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**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 204 (National Assembly Bills No. 41)*

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2020**

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**NAIROBI, 20th November, 2020**

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**THE CRIMINAL PROCEDURE CODE (AMENDMENT)  
BILL, 2020**

**A Bill for**

**AN ACT of Parliament to amend the Criminal Procedure  
Code Act.**

**ENACTED** by the Parliament of Kenya, as follows—

1. This Act may be cited as the Criminal Procedure Code (Amendment) Act, 2020.

Short title.

2. The Criminal Procedure Code, is amended by repealing section 36 and replacing it with the following new section—

Amendment of section 36 of Cap. 75.

Detention of  
persons  
arrested  
without  
warrant.

**36.** When a person has been taken into custody without a warrant for an offence other than murder, treason, robbery with violence and attempted robbery with violence the officer in charge of the police station to which the person has been brought shall in any case, if it does not appear practicable to bring that person before an appropriate subordinate court within twenty-four hours after the person has been so taken into custody, inquire into the case, and, release the person on his executing a bond, to appear before a subordinate court at a time and place to be named in the bond.

**MEMORANDUM OF OBJECTS AND REASONS**

The principal object of this Bill is to amend the Criminal Procedure Code, Cap. 75 to make provision for the mandatory execution of bond for offences other than murder, treason, robbery with violence and attempted robbery with violence for persons arrested without warrant. The current provision makes it discretionary for officers to issue bond and which discretion is subject to abuse.

**Clause 1** provides for the short title.

**Clause 2** seeks to amend section 36 of the Criminal Procedure Code to provide for mandatory execution of bond for persons arrested without a warrant.

**Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill does not contain any provisions limiting any fundamental rights or freedom.

**Statement of how the Bill concerns county governments**

The Bill does not affect the functions of County governments as set out in the Fourth Schedule to the Constitution and is therefore not a Bill concerning county governments. Police services including criminal law is National Government function under section 7 of Part 1 of the Fourth Schedule to the Constitution.

**Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 18th February, 2020.

NELSON KOECH,  
*Member of Parliament.*

*Section 36 of the Criminal Procedure Code which it is proposed to amend*

**Detention of persons arrested without warrant**

**36.** When a person has been taken into custody without a warrant for an offence other than murder, treason, robbery with violence and attempted robbery with violence the officer in charge of the police station to which the person has been brought may in any case and shall, if it does not appear practicable to bring that person before an appropriate subordinate court within twenty-four hours after he has been so taken into custody, inquire into the case, and, unless the offence appears to the officer to be of a serious nature, release the person on his executing a bond, with or without sureties, for a reasonable amount to appear before a subordinate court at a time and place to be named in the bond, but where a person is retained in custody he shall be brought before a subordinate court as soon as practicable:

Provided that an officer in charge of a police station may release a person arrested on suspicion on a charge of committing an offence, when, after due police inquiry, insufficient evidence is, in his opinion, disclosed on which to proceed with the charge.

