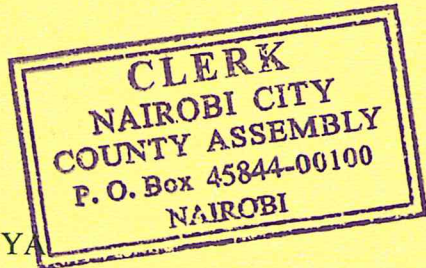


SPECIAL ISSUE

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REPUBLIC OF KENYA



KENYA GAZETTE SUPPLEMENT

NAIROBI CITY COUNTY BILLS, 2019

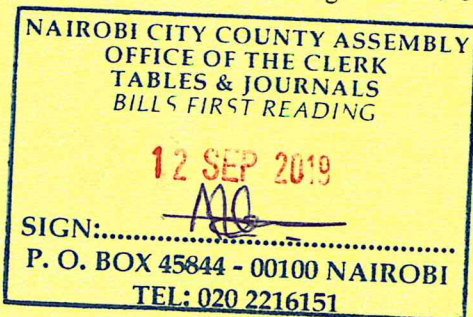
NAIROBI, 22nd July, 2019

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NAIROBI CITY
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P.O. BOX 45844-00100
NAIROBI



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NAIROBI CITY COUNTY BILLS, 2019

NAIROBI, 22nd July, 2019

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NAIROBI CITY COUNTY ASSEMBLY
OFFICE OF THE CLERK
TABLES & FOR BILLS
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**THE NAIROBI CITY COUNTY SEXUAL AND GENDER BASED
VIOLENCE MANAGEMENT AND CONTROL BILL, 2019**

ARRANGEMENT OF CLAUSES

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**THE NAIROBI CITY COUNTY SEXUAL AND
GENDER BASED VIOLENCE MANAGEMENT AND
CONTROL BILL, 2019**

A Bill for

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 of, and for connected purposes

ENACTED by the Nairobi City County Assembly, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nairobi City County Sexual and Gender Based Violence Management and Control Act, 2019.

Short title.

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

Interpretation.

“County Executive Committee Member” means the County Executive Committee Member responsible for matters dealing with Gender and Youth Affairs;

“County Government” means County Government of Nairobi City as established under Article 176 of the Constitution;

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

“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;

“Gender Based Violence” violence visited upon a person based on their gender and includes child marriage; female genital mutilation; forced marriage; forced wife inheritance; interference from in-laws; sexual violence within marriage; virginity testing; widow cleansing; damage to property; defilement; harassment; incest; intimidation; physical abuse; sexual abuse; stalking; sexual slavery; economic abuse, verbal abuse; or any other

conduct against a person, where such conduct harms or may cause imminent harm to the safety, health, or well-being of the person, or any other act that results in, or is likely to result in, physical, sexual or psychological harm or suffering, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or in private life.

‘Governor’ means the County Governor of Nairobi City County;

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

“Minimum 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;

“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;

“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;

“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;

“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;

“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;

“widower” means a man who has not remarried after his wife’s death;

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

Object and
purpose of Act

- (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) guaranteeing the right to privacy of the individual;
 - (iv) ensuring the provision of minimum 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) guaranteeing availability of safe houses/shelters; and
 - (vii) providing witness protection;
- (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, ethnicity 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.

PART II—ADMINISTRATION OF JUSTICE

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

Coordinated multi-sectoral approaches to sexual and gender based violence

(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 coordination 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.

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

Determination of sexual and gender based violence coordination mechanism

**PART III—SEXUAL AND GENDER BASED
VIOLENCE COUNTY MANAGEMENT
COMMITTEE**

6. (1) There is hereby established a Sexual and Gender Based Violence County Management Committee which shall consist of members appointed by the Governor follows—

Establishment of
Sexual and
Gender Based
Violence County
Management
Committee

- (a) a chairperson who shall be the County Executive Committee Member responsible for Gender and Youth Affairs;
- (b) the County Commissioner (in accordance with the National sexual and gender based violence Policy);
- (c) one person representing County Executive Committee Member responsible for Finance;
- (d) one person representing County Executive Committee Member responsible for Health;
- (e) one person having specialized skill or knowledge on gender issues;
- (f) two persons representing the Chief Security Officer;
- (g) two representatives from the Inter-Religious Council of Kenya;
- (h) two people representing the youth female and male;
- (i) one person representing persons with disability;
- (j) any other persons that the Committee members may co-opt.

(2) Appointment shall take into consideration gender, ethnicity, youth and persons with disabilities inclusion.

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

7. The County Sexual and Gender Based Violence Management Committee shall be appointed for a term of three years renewable once.

Term of Office

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

Functions of
County Sexual
and Gender Based
Violence
Management

- Committee
- (a) coordination and oversight of all 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 Chief Officer Responsible for Gender and Youth Affairs;
 - (d) facilitate training and procedures in each Sub Counties;
 - (e) meet regularly to advise the Chief Officer Responsible for Gender and Youth Affairs on policy implementation, prevention and response strategies;
 - (f) ensure that there is sufficient and adequately trained staff to carry out planned sexual and gender based violence interventions;
 - (g) undertake and promote research on sexual and gender based violence;
 - (h) ensure data collection (desegregated by sex, age, ability) as a basis for driving high quality and more relevant service development;
 - (i) prepare and submit reports on a quarterly basis to the County Assembly on the status of sexual and gender based violence interventions under this Act;
 - (j) develop County Action Plan for prevention and response to sexual and gender based violence within one year of establishment;
 - (k) develop, cultivate and promote effective linkages;
 - (l) perform any other function as may be assigned by legislation.

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

Removal from Office

- (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 not more than six months; or
- (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

10. (1) The County Government through multi-sectoral approaches shall promote public awareness about the causes, impacts, consequences, means of prevention and response to sexual and gender based violence through a comprehensive countywide educational and information campaign through the various sexual and gender based violence actors and stakeholders.

Sexual and gender based violence education and information

(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.

11. (1) The County Executive Committee Member responsible for education shall work with relevant

Sexual and gender based violence education in

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.

institutions of learning

(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.

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

Sexual and gender based violence education as a healthcare service

(2) For the purposes of subsection (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 report to the relevant authorities for further action.

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

Sexual and gender based violence education in the workplace

- (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 victims.

(3) The County Government shall develop Anti-Sexual and Gender Based Policy with in the work place to address the problem

14. (1) The County Government, 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.

Sexual and gender based violence information in communities

(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 HEALTH CARE 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.

Access to healthcare services

(2) The County Government shall facilitate 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 access to essential healthcare services for victims of sexual and gender based violence.

PART VI — SAFE HOUSES/SHELTER

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

Establishment of safe houses / shelter

(2) The County Government shall ensure access to essential healthcare services at affordable prices.

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

(4) The County Government shall ensure better access to health care, law enforcement, and prosecution by fostering linkages through relevant government coordinating entities

17. The safe house shall—

Functions of the safe houses / shelter

(a) Offer temporary stay for victims of sexual and gender based violence

- (b) Provide services in the most effective and efficient way as far as possible.
- (c) Provide services that are holistic, inter-sectoral and delivered by appropriate multi-disciplinary team
- (d) Be accountable for the delivery of an appropriate and quality service
- (e) Contextualize the community environment
- (f) Ensure access to a most empowering environment and programmes appropriate to victim's individual developmental and therapeutic needs.

18. (1) The Governor in consultation with the County Public Service Board shall appoint a person to be charged with the day-day management of the shelter.

Management of
safe
houses/shelters

(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

19. (1) The County Government shall ensure a sustained budget through its annual budgetary allocations for purposes of prevention, control and management of sexual and gender based violence.

Funding

(2) The County Government may seek grants from the national government, development and other implementing partners to facilitate its sexual and gender based violence programmes and activities.

(3) The County Government shall provide Annual Comprehensive Financial statement/Report for the sexual and gender based violence programmes and activities.

MEMORANDUM OF OBJECTS AND REASONS

This Bill provides for the promotion of public awareness on causes, impact and consequences and means of prevention of sexual and gender based violence and protection of those subjected to in Nairobi City County and for connected purposes

The Bill provides for the following preliminary provisions; short title and commencement of the Act and interpretation.

The substantive provisions of the Bill contain: purposes of the act; administration of justice, establishment of the County Sexual and Gender Based Violence Management Committee and its functions and removal from office of members, sexual and gender based violence education and information, sexual and gender based violence education in institutions of learning, sexual and gender based violence education in healthcare institutions, sexual and gender based violence in education in the workplace, sexual and gender based violence education and information in community, access to health care and funding.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided through the estimates.

Dated the 19th June, 2019.

WANJIRU KARIUKI,
Member of County Assembly.

