

SPECIAL ISSUE

Kenya Gazette Supplement No. 174 (Senate Bills No. 14)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2016

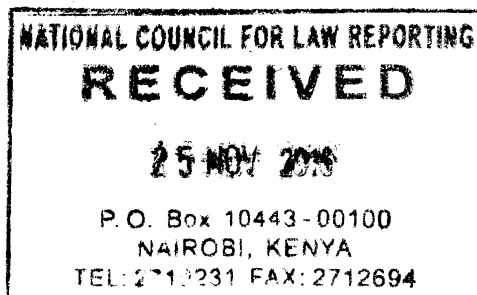
NAIROBI, 2nd November, 2016

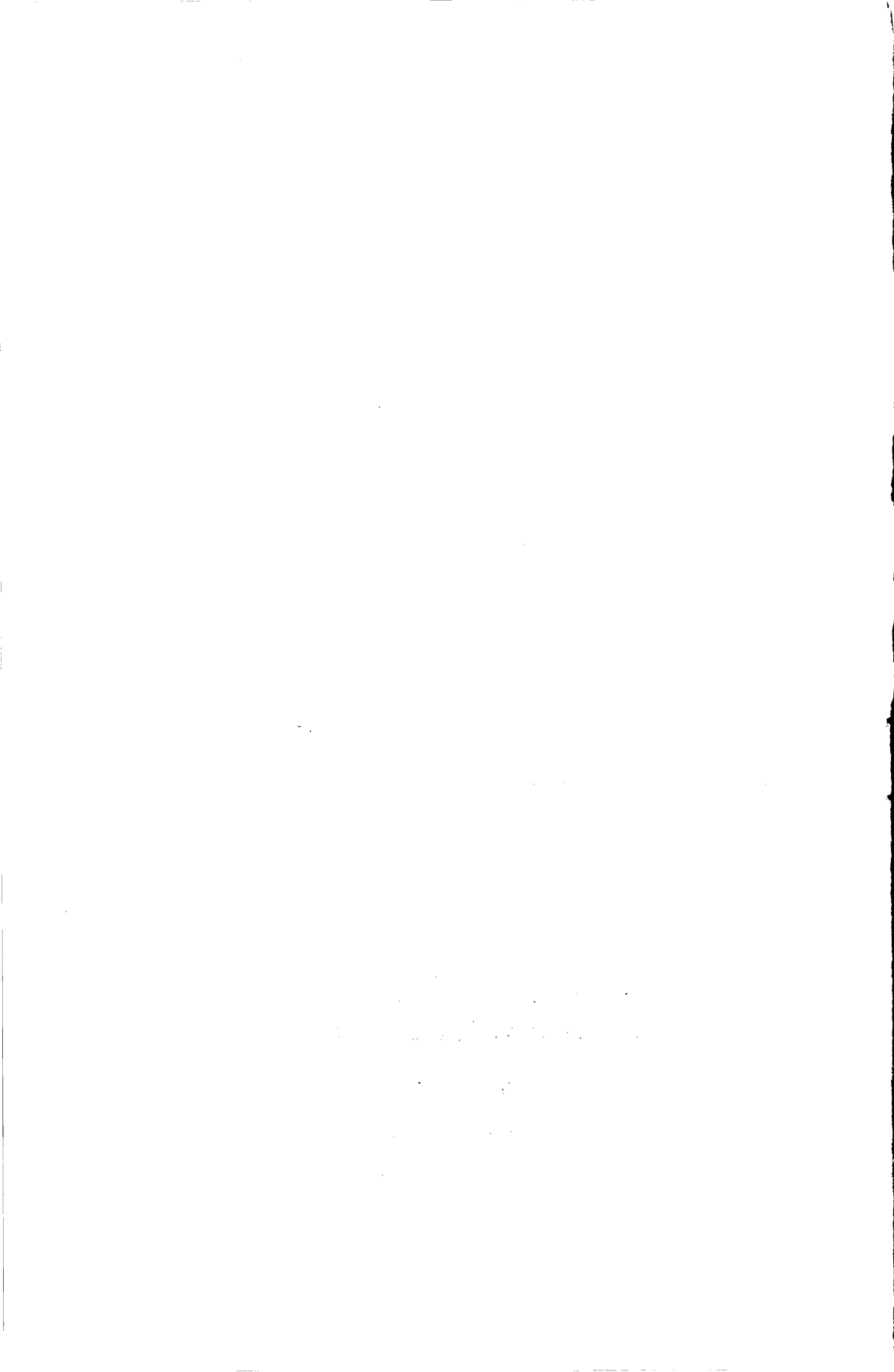
CONTENT

Bill for Introduction into the Senate—

PAGE

The Care and Protection of Child and Parents Bill, 2016 187





**THE CARE AND PROTECTION OF CHILD AND
PARENTS BILL, 2016**

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Object and purposes.

**PART II—CARE OF EXPECTANT CHILDREN AND
CHILD PARENTS**

- 4—Obligations of the National government with respect to child parents.
- 5—Obligations of a county government with respect to the care of neglected children.

**PART III—SCHOOL DROPOUT PREVENTION AND
RE-ENTRY PROGRAMMES**

- 6—Role of national and county governments in the prevention of school drop-out.
- 7—Management plans.
- 8—Rights of pregnant and parenting students.
- 9—Role of governments in ensuring re-admission of drop out children.
- 10—Management of teenage pregnancies in school.
- 11—Confidentiality.
- 12—Right to re-admission.
- 13—Re-admission.
- 14—Obligations of parents and guardians.
- 15—Obligations of the institution of basic education.
- 16—Offence.

PART III—ESTABLISHMENT OF CARE CENTRES

- 17—Establishment of care centres.
- 18—Services rendered in a care centre.
- 19—Requirements in relation to a care centre.
- 20—Requirement for registration and licensing a care centre.
- 21—Registration of care centres and licensing of applicants by a county government.
- 22—Location assessment of intended care centre.
- 23—Cancellation of a licence.
- 24—Notice of non-compliance.
- 25—Closure of a care centre.
- 26—Submission of reports on the management of a care centre.
- 27—Establishment of committees and appointment of authorised officers.

PART IV—CARE FOR CHILDREN WITHIN A CARE CENTRES

- 28—Delivery of child care in a care centre.
- 29—Management of a care centre.
- 30—Records relating to children in a care centre.
- 31—Services rendered within a care centre.
- 32—Role of management of a care centre.

PART V—INSPECTION AND EVALUATION OF SAFETY IN A CARE CENTRE

- 33—Safety in a care centre.
- 34—Appointment of inspectors.
- 35—Powers of an inspection officer.

PART VI—MISCELLANEOUS PROVISIONS

- 36—General penalty.
- 37—Regulations.
- 42—Existing care centres.

THE CARE AND PROTECTION OF CHILD AND PARENTS BILL, 2016

A Bill for

AN ACT of Parliament to provide a framework for the care and protection of child parents within the Counties; to provide a framework through which an expectant girl child or a child parent may actualise their right to basic education and at the same time ensure the care of their children; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows —

PART I—PRELIMINARY

1. This Act may be cited as the Care and Protection of Child and Parents Act, 2016.

Short title.

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

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for matters related to children;

“child care” means services that have as their primary purpose the care and supervision of children as defined under this Act;

“child parent” means a person who is twenty years of age or below and who is a parent to a child;

“care centre” means facility that provides child care services, but does not include a family home;

“Council” means the National Council for Children’s Services established under section 30 of the Children Act;

“county executive committee member” means the county executive committee member responsible for matters relating to children.

No. 8 of 2001.

3. The object and purposes of this Act are to—

Object and purposes.

(a) provide a framework for the protection of the rights set out under Article 53 (1) (c) and (d) of the Constitution in relation to child parents;

(b) provide a framework through which the expectant girl child and a child parent can realise their right to education and at the same time, ensure the care and protection of his or her child; and

- (c) provide a framework of standards for the establishment and regulation of care centres by county governments.

PART II—CARE OF EXPECTANT CHILDREN AND CHILD PARENTS

4. (1) The national government shall, to the extent of its constitutional mandate, promote the care and protection of expectant children and child parents.

Obligations of the National Government with respect to child parents.

(2) In ensuring that the National Government fulfils its obligations under subsection (1), the Council shall —

- (a) put in place mechanisms that will help establish a comprehensive capacity building programme for child parents to ensure they practice responsible family life;
- (b) establish, in consultation with the Cabinet Secretary responsible for matters relating to education, non-discriminatory enrolment, back to school or other training programmes and initiate necessary strategies that will identify persons within this group to benefit from the programmes;
- (c) identify, in consultation with personnel of institutions of basic learning and such other institutions as it may consider appropriate, children who are pregnant and who are in need of interventions to enable them realise the rights conferred on a child under Article 53 of the Constitution;
- (d) address any educational and related barriers faced by pregnant and parenting students; and
- (e) guarantee funding and sustainability of the initiative and other child welfare programmes aimed at benefiting child parents.

(3) In performing its functions under subsection (1), the Council shall —

- (a) collaborate with the relevant public entities in the establishment of mechanisms that ensure that expectant children and child parents have access to community and State based care support systems;

- (b) collaborate with the County Governments and relevant State and private agencies in carrying out activities for the provision of such pre-natal, post-natal and other health services, education and other support services to expectant children and child parents within the respective counties;
 - (c) conduct research, analysis of data and disseminate information on the welfare of expectant children and child parents in the Republic; and
 - (d) collaborate with the County Governments in—
 - (i) establishing a mechanism for the care of expectant children and child parents to ensure that the rights conferred on a child under Article 53 of the Constitution are attained with respect to such children; and
 - (ii) expanding and strengthening the educational framework and the community and family based care and support systems for the care of expectant children and child parents; and
 - (e) perform such other functions as may be necessary for the implementation of this Act.
- (3) The Council may, for the purpose of subsection (3), conduct inquiries, including public inquiries, into any matter relating to the welfare, care and protection of expectant children and child parents within a County.

5. Each county executive committee member shall —

- (a) put in place management plans and strategies for the delivery of social services and child care support services to expectant children and child parents within the County;
- (b) collaborate with the County Education Board and the county executive committee member responsible for education in establishing—
 - (i) programmes ensure that expectant children and child parents have access to education services; and
 - (ii) academic support programmes that ensure that students with extended absences for reasons related to pregnancy and parenting and able to

Obligations of a county government with respect to the care of neglected children.

enrol back into school or to such other education facility in order to access education services;

- (c) formulate and implement county specific programmes for the integration of expectant children and child parents into society and institutions of basic education within the respective County;
- (d) design, in collaboration with the Council and within the policy framework established by the national government, county specific programmes for the prevention of child pregnancies and programmes for the support, mentorship and development of expectant children and child parents ;
- (e) put in place and implement in consultation with the relevant public entities, interventions for the care, protection and alleviation of the plight of expectant children and child parents—
 - (i) with special needs or requiring special care and attention within the County; and
 - (ii) living in conditions of acute hardship including street children and children who abuse drugs or who suffer any form of child abuse;
- (f) establish such child care centres and implement such programmes as may be necessary for the provision of child care services to child parents who intend to enrol back to school and who do not have access to support services for the care of their child; and
- (g) collaborate with the Council in the provision of such technical assistance, information and facilities as may be necessary to ensure the efficient delivery of social services with respect to expectant children and child parents within the county.

PART III — SCHOOL DROPOUT PREVENTION AND RE-ENTRY PROGRAMMES

6. (1) The National and county governments shall –

Role of national and county governments in

- (a) formulate policies for the re-admission and integration of children who have dropped out of school by reason of pregnancy; the prevention of drop out.
- (b) put in place programmes and interventions—
- (i) for the identification of factors leading to teenage pregnancies and the dropping out of institutions of basic education, by children; and
 - (ii) that prevent the dropping out of children from institutions of basic education; and
- (c) put in place programmes for the assistance and education of vulnerable children and children in areas identified as having a high dropout rate owing to child pregnancy;
- (d) collaborate with the relevant stakeholders in the establishment of dropout prevention programmes that provide information and education that build upon the children's own knowledge, skills, values and attitudes; and
- (e) put in place programmes for the capacity building of teenage parents that aim at imparting skills including entrepreneurial skills to ensure that they practice responsible family life and that they are able to support their family.
- (2) Prevention programmes established under subsection (1) shall —
- (a) involve the parents and guardians of the children in the governance of institutions of basic education and in the development of the code of conduct of the institution and strategies to prevent teenage pregnancies;
 - (b) encompass the provision of relevant information and support for the prevention of teenage pregnancies;
 - (c) include the sensitization of children and their parents on issues that have a negative impact the attendance of children;
 - (d) create linkages between institutions of basic education and the communities they serve with the aim of encouraging school attendance,

sensitization and collaboration on issues affecting school attendance; and

- (e) promote healthy lifestyles through positive role modelling and encouraging children to participate in activities and advocacy and awareness programmes that have a positive impact and encourage a healthy lifestyle.

7. (1) Each institution of basic education shall develop a management plan for the support of any child who falls pregnant while in school.

Management plans.

(2) The management board of an institution of basic education shall –

- (a) put in place programmes with the aim of preventing teenage pregnancies and encouraging positive sexual behaviour amongst children in the institution;
- (b) treat each case of a child who falls pregnant while in an institution of basic education confidentially and professionally;
- (c) adopt an inclusive approach that involves the support of the child and parents or guardians of the affected child or children who are at risk of dropping out of school; and
- (d) in putting in place interventions or responses in situations of child drop out, ensure that the educational interests of the child are upheld.

8. (1) Every girl who –

- (a) while in an institution of basic education, falls pregnant and as a result, drops out of school; or
- (b) is of school going age but falls pregnant while out of school,

Rights of pregnant and parenting students.

shall have the right to be readmitted or enrolled into an institution of basic education.

(2) Every girl under subsection (1) shall have the right to –

- (a) remain in school and to receive the necessary support to continue their education and participate fully during their pregnancy or as a parent student;

- (b) fully participate in educational programs and activities of the institution of basic education; and
- (c) guidance and support to enable the child to return to her regular education programme after delivery and after the baby is weaned.

9. (1) The National and county governments shall—

Role of governments in ensuring re-admission of drop out children.

- (a) develop and implement a plan for identifying and re-engaging—
 - (i) children who have dropped out of institutions of basic education owing to teenage pregnancies; and
 - (ii) vulnerable children who are have dropped out of, or who are likely to drop out of institutions of basic education owing to factors beyond their control,

in order to ensure that they are readmitted and integrated into the education system;

- (b) establish partnerships with community based organizations, education providers and other relevant stakeholders in order to –
 - (i) provide a broad range of educational options and services for children who drop out of school under this Part, including persons who are beyond eighteen years of age; and
 - (ii) counsel children in schools on adolescent sexuality, responsible behaviour and the consequence of teenage pregnancies; and
- (c) ensure that the education system in place takes into account the best interests of children who fall pregnant while in school.

(2) In this section, a “vulnerable child” means a child who faces circumstances that increase the likelihood of dropping out of an institution of basic education owing to teenage pregnancy.

10. (1) Where a child falls pregnant or a teacher or person in authority within the school has a reason to believe that a child within an institution of basic education is pregnant, the matter shall be referred to the principal of the institution.

Management of teenage pregnancies in school.