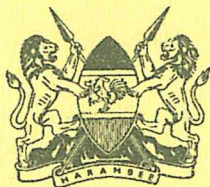


SPECIAL ISSUE

Kenya Gazette Supplement No. 2 (Nairobi City County Bills No. 2)



REPUBLIC OF KENYA

NAIROBI CITY COUNTY ASSEMBLY
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TABLES & JOURNALS
BILLS FIRST READING

22 MAR 2022

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KENYA GAZETTE SUPPLEMENT

NAIROBI CITY COUNTY BILLS, 2022


NAIROBI, 21st February, 2022

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SPECIAL ISSUE

Kenya Gazette Supplement No. 7 Nairobi City County Bill No. 2



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NAIROBI CITY COUNTY BILLS, 2022

NAIROBI, 21st February, 2022

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**NAIROBI CITY COUNTY HARM REDUCTION
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NAIROBI CITY COUNTY HARM REDUCTION BILL, 2022**A Bill for**

AN ACT of The Nairobi City County Assembly to make provisions for the administration and coordination of Harm Reduction Health and Social Services, for prevention and control of infectious diseases and for connected purposes

ENACTED by the County Assembly of Nairobi City, as follows—

PART I – PRELIMINARY**Short title and Commencement**

1. This Act may be cited as the Nairobi City County Harm Reduction Act, 2022 and shall come into operation on a date appointed by the Executive Committee Member but in any case, not earlier than the Financial Year 2022-2023.

Interpretation

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

“County Executive Committee Member” means the Nairobi City County Executive Committee Member for the time being in charge of County Health Services;

“Committee” shall be interpreted to make reference to the Nairobi City County Harm Reduction Health Services Committee;

“Chairperson” shall be construed to mean the person for the time being in the capacity of Chairperson in the Nairobi City County Harm Reduction Health Services Committee;

“Designated Sub-County Facility” shall be construed to mean, each Sub-county appointed by the Committee as a Centre where a County Health Facility shall offer Harm Reduction Services;

“Harm Reduction” is an approach to provision of health services and public health policy that protects the life, health, and dignity of key populations by Provision of health services to prevent, control and stop further transmission of infectious diseases including HIV & AIDS, Hepatitis, Sexually Transmitted Infections, among other infectious diseases;

“Key Populations” means the persons listed under the Kenya National Framework on Treatment and Substance Abuse Disorders.

Object and Purpose of this Act

3. The object and purpose of this Act is to provide for the provision, administration and coordination of Harm Reduction Health and Social Services for prevention and control of infectious diseases, in order to—

- (a) ensure the provision of and secure the access to the highest attainable standard of Healthcare to Key Populations in accordance to Article 43 and the Fourth Schedule of the Laws of Kenya;
- (b) prevent the continued spread of infectious diseases amongst key populations;
- (c) reduce the infectious disease burden on public health services by offering preventive measures to key populations;
- (d) protect the community, the youth and future generations from exposure to by way of being infected or affected by the infectious diseases;
- (e) provide for the education, public awareness, information sharing and building research on harm reduction as a contributory measure to prevention of infectious diseases;
- (f) inform and educate the public on the harmful health, economic and social consequences of the consumption of substances and substance use disorders;
- (g) adopt and implement effective measures to eliminate the spread of infectious diseases amongst key populations, their partners, families and the people of Nairobi City County;
- (h) promote and provide for psychosocial support, treatment, and rehabilitation of persons with problematic drug use, their families, care givers, dependents, and the community in general;
- (i) promote research and dissemination of information on the effects of problematic drug use, in particular the health risks that may arise therefrom and the working strategies for treatment and rehabilitation;
- (j) monitoring, evaluation and learning of the implementation process of this Act.

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PART II—ADMINISTRATION

Establishment of the Committee

4. (1) There is established a Committee to be known as Nairobi City County Harm Reduction Health Services Committee which shall consist of—

- (a) a non-executive chairperson knowledgeable in matters of Harm Reduction Service Provision appointed by the Governor;
- (b) the County Executive Committee Member, who shall be the Secretary;
- (c) the Nairobi County Commissioner or his/her representative;
- (d) two Youth Representatives of either gender from recognized youth organizations working within the County on matters of Harm Reduction or directly supporting the process of countering problematic drug use;
- (e) a representative of the County Director of Health Services; and
- (f) two representatives of Key Population Organizations of either gender.

(2) The Governor shall appoint the Chairperson in accordance with the recommendation of the County Public Service Board, and subject to the approval of the County Assembly.

(3) In the appointment of the chairperson and members under this Section, the appointing authority shall ensure regional balance, gender parity.

(4) The appointment of the chairperson and members appointed under subsection (1) (a), (d) to (i) shall be by notice in the *Kenya Gazette*.

(5) The chairperson and members of the Committee appointed under subsection (1) (d) and (i) shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

(6) The qualifications of the chairperson and members of the Committee appointed under subsection (1) (d) to (i) shall be set out in the Regulations.

Functions of the Committee

5. The Committee shall—
- (a) coordinate the provision of Harm Reduction Services at designated County Health Facilities in accordance to this Act and strict adherence to the Guidelines issued by the Committee;
 - (b) establish and maintain a registry of key population persons engaged in the Harm Reduction program including those enrolled in treatment and rehabilitation outreach;
 - (c) coordinate the provision of psychosocial support to the key populations, communities and members of the public affected by problematic drug use;
 - (d) contribute to research, statistics, information and education programs on Harm Reduction, Key populations and connected purpose;
 - (e) carry out awareness creation forum by way of information dissemination on harm reduction, treatment, and rehabilitation of key populations including persons with problematic drug use as the case may be;
 - (f) develop and recommend to the County Executive Member, the Operationalization Guidelines as regards the implementation, management and execution of such function as designate under this Act;
 - (g) administer, appropriate and account for Funds assigned to the committee under this Act;
 - (h) coordinate the provision of Harm Reduction Healthcare in Nairobi City County;
 - (i) manage and supervise the provision of Harm Reduction Services to Key Populations at designated Sub-County Health Facilities;
 - (j) keep statistics on the level of consumption, statistics on persons with problematic drug use disorders and related deaths and carry out research, documentation and dissemination of all relevant information on problematic Drug use;

- (k) promote County treatment and rehabilitation programmes for key populations, their care givers, families and communities affected by problematic drug use;
- (l) advise the County Executive Committee Member on the harm reduction policies, programmes and interventions to be adopted with regard to the provision of County Harm reduction health Services;
- (m) advise the County Executive Committee Member generally on the exercise of his powers and the performance of his functions under this Act, and in particular to—
 - (i) budgetary allocation to the County Harm Reduction Health Services Provision;
 - (ii) advise the Minister on the most effective programmes, methods, and interventions to be used in harm reduction intervention in conformity with the requirements of this Act and any regulations made thereunder;
 - (iii) conduct and dissemination of research, studies, and commission position papers on harm reduction health interventions for public awareness;
 - (iv) advise the County Executive Committee Member on the information that shall be disseminated for purposes of public awareness and education on harm reduction;
 - (v) recommend to the County Executive Committee Member and to participate in the formulation of the regulations to be made for the operationalization of this Act;
 - (vi) provide support and assistance in the establishment of treatment and rehabilitation programmes that shall recognize problematic drug use as a public health concern;
 - (vii) carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the County Executive Committee Member.

Vacancy in the Committee

6. (1) The office of the chairperson or a member of the Committee appointed under subsection (1) (d) to (i) shall become vacant if the holder—

- (a) dies;

- (b) resigns from office by notice in writing to the Governor;
 - (c) is convicted of an offence and is sentenced to imprisonment for a term exceeding six (6) months;
 - (d) has been absent from three consecutive meetings of the Committee without a notice to the chairperson; or
 - (e) is removed in accordance with subsection (2).
- (2) a member of the Committee may be removed from office for—
- (a) violation of the Constitution or any other law;
 - (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
 - (c) physical or mental incapacity to perform the functions of the office;
 - (d) incompetence; or
 - (e) bankruptcy.

(3) The County Executive Committee Member shall ensure that where a vacancy occurs in the Committee, it is filled as soon as is practicable in accordance with the provisions of the Act.

Conduct of business and affairs of the Committee

7. The procedure of conduct of business and affairs of the Committee shall be conducted in accordance with the Procedure adopted by the Committee on its First Sitting, but subject thereto, the Committee may regulate its own procedure.

Remuneration

8. The Chairperson and members of the Committee shall be paid such remuneration or allowances as the County Executive Committee Member, may, on the advice of the Salaries and Remuneration Commission determine.

Funds

9. The Funds for financing the implementation of this Act shall consist of—

- (a) such monies as shall be appropriated by the County Assembly in each financial year;
- (b) such grants or transfers as may be received from any lawful source;

- (c) grants and donations received from development partners; or
- (d) such other monies received from national government as conditional or non-conditional grants in accordance with the established system.

Application of the funds

10. All moneys from time to time forming part of the funds, shall be applied as follows—

(a) For making all allocations, procurement facilitating coordination, standardization and facilitation of the provision of harm reduction services to Key Populations;

(b) for the payment of all costs, charges and expenses incurred by the Committee in the performance of its functions under this Act;

(c) for the payment of any other sums properly payable out of the funds for the purposes of this Act or any rules made thereunder.

PART III— PROVISION OF HARM REDUCTION SERVICES

Harm Reduction Facilities

11. There shall be designated Sub-County Harm Reduction Healthcare Facilities which shall be prescribed by the Committee based on the Statistical information outlining the Harm Reduction needs guided by the numbers of Key Populations in the sub-county or cluster of Sub-Counties as the case may be.

Harm Reduction Health Service Providers

12. Healthcare services providers within the designated Sub-County Healthcare facilities shall at all times remain in Conformity with the obligations to offer such services as hereunder;

1. No person, being a member of the Key Population shall—

- (a) be denied access to their right to Health including mental health and as the case may be access to harm reduction services;
- (b) be denied harm reduction services on Demand;
- (c) be victimized, discriminated or in any way subject to unfair treatment as while seeking to access harm reduction services.

2. Subsection (1) any health services provider who—

- (a) unduly refuses to grant such requested access to harm reduction services;
- (b) unreasonably withholds information, treatment and prevents access to key populations of such services shall be guilty of an offence and liable for disciplinary action in accordance to the Kenya Medical Practitioners and Dentists Council procedures;
- (c) notwithstanding the provisions of subsection (2 (c)), it shall be a defense to an offence under this section if it is established that the accused person attempted to verify that the person seeking such service is a registered Harm Reduction services recipient, or a member of the key population and where such information is withheld or could not be accessed under the prevailing circumstances, the Practitioner shall be held blameless.

3. For the purposes of this section, the following documentation may be used to verify a person's membership to harm reduction programmes —

- (a) a clinic card which notes the file number indicating the engaged harm reduction programme the person is engaged in;
- (b) a letter of referral from such institution as the person has been receiving such treatment from;
- (c) a letter of referral from a licensed medical practitioner;
- (d) any other documentation as the Director may prescribe.

PART V— EDUCATION AND INFORMATION

Education and Information

13. The Committee shall undertake information, education and communication on Harm Reduction Health services by—

(1) Promoting public awareness about the prevention, initiation and use of drugs and proscribed substances highlighting of health consequences, addictive nature and mortal threat posed by problematic drug use through a comprehensive nationwide education and information campaign conducted by the Committee through the County Department of Health, authorities and other agencies including the relevant nongovernmental organizations and civil society interested in Public Health.

(2) The education and information campaign referred to in subsection (1) shall focus on the family as the basic social unit and

shall be carried out in all schools and other institutions of learning, all prisons, remand homes and other places of confinement, amongst the disciplined forces, at all places of work and in all communities in Kenya.

(3) The Committee, in collaboration with the County Government and Relevant civil society groups shall provide training, sensitization and awareness programmes on problematic drug use and harm reduction for community workers, social workers, media professionals, educators, decision makers, administrators and other concerned persons for proper information, dissemination and education on substance addiction and problematic drug use disorders.

(4) In conducting the education and information campaign referred to in this section, the relevant Committee and County Government shall ensure the involvement and Public participation of individuals and Key Population groups affected by problematic drug use disorders including the infectious diseases populations.

(5) In conducting the education and awareness campaign under this section, the Committee and the County Government shall—

- (a) recognize problematic drug use as a public health concern as defined and classified by World Health Organization shall be recognized as such in Nairobi County;
- (b) promote the establishment, staffing and equipping of Harm Reduction centers at designated Sub-County health facilities including the treatment and rehabilitation programmes that are subsidized and affordable;
- (c) educate the public on the benefits of using harm reduction as a key contributory factor to the prevention of the spread of the infectious diseases as well as an effective treatment and rehabilitation strategy;
- (d) promotion of prevention and reduction of stigma to members of key population and support reintegration into the society upon completion of relevant programmes.

Integration of Harm Reduction into County Public Health Services

14. The Committee shall liaise with the Executive Member for the time being in charge of Finance to facilitate the integration of instruction and training on—

(1) The health consequences, addictive nature and mortal threat posed by problematic drug use, the available options on treatment and rehabilitation including harm reduction in County public awareness and information strategies, forums community awareness and education, including informal and non-formal and indigenous learning systems.

(2) The Committee shall liaise with the Executive Member for the time being responsible for health to ensure that problematic drug use education and information dissemination shall form part of healthcare services by healthcare providers.

(3) For the purposes of subsection (2), the Committee and the County Government shall provide training for the healthcare providers to acquire skills for proper information dissemination and education harm reduction as an intervention in the treatment and rehabilitation of key populations as well as reduction and prevention of the spread of infectious diseases.

PART VI – MISCELLANEOUS

Regulations

15. The County Executive Committee Member may, upon consultations with the relevant stakeholders and on recommendation of the Committee, make Regulations generally for the better carrying out of the objects of this Act.

(1) Without prejudice to the generality of section 17, the Regulations may—

- (a) prescribe anything required by this Act to be prescribed or prohibit anything required by this Act to be prohibited;
- (b) prescribe the recommended listing, standardization and guidelines for the provision of harm reduction services at Designated County Healthcare facilities;
- (c) prescribe the frequency, nature and content of research to inform harm reduction programming at County Level;
- (d) prescribe human right centred treatment and voluntary rehabilitation of key populations and persons with problematic drug use;
- (e) subject to this Act, control the data collection, identification models, data base management and data protection of persons listed as recipients in the harm reduction programmes in designated Sub-County Health facilities for protection of privacy and including the right to dignity.

MEMORANDUM OF OBJECTS AND REASONS

The main object of this Bill is to outline legislative measures for the harmonization by way of inclusion of harm reduction into county public health services as a measure for the prevention and reduction of spread of infectious diseases in Nairobi County Pursuant to article 43 as read together with the Fourth Schedule of the Constitution.

Part I of the Bill sets out the Preliminaries with Clause 1 to 3 setting out the short titles, objects and interpretations of the legislation.

Part II of the Bill outlines the Administration of the legislation by establishing a Committee to oversee the operationalization of the legislation and establishes a fund to support the carrying out of functions and obligations under the legislation.

Part IV sets out the provision of harm reduction services as an obligation of county health service providers and accessible on demand by members of the public rightly enrolled under the program.

Part V sets out the obligations of the county government to offer civic education on infectious diseases and harm reduction interventions as an entry to prevention of the spread of infectious diseases in the county.

Part VI sets out the modalities for transitions and implementation of the legislation including the establishment of regulations to govern the implementation of the legislation at County and Sub-County levels.

The Legislation empowers the County Executive member for the time being in charge of Health, with the approval of the County Assembly, to make Regulations for operationalization of the Act under the guidance of the Committee.

The enactment of this Bill shall not occasion additional expenditure of public funds but will open resourcing of the envisaged interventions by way of direct investment into county public health services.

Dated the 18th February, 2022

PETER WARUTERE,
Member of County Assembly.

