**THE FAMILY PROTECTION BILL, 2023**

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**THE FAMILY PROTECTION BILL, 2023**

**A Bill for**

**AN ACT of Parliament to provide for the protection of the family in furtherance of Article 45 of the Constitution, to prohibit homosexuality and same sex unions and related activities and to proscribe activities that seek to advance, advocate, promote or fund homosexuality, to protect children, persons with disabilities, older members of society and other vulnerable persons from harmful sexual activities, to prescribe parental rights in education of their children, and for connected purposes.**

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

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|  | **PART I – PRELIMINARY** |
| Short title. | 1. This Act may be cited as the Family Protection Act, 2023. |
| Interpretation. | 1. In this Act, unless the context otherwise requires— |
|  | “basic education” means the educational programmes offered and imparted to a child in and by an institution of basic education including pre-primary, primary and secondary schools or child care institutions; |
|  | “child” means an individual who has not attained the age of eighteen years; |
|  | “child care institution” means an institution, whether licensed or unlicensed and whether private, public or charitable, established for purposes of providing care, protection or training to children who need such services; |
| No. 14 of 2013. | “curriculum” has the meaning assigned to it under the Basic Education Act; |
|  | “family” means a group of persons united by ties of blood; by ties of marriage between man and woman; or ties of adoption; interacting with each other in their respective social positions as spouses, parents, children or siblings, grandparents, uncles, aunts and cousins; |
|  | “father” means a male parent; |
|  | “female” means a human person born with XX chromosomes; primary sex hormones of oestrogen and progesterone; and with reproductive system consisting of ovary, ovum, oviduct, uterus and vagina; |
|  | “gender” means sex; |
| No. 20 of 2012. | “head teacher” has the meaning assigned to it under the Teachers Service Commission Act; |
|  | “homosexuality” means same sex sexual act; |
|  |  |
| No. 14 of 2013. | “institution of basic education” has the meaning assigned to it under the Basic Education Act; |
|  | “male person” means a human person born with XY chromosomes; primary sex hormone of testerone; and with reproductive system consisting of testis, sperm and penis; |
|  | “man” means a male adult human person; |
| No. 14 of 2013. | “manager” has the meaning assigned to it under the Basic Education Act. |
| No.4 of 2014. | “marriage” means the voluntary union of a man and a woman whether in a monogamous or polygamous union as defined under the Marriage Act; |
|  | “mother” means a female parent; |
|  | “nude” means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or depiction of covered male genitals in a discernibly turgid state; |
|  | “obscene imagery representing a child” means a visual depiction of any kind produced by any means including but not limited to a drawing, cartoon, sculpture or painting that depicts a child engaging in sexual conduct, is obscene, or depicts an image that is or appears to be of a child engaging in bestiality, sadomasochistic abuse, or sexual intercourse; |
|  | “parent” means the mother or father or any person who is conferred parental rights by law; |
|  | “person in authority” means a person charged with the duty or responsibility for the education, welfare, well-being or supervision of another person; |
| No. 20 of 2012. | “principal” has the meaning assigned to it under the Teachers Service Commission Act; |
|  | “sex” means the biological state of being male or female, based on sex chromosomes, naturally occurring sex hormones, gonads and non—ambiguous internal and external genitalia as physically observed at birth, and excludes sexual orientation and gender identity; |
|  | “sex reassignment” means any process whether medical or surgical service that seeks to alter or remove physical or anatomical characteristics or features that are typical for an individual’s sex in order to instil or create physiological or anatomical characteristics that resembles a sex different from the individual’s sex, and includes genital or non—genital sex reassignment surgery performed for the purpose of assisting an individual with sex change; |
|  | “unborn child” means a human being from conception until birth; |
|  | “victim” means a child or any other person against whom the offence of aggravated same sex sexual act has been committed; |
|  | “vulnerable person” means a person who is in need of special protection because of age, sex, illness, physical or mental disability, social or personal status including a person with disability, victim of sex-based violence, or elderly person; and |
|  | “woman” means a female adult human person. |
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| Provisions of this Act to prevail. | 1. Where there is conflict between any of the provisions of this Act and those of any other written law, the provisions of this Act shall prevail. |
|  | **PART II — OBJECTS AND BASIC PRINCIPLES** |
| Objects of the Act. | 1. The objects of this Act are —    1. to recognize and promote the family as the natural and fundamental unit of the Kenyan society and necessary basis of social order and a strong force for social cohesion and integration; and, to protect the family from harmful and destructive sexual acts and activities in furtherance of Article 45 of the Constitution;    2. to provide for the role of the state and government in promoting, protecting and assisting the family as the basic unit of society and the natural environment for the growth and wellbeing of all its members, especially children, in order to enable the family to fully assume its place and responsibilities within the society;    3. to promote marriage between man and woman and to proscribe homosexuality, same sex unions and relationships, unnatural sexual acts and related activities; and to proscribe activities that seek to advance, advocate, promote, fund, abet or aid homosexuality and unnatural sexual acts;    4. to preserve and protect the cultural and family values of the Kenyan people as mandated by Article 44 of the Constitution;    5. to uphold the best interest of children as the future of the Kenyan society, protect children from indoctrination against their sex of birth, sex affirming care, sexual abuse and harmful sexual practices and to obligate parents, guardians, teachers and those in charge of child care institutions to ensure that children and young persons receive special protection against exposure to physical, emotional and moral hazards from homosexual acts and activities;    6. to recognize and uphold the right of the parents in the education of their children and to uphold the responsibility of parents to ensure the moral upbringing of their children; and    7. to protect vulnerable persons from same sex sexual harm; protect the dignity and respect of persons with disabilities, protect the youth from harmful practices and exploitation, and to secure the rights of older persons to live in dignity and respect and to be free from abuse as mandated by the Constitution. |
| Status of family. | 1. The family is the natural and fundamental unit of the society and necessary basis of social order and a strong force for social cohesion and integration. |
| Protection of marriage and family. | 1. The State shall protect the institutions of marriage and family for sound physical, mental and spiritual upbringing of children to ensure the nation’s survival and stability. |
| Adoption procedures. | 1. The State shall establish adoption procedures that are efficient, uphold the interest of the child and completed within reasonable time to grant every child the opportunity to be brought up in a family or family environment. |
| Protection of unborn child. | 1. (1) The State shall protect embryonic and foetal life, or the life of an unborn child, from the moment of conception. |
|  | (2) Subject to the provisions of Article 26 of the Constitution, the killing of unborn child is prohibited. |
| Right to succession. | 1. (1) Succession shall primarily be a right of family members up to the extent permitted by law.   (2) The State and other persons shall only be entitled to legal succession in the absence of the persons mentioned in subsection (1). |
| Parental obligations and rights. | 1. (1) Parents shall have the obligation and right to responsibly care for and bring up their children in a family, and to ensure the conditions required for the physical, mental, psychological and moral development of their children.   (2) Parents shall—  (a) respect and uphold the human dignity of their children;  (b) inform their children about the issues that affect them according to their age and maturity and to take into consideration their opinions;  (c) take the necessary measures to assert the rights of their children; and  (d) provide their children with guidance, advice and help to assert their rights.  (3) Parents are entitled to and shall receive information necessary for the due discharge of their obligations to facilitate responsible upbringing of their children. |
| Divorce, annulment and dissolution of marriage. | 1. The annulment of marriage, the establishment of its validity, existence or non-existence and the dissolution of marriage shall only be allowed by the courts where the marriage has irretrievably broken down. |
| Duties and Responsibilities of children.  No. 29 of 2022. | 1. In addition to the provisions of section 21 of the Children Act, children shall— 2. respect and obey their parents, superiors and elders at all times and assist them in case of need; 3. respect vulnerable persons and assist them in case of need; 4. meet their learning requirements in school to the best of their abilities; and 5. abstain from lifestyle which may damage their health or well-being. |
| Rights of children to family upbringing. | 1. (1) The family is the natural environment for the upbringing of children, which best ensures their welfare, physical, mental, psychological and moral development.   (2) Children may only be separated from their parents or other relatives for their own physical, and mental development in the instances and manner defined by an Act of Parliament.  (3) The State shall adopt all measures necessary to ensure that children separated from their families are reunited with their families as soon as possible.  (4) Children shall receive assistance to develop their personality, to avert situations which endangers their development and to be assisted in adapting to society. |
| Human dignity, privacy and personal safety. | 1. (1) Every person has inherent dignity, the right to privacy and personal safety and the right to have that dignity, privacy and personal safety respected and protected.    * 1. The right to human dignity, the right to privacy and personal safety includes the right of every person — 2. to have and use the facilities designated for the person’s sex; and 3. not to be viewed by other persons in a state of undress, whether wholly or partially, and not be compelled to undress, whether wholly or partially, in the presence of persons of the opposite sex.   (3) Every school, institution of basic education or other public institutions or facilities accessed or used by the general public shall have separate toilets, bathrooms, shower rooms, locker rooms, dormitories and other private facilities designated for use by persons of different sexes.  (4) Every detention or correctional facility shall have separate sections for persons of different sexes. |
| Promotion of fair competition in sports. | 1. (1)The State shall promote fair competition in sports programmes and activities.    * 1. Sports or activities organized for— 2. competition among female persons shall exclude male persons; and 3. competition among male persons shall exclude female persons. |
| State’s obligation in family protection. | 1. (1) The State shall promote and support the development and preservation of a family-friendly attitude in all fields of social and economic life.    * 1. Parents with young children shall be entitled to special labour law protection under the relevant Act of Parliament and the protection of family life throughout their employment including grant of maternity leave and labour provision that posting and transfers of working parents shall take into consideration the interest of the children and the need of the family to stay together.   (3) The State shall simplify administrative procedures relating to family life and shall strive to enable families to use their social security services without undue administrative burden. |
|  | **PART III— PROTECTION OF CHILDREN IN INSTITUTIONS OF BASIC EDUCATION** |
| Children’s right to basic education. | 1. (1) Every child has the right to free and compulsory basic education as prescribed in the Constitution.    * 1. The State shall establish policies, procedures and practices to ensure that the school environment and interaction between teachers and children are primarily intended and directed to facilitate the children to learn the approved curricula and to develop approved set of skills. |
| Sex education curriculum for basic education. | 1. The sex education curriculum for basic education shall –   (a) be appropriate to the age, development level, and cultural background of the learner;   * 1. respect the diversity of values and beliefs represented among the learners;   2. teach abstinence as the safest sexual choice for young people;   (d) be science-based and medically accurate;  (e) promote marriage between man and woman and, not normalise homosexuality, same sex unions and relationships, and related activities; and   1. be approved by the National Assembly. |
| Prohibition of comprehensive sexuality education. | **19.** (1) The basic education curriculum shall not adopt, incorporate, implement, teach comprehensive sexuality education including normalising, teaching, inducting, instructing or examining children on the subjects of —   1. sexual orientation, gender identity, gender expression, transgenderism, gender affirming care or sex reassignment; 2. homosexuality, same sex relations, same sex marriages, civil unions, domestic partnerships or other form of union between persons or sexual partners of the same sex; 3. self-stimulation, sexual pleasure and masturbation; 4. body autonomy sexual rights for children; 5. abortion as a right and access to abortion services by children on demand without parental information and consent; 6. promiscuity, sexual activity or behaviour among or with children; and 7. sex work and prostitution.   (2) A teacher, instructor or any other person who teaches, instructs or discusses with a learner the subjects set out in subsection (1) commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years, or to both.  (3) The head teacher, manager or principal of an institution of basic education shall ensure that no slogans, emblems, phrases, flags or symbols that are associated with any sexual orientation, gender identity, sexual preference, gender expression are displayed on the property of the institution.  (4)The head teacher, manager or principal of an institution of basic education shall take all measures necessary to make inaccessible to any child any pervasively vulgar, obscene, prurient material or obscene imagery representing a child on any property owned, leased or operated by the institution.  (5) The head teacher, manager, principal or teacher of an institution of basic education who contravenes the provisions of subsection (3) and (4) commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years, or to both. |
| Separate facilities for different sexes. | **20.**Every institution of basic education shall—  (a) have and provide separate toilets, latrines, bathrooms, shower rooms, changing-rooms, locker-rooms, dormitories and other private facilities for learners of different sexes; and  (b) protect the dignity and privacy of learners including the right to have and use facilities designated for a learner’s sex, not to be viewed in a state of undress, whether wholly or partially, by other persons and not be compelled to undress, whether wholly or partially, in the presence of persons of the opposite sex; |
| Pronouns to be consistent with sex. | **21.** (1)A learner shall be referred to by the pronoun which is consistent with his or her sex.  (2) A learner shall neither be required nor be entitled to decide the pronoun by which he or she shall be referred at the time of admission into or while in an institution of basic education.  (3)The head teacher, manager, principal or teacher of an institution of basic education shall not allow registration of a learner using a pronoun that does not conform to the sex of the learner. |
| Fair competition in sports. | **22.**Every institution of basic education shall ensure that sporting and athletics events or activities shall be organised to facilitate fair competition among learners and that sporting category or events organized for competition among female learners shall exclude male learners and sporting category or events organized for competition among male learners shall exclude female learners. |
|  | **PART IV—RIGHTS OF PARENTS IN EDUCATION OF THEIR CHILDREN** |
| Prior right of parents to choose the kind of education to be given to their children. | 1. (1) A parent has the prior right to choose the kind of education that shall be given to their child. 2. A parent shall have the right to confirm tha this or her child in school is not being indoctrinated but learning approved curricula and developing approved set of skills. |
| Right of parents to access and review specified school records and material. | 1. A parent shall have the right to access and review—    1. all education records relating to his or her child;    2. any curricula, books and other educational materials used in the child’s education whether in physical or digital form and of which the parent may obtain or make copies; and    3. the child’s well-being records kept by the school. |
| Right of parents to give consent to field trips and recording. | 1. (1) A parent shall have the right to give consent prior to— 2. a field trip, or similar event, occurring in which the child will be required to leave the property owned, leased or operated by the institution of basic education; and 3. video or voice recording of the child being made by the school unless it is being made to be used primarily for regular classroom instruction documentation of extracurricular activity or public event where recording is common practice. |
| Right of parents to be notified of specified matters concerning a child. | 1. Every institution of basic education shall notify a learner’s parent of— 2. the health or counselling services given to a child in the institution; 3. changes in his or her child’s mental, emotional and physical well-being including but not limited to significant changes to the child’s gender expression; 4. information of a learner’s perception that his or her gender or sex is inconsistent with his or her sex at birth; 5. any request by the learner to be referred by a name, pronoun or other identifier which is inconsistent with that contained in the school admission records; 6. behavioural indicators of a learner developing or experiencing an eating disorder; 7. behavioural indicators of the learner’s dependency on narcotic drugs and psychotropic substances; 8. evidence of the learner’s pregnancy; 9. evidence of self-harm or suicidal tendencies by a learner; or 10. evidence of abnormally violent ideas or intentions expressed by a learner. |
| Right of parents to be informed of a child’s involvement in misconduct or crime. | 1. An institution of basic education shall notify a parent of the following incidents occurring at the school involving a learner— 2. sexual or physical assault; 3. unlawful possession of a weapon on school property; 4. abuse or possession of drugs or psychotropic substances; 5. bullying; or 6. police investigations initiated against the child. |
| Right of parents to be informed of education programmes, syllabi and courses reading list. | 1. An institution of basic education shall — 2. inform and provide to parents programmes, syllabi or course reading list on sex education offered by the school; 3. inform parent of the identity of the people and entities, including organisations, agencies, third-parties and consultants, if any, engaged, contracted or involved to instruct a child on sex education; 4. inform parents of the nature and purpose of clubs and extra-curricular activities that have been approved by the school; and 5. permit a parent to visit his or her child at school unless the visit would disrupt the educational process of other children. |
| Duties of head teachers, managers and principals to parents. | 1. (1) The head teacher, manager or principal shall— 2. notify the parents of the parental rights set out in this Act; 3. not create, collect, store or share information relating to a child that requires prior parental consent under this Act before obtaining such consent; 4. not provide any service or activity relating to a child that requires prior consent of a parent under this Act before obtaining such consent; 5. promptly provide the notification required to be given to a parent by this Act without solicitation, request or inquiry; 6. afford a parent the opportunity to access, review or receive in digital or other form, without charge, any information concerning their child within reasonable time following receipt of the request; or 7. notify parents of major changes in their child’s mental, emotional and physical well-being and encourage the children to discuss mental, emotional, or physical wellbeing or other life issues with their parents; |
| Other responsibilities of the state. | 1. (1) The State shall uphold and enforce the provisions of Parts III and IV of this Act and in so doing shall— 2. strictly implement and enforce the protection measures provided for children in institutions of basic education in Part III of this Act; and 3. uphold respect for the rights of parents in education of their children and the rights of parents to ensure the right upbringing of their children as prescribed in the Constitution, Part IV of this Act and other relevant written laws. 4. The Cabinet Secretary responsible for basic education, the Kenya Institute of Curriculum Development and Kenya National Examination Council shall develop education curricula, policy and examinations standards which shall—   (a) protect children and uphold respect for parental rights in education of their children by ensuring that—   1. children in institutions of basic education do not receive any instructions on sex education without prior written consent of the parent; or   (ii) any child regardless of grade level does not receive any teaching, instructions or presentation in contravention of sections 18 and 19 of this Act.   1. ensure that any curriculum, programme, course or examination offered in an institution of basic education on the subject of sex education shall— 2. not normalise any sexual orientation, gender identity, sexual preference or gender expression prohibited under this Act; 3. comply with the provisions of sections 18 and 19 of this Act; 4. provide alternative course, curriculum or program without any penalty to the child’s grade or standing for children whose parents have not provided written consent required by Part III and IV of this Act; 5. be subject to inspection by parents of participating children that allow parents to review the curriculum, instruction materials, lesson plans, assessments or tests, surveys or questionnaires, assignments and instructional activities; and 6. be limited to curriculum that has been subject to reasonable review and approval by stakeholders including parents, the ministry in charge of basic education, the body in charge of curriculum development and the National Assembly. |
|  | **PART V – PROHIBITED SEXUAL ACTS AND ACTIVITIES** |
| Homosexual rape | 1. (1) A person who engages in sexual act with a person of the same sex without the consent of the other person or if the consent of the other person was obtained by force or by any means of threats, coercion or intimidation, or fear of bodily harm, or where the person against whom the offence is committed was at the time the offence was committed, unconscious or in an altered state of consciousness due to the influence of medicine, drugs, alcohol or any other substance that impaired his or her judgment, or by means of false representations as to the nature of the act shall upon conviction be sentenced to imprisonment for a term of not less than ten years and not exceeding fiftyyears.   (2) Persons sentenced to imprisonment for an offence under subsection (1) shall be held in separate facilities. |
| Homosexual rape against vulnerable person. | 1. (1) A person who engages in a sexual act with a person of the same sex without the other person’s consent in any of the circumstances specified in subsection (2) commits an offence and shall upon conviction be sentenced to imprisonment for a term of not less than twenty five years and not exceeding fifty years. 2. The circumstances referred to in subsection (1) are where— 3. the person against whom the offence is committed is a child; 4. the person against whom the offence is committed is a person with disability or suffers a disability as a result of the sexual act; 5. the person against whom the offence is committed is a person with mental illness or suffers mental illness as a result of the sexual act; 6. the person against whom the offence is committed is an older member of the society under Article 57 of the Constitution; 7. the offender is a parent, guardian or relative of the person against whom the offence is committed; 8. the offender is a person in authority over the person against whom the offence is committed; 9. the person against whom the offence is committed contracts a terminal illness as a result of the sexual act; or 10. the offence was committed by the person in association with another or other person, or any person who, with common intention, is in the company of another or others who commit the offence. |
| Attempt to commit same sex sexual act. | 1. A person who attempts to commit any of the offences specified in sections 31 and 32 is guilty of a felony and shall, upon conviction, be sentenced to imprisonment for a term of not less than five years and not exceeding ten years. |
| Prohibition of same sex civil unions or domestic partnerships. | 1. (1) Any marriage, civil union, domestic partnership or other form of union between persons of the same sex is void. 2. A certificate issued by a foreign authority of a purported marriage, civil union, domestic partnership or other form of union between persons or sexual partners of the same sex is unenforceable in Kenya. 3. A person who— 4. purports to contract a marriage, civil union, domestic partnership or other form of union between persons or sexual partners of the same sex in Kenya; 5. presides over, conducts, administers, witnesses, solemnizes a purported marriage, civil union, domestic partnership or other form of union between persons of the same sex in Kenya; 6. issues or aids in procuring a certificate in respect of a purported marriage, civil union, domestic partnership or other form of union between persons of the same sex in Kenya; or 7. knowingly attends, aids, abets, participates in the preparation or solemnization of a purported marriage, civil union, domestic partnership or other form of union between persons of the same sex in Kenya,   commits an offence and is liable on conviction to imprisonment for a term of not less than three years and not exceeding ten years. |
| Prohibition of sex reassignment prescriptions or procedures.  **=[-0**  Cap. 253. | 1. (1) A person shall not change his or her sex, or take prescriptions, or undergo procedures intended to change his or her sex. 2. A person shall not provide or cause to be provided prescriptions or undertake or cause to be undertaken procedures intended to change the sex of a person. 3. A person shall not encourage, entice, indoctrinate, coerce or facilitate a child to take or undertake sex reassignment prescriptions or procedures intended to create a sex other than the sex of the child observed and recorded at birth. 4. A medical practitioner shall notify a parent of any information relating to a child’s perception that his or her gender is inconsistent with his or her sex. 5. A person shall not engage in or cause any of the following to be prescribed or performed upon a person, whether a child or adult, if the intention is to alter the appearance of or to affirm or validate that persons’s perception of his or her gender, where that appearance or perception is inconsistent with the persons’s sex—    1. prescribe or administer puberty blocking medication or any drug to delay or stop normal puberty;    2. prescribe or administer testosterone, estrogen, or progesterone, in amounts greater than would normally be produced endogenously in a healthy person of the same age and sex;    3. perform surgeries that sterilise, including castration, vasectomy, hysterectomy, oophorectomy, orchiectomy, or penectomy;    4. perform surgeries that artificially construct tissue having the appearance of genitalia different from the child’s sex including metoidioplasty, phalloplasty and vaginoplasty; or    5. remove any healthy or non—diseased body part or tissue. 6. In this section, the term “sex reassignment prescriptions or procedures” means a prescription or procedure that includes— 7. the prescription or administration of puberty blockers or other chemicals for the purpose of attempting to delay or stop normal puberty to affirm a person’s perception of his or her sex if that perception is inconsistent with the person’s sex 8. the prescription or administration of hormones or hormone antagonists or other chemicals to affirm a person’s perception of his or her sex if that perception is inconsistent with the person’s sex as defined in this Act; or 9. any medical procedure, including a surgical procedure to affirm a person’s perception of his or her sex if that perception is inconsistent with the person’s sex as defined in this Act. 10. In this section, the term “sex reassignment prescriptions or procedures” does not include— 11. prescriptions or procedures for individuals born with a medically verifiable disorder of sex development including external biological sex characteristics that are ambiguous; 12. prescriptions or procedures for individuals born with a genetically or biochemically verifiable disorder of sex development, including where it is determined through genetic or biochemical testing that the individual has XX disorder of sex development or XY disorder of sex development, sex chromosome disorders, XX or XY sex reversal and ovotesticular disorders or does not have sex chromosome structure, sex steroid hormone production or sex steroid hormone action that is normal for a biological male or biological female; 13. prescriptions or procedures to treat an infection, injury, disease, or disorder that has been caused or exacerbated by sex-reassignment prescription or procedure prohibited in this section; or 14. prescriptions or procedures provided to a patient for the treatment of a physical disorder, physical injury, or physical illness that would, as certified by a medical practitioner licensed under the Medical Practitioners and Dentists Act, place the individual in imminent danger of death or impairment of a major bodily function unless the prescription or procedure is given or performed. 15. If a medical practitioner has initiated a course of treatment for an individual that includes the prescription or administration of any drug or hormone prohibited by this section, before this Act comes into force, and if the medical practitioner determines and documents in the individual’s medical record that immediately terminating the individual’s use of the drug or hormone at once will cause harm to the individual, the medical practitioner shall determine and certify the period during which the individual’s use of the drug or hormone shall be progressively reduced and stopped. 16. A person who contravenes the provisions of this section commits an offence and shall upon conviction be sentenced to imprisonment for a term of not less than twenty five years and not exceeding fifty years.. 17. In addition to the penalty under subsection (9), the licence of a medical practitioner convicted under this section shall stand revoked. 18. A person may assert an actual or threatened violation of this section as a claim or defence in judicial or administrative proceedings and obtain compensatory damages, injunctive relief, declaratory relief or any other appropriate relief. 19. Notwithstanding any other written law, any civil action to recover damages, compensatory damages, injunctive relief, declaratory relief or any other appropriate relief for injury suffered as a result of a violation of this section may be commenced within ten years from the time the person discovered or reasonably should have discovered that the injury or damages were caused by the violation or not later than when the person shall attain the age of fifty years. 20. Notwithstanding any other written law, an action under this section may be commenced and relief may be granted in a judicial proceeding without regard to whether the person commencing the action has sought or exhausted available administrative remedies. |
| Offence relating to use of pronouns. | 1. (1) Every person shall be referred to by the pronoun of his or her sex.   (2)A person who refers to another person by pronoun that is inconsistent with the pronoun of the sex of that other person commits an offence and is liable upon conviction to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand shillings, or to both. |
| Detention with intent to commit prohibited sexual act. | 1. (1) A person who detains another person with the intent to cause that person to engage in sexual act or activity prohibited under this Act commits an offence and is liable, upon conviction, to imprisonment for a term of not less than ten years.   (2) A person who detains a child with the intent to cause the child to engage in sexual act or activity prohibited under this Act commits an offence and shall upon conviction be sentenced to imprisonment for a term of not less than twenty five years and not exceeding fifty years.. |
| Funding of prohibited activities. | 1. (1) A person who knowingly funds, sponsors, donates to or provides financial support, whether in cash or kind, towards or to facilitate an activity prohibited under this Act or the observance or normalisation of conduct prohibited under this Act commits an offence and is liable on conviction to a fine of not less than ten million shillings or imprisonment for a term not less than ten years, or both. 2. Where a body corporate is charged with an offence under this section and the body corporate is convicted, the body corporate shall be liable to a fine of not less than twenty million shillings and each officer of the body corporate shall have also committed the offence and shall each be liable to a fine of not less than ten million shillings or imprisonment for a term of not less than ten years, or both.   (3) Where an unincorporated body of persons is convicted under this section, the principal officers of the body of persons, by whatever name called, shall have also committed the offence and shall each be liable to a fine of not less than ten million shillings or to imprisonment for a term of not less than five years and not exceeding ten years, or both. |
| Nude shows and obscene adult live performances. | 1. (1) A person commits an offence if, regardless of whether compensation for the performance is expected or received— 2. the person performs drag shows or engages in nude adult live performance in public or on public property; or 3. the person performs nude or drag show or engages in obscene adult live performance for children, or in an institution of basic education, school or other institution of learning or in a place that admits or permits children or in a location from where the performance can be or is likely to be viewed by a child. 4. In this section, “adult live performance” means visual performance whether in person or by electronic means that involve exotic dancers, go-go dancers, topless or nude or semi-nude dancers, strippers, or male or female impersonators or similar performers that depict or simulate nudity, sexual conduct, specific sexual activity or that appeals to prurient interest. 5. A person charged with an offence under this section is, upon conviction, liable to a fine of not less than one hundred thousand shillings or to imprisonment for a term of not less than three years and not exceeding seven years, or both. |
| Prohibition of gross indecency. | 1. (1) A person who willfully commits a grossly indecent act commits an offence and is liable, on conviction, to a fine of not less than fifty thousand shillings or to imprisonment for a term of not less than three years, or to both.   (2) For purposes of this section, “grossly indecent act” means and includes—   1. gay parade or march or engaging in parade, march, assembly ordemonstration while nude or identifying or holding out either by word or conduct as engaged in activities prohibited under this Act or intending to engage in act or activity prohibited under this Act; 2. public show of lewd or amorous relations between or among persons of the same sex; 3. being nude in public; or 4. cross-dressing in public, except where the dressing is for religious, cultural or lawful entertainment, ceremonies or festivals. |
| Promotion of prohibited activities. | 1. (1) A person who promotes an activity prohibited under this Act commits an offence and shall upon conviction be sentenced to a fine of not less than five million shillings or to imprisonment for a term of not less than ten years and not exceeding twenty years, or to both.   (2) A person promotes an activity prohibited under this Act where the person—   * 1. manufactures, produces, markets, advertises, publishes, prints, broadcasts, distributes or causes the manufacture, production, marketing, advertisement, publication, printing, broadcasting or distribution by any means of any material, article, item or information bearing colours, slogans, emblems, phrases, flags or symbols that are associated with any sexual orientation, gender identity, sexual preference or gender expression prohibited under this Act;   2. manufactures, produces, markets, advertises, publishes, prints, broadcasts, distributes or causes the manufacture, production, marketing, advertisement, publication, printing, broadcasting or distribution by any means of any material, article, item or information that promotes or is intended to promote or encourage sexual acts or activities prohibited under this Act;   3. knowingly and intentionally displays by any means material, article, item or information bearing colours, slogans, emblems, phrases, flags or symbols that are associated with any sexual orientation, gender identity, sexual preference or gender expression prohibited under this Act or that promotes or is intended to promote or encourage sexual acts or activities prohibited under this Act;   4. operates, manages or runs a body or organisation which advocates or encourages activity prohibited under this Act or the observance or normalisation of conduct that is prohibited under this Act;   5. recruits, encourages or persuades another person to perform sexual act or to engage in activity that constitutes an offence under this Act; or   6. engages or participates in an activity that advocates, champions, or is intended to indoctrinate or change public perception or opinion towards an act prohibited under this Act.  1. Where a body corporate, including a partnership, is charged with an offence under this section and the body corporate is convicted, the body corporate is liable to a fine of not less than twenty million shillings and the officers of the body corporate shall be deemed to have been convicted and shall each be liable to a fine of not less than ten million shillings or to imprisonment for a term of not less than ten years, or to both. 2. Where an unincorporated body of persons is convicted under this section, the principal officers of the body of persons shall have also committed the offence and are each liable to a fine of not less than one million shillings or to imprisonment for a term not less than ten years, or to both. 3. Where an offence prescribed under this section is committed by a legal entity whether corporate or unincorporated, the court may upon conviction and in addition to such fine or imprisonment sentence as may have been imposed suspend the licence of the entity for a period of one year or cancel the licence granted to the entity. |
| Promotion of prohibited activities to a child. | 1. (1) A person who manufactures, produces, procures, markets, broadcasts, disseminates, publishes, advertises or distributes or causes the manufacture, production, procurement, marketing, broadcasting, dissemination, publication, advertisement or distribution by any means of any material, article, item or information to a child, whether directly or indirectly, that promotes, induces, condones or normalizes or is intended to promote, induce, condone or normalize a prohibited activity under this Act with or by a child or which evokes or is intended to evoke the interest of the child in such activity commits an offence and is liable upon conviction to imprisonment for a term of not less than ten years or to a fine of not less than ten million shillings, or to both.   (2) A person who supplies or displays to a child any article, material or item which is intended to be used in the performance of sexual act prohibited under this Act with the intention of encouraging or enabling that child to perform such sexual act commits an offence and is liable upon conviction to a fine of not less than ten million shillings or to imprisonment for a term of not less than ten years, or to both.  (3) A person who whether in person or by means of electronic communication or by any other means promotes, encourages, persuades, lures, induces or recruits a child, whether directly or indirectly, to engage in sexual act or to be involved in or to undertake an activity prohibited under this Act commits an offence and shall upon conviction be sentenced to a fine of not less than ten million shillings or to imprisonment for a term not less than ten years and not exceeding twenty five years, or to both.  (4) Where a body corporate, including a partnership, is charged with an offence under this section and the body corporate is convicted, the body corporate and each officer of the body corporate shall each be liable to a fine of not less than ten million shillings.  (5) Where an unincorporated body of persons is convicted under this section, the principal officers of the body of persons, by whatever name called, shall be deemed to have also committed the offence and are each liable to a fine of not less ten million shillings. |
| Child grooming. | 1. (1) A person who being an adult communicates by words, electronic means, or conduct with a child or a person under whose care, supervision or authority a child is with the intention to manipulate the child to engage in or to be involved in sexual act with the person or another adult person of the same sex as the child or with the intention to make or facilitate the child to engage in sexual act or activity which is prohibited under this Act commits an offence and shall upon conviction be sentenced to imprisonment for a term of not less than ten years and not exceeding 20 years or to a fine of not less than ten million shillings, or to both.   (2) The consent of a child or a person under whose care, supervision or authority a child is shall not be a defence to a charge under this section. |
| Premises used for same sex sexual acts and other prohibited activities. | 1. Any person who— 2. keeps or manages or assists in the management of a house, office space, room, set of rooms or any other movable or immovable asset used for purposes of same sex sexual acts or other activities prohibited under this Act; 3. being the tenant, lessee or occupier, or person in charge, of any premises, permits the premises or any part thereof to be used for same sex sexual acts or other activities prohibited under this Act; 4. being the owner, landlord or lessor of any premises or the agent of the owner, landlord or lessor of any premises lets the same or any part thereof while knowing that the premises or some part thereof are or is to be used for same sex sexual acts or other activities prohibited under this Act; or 5. being the owner, landlord or lessor of any premises or the agent of the owner, landlord or lessor of any premises lets the same or any part thereof and who upon knowing that the premises or some part thereof are or is to be or is being used for same sex sexual acts or other activities prohibited under this Act allows a person to be on the premises,   commits an offence and is liable, upon conviction, to a fine of not less than two hundred thousand shillings or to imprisonment for a term of not less than three years and not exceeding seven years, or to both. |
| Protection of women and girls in sports. | 1. (1) A person shall not operate, sponsor or facilitate sports, athletic programmes or activities that permit a person whose sex is male to compete in sport or athletic category, programme or activity that is designated for female persons.   (2) A male person shall not compete in sports or athletic category programme or activity that is designated for female persons.  (3) A person who contravenes this section commits an offence and is, upon conviction, liable to imprisonment for a term of not less than three years or to a fine not exceeding one million shillings, or to both. |
| Offences relating to provision of separate facilities for different sexes. | 1. (1) Every owner, proprietor, administrator, manager or other person in charge of an education institution, public facility, space or building for public use or that admits public access or use, shall provide separate toilets, latrines, bathrooms, locker-rooms or changing rooms for persons of different sexes.    * 1. A person who contravenes the provisions of subsection (1) commits an offence and is upon conviction liable to imprisonment for a term not exceeding five years or to a fine not exceeding one million shillings, or to both.      2. A person who knowingly enters or uses a toilet, bathroom, locker-room or changing facility that is designated for use by persons of the opposite sex commits an offence and is, upon conviction, liable to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand shillings or to both. |
|  | **PART VI – PROTECTION OF VICTIMS** |
| Protection of victims of a prohibited sexual act. | 1. A victim of a sexual act or activity prohibited under this Act shall not be arrested, prosecuted or punished for involvement in the sexual activity or act. |
| Compensation of victims.  Cap. 21. | 1. (1) A person involved in the investigation, prosecution or trial of offences under this Act shall assist the victim of the offence present his or her views and concerns at the appropriate stages of the criminal proceedings. 2. The court may order a person convicted of an offence under this Act to, in addition to the sentence imposed, pay compensation to the victim of the offence for any physical or psychological harm caused to the victim. 3. In determining the amount of compensation to be paid by the convicted person, the court, shall take into consideration— 4. the extent of harm suffered by the victim; 5. the degree of force used on the victim; and 6. medical and other expenses incurred by the victim on approved medical treatment as a result of the offence. 7. The order referred to in subsection (2) shall be deemed to be a decree under the Civil Procedure Act, and shall be executed in the manner provided under that Act. |
| Confidentiality.  No 29 of 2022. | 1. (1) At any stage of the investigation or trial of an offence under this Act, a law enforcement officer, judicial officer, prosecutor, medical practitioner and any party to the case shall respect and uphold the victim’s right to privacy.   (2) The proceedings of the court—   1. shall be held in accordance with the provisions of section 93 of the Children Act in respect of proceedings concerning a child; and 2. may be held *in camera* where the court considers it appropriate.   (3) A person who reveals the identity of a victim without authority or consent, commits an offence and is liable on conviction to imprisonment for a term of not less than five years or a fine of not less than one million shillings, or to both. |
| Access to emergency medical care and treatment. | 1. (1) A victim of a prohibited sexual activity is entitled to emergency medical care and treatment.   (2) The court may, in addition to the order of compensation of a victim made under this Act, determine whether the victim of an offence under this Act requires to undergo psychotherapy and order for payment of fees for the approved service provider and associated costs to be borne by the offender. |
| Rehabilitation. | 1. (1) The court may, upon convicting a person for an offence under this Act, in addition to such penalty as may be imposed, order the provision of services for the purposes of rehabilitating a convicted person or victim.   (2) The services referred to in subsection (1) may be provided by the correctional service or by a probation officer of the area where the convicted person is serving his or her sentence or where the victim resides. |
|  | **PART VII – DISQUALIFICATION OF OFFENDERS** |
| Disqualification of offenders from acting as guardians, adopting, providing foster care for children.  No. 29 of 2022. | 1. In addition to the provisions under the Children Act, the court, the National Council for Children Services or the Secretary of Children Services and all other relevant government agencies, as the case may be, shall not approve an application, or issue an order of adoption, guardianship, kinship, foster care, temporary shelter, aftercare or any other form of family based alternative child care contemplated under the Children Act to an applicant who is or has been convicted of an offence under this Act or who openly identifies or holds out as a homosexual or as a person who engages in unnatural sexual activity or acts prohibited under this Act. |
| Disqualification of offenders from employment in public service or child care institutions. | 1. A person who is or has been convicted of the offence of engaging in same sex sexual or aggravated same sex sexual act shall be disqualified from employment in public service or in a child care institution or in any other institution which places him or her in a position of authority or care of a child or a vulnerable person. |
| Disclosure of sexual offence record. | 1. (1) A person convicted of an offence under this Act shall disclose the fact of his or her conviction when applying for employment in public service or in a child care institution or any other institution which places him or her in a position of authority or care of a child or any other vulnerable person.   (2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to imprisonment for a term of not less than five years or to a fine of not less than one hundred thousand shillings, or to both. |
|  | **PART VIII — LIMITATION OF RIGHTS AND FUNDAMENTAL FREEDOMS** |
| Conditions for limitation of rights and fundamental freedoms. | 1. All persons subject to this Act shall enjoy all rights and fundamental freedoms enshrined under Chapter Four of the Constitution unless limited to the extent specified in Article 24(5) of the Constitution, this Act or any other Act.   (2) The purpose of this Part is to specifically limit or restrict certain rights or fundamental freedoms set out in Chapter Four of the Constitution, as contemplated in Article 24 of the Constitution.  (3) The limitations of rights and fundamental freedoms under this Part are necessary to achieve and secure the objects of this Act and to ensure—   1. the protection of the wellbeing of the individual, the family and the nation for the benefit of future generations; 2. the protection of public safety, order, health and morals; 3. the sanctity and honour of marriage and family is maintained and preserved in accordance with Article 45(2) of the Constitution; 4. protection of victims: children, persons with disability, older members of the society, the youth and vulnerable persons from harmful indoctrination and sexual exploitation; 5. that persons who would otherwise engage in acts or activities prohibited herein do not prejudice the rights and fundamental freedoms of others. |
| Limitation of the right to privacy. | 1. (1) Pursuant to Article 24 of the Constitution, the right to privacy set out in Article 31 of the Constitution including the right of every person not to have their person, home or property searched, or their possessions seized, or to have information relating to their private affairs unnecessarily required or revealed; in respect to a person, group, society, association, club, organization, or body, whether corporate or unincorporated, whose purpose whether wholly or partly, overtly or covertly, directly or indirectly is to engage in, perform, promote, facilitate, support or sustain an act prohibited under this Act shall be limited where—   (a) the person’s home, premise, office or property is to be searched;  (b) the person’s property or possessions used or suspected to have been used to commit an act prohibited under this Act are to be seized;  (c) information relating to the person’s family or private affairs is necessarily required and should be revealed; or  (d) the privacy of the person’s communication is to be infringed  for purposes of investigations under this Act.  (2) In order for the limitation under subsection (1) to apply, the person shall have committed an offence or be suspected to have committed an offence under this Act. |
| Limitation of right to freedom of conscience, religion, belief and opinion. | 1. (1) Pursuant to Article 24 of the Constitution, the right to freedom of conscience, religion, belief and opinion set out in Article 32 of the Constitution shall be subject to limitation in respect of a person against whom this Act applies only under the conditions set out in subsection (2).   (2) Nothing contained in or done under the authority of this Act shall be held to be inconsistent with or in contravention of freedom of conscience, religion, thought, belief and opinion set out in Article 32 of the Constitution if that act is reasonably done—   1. in the interests of public order or public morality; and 2. for the purpose of protecting the rights and freedoms of other persons from violation by others through the acts or activities prohibited in this Act. |
| Limitation of freedom of expression. | 1. (1) Pursuant to Article 24 of the Constitution, the right to freedom of expression set out in Article 33 of the Constitution including the freedom to seek, receive, or impart information or ideas and freedom of artistic creativity is limited only under the conditions prescribed in subsection (2).   (2) The limitation to the right to freedom of expression shall be to the extent that it is done—   * 1. in the interests of public order, public morality or public health;   2. in order to protect the rights and freedoms of other persons from violation by others through the acts or activities prohibited in this Act;   3. to protect and uphold the right of victims or other persons concerned in legal proceedings under this Act to privacy; or   4. in so far as the information, ideas, or artistic creativity relate to the acts and activities prohibited under this Act. |
| Limitation of freedom of the media. | 1. (1) Pursuant to Article 24 of the Constitution, despite the fact that the freedom and independence of electronic, print and all other types of media is guaranteed, the freedom of the media is limited only under conditions set out in subsection (2).    * + 1. The limitation to the right to freedom of expression shall be to the extent that it is done—    1. in the interests of public order, public morality or public health;    2. in order to protect the rights and freedoms of other persons from violation by others through the acts or activities prohibited in this Act;    3. to protect and uphold the right of victims or other persons concerned in legal proceedings under this Act to privacy;    4. to the extent of restricting the broadcasting, production, circulation or dissemination of any material, acts or activities the broadcasting, production, circulation or dissemination of which is prohibited under this Act; or    5. to limit the broadcasting, production, circulation or dissemination of material, acts or activities that promote acts or activities prohibited under this Act.       * 1. The Communications Authority of Kenya may, review, vary, modify or revoke any licence granted under the Kenya Information and Communications Act or any other law applicable to Kenya to a media enterprise that knowingly broadcasts or disseminates information or material prohibited under this Act. |
| Limitation of the right of access to information. | 1. (1) Pursuant to Article 24 of the Constitution, the right of access to information under Article 35 of the Constitution including the right of access to information held by the state; and information held by another person shall be limited only under conditions set out in subsection (2).   (2) The limitation to the right to access to information shall be to the extent that it is done—   * 1. in the interests of public order, public morality or public health;   2. in order to protect the rights and freedoms of other persons from violation by others through the acts or activities prohibited in this Act;   3. to protect and uphold the right of victims or other persons concerned in legal proceedings under this Act to privacy;   4. to the extent of restricting access to information, material prohibited under this Act or relating to acts or activities prohibited under this Act;   5. to limit access to information that promote acts or activities prohibited under this Act; or   6. in respect of information, materials, acts or activities prohibited under this Act. |
| Limitation of the freedom of association. | 1. (1) Pursuant to Article 24 of the Constitution, the right to freedom of association under Article 36 of the Constitution including the right to form, join or participate in the activities of an association shall be subject to limitation with respect to a group, society, association, club or organisation whose purpose whether by name or objects, partly or wholly, overtly or covertly, directly or indirectly is to encourage, promote, aid, facilitate, support or sustain any act prohibited under this Act.   (2) A person shall not directly or indirectly—   1. form, organise, operate or register; 2. promote the formation, organization, operation or registration; or 3. participate in an activity to support or sustain   a group, society, association, club or organisation whose purpose whether by name or objects, partly or wholly, overtly, or covertly, is to promote, facilitate, support or sustain any act prohibited under this Act.  (3) A person who contravenes subsection (2) commits an offence and is liable upon conviction to imprisonment for a term not less than three years.  (4) No group, society, association, club or organization bearing the name or names “homosexual”, “lesbian”, “gay”, “bisexual”, “transgender”, “queer’, ‘questioning’, whether in full or abbreviated form, shall be registered in Kenya.  (5) A certificate of registration issued before the coming into force of this Act to any group, society, association, club or organisation whose purpose whether by name or objects, partly or wholly, overtly or covertly, directly or indirectly, is to promote, facilitate, support or sustain in any way an act prohibited under this Act, shall stand revoked upon the coming into force of this Act. |
| Limitation of the right to assemble, demonstrate, picket and petition. | 1. (1) Despite the right to assemble, to demonstrate, to picket and to present petitions to public authorities set out in Article 37 of the Constitution, that right in respect of persons to whom this Act applies is limited pursuant to Article 24 of the Constitution, with respect to assembly, demonstration, parade or petition by a person, group, society, association, club or organisation whose purpose whether wholly or partly, overtly or covertly, directly or indirectly is to engage in, promote, facilitate, support, advocate, champion or sustain an act or activity prohibited under this Act.   (2) The limitation to the right to assemble, to demonstrate, to picket and to present petitions shall be to the extent that it is done—   * 1. in the interests of public order, public safety, public morality or public health; or   2. in order to protect the rights and freedoms of other persons from violation;   (3) A person who assembles, demonstrates, pickets, or petitions to promote, facilitate, support or sustain an act or activity prohibited under this Act commits an offence and is liable upon conviction to imprisonment for a term not less than five years. |
|  | **PART IX — MISCELLANEOUS PROVISIONS** |
| Disclosure of information.  Cap. 16. | 1. (1) A person who has any information that is relevant in —    1. preventing the commission of an offence under this Act; or    2. securing the arrest or prosecution of another person for an offence committed under this Act,   shall disclose the information to a police officer.   * + 1. A person in whose presence an offence under this Act is committed shall report the commission of the offence to a police officer.     2. A person who knows or reasonably suspects that a person has committed or intends to commit an offence under this Act shall report the matter to the police.     3. A person who is otherwise prevented by privilege from making a report under this section shall be immune from any action arising from the disclosure of information without the consent or waiver of privilege first being obtained or had.     4. A person who knowingly or having reason to believe that a person has committed or intends to commit an offence and fails to disclose information or report an offence to the police under this Act commits an offence and is liable upon conviction to a fine of not less than twenty thousand shillings or to imprisonment for a term not less than six months, or both.     5. No civil or criminal proceedings shall be instituted against a person for disclosing any information under this section.     6. This section shall not apply to an Advocate under the Advocates Act. |
| Arrest by citizens. | 1. A person other than a police officer, acting alone or with others, may arrest or cause to be arrested without warrant any person who is in the act of committing an offence under this act or anyone he has reasonable grounds for suspecting to be committing an offence under this act; and, without unreasonable delay, shall make over or cause to be made over any person so arrested to a police officer or to the nearest police station. |
| Refugees and asylum seekers convicted under this Act. | 1. (1) No person shall be granted, have or enjoy the status of a refugee or asylum in Kenya on the ground that he or she is facing persecution in his or her country of origin due to his or her sexual orientation, gender identity or gender expression or other acts or activities prohibited under this Act.   (2) A refugee or asylum seeker convicted under this Act shall be expelled from Kenya. |
| General Penalty | 1. A person who commits an offence under this Act for which no specific penalty is provided shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both, |
| Severance of invalidated provisions | 1. If any provision, part, section or subsection of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the provisions, parts, sections, subsections or application of this Act that can be given effect without the invalid parts, section, subsection or application. |

**MEMORANDUM OF OBJECTS AND REASONS**

**Statement on Objects and Reasons of the Bill**

The principal object of the Bill is to advance the provisions of Article 45 of the Constitution, to provide for the protection of the family, prohibition and criminalization of homosexuality, same sex marriages, unnatural sexual acts and related activities that are contrary to public morality and to provide for the regulation of activities or associations that seek to advance, advocate or promote homosexuality, unnatural sexual acts and non-binary sexual liaisons.

As espoused in the preamble to the Constitution, Kenya is committed to nurture and protect the wellbeing of the family as the natural and fundamental unit of society. The Bill aims to provide an environment that recognizes and facilitates family well-being, and empowers families to participate in the socio-economic development of the country.

**Part I (clauses 1-3)** of the Bill provides for the preliminary matters including interpretation of terms.

**Part II (clauses 4-16)** of the Bill provides for the objects of the Act and the guiding principles including stable marriages, family, responsible parenting, protection of children among others.

**Part III (clauses 17-22)** of the Bill contains provisions aimed at protection of children particularly in institutions of basic education. These include emphasizing on the right to education, prohibition of teaching of topics such as comprehensive sexuality education that are aimed at indoctrination and normalization of sexual activity among children, homosexuality and gender reassignment or questioning from a young age.

**Part IV (clauses 23-30)** of the Bill relates to the rights of parents in the matter of protection of their children. These rights include the right to choose their child’s education system, to review school records, to consent to matters concerning a child, to be notified of health services to be given to a child as well as to be provided with information on education programmes and courses being taken by their children.

**Part V (clauses 31-46)** of the Bill provides for prohibited activities and sexual activities under the Act. These include sexual activities among persons of the same sex, same sex marriage or civil unions while the prohibited activities include procuring of prohibited sexual activities by false pretences, detention with the intent to commit prohibited sexual activity among others.

This part also makes it an offence to establish premises for prohibited sexual activities and prohibits grossly indecent acts. It prohibits sex reassignment prescriptions or procedures and the promotion or funding of prohibited activities and proposes to heavily penalize any breach including hefty fines, long jail terms, deregistration of associations and cancellation of licences issued to businesses that promote or host prohibited activities within their premises.

**Part VI (clauses 47-51)** deals with the protection of victims of sexual abuse. The provisions further include compensation of victims, guaranteeing of the right to privacy, requirements for confidentiality and entitlement of victims to access medical care and treatment.

**Part VII (clauses 52-54)** of the Bill provides for disqualification of offenders from acting as guardians, adopting, providing foster care for children and from employment in public service or in child care institutions. This part also requires those who have been convicted of an offence under this Act to disclose the fact of conviction while applying for employment in public service or in child care institutions and makes it an offence to fail to so disclose.

**Part VIII (clauses 55-62)** of the Bill provides for limitation of rights and fundamental freedoms under Chapter four of the Constitution of Kenya, 2010 as required under Article 24. In particular, it limits the right to privacy under 31, right to freedom of conscience, religion, belief and opinion, freedom of expression under Article 32, freedom of expression under Article 33, freedom of the media under Article 34, access to information under Article 35, freedom of association under Article 36 and the right to assembly, demonstration and petition under Article 37, to the extent provided for under Article 24 of the Constitution. In addition, it provides for automatic revocation of any registered groups, associations or societies that promote activities and sexual acts prohibited under the Act.

**Part IX (clauses 63-67)** contains miscellaneous provisions that allow the expulsion of refugees and asylum seekers who breach the law, contains provisions for psychotherapy and rehabilitation of offenders, the duty of witnesses to committal of an offence to disclose information to police and permits citizen arrest.

**Statement on the limitation of fundamental rights and freedoms**

The Bill seeks to limit certain rights and fundamental freedoms in the Bill of Rights.

**Statement on the Delegation of Legislative Powers**

The Bill does not delegate legislative powers.

**Statement on whether the Bill concerns county governments**

The Bill does not concern county governments in terms of Article 110(1) (a) of the Constitution as it does not contain provisions that affect the powers and functions of county governments.

**Statement on 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 .............................................................................................................., 2023.

George Peter Kaluma

*Member of Parliament.*