consideration or discussion of or vote on any question touching such matter.

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(4) The Chairperson shall, in his absence, the vice-chairperson or other members of the Committee.

(5) The members of the Committee shall elect a Vice-chairperson from among themselves at the first sitting of the Committee and whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

(6) Where the chairperson or vice chairperson is absent, the members shall appoint from among themselves, a person to chair the meeting of the Committee.

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