

SPECIAL ISSUE

Kenya Gazette Supplement No. 63 (Senate Bills No. 17)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2023

NAIROBI, 5th May, 2023

CONTENT

Bill for Introduction into the Senate—

PAGE

The Maternal, Newborn and Child Health Bill, 2023 577



**THE MATERNAL, NEWBORN AND CHILD
HEALTH BILL, 2023**

ARRANGEMENT OF CLAUSES

PART 1— PRELIMINARY

Clause

- 1—Short title.
- 2—Interpretation.
- 3—Objects.
- 4—Principles for service delivery.

**PART II — MATERNAL, NEWBORN
AND CHILD HEALTH SERVICES**

- 5—Right to health services.
- 6—Services for a non-pregnant woman.
- 7—Services for pregnant woman.
- 8—Services in the neonatal period and children up to twelve years.
- 9—Services for women with special needs.
- 10—Courteous treatment.
- 11—Access to health services.

**PART III— ROLE OF THE NATIONAL
GOVERNMENT**

- 12—Role of the Cabinet Secretary.
- 13—Report to Parliament.

PART IV—ROLE OF COUNTY GOVERNMENTS

- 14—Functions of the county executive committee member.
- 15—County government collaboration.
- 16—Awareness and public participation.
- 17—Publication of information on maternal, newborn and child health.
- 18—Financing of maternal, newborn and child health services.

19—Report to County Assembly.

PART V - MONITORING AND EVALUATION

20—Identification and interventions for vulnerable groups.

21—Monitoring and evaluation.

22—Quality assurance.

PART VI — GENERAL PROVISIONS

23—Maintenance of register.

24—Procedures, standards, ethics and guidelines.

25—Protection from liability.

26—Regulations.

**THE MATERNAL, NEWBORN AND CHILD
HEALTH BILL, 2023**

A Bill for

AN Act of Parliament to provide for a coordinated system for the provision of quality maternal, newborn and child health services; to provide for response to maternal and child morbidity and mortality in the country; to provide for a healthcare system that facilitates the attainment of health rights for mother and child; and for connected purposes.

ENACTED by Parliament of Kenya, as follows—

PART 1— PRELIMINARY

1. This Act may be cited as the Maternal, Newborn and Child Health Act, 2023.

Short title.

2. In this Act —

Interpretation.

“adolescent” means a person aged between ten and nineteen years;

“at risk persons” means a person susceptible to mistreatment or neglect because of their inability to obtain services necessary for their own health, safety, or welfare, due to age or disability;

“Cabinet Secretary” means the Cabinet Secretary responsible for health;

“county executive committee member” means the county executive committee member responsible for health in the respective county;

“child” has the meaning assigned to it under section 2 of the Children’s Act;

Cap. 141.

“health care provider” has the meaning assigned to it under the Health Act;

“intra partum care” means the correct diagnosis of child birth, appropriate examinations, screening for and management of childbirth and the complications during the period from the start of the childbirth to expulsion of the placenta;

No. 21 of 2017.

“marginalised community” has the meaning assigned to it under Article 260 of the Constitution;

“maternal” means relating to, belonging to, or characteristic of the health of a woman during her pregnancy, childbirth and the period ending forty- two days after childbirth “morbidity” means illness;

“National Social Assistance Authority” means the National Social Assistance Authority established under section 3 of the Social Assistance Act;

“neonate” refers to a child from birth until twenty-eight days of life;

“person with special needs” means an individual with additional health needs and requires assistance above the regular health needs of the general population, occasioned by medical, mental, psychological challenges and includes a person from a marginalised area;

“postpartum care” means the care and services offered to a mother, immediately after childbirth and ending forty two days after delivery with a focus to promoting recuperation and ensuring restoration of health of the mother while preventing ill-health and includes the screening for and management of complications; and

“unborn child” means the developing young of a human being in the uterus from conception to before birth irrespective of the method of conception.

3. The objects of this Act are to —

Objects.

- (a) provide a framework for the delivery of comprehensive quality health services to meet the health needs of mothers, new-borns and children;
- (b) establish a coordinated and structured system for the provision of quality maternal, newborn and child health care services;
- (c) provide a framework that is responsive to causes of maternal, newborn and child morbidity and mortality;
- (d) ensure that maternal, newborn and child health care interventions, services and supplies are available and accessible to the public;

- (e) establish programs to expand and improve availability and accessibility of maternal, newborn and child health services;
- (f) promote linkages among existing programs to expand and improve the availability of, and access to, comprehensive community maternal, newborn and child health services;
- (g) promote the provision of proper care and assistance to mothers, newborn children and children with special needs to become productive independent contributors to family and community life;
- (h) promote the utilisation of maternal, newborn and child health services; and
- (i) promote innovative, comprehensive and integrated approaches to the delivery of maternal, newborn and child health services.

4. A person shall, in the performance of their functions under this Act, be guided by the following principles —

Principles for service delivery.

- (a) universal access and equity in the delivery of health services and the recognition of persons with special needs;
- (b) availability and access to services and timely and reliable information necessary to make an informed decision regarding one's health and treatment;
- (c) coordinated public participation and collaboration between the National Government and county governments and the relevant stakeholders;
- (d) equity and inclusivity in the delivery of health services under this Act;
- (e) recognition of, and sensitivity towards the cultures of various communities to ensure that interventions are adaptable and acceptable to the recipients;
- (f) transparency in the implementation of programmes and activities in the delivery of maternal, newborn and child health services;
- (g) targeted empowerment and capacity building initiatives for both at risk persons and persons with special needs through the implementation of State sponsored programmes;

- (h) access to safe and affordable family planning services for women and men including access to adequate information to enable them to make informed choices on family planning;
- (i) ensure that interventions are based on objective information and methods, and monitoring mechanisms and regular evaluations are established, thus ensuring transparency in the public management and social audit and that the needs of the population are taken into account; and
- (j) continuous improvement and the monitoring and evaluation of policies, strategies and plans related to the provision of maternal, neonatal and child health services under this Act.

PART II – MATERNAL, NEWBORN AND CHILD HEALTH SERVICES

5. (1) Every person has the right to the highest attainable standard of maternal, newborn and child health services including the right to —

Right to health services.

- (a) timely and appropriate health care;
- (b) treatment with dignity, respect and privacy;
- (c) be free from non-consensual medical treatment and experimentation;
- (d) emergency treatment and essential medicines; and
- (e) the best attainable state of physical and mental health.

(2) The right to health shall include the progressive access to promotive, preventive, rehabilitative and curative care.

(3) For the enjoyment of the right to maternal, newborn and child health, the National and county governments shall —

- (a) respect, protect and fulfil the right to maternal, newborn and child health and guarantee mechanisms for its enforcement;
- (b) put in place mechanisms that ensure the availability of the infrastructure and facilities necessary to ensure the effective delivery of health services at the National and county levels of government;

- (c) put in place measures to facilitate access to maternal and child health services including access to health facilities, mobile health services and e-health services;
- (d) formulate and implement the family support programme and other appropriate programmes targeting —
 - (i) marginalised communities and those who are unable to access hospital facilities within the county; and
 - (ii) at risk persons and persons with special needs requiring health services under this Act;
- (e) put in place strategies and the necessary facilities to ensure the continued effective delivery of maternal, newborn and child health services during a pandemic or disaster;
- (f) ensure the availability and adaptability of health care interventions to ensure that they are child friendly and sensitive to the cultural settings of the various communities;
- (g) monitor and evaluate strategies and programmes for the realisation of the right to be free from hunger and the right to adequate food; and
- (h) put in place the necessary structures to enable members of the public and the existing community health workforce to develop the understanding, skills and capacity necessary for achieving equitable and effective participation in the formulation, implementation and monitoring of any policies, strategies or programme interventions aimed at realizing the right to maternal, newborn and child health.

6. (1) A woman who is not pregnant is entitled to the following services that relate to the occurrence and course of future pregnancy—

- (a) family planning services;
- (b) preconception care services as may be prescribed from time to time;
- (c) appropriate counselling services;

Services for a non-pregnant woman.

- (d) health information and education;
- (e) referral to adoption services agencies.

(2) The Cabinet Secretary may prescribe standards for the effective delivery of services regarding the safe occurrence of future pregnancy.

7. (1) The Cabinet Secretary shall put in place measures to ensure access, by every pregnant woman, to health services aimed at ensuring optimal health conditions for the woman and every foetus throughout the pregnancy and after the birth of the child.

Services for pregnant woman.

(2) The health services under subsection (1) shall include—

- (a) early detection of pregnancy;
- (b) free prenatal care;
- (c) referral to childbirth preparation classes as desired;
- (d) referral to adoption services at licensed agencies if indicated;
- (e) health care services in the intrapartum period;
- (f) health care services during the postpartum or postnatal period;
- (g) training in the feeding and care of infants including breastfeeding support practices; and
- (h) any other services relating to prenatal, intrapartum and postpartum period that may be prescribed.

(3) The Cabinet Secretary may, for purposes of subsection (1), prescribe standards and guidelines for the provision of maternity healthcare services to pregnant women.

8. (1) Every health care provider shall provide to a child from the time of birth to the age of twelve years —

Services in the neonatal period and children up to twelve years.

- (a) comprehensive newborn care including post-natal follow up as may be prescribed;
- (b) health services that ensure child survival, growth and development including optimal child nutrition, childhood vaccination, growth promotion and monitoring, developmental promotion and monitoring and child protection services;

- (c) comprehensive assessment, diagnosis, treatment, rehabilitation or referral and follow-up as may be prescribed;
- (d) immunizations in accordance with the prescribed standards and guidelines;
- (e) assessment, counselling and anticipatory guidance with referrals and follow-up as needed regarding child development, behaviour counselling and support services that may be required by children with chronic illnesses or disability; and
- (f) any other essential health service that the Cabinet Secretary may prescribe.

(2) Where the child under subsection (1) is severely malformed at the time of birth, the health care provider may refer the child to a relevant medical practitioner for comprehensive assessment, diagnosis and treatment.

(3) A health care provider shall not provide health care services to the child under subsection (1) unless the health care provider has obtained consent from the parent or guardian of the child.

(4) The Cabinet Secretary may prescribe standards for the delivery of the neonatal and child services to the various categories of children up to the age of twelve years.

(5) The Cabinet Secretary shall, in prescribing the standards under subsection (2), take into account the requirement for parental supervision and consent prior to provision of neonatal and child services.

9. (1) The Cabinet Secretary shall put in place mechanisms to ensure that women, who are pregnant and who have special needs, receive —

- (a) appropriate pregnancy related services as may be prescribed;
- (b) maternal health services that are responsive to the needs of pregnant women with special needs;
- (c) diagnosis and treatment or referral and follow-up of mental health problems, both acute and chronic, including emotional and learning disorders, behavioural disorders, alcohol and drug related

Services for
women with
special needs.

problems, and problems with family and peer group relationships;

(d) in the case of pregnant adolescents—

- (i) adolescent friendly health services; and
- (ii) counselling and anticipatory guidance with referrals and follow-up of the adolescent woman or guardian as may be appropriate;

(e) in the case of women with disability, disability friendly health services; and

(f) respectful and dignified care.

(2) The Cabinet Secretary shall for purposes of subsection (1) put in place strategies and plans to —

- (a) establish a referral network of community-based workers to provide support services to women who are pregnant and have special needs; and
- (b) facilitate capacity building of health care providers who serve women who are pregnant and who are at risk.

(3) The Cabinet Secretary may prescribe guidelines and standards for the provision of the highest available standards of health services that are responsive to the needs of women with special needs.

(4) For purposes of this Act, a woman with special needs includes a woman with disability, a woman with mental illness and a woman in a marginalized area.

10. A person seeking maternal, newborn, and child health services in any health care facility is entitled to be treated with courtesy and respect irrespective of their race, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

Courteous treatment.

11. The National Government and county governments shall, in respect of maternal, neonatal and child health care, put in place measures to facilitate the provision of—

Access to health services.

- (a) reasonable maternal, neonatal, and child health care services;
- (b) prenatal, intrapartum and postpartum health services;

- (c) emergency or ambulance services;
- (d) human resource for maternal, newborn, and child health services;
- (e) essential supplies, commodities and equipment for maternal, newborn, and child health services;
- (f) facilities that promote the safety of newborn children in health institutions;
- (g) lifesaving commodities for maternal, neonatal and child health services; and
- (h) the infrastructure necessary to support the delivery of basic and comprehensive emergency obstetric and neonatal care services.

PART III— ROLE OF THE NATIONAL GOVERNMENT

12. (1) The Cabinet Secretary shall, for the effective performance of the functions of the National Government under section 11 —

Role of the Cabinet Secretary.

- (a) develop a comprehensive national policy, strategies and plan of action on maternal, newborn and child healthcare to promote the realisation of the right to health;
- (b) develop standards and guidelines for the effective delivery of maternal, newborn and child healthcare services in the country;
- (c) facilitate the coordination of various public institutions and stakeholders dealing with maternal, newborn and child health issues in the country in ensuring that adequate measures are put in place to ensure access to and the effective delivery of maternal, newborn and child healthcare services;
- (d) put in place the necessary infrastructure and collaborate with the county governments in establishing and implementing an effective system of referral from one level of government to another;
- (e) monitor and evaluate access to, and the implementation of policies, plans and strategies on the effective delivery of maternal, newborn and

child healthcare services at the National and county level of government;

- (f) foster a multi-sectoral approach between the health and non-health sectors in ensuring access to maternal, newborn and child healthcare services and addressing factors that hinder the access to health services;
- (g) collaborate with the county governments in establishing a database and e-health platform to facilitate the delivery of, and access to health services by all persons requiring maternal, newborn and child healthcare services;
- (h) mobilize resources for the effective and efficient delivery of maternal, newborn and child health services;
- (i) ensure continuous public sensitisation and capacity building for efficient and effective delivery of maternal, newborn and child health services at the national and county levels;
- (j) in collaboration with the county governments, facilitate the implementation of policies and strategies aimed at reducing maternal, newborn and child morbidity and mortality in the country including—
 - (i) public education campaigns on healthy pregnancies;
 - (ii) education programs for health care providers;
 - (iii) promotion of community support services for pregnant women; and
 - (iv) promotion of physical, mental and behavioral health during, and after pregnancy including treatment for mental health disorders and substance use disorder;
- (k) undertake and facilitate research and health surveillance, and implement programmes for the continuous advancement and effective delivery of maternal, newborn and child health services;
- (l) periodically review standards, practices and guidelines in the delivery of maternal, newborn and child care services; and

- (m) perform any other functions that are necessary for the achievement of the objectives of this Act.

13. (1) Within three months after the end of each financial year, the Cabinet Secretary shall prepare and submit to the National Assembly and the Senate an annual report on the status of maternal, newborn and child health services in Kenya.

Report to Parliament.

(2) A report under subsection (1) shall include —

- (a) a description of the activities and interventions undertaken by the Ministry in respect of maternal, newborn and child health services;
- (b) recommendations on legal and administrative measures required to address specific concerns identified by the Ministry; and
- (c) such other information relating to its functions that the Ministry considers relevant.

(3) Where any recommendation contained in any previous report has not been implemented, the Cabinet Secretary shall report to Parliament on the reason for non-implementation and action to be taken to implement the recommendation.

(4) The Cabinet Secretary shall publish the report in the *Gazette* and in at least one newspaper with national circulation.

(5) The National Assembly or the Senate may at any time require the Cabinet Secretary to submit a report on a maternal, newborn and child health issue.

PART IV — ROLE OF COUNTY GOVERNMENTS

14. Each county executive committee member shall—

- (a) coordinate the implementation of policy on maternal, newborn and child health care services in the county;
- (b) facilitate community engagement and accountability in the promotion and utilisation of maternal, newborn and child health services;
- (c) implement the policies and standards on maternal, newborn and child health in the county;

Functions of the county executive committee member.

- (d) establish, in collaboration with the Cabinet Secretary, an e-health platform in the respective county for the effective delivery of maternal, newborn and child healthcare services in the county;
- (e) liaise with the National Social Assistance Authority established under the Social Assistance Act and such other entities as may be necessary for the identification of, and implementation of maternal, newborn and child health programs amongst, marginalised and vulnerable groups in the county;
- (f) formulate programmes and implement strategies aimed at reducing infant mortality rates and maternal mortality ratio in the county;
- (g) implement programmes for the acceleration of infant immunization ;
- (h) develop and implement training programmes for skilled birth attendants in the county;
- (i) ensure equitable access to maternal, newborn and child health services in the county and improve responsiveness to the needs of the mother and the child;
- (j) facilitate community engagement in the promotion and delivery of maternal, newborn and child health services in the county;
- (k) avail and put in place measures improve the quality of integrated maternal, newborn and child health services;
- (l) promote best nutritional practices for mothers, new-borns and children within the county and for this purpose, conduct sensitization programs on food and nutrition among pregnant and lactating mothers;
- (m) facilitate the training of skilled health care providers in the county; and
- (n) perform such other functions that are necessary for the achievement of the objectives of this Act.

24 of 2013.

15. The county executive committee member shall, for the effective delivery of maternal, newborn and child health services in the respective county, collaborate with the Cabinet Secretary and the relevant stakeholders including

County government collaboration.

- (a) health care providers who serve pregnant women;
- (b) academic institutions;
- (c) community health workers; and
- (d) community based organisations.

16. (1) The county executive committee member shall promote public awareness and community participation in the formulation and implementation of policies, strategies, plans and community programs on the provision of maternal, newborn and child health services.

Awareness and public participation.

(2) The county executive committee member shall, for purposes of subsection (1), —

- (a) develop the human resources in the field of maternal, newborn and child health services through education and training activities;
- (b) facilitate the participation of county and community health force in the provision of human resources development activities and improving the capability of the local community health workers in the provision of maternal, newborn and child health care services;
- (c) stimulate and direct the participation of professional associations and organizations in the field of maternal, newborn and child health care services;
- (d) promote the cooperation of health workers and community social workers and community health workers in the provision of maternal, newborn and child health care services;
- (e) monitor and evaluate the implementation and effectiveness of policies, strategies, programs and plans under this Act; and
- (f) ensure diversification in the conduct of maternal, newborn and child health care services

sensitization programmes to ensure the widest reach to women in the whole county.

17. (1) The county executive committee member shall design civic education programmes and, using the most appropriate means, publish information regarding maternal, newborn and child health.

Publication of information on maternal, newborn and child health.

(2) The civic education programmes and information under subsection (1) shall include —

- (a) health complications occurring in new-borns and mothers and during pregnancy, labour, childbirth and the postnatal period;
 - (b) causes of maternal, newborn and child morbidity and mortality and the danger signs;
 - (c) emergency preparedness and complication readiness;
 - (d) the unique health issues affecting infants born prematurely;
 - (e) needs and proper care for premature babies including methods, vaccines and other preventative measures for protecting premature new-borns from infectious diseases;
 - (f) information on successful breastfeeding, weaning of infants and nutritional needs of mothers, infants and children; and
 - (g) the management of emotional, financial and other challenges experienced by parents and family members of premature infants and those with palliative care needs and information about community resources available for their support.
- (3) The information under subsection (1) shall-
- (a) be easily accessible;
 - (b) written in clear language to educate the public of maternal, newborn and child health issues across all residents of the county regardless of their socio-economic status;
 - (c) contain disaggregated data distinguishing between minors from adults ;and

(d) where necessary, translated to the local language and disseminated in outreach programmes that cater to illiterate people within the county.

(4) In determining the information that is most beneficial to the public, the county executive committee member may consult with maternal, newborn and child health service healthcare providers, community organizations and other relevant experts.

(5) The county executive committee member shall ensure that the information is accessible to children's health providers, maternal care providers, hospitals, public health departments, and medical organizations within the county.

18. Every county government shall, in its annual budget, allocate sufficient funds for the provision of maternal, newborn and child health services in the county.

Financing of maternal, newborn and child health services.

19.(1) Within three months of the close of every financial year, the county executive committee member shall submit to the county assembly, a report on the status of maternal, newborn and child health services in county.

Report to County Assembly.

(2) The report shall contain —

- (a) a report on funding of maternal, newborn and child health services in the county;
- (b) the availability and state of health facilities relating to maternal, newborn and child health services in the county;
- (c) measures taken to enhance the number of health care providers in respective health facilities;
- (d) recommendations on specific actions to be taken in enhancing access to quality maternal, newborn and child health services in the county; and
- (e) any other information relating to maternal, newborn and child health services.

(3) Where any recommendations contained in any previous report submitted under subsection (1) have not been implemented, the county executive committee member shall report to the county assembly the reasons the reasons for non-implementation and action to be taken to implement those recommendations.

(4) The county executive committee shall publish the report in the county *Gazette* and in such other media necessary for the widest dissemination of the report within the county.

(5) The county assembly may at any time require the county executive committee member to submit a report on a particular issue.

PART V— MONITORING AND EVALUATION

20. (1) Each county executive committee member shall identify vulnerable and marginalised communities in the respective county to —

Identification and interventions for vulnerable groups.

- (a) identify the unique needs of the identified persons;
- (b) determine the gaps that exist in the provision of health services to the marginalised and vulnerable persons in the county;
- (c) formulate the most appropriate interventions necessary to address the needs identified under paragraph (a);
- (d) establish a mechanism to ensure continuous service delivery of maternal, newborn and child health services during a pandemic to the identified persons; and
- (e) generate the information necessary to develop and strengthen the capacity of health workers in the county to respond and address the health needs of vulnerable and marginalised persons under this Act.

(2) In performing the functions under subsection (1), the county executive committee member shall —

- (a) collaborate with the Cabinet Secretary and the Cabinet Secretary responsible for social development;
- (b) systematically undertake disaggregated analysis on the existing gaps in the delivery of maternal, newborn and child health services, the levels of need and vulnerability of different groups in the county, with particular attention to assessing any form of discrimination that may manifest itself in lack of access to or marginalization the delivery of health services among specific population groups;

- (c) develop and identify corrective measures for the purpose of addressing and preventing causes of poor health amongst pregnant women, newborns, lactating women and children under this Act;
- (d) establish systems to ensure the feedback of information in such formats as it may consider appropriate on the delivery of health services under this Act to priority groups at the national, county and community level through the appropriate media;
- (e) establish risk management and vulnerability mapping systems;
- (f) establish and coordinate sector specific roles and mandates related to vulnerability and emergency response; and
- (g) undertake a baseline and impact assessment at all levels of governance to guide vulnerability and emergency response.

21. (1) The Cabinet Secretary shall undertake annual monitoring and evaluation —

Monitoring and evaluation.

- (a) of the services rendered in the maternal, newborn and child health services in the country; and
- (b) the implementation of and adherence to the standards and guidelines issued under this Act.

(2) In addition to the monitoring and evaluation under subsection (1), the Cabinet Secretary shall, in collaboration with the Kenya National Bureau of Statistics, undertake —

- (a) periodic inquiry into maternal, neonatal and child deaths;
- (b) regularly undertake national maternal mortality data collection and surveillance to identify and address pregnancy-associated deaths and pregnancy-related deaths that occur during, or within one year following, pregnancy;
- (c) regularly collect and analyse data on neonatal and child mortality, identify and put in place measures to address the causes for neonatal and child deaths;
- (d) undertake studies to identify the determinants of disparities in maternal care, neonatal and child health care, health risks, and health outcomes; and

- (e) identify groups of women with disproportionately high rates of maternal morbidity and mortality due to lack of access to maternal health care services and develop strategies for the reduction of maternal morbidity and mortality in such groups.

(3) The Cabinet Secretary shall ensure that the data collected under subsection (2) is disaggregated to clearly distinguish between minors and adults.

(4) The Cabinet Secretary shall prescribe the procedure and requirements for undertaking the monitoring and evaluation process.

22.(1) The Cabinet Secretary shall ensure the implementation and adherence to standards and guidelines on quality in maternal, newborn and child service in hospitals, institutions or at any facility offering maternal, newborn and child health services both at the national and county level in accordance with the national standards and guidelines.

Quality assurance.

(2) The Cabinet Secretary shall undertake continuous review of the standards and guidelines under subsection (1).

PART VI— GENERAL PROVISIONS

23.(1) Every hospital or approved health facility shall maintain a register, in a prescribed form, for recording the details of the maternal, newborn and childcare cases reported and dealt with in the hospital or facility.

Maintenance of register.

(2) The Cabinet Secretary shall make regulations on the form of the register to be kept and maintained under subsection (1).

24.(1) Any person, hospital, institution or health facility offering maternal, newborn and child health care services shall adhere to procedures, standards, code of ethics and guidelines as may be prescribed under this Act or any other written law.

Procedures, standards, ethics and guidelines.

(2) A person, offering maternal, newborn and child health care services who knowingly contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand or to a term of imprisonment not exceeding two years or to both.

(3) A hospital, institution or health facility offering maternal, newborn and child health care services which knowingly contravenes subsection (1) commits an offence and the members of its governing body are jointly and severally liable, on conviction, to a fine not exceeding one million or to a term of imprisonment not exceeding two years or to both.

25. (1) The Cabinet Secretary in consultation with the Council of County Governors and other relevant stakeholders may make regulations for the better carrying out of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the cabinet secretary may, by regulations, prescribe minimum standards for —

- (a) the establishment of maternal, newborn and child healthcare premises and facilities;
- (b) notification response and reporting of maternal deaths;
- (c) the delivery of programmes of maternal, newborn and child health services;
- (d) staffing in maternal, newborn and child healthcare facilities;
- (e) maternal, newborn and child healthcare health and safety; and
- (f) the records to be kept by hospitals, and other facilities offering maternal, newborn and child health service.

(3) For the purposes of Article 94(6) of the Constitution —

- (a) the authority of the cabinet secretary to make regulations is limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under section 1 of this Act; and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, in relation to subsidiary legislation shall apply to regulations made under this Act.

Cap. 2

No. 23 of 2013

MEMORANDUM OF OBJECT AND REASONS

Statement of objects and Reasons

The health and well-being of women and their children determines the health of the next generation. Ensuring proper and affordable healthcare for women, new-borns and children is thus an important societal goal.

The principal object of this Bill, therefore, is to propose a legal framework that can facilitate and enhance the delivery of quality maternal, newborn and child health services, provide a platform for raising the profile and agenda for maternal, newborn and child health services, provide a framework for formal engagement, cooperation and promotion of coordinated approach to service delivery of maternal, newborn and child health services in the country, provide a platform of engagements between the national and county governments, and to enhance accountability and sound funding strategy for maternal, newborn and child health services.

The Bill is organised as follows-

Part I (clauses 1-4) contains preliminary matters.

This part contains the short title, interpretation of terms, the objects of the Bill and the principles of service delivery.

Part II (clauses 5-11) provides for the services that must be availed to pregnant women, non-pregnant women, pregnant women with special needs and children. It is important to note that the children in this case are restricted to newborn and children of up to the age of twelve years and pregnant adolescents.

Part III (clauses 12-13) contains provisions on the role of the National Government in maternal, newborn and child healthcare.

Part IV (clauses 14-19) contains provisions on the role of the county governments in maternal, newborn and child healthcare.

Part V (clauses 20-22) provides for monitoring and evaluation for purposes of identification of vulnerable groups and quality assurance.

Part VI (clauses 23-26) sets out the general provisions on maintenance of registers, issuance of procedures, standards and guidelines and protection from liability for actions done in good faith. It also contains a provision on the making of regulations and gives this power to the Cabinet Secretary.

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

This Bill delegates legislative powers to the cabinet secretary responsible for health for purposes of making Regulations and issuing of various guidelines and standards to ensure the realisation of the objects of the Bill.

This Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments as county health services are devolved under paragraph 2 of Part 2 of the Fourth Schedule to the Constitution.

County health facilities offer maternal, newborn and child healthcare services and therefore the Bill affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 24th March, 2023.

BEATRICE OGOLA,
Senator.

