

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Wednesday, 18th May 2022**

The House met at 2.30 p.m.

[The Speaker (Hon. Justin Muturi) in the Chair]

PRAYERS

QUORUM

Hon. Speaker: It is very clear that there is no quorum. Can you ring the Quorum Bell?*(The Quorum Bell was rung)*

We now have the requisite quorum. We may begin.

COMMUNICATION FROM THE CHAIR

HARMONISATION OF PROPOSED AMENDMENTS TO THE HUDUMA BILL

Hon. Speaker: Order, Members! Order, Members! Please, take your seats.

Hon. Members, you may recall that the House concluded the Second Reading of the Huduma Bill (National Assembly Bill No.57 of 2021) on 13th April 2022. The Bill was subsequently committed to the Committee of the whole House pursuant to the Standing Orders.

Hon. Members, the Bill seeks to put in place new provisions for civil registration and legal identification of persons, new mechanisms for management of civil registration and legal identification through a National Integrated Identity Management System (NIIMS), to provide for enrolment of persons into NIIMS assigning the *Huduma Namba* and issuance of legal identity documents and passports, to provide for personal data protection and promotion of efficiency in the delivery of public services, amongst other provisions. The Bill also proposes to repeal the Births and Deaths Registration Act (Cap.149), the Registration of Persons Act (Cap.107) and the Kenya Citizens and Foreign Nationals Management Service Act, 2011.

Hon. Members, I have since received various proposed amendments to the Bill from, among others, the Chairperson of the Departmental Committee on Administration and National Security, Hon. Peter Mwangi CBS, MP, Hon. Aden Duale EGH, MP, Hon. Owen Baya, MP, Hon. Gladwell Cheruiyot, MP, Hon. Peter Kaluma, MP, Hon. Kimani Ichung'wah CBS, MP, Hon. Abdikhaim Osman, MP, Hon. John Kiarie, MP and Hon. (Dr.) Robert Pukose, MP.

Further, the Office of the Clerk has notified that they are drafting several other amendments sought by a number of other Members to the Bill. It is, therefore, likely that additional amendments

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will be received prior to the scheduling of the Bill for Committee of the whole House. Notably, most of the amendments so far received require harmonisation through a process commonly referred to as “winnowing”.

Hon. Members, Standing Order No.131 on ‘referral of proposed amendments to committees’ states as follows, and I quote:

“Where, after a Bill has been read a Second Time and before commencement of Committee of the whole House, amendments have been proposed to it, which in the opinion of the Speaker require harmonisation, he may direct any Member proposing such amendment to the Bill to appear before the relevant departmental committee dealing with the subject matter of the Bill to present his or her proposed amendments and the Committee shall submit a report to the House on the result of the exercise of harmonisation before the Committee of the whole House is taken.”

Hon. Members, having perused the proposed amendments received so far, I note that they are wide-ranging and substantive in nature and in some instances, may require fresh public participation and engagement with relevant stakeholders in accordance with provisions of Article 118 of the Constitution.

In this regard, and pursuant to the provisions of Standing Order No.131 as I have read out, I hereby refer all the amendments to the Huduma Bill 2021 to the Departmental Committee on Administration and National Security for winnowing and public participation. It is expected that the Committee, in consultation with the concerned Members, will seek to harmonise the amendments before the Bill proceeds for Committee of the whole House. Members with amendments are encouraged to attend meetings of the Committee to seek and harmonise the amendments before the scheduling of the Bill for Committee of the whole House.

Hon. Members, noting the timelines before the House proceeds to adjourn *Sine Die*, the Committee is encouraged to immediately convene for this purpose, and report back to the House as soon as possible. The Committee and the entire House is accordingly guided.

I thank you, Hon. Members.

Next Order.

PAPERS LAID

Hon. Speaker: The Chairperson, Departmental Committee on Education and Research, Hon. Florence Mutua.

Hon (Ms.) Florence Mutua (Busia CWR, ODM): Thank you, Hon. Speaker. I beg to the lay the following Paper on the Table of the House:

Addendum Report of the Departmental Committee on Education and Research on its consideration of the proposed amendments to the Universities (Amendment) Bill (National Assembly) Bill No.35 of 2021.

Hon. Speaker: The Chairperson, Departmental Committee on Administration and National Security.

Hon. Peter Mwathi (Limuru, JP): Thank you, Hon. Speaker. I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Administration and National Security on its consideration of the Public Service Internship Bill (National Assembly) Bill No. 25 of 2021.

Hon. Speaker: Next Order.

NOTICE OF MOTION

ALTERATION OF HOUSE CALENDAR

Hon. Speaker: Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Standing Order No.28(4), this House resolves to alter its Calendar (Regular Sessions) for the Sixth Session (2022) so as to:

Hold Sittings during the month of June 2022 as follows:

(i) Afternoon Sittings on Tuesday, 14th June, Wednesday, 15th June, and Thursday, 16th June, 2022, commencing at 2.30 p.m., and Morning Sittings on Wednesday, 15th June 2022.

(ii) To commence the *Sine Die* recess on Friday, 17th June 2022.

Hon. Speaker, as Members would be aware, we had proposed a Calendar that was ending on 9th June, 2022. However, the House Business Committee (HBC) reviewed all the pending business before the House, which is all very critical, and the time that can reasonably be allocated to the conclusion of that business, and believe that we need that extra week.

As you all know, we have not even started consideration and approval of the Budget Estimates. We have also not commenced debate and approval of the Public Finance Management Bill, which is proposing to broaden the definition of the overall debt, which is critical for defining that debt so that we can know...

(Loud consultations)

Hon. Speaker: Order, Hon. Members!

Hon. Amos Kimunya (Kipipiri, JP): This is so that we can know the parameters that would be operating in terms of the Estimates. We have also not looked at the County Allocation of Revenue Bill, which is yet to come from the Senate.

Hon. Speaker: Leader of Majority Party, you are now giving a notice. You appear to be moving a Motion.

(Laughter)

Hon. Amos Kimunya (Kipipiri, JP): My apologies. I got distracted by the Members who are moving around. I think I have given notice.

Hon. Speaker: Indeed, and having given notice, this type of Motion is not one that is exempt from notice. It, therefore, means that what appears as Order No.11 must be taken out of the Order Paper. The intention was that, that notice ought to have been given in the morning if the House had quorated, but since the House did not raise quorum, the Leader of Majority Party has had to give notice of the Motion now. It, therefore, cannot be considered this Afternoon Sitting. It will have to be considered at another sitting, perhaps, tomorrow afternoon.

It is so ordered. Order No.11 is, therefore, taken out the Order Paper, for today.

(Order No.11 deferred)

There are no Questions, and there are no Requests for Statements;

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(An Hon. Member spoke off-record)

Do you have a Statement? The record I have does not show any request. Very well. Tomorrow, Hon. Mwathi?

PROGRESS REPORTED

THE CHILDREN BILL

Hon. Speaker: Hon. Chairperson?

Hon. Moses Cheboi (Kuresoi North): Hon. Speaker, I beg to report that the Committee of the whole House has considered the Children Bill (National Assembly Bill No. 38 of 2021) up to Clause 35B, and approved the same with amendments, and seeks leave to sit again.

Hon. Speaker: Mover?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Speaker, I beg to move that the House do agree with the Committee in the said Report. I also request, Hon. Kabinga to second the Motion for agreement with the Report of the Committee of the whole House.

Hon. Speaker: Hon. Kabinga Wachira.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Speaker. I second.

(Hon. Maoka Maore consulted while the Speaker was on his feet)

Hon. Speaker: Hon. Maore, what are you doing? I do not understand.

(Question proposed)

(Question put and agreed to)

SPECIAL MOTION

CONSIDERATION OF NOMINEES FOR APPOINTMENT TO THE ETHICS AND ANTI-CORRUPTION COMMISSION

THAT, taking into consideration the findings of the Departmental Committee on Justice and Legal Affairs in its Report on its consideration of Nominees for Appointment as Members of the Ethics and Anti-Corruption Commission (EACC), laid on the Table of the House on Thursday, 12th May 2022 and pursuant to the provisions of Section 10(3) of the Ethics and Anti-Corruption Commission Act, 2011 and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of Dr. Cecilia Mbinya Mutuku and Mr. John Ogallo as Members of the Ethics and Anti-Corruption Commission.

(Hon. (Ms.) Shamalla Jennifer on 17.5.2022)

(Debate concluded on 17.5.2022)

Hon. Speaker: Hon. Members, debate on this Motion was concluded yesterday. What remained is for the Question to be put, which I hereby do.

(Question put and agreed to)

BILL

Second Reading

THE PENAL CODE (AMENDMENT) BILL

(Hon. David Gikaria on 11.5.2022)

(Debate concluded on 11.5.2022- Morning sitting)

Hon. Speaker: Hon. Members, especially the specially elected Member, Hon. Jennifer Shamalla, just be in the Chamber a bit. Has somebody sent you an exciting text message? It is good to be excited, is it not? Hon. Members, this business should have been dispensed with in the morning. This is a Bill by Hon. David Gikaria. The debate was concluded on 11th May 2022 during the morning sitting and what remained is for the Question to be put, which I hereby do.

(Question put and agreed to)

COMMITTEE OF THE WHOLE HOUSE

(Order for the Committee Read)

[The Speaker (Hon. Justin Muturi) left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairman
(Hon. Patrick Mariru) took the Chair]*

THE CHILDREN BILL

(Resumption of Consideration in Committee interrupted on 17.5.2022)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Order, Hon. Members. We are now resuming the Committee of the whole House from New Clause 35C. So, we shall proceed as such. This is the Second Reading of the New Clause 35C of the Children Bill (National Assembly Bill No.38 of 2021).

New Clause 35C

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Kabinga.

Hon. Josphat Kabinga (Mwea, JP): Give me a minute, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Okay

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Take your time, Hon. Kabinga. The Clerk is here. I know you have been on this for some time. Is it okay if you could let Members know the page number, so that we can move along together?

Is it Page 1263 on the Order Paper? Are we together, Hon. Chair?

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following clause:

Powers of
the
Secretary. 35C. The Secretary shall have the power to do all such acts as the Secretary may deem to be necessary to carry out the functions of the Secretary and may appoint, assign or delegate a function to an officer or a person to carry out a function assigned under this Act.

Hon. Temporary Deputy Chairman, this clause seeks to provide for powers of the Secretary of Children Services as they are currently.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 35D

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by inserting the following clause:

Appointment of chief officers,
children officers and such other officers

35D. The Public Service Commission shall competitively recruit and appoint chief officers, children officers and such other officers as may be necessary to assist the Secretary in the performance of their duties under this Act.

Hon. Temporary Deputy Chairman, this clause seeks to provide for appointment of officers to serve in the Directorate of Children Services.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read
a Second time, proposed)*

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added to
the Bill, put and agreed to)*

New Clause 35E

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by inserting the following clause:

Functions
of the
Council.

35E. The National Council for Children Services shall-

- (a) be the central authority for the purposes of The Hague Convention on Inter-Country Adoptions;
- (b) advise the Cabinet Secretary on matters relating to child protection;
- (c) collaborate with relevant state departments, state and non-state agencies to monitor and evaluate the efficiency and effectiveness of all social programmes established in the interests of children;
- (d) facilitate, monitor and evaluate the enforcement of the principles of international law and treaty instruments binding on Kenya in respect of matters relating to children;
- (e) develop policy, codes of conduct regulating good practice relating to child protection and child welfare;
- (f) monitor and evaluate implementation of public education programmes on the rights and welfare of children;
- (g) advice on technical and support services to state and non-state agencies participating in child welfare programmes;
- (h) prescribe training needs and requirements for authorised officers;

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- (i) formulate, approve, evaluate and monitor implementation of programmes to facilitate the full implementation of Kenya's international and regional obligations relating to children and support the formulation of appropriate reports under such obligations;
- (j) formulate, approve, evaluate and monitor implementation of policies to regulate family empowerment and social security that are designed to alleviate the hardships which impair the social welfare of children;
- (k) regulate, register, approve, evaluate and monitor implementation of child welfare programmes proposed by charitable children's institutions in accordance with this Act;
- (l) advise the Cabinet Secretary on establishment of children rescue centers or designation of children's institutions to operate as children rescue centers;
- (m) formulate, approve, evaluate and monitor implementation of programmes to create public awareness in all matters relating to the rights and welfare of children;
- (n) formulate, approve, evaluate and monitor implementation of programmes for the alleviation of the plight of children with special needs or requiring special attention;
- (o) promote, carry out and disseminate research relating to welfare and protection of children matters;
- (p) establish panels of persons from whom guardians *ad litem* appointed by the court in matters relating to children including adoption regulated under this Act;
- (q) to maintain and update a register of guardians *ad litem*;
- (r) establish, regulate and manage the activities of County Children Advisory Committees to advise on matters relating to the rights, welfare and protection of children;
- (s) promote linkages and exchange programmes with organisations in and outside Kenya;
- (t) establish, maintain and update a database of children in Kenya.
- (u) advise the Cabinet Secretary on matters relating to the formulation of national policy on domestic and inter-country adoptions;
- (v) accredit and license duly registered adoption and child protection agencies in order to facilitate domestic and inter-country adoptions;
- (w) establish, update and maintain a database for domestic and inter-country adoptions;
- (x) advise the Cabinet Secretary on matters relating to adoption practice and procedure;
- (y) provide professional and technical advice and support services to licensed adoption agencies on matters relating to adoption and to individuals who intend to undertake domestic and inter-country adoption;
- (z) receive, record and report from charitable children institutions, adoption societies, parents and guardians, authorised officers and other relevant person's particulars of children available for adoption;
- (aa) consult with charitable children institutions and adoption societies on matters relating to adoption;

- (bb) establish, maintain and update a register of children free for adoption and prospective adoptive parents;
- (cc) certify and declare a child free for adoption;
- (dd) establish, maintain and update a database of adopted children in consultation with the Registrar;
- (ee) promote co-operation between state agencies, local and non-state agencies concerned with matters relating to adoption with central adoption authorities in other countries including tracing and repatriation of children in need of care and protection;
- (ff) review and make recommendations to the Cabinet Secretary for approval of fees chargeable by adoption societies for the processing of applications for adoption;
- (gg) make recommendations to the Cabinet Secretary on matters relating to the fees chargeable for registration and licensing of adoption societies;
- (hh) monitor, prepare and submit to the Cabinet Secretary annual reports on matters relating to adoption; and,
- (ii) any other functions as maybe conferred on this Act.

Hon. Temporary Deputy Chairman, this clause seeks to provide clear regulatory functions of the National Council for Children Services as a regulatory and supervisory body for children matters, including supervision of adoption societies, charitable children institutions, among others.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause be read
a Second time, proposed)*

Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Hon. Millie Odhiambo.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I had indicated earlier that I did not have the benefit of sitting with the sector to understand why they are going in that direction. However, whereas I may not have a problem with that, I wanted to bring to the attention of the Chair that sub clause (d), which is to facilitate, monitor, evaluate and enforce the principles of international law and treaty instruments, binding on Kenya in respect of matters relating to children, may be in conflict with the Treaty Making and Ratification Act, which gives that authority to the Attorney-General. So, perhaps, it is something that you can check by the time we are through so that we know whether we are giving conflicting roles. That is New Clause 35E (d). Just check that in relation to the Treaty Making and Ratification Act.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairman, you will check on that one.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Part VA

New Clause 63A

The Role of
County
governments

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the following new Part be inserted immediately after PART V of the Bill:

63A. (1) In the discharge of the functions specified in Part II of the Fourth Schedule to the Constitution, every county government shall—

(a) provide or facilitate the provision of pre-primary education; and,

(b) provide or facilitate the provision of childcare facilities.

(2) Every county government shall, in consultation with the Cabinet Secretary, develop policies and guidelines for the better carrying out of the functions specified in subsection (1).

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairman, could you tell Members which page that is? It is page 1268 of the Order Paper. Proceed.

Hon. Josphat Kabinga (Mwea, JP): The amendment is a re-arrangement of the clauses concerning the role of county governments in a new part.

(Question of the new part proposed)

(New part read the First Time)

(Question, that the new part be read a Second Time, proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. I want to thank the Committee. I actually dropped an amendment yesterday, which was almost similar to New Clause 63A (b), which was obligating counties to facilitate the provision of childcare facilities. The Committee has actually provided a wider scope. I was providing for a very specific kind of facility, but it is good when you talk about general childcare facilities. Counties have enough money and each can provide a childcare facility.

I support the amendment.

(Question, that the new part be read a Second Time, put and agreed to)

(The new part was read a Second Time)

(Question, that the new part be added to the Bill, put and agreed to)

New Clause 63B

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT the following new Part be inserted immediately after PART V of the Bill:

County
government
welfare schemes

63B. A county government may, either by itself or jointly with other county governments, and in consultation with the Council, establish welfare schemes to provide or facilitate the provision of childcare facilities and programmes for children, including children with disabilities.

The justification for this is same as the previous one. The amendment is a re-arrangement of clauses concerning the role of county governments in a new pattern. I would like to mention to the House that we have accommodated amendments that were proposed by Hon. Nyenze.

(Question of the new part proposed)

(New part read the First Time)

(Question, that the new part be read a Second Time, proposed)

(Question, that the new part be read a Second Time, put and agreed to)

(The new part was read a Second Time)

(Question, that the new part be added to the Bill, put and agreed to)

New Clause 128A

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have the Hon. Chairman.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, Clause 128 of the Bill be amended by inserting the following new clause immediately after —

Customary
guardianship

128A. (1). In addition to the powers of the court to appoint a guardian under Section 125, the court may appoint a guardian on application by any person in accordance with the customs, culture or tradition of a specific community in the manner prescribed—

- (a) where the child's parents are deceased or cannot be found, and the child has no guardian or other person having parental responsibility over the child; or,
- (b) where the child is one to whom Section 124 applies.

(2) The Chief Justice shall make rules to guide the procedures for matters relating to customary guardianship.

As it is, the Bill has no provision for appointment of a guardian under customary law. This new provision will facilitate appointment of a relative or relatives of a child as guardians through customary practice. This will ensure that the customary guardianship currently practised in communities, though not formal, is recognized and formalized. The provision will also ensure protection of children under customary guardianship in order to enhance monitoring of the welfare of children under guardianship. Further, it will make it easy for relatives to be appointed as guardians of children who are currently under informal guardianship and ensure that a child is brought up within the culture, customs and traditions of their community.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Clause 148A

The Temporary Deputy Chairman (Hon. Patrick Mariru): This is an amendment by Hon. Millie. It is on page 1295 of the Order Paper.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I am sorry, Hon. Temporary Deputy Chairman. This is the clause that I had said I had dropped yesterday, but I think I dropped it at the wrong time. The Committee has actually provided a much broader approach. I was seeking to have counties establish a child facility for children in need of care and protection, but the Committee has given a broader perspective, which is even better. Therefore, I drop my amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

New Clause 192A

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is a new clause 192A by the Hon. Chairman. Let him speak to it.

Hon. Josphat Kabinga (Mwea, JP): Do I hear something from the Leader of the Majority Party?

The Temporary Deputy Chairman (Hon. Patrick Mariru): No, you do not. Just proceed.

Hon. Josphat Kabinga (Mwea, JP): It seems my ear is too close to him.

Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 192—

Review of
adoption

192A. (1) A person who is a biological parent of a child in respect of whom an adoption order has been granted by a Court may apply to the Court for review of the order for adoption on grounds that:

(a) the child in respect of whom an adoption order has been granted by a Court was lost or abducted;

(b) the biological parent reported to the Secretary and took all measures to trace, to find and to reunite with the child and were not successful; and,

(c) it is in the best interest of the child to reunite the child with their biological parent.

(2) Where the court is satisfied with the grounds under subsection (1), the court may—

(a) issue an order to revoke the adoption order and give custody of the child to the biological parent; or

(b) review an existing order to give joint custody to a biological parent and an adoptive parent

(3) A court may give an order for joint custody where—

(a) the child has been in the custody of the adoptive parents for more than five years; and

(b) the child expresses that he or she would wish to maintain a relationship with the adoptive parents.

There are many instances where children are lost and are presumed to be abandoned. Where a parent can demonstrate that a child was lost and the parent made efforts to trace and reunite with the child, adoption of the child should be recalled. Special consideration should be placed, however, to avoid destabilizing the child where he or she has had a long-lasting relationship with the adoptive parents. In such a case, the court may direct that the adoptive and biological parents enter into an agreement for joint custody of the child.

This is now correcting a major problem that we have had in this country. If adopted by the House, it will help clear challenges that exist within many families in this country.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

New Part XIII A

New Clause 219A

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I wish to drop this based on the amendments I dropped yesterday.

The Temporary Deputy Chairman (Hon. Patrick Mariru): They are quite a number following each other.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): If they are relating to children in conflict with the law, I am dropping all of them; the whole new Part.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I want you to confirm because the new Part is from new Clause 219A to 219CC. Just check slowly.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Which page, if you do not mind?

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is going up to new Clause 219CC.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I confirm that I am dropping all those amendments.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie has confirmed that she is dropping new Clauses 219A through to Clause 219CC.

(Proposed amendments by Hon. (Ms.) Odhiambo-Mabona dropped)

New Clause 251A

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, you have new Clause 251A.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I have new clause 252.

The Temporary Deputy Chairman (Hon. Patrick Mariru): There is a new clause 251A. Just check on page 1280.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after clause 251—

Consequential
Amendments

251A. The Acts specified in the Seventh Schedule are amended in the manner specified in that Schedule.

This is to provide for consequential amendments to the Births and Deaths Registration Act in order to empower the Registrar of Births and Deaths to amend the register to accommodate children born as intersex.

(Question of the new clause proposed)

(New clause read the First Time)

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(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

(First Schedule agreed to)

(Second Schedule agreed to)

Third Schedule

The Temporary Deputy Chairman (Patrick Mariru): Hon. Chair, you are proposing a deletion.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT, the Third Schedule of the Bill be deleted.

This Schedule refers to voluntary children's homes and other matters which are not contemplated in the Bill.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Third Schedule deleted)

Fourth Schedule

The Temporary Deputy Chairman (Patrick Mariru): There is an amendment by the Hon. Chair.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT, the Fourth Schedule of the Bill be amended by—

- (a) deleting paragraph 1 and substituting therefor the following new paragraph—
“1. Any sexual related offence.”
- (b) deleting paragraph 2 and substituting therefor the following new paragraph—
“2. Any offence related to robbery.”
- (c) deleting paragraph 5 and substituting therefor the following new paragraph—
“5. Any offence related to drug trafficking.”
- (d) inserting the following new paragraph immediately after paragraph 7—
“8. Any offence relating to trafficking in persons.”

This Schedule is being amended to reflect persons convicted of all sexual offences and offences relating to robbery, drug trafficking and trafficking in persons are banned from adoption or fostering children.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Fourth Schedule as amended agreed to)

Fifth Schedule

The Temporary Deputy Chairman (Patrick Mariru): There is an amendment by the Hon. Chair.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Fifth Schedule of the Bill be amended by inserting the following words immediately below the words ‘harm.’—

‘Offences under the Sexual Offences Act, 2006’

It is important that where an offence under the Sexual Offences Act is committed against a child, a medical practitioner or administrator handling the matter takes steps to record and preserve the information concerning the condition of the child.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Fifth Schedule as amended agreed to)

Sixth Schedule

The Temporary Deputy Chairman (Patrick Mariru): Hon. Chair, you have an amendment to the Sixth Schedule as well.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Sixth Schedule of the Bill be amended by deleting the words ‘the eleventh’ and substituting therefor the words ‘Part B of this’.

This is to correct a wrong referencing since the Bill does not contain the Eleventh Schedule referred to therein.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Sixth Schedule as amended agreed to)

Seventh Schedule

The Temporary Deputy Chairman (Patrick Mariru): Hon. Chair, you have an amendment to the Seventh Schedule as well.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Bill be amended by deleting the Seventh Schedule and substituting therefor the following new Schedule—

Amendments of section 7
of Cap.149.

1. Section 7 of the Births and Deaths Registration Act is amended by inserting the following new subsection immediately after subsection (1)—

“(2) The Register under subsection (1) shall include details of an intersex child and intersex person.”

Amendments of section
29 of Cap. 149.

2. Section 29 of the Births and Deaths Registration Act is amended in paragraph (d) by inserting the following words immediately after the word “documents”—

“that shall include details of an intersex child or an intersex person as”

The Seventh Schedule as was drafted is being deleted since every child has a right to legal representation. The new Schedule has consequential amendments to the Births and Deaths Registration Act in order to provide for registration of intersex persons.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Seventh Schedule as amended agreed to)

Eighth Schedule

The Temporary Deputy Chairman (Patrick Mariru): We have two proposed amendments on the Eighth Schedule. One is by the Leader of the Majority Party and the other is by the Chair of the Departmental Committee on Labour and Social Welfare. We shall start with the one by the Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT, the Eighth Schedule be amended by inserting the following new paragraph immediately after paragraph 5—

(5A) A children's institution that was receiving public funds for implementing functions under the repealed Act shall, upon the coming into force of this Act, continue to discharge its functions for a period not exceeding two years and shall within that period—

(a) apply to the Cabinet Secretary for designation as a children rescue centre under this Act; and,

(b) apply to the Council for registration and approval of its child welfare programmes under this Act.

Hon. Temporary Deputy Chairman, this is to provide for a transitional mechanism for all children's institutions that are currently receiving public funds for implementing functions under the repealed Act.

It basically provides that they will continue for a period not exceeding two years during which time they would be expected to apply to the Cabinet Secretary for designation, and to the Council for registration to continue providing the same services. In that process, they will also be able to make an agreement on whether they will continue receiving public funds or not, and have the quantum thereof. This is basically to create for the transition of those institutions.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is out of order, Hon. Millie?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I am not opposing what the Leader of Majority Party is saying. I can see that he has become a bit jittery. I am just wondering, for the purpose of logical flow, I am privy to the fact that his amendment follows another.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes. Let us start with the amendment by the Leader of Majority Party because there is a further amendment by the Chairperson of the Departmental Committee on Labour and Social Welfare.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Okay, thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Proceed, Leader of Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, I was completing moving my amendment.

It is basically to provide for the transitional arrangement for those institutions which are currently being publicly funded, and to also recognize their role under this new Act. For the next two years, they will continue to discharge the said functions while waiting for designation or registration to provide additional services under the new Act.

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairman, you have a further amendment on the same Eighth Schedule?

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I have a further amendment specifically under Paragraph 12 in an amended form.

I beg to move:

THAT, the Eighth Schedule of the Bill be amended by inserting the following new paragraphs immediately after paragraph 11 —

“12. (1) A Charitable Children’s Institution that is registered under Section 60 of the Children Act, No. 8 of 2001 shall not undertake any activity after ten years from the date of the commencement with Section 1 of this Act.

(2) The Cabinet Secretary shall, in consultation with Council, make regulations for carrying out of the provisions of sub-paragraph (1).

(3) Without prejudice to the generality of sub-paragraph (1) of the regulations, shall provide for—

(a) the date that all charitable children’s institution shall stop operating; or,

(b) the transfer of a child who is a resident at a charitable children institution to an institution established by the government under section 64 of this Act.

Adoption

13. The terms of the moratorium on inter-country and resident adoption issued on 26th November 2014 shall apply to matters relating to inter-country adoption under this Act.”

Hon. Temporary Deputy Chairman, there is a typo there. We are deleting “with Section 1”, nothing else. This schedule, as drafted, is amended to recognize the proposed phase-out of charitable children’s institutions and moratorium on inter-country adoption that is currently in place.

(Question of the amendment proposed)

*(Question, that the words to be inserted
be inserted, put and agreed to)*

(Eighth Schedule as amended agreed to)

Clause 2

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, this is quite something. Under Clause 2, we have many amendments, tens of them. We shall therefore, take each amendment under the interpretation of Clause 2, one after the other. We will then put the global Question at the end. The sub-clauses that have no amendments shall not be raised. Members,

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I hope we are together, and especially, Hon. Millie and the Chairman because you have quite a number. You will, however, move one after the other.

*(The Temporary Deputy Chairman consulted
with the Clerk-at-the Table)*

Hon. Millie and Hon. Chairman, are we together? We are now at the definition of “Abandoned.” I will ask the Mover to move the amendment. We will start with Hon. Millie Odhiambo’s amendment.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in clause 2 –

(a) by deleting the definition of the term “abandoned” and substituting therefor the following new definition -

“abandoned” in relation to a child means a child -

(a) who has been deserted by the parent, guardian or caregiver; or,

(b) whose parent, guardian or caregiver has willfully failed to make contact with the child for a period of more than six months.

However, I have a further amendment - that, instead of providing for six months, it should be for a year to go in tandem with the amendments that we did yesterday.

The reason for this is that the way Part (b) is phrased, it is problematic since the parent may have not made contact due to ill health or due to work in a difficult or war torn area. There should also be willfulness on the part of the parent to fail to make contact with the child.

Yesterday, I gave an example of where we actually dealt with a matter when I was still in the civil society. The guardians were not able to make contact with the children because they were extremely poor, and the child had been placed a bit far. So, sometimes, there needs to be willfulness for us to assume abandonment.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

Now that Hon. Millie’s amendment has been carried, the one of the Committee falls. I hope that the Hon. Chairman understands that.

Proceed, Hon. Millie.

(Proposed amendment by Hon. Josphat Kabinga withdrawn)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 2 –

(b) in the definition of the term “alternative care” by deleting the words “at least overnight”;

The Temporary Deputy Chairman (Hon. Patrick Mariru): Say Paragraph (b) just for the record.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I actually have it. It is Paragraph (b). It is only that I am also referring to the reasons to enable us move quickly.

The reason for that is to ensure better legislative drafting because what I am saying is, delete the word “at least overnight” and put a time-frame. “At least overnight” is a bit casual. So, we are just saying that alternative care means “an arrangement where a child is looked after outside the parental home on a temporary basis for any period beyond 12 hours. It should not be “at least overnight”. What is “at least overnight?” For example, if someone goes between 11.00 p.m. in the night to 5.00 a.m., is that “at least overnight?” Hours are very clear. So, it can be at least for 12 hours.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments, and both are deletions. We shall start with the one of the Hon. Chairman.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in Clause 2 –

(c) by deleting the definition of the term “approved officer”;

This is aimed at removing conflict of powers with authorized officer who is defined in the Bill. They have the same function and there is no gap that is being addressed. Thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairperson. If the deletion is carried, my proposed amendment falls. I had proposed an amendment because “approved” sounds like somebody working for an Approved School. The Committee, in its wisdom, decided to do away with that all together. Nonetheless, I want to draw the attention of the Committee to the purpose of my amendment. It was to infuse responsibilities of persons who may not necessarily be within the Government structure but work for children - like the people who work for Non-Governmental Organizations (NGOs). Some of the amendments that were brought yesterday take care of this. I support the Chair’s amendment.

*(Question, that the words to be left out
be left out, put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): In that circumstance, Hon. Millie's proposed amendment falls.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT the Bill be amended in clause 2 –

(d) in the definition of the term “authorized officer” by inserting the words “a counselor lawyer” immediately after the words “a teacher”;

If you may notice, the authorized officers that we already have in the Bill include police officer, a chief, a children's officer, probation officer, prisons officer, a registered medical practitioner, labour officer and a teacher. I wish the chair can listen to my explanation. The authorized officers that you have include police officer, However, when you are dealing, especially with children in conflict with the law or children in need of care and protection, the most important officers are counselors and lawyers. So, even though we want to lump others in the general definition, it is important that we include a counselor and a lawyer now that we are talking about giving legal aid to children who are in conflict with the law.

I am sorry, I want to correct. It is written “counselor lawyer”. That was not my intention. My intention is “counselor, lawyer” or any other officer.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, do you want to say something?

Hon. Josphat Kabinga (Mwea, JP): Yes, Hon. Temporary Deputy Chairman. This is one area that the Committee would like to differ with the proposal of my colleague. If you look at the officers who are defined in the draft Bill, they are all Government officers who interact with children in the course of their daily operations. Also, the Secretary may appoint a lawyer or a counselor as provided in the same definition by the words “any other officer authorized by the Director.” So, singling out counselor and lawyer is limiting. Tomorrow, there can be another officer who is important and needs to be included. That is why the Bill is proposing to include the words “any other officer who may be appointed by the Director.” That covers it more broadly than limiting it to two - a counselor and a lawyer. As I said, tomorrow another person may be important. How will we accommodate them? We will accommodate them if we have the words “any other officer authorized by the Director.” I request my colleague – because we have agreed on many clauses – that she drops this one on the basis that what she has proposed is broadly covered by the draft Bill as it is.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Jared Okelo, do you want to weigh in on this?

Hon. Jared Okelo (Nyando, ODM): Thank you, Hon. Temporary Deputy Chairman. I am in agreement with the Committee's proposal. We have just opened it a little wider to incorporate the civil society or the NGOs at the same time denying them an opportunity to have an officer recognized in law through this Bill. So, I am in tandem with the proposal as advanced by the

Committee that we need to put it as “any other officer as authorized by the Director” so that we have those from the civil society together with the NGOs.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie, do you want to say something? The Chair has really pleaded with you, but it is you to decide.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, in order that we move forward, I can drop it. However, I want to let Members know that lawyers are not necessarily from NGOs. We have state counsels. I started my work as a state counsel. A state counsel is a lawyer for the Government. We have a legal aids scheme by the Government. So, when you say lawyer and counselor, those are people who deal with children more regularly in the court systems. To enable us to go forward, I will let it pass.

So, I withdraw it.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Okay, that is withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie Odhiambo, proceed.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended in clause 2 –

(e) by deleting the definition of the expression “best interest of the child” and substituting therefor the following new definition-

“best interest of the child” means the principles that prime the child’s right to survival, protection, participation and development above other considerations and includes the rights contemplated under Article 53 (1) of the Constitution;

If you may notice, the definition that is on the draft Bill is a little brief and it refers to Article 53 of the Constitution and the Schedule. I am suggesting that we include the best interest of the child to be the principles that prime the child’s rights to survival, protection, participation and development above other considerations. This is because when you put these four categories, you will have covered every imaginable right of the child. If you talk about the right to health, it is a survival right; if you talk about the right to a name; it is a survival right; if you talk about the right to play, it is a participation right; and if you talk about education, it is a development right. So, broadly, every right falls within these categories. Therefore, because this is wider, I propose that we provide these in the Bill and also other considerations contemplated under Article 53 (1) of the Constitution on the rights of the child.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, do you want to weigh in on this?

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, as a Committee, we agree with the amendment proposed by our colleague, Hon. Millie. We just want to request her to move a further amendment to insert the words “and Section 7 of this Act” immediately after the word “Constitution”

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie Odhiambo, just speak to it.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I agree with the Chair. We had discussed it earlier.

So, Hon. Temporary Deputy Chairman, I beg to move: -

THAT the Bill be further amended in Clause 2 –

(e) by deleting the definition of the expression “best interest of the child” and substituting therefor the following new definition-

“best interest of the child” means the principles that prime the child’s right to survival, protection, participation and development above other considerations and includes the rights anticipated under this Act and under Article 53 (1) of the Constitution and Section 7 of this Act;

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments here. One is by Hon. Millie and the other one is by the Chair. We will start with that of Hon. Millie. It is paragraph (f).

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I am sorry, Hon. Temporary Deputy Chairman. The computer is still trying to figure if it is me.

I want to bring to your attention that this desk here is broken. I must alert you because one time I was charged for breaking a desk. This is just to let you know that it is not me who has broken it.

Having said that, I beg to move:

THAT the Bill be amended in Clause 2 –

(f) by deleting the definition of the term “child abuse” and substituting therefor the following new definition-

“child abuse” includes-

- (a) the infliction of physical harm by any person on a child;
- (b) the infliction or inducement of physical harm by any person on a child by failing to adequately supervise or protect the child;
- (c) the failure by any person to protect a child from physical harm or to report a case of child abuse;
- (d) act or omissions that affects a child’s healthy social and emotional development and functioning including-
 - (i) rejection;
 - (ii) isolation, including depriving the child of normal social interaction with others;
 - (iii) deprivation of affection or cognitive stimulation; or

- (iv) inappropriate criticism or comparison with other children, discrimination, humiliation, threats, or malicious accusations, directed at a child;
- (e) the exposure of a child to emotionally, traumatic and age-inappropriate content, information and photos of any kind;
- (f) engaging a child in child sex tourism and child trafficking.
- (g) the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct;
- (h) the use or exposure of a child in electronic or online, platforms for purposes of prostitution, pornography or any other unlawful sexual practice;
- (i) the use of a child's images for purposes of pornography or sexual gratification;
- (j) dissemination to a child of any material, information, education or health services that promotes, induces, condones, or normalizes sexual activity or behaviour among children or with children; or (k) any other similar acts calculated to cause physical, emotional, economic or psychological injury to the child.

If you may notice, we had made reference to "child abuse" within the main Bill, but the definition was limited. The one that I am proposing includes just a few of the things that were excluded, one which is the infliction of physical harm by any person on a child. The amendment also seeks to separate some parts which should stand on their own. For instance, the definition that child abuse includes the infliction of physical harm by any person on a child should stand alone. Also, the infliction or inducement of physical harm by any person on a child by failing to adequately supervise or protect the child should stand alone. The way that it was previously put made it seem like they go together, which is not correct.

The other part that I am adding is the failure by any person to protect a child from physical harm or to report a case of child abuse. That also falls under child abuse. I am also including acts or omissions that affect a child's healthy social and emotional development and functioning, including rejection, isolation and the like. Also, comparison with other children and discrimination should be considered as abuse.

The others that I am including is the exposure of a child to emotionally traumatic and age-inappropriate content, information and photos of any kind, and also engaging a child in child sex tourism and child trafficking. I am also including the use or exposure of a child in electronic or online platforms for purposes of prostitution or pornography, the use of a child's images for purposes of pornography or sexual gratification, and any other similar acts calculated to cause not only physical, emotional or psychological injury, but also economic injury to the child.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, Hon. Chairman.

Hon. Josephat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. Again, we support the amendments as they make the definition of child abuse clearer. I would also

like to ask my colleague, Hon. Millie, to accept a further amendment to part (b) to accommodate our amendment.

Hon. Temporary Deputy Chairman, I beg to move:

THAT Clause 2 of the Bill be amended-

(b) in the proposed definition of the term “child abuse” by deleting the words “failing to adequately supervise or protect the child” in paragraph (a) and substituting therefore the words “acts intended to cause harm or negligent acts or omissions that cause harm”;

That is just to accommodate our amendment. Otherwise, we agree with all her amendments.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I agree with that further amendment as proposed by the Committee.

The Temporary Deputy Chairman (Hon. Patrick Mariru): So, your amendment is now in an amended form, right?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, as further amended.

(Question of the further amendment proposed)

*(Question, that the words to be left be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairman, your amendment falls. Luckily, Hon. Millie accommodated it; that is paragraph (d).

Hon. Josephat Kabinga (Mwea, JP): It is on the children rescue centre.

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is on page 1255.

Hon. Josephat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, have you skipped something? We also have an amendment to the definition of the term “children’s remand home”.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I also have an amendment to the definition of the term “child labour”.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Children’s remand home is next.

Hon. Josephat Kabinga (Mwea, JP): It is coming next.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes.

Hon. Josephat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Is that the way it is organised?

Hon. Josephat Kabinga (Mwea, JP): Yes, that is the way it is organised. Which one are we on now?

The Temporary Deputy Chairman (Hon. Patrick Mariru): We are on children’s rescue centre in paragraph (d).

Hon. Josephat Kabinga (Mwea, JP): I have a different Order Paper.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Okay, let your people help you organise.

Hon. Josephat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT Clause 2 of the Bill be amended—

(d) in the proposed definition of the term “children’s rescue centre” by inserting the word “by the Cabinet Secretary” immediately after the word “established”;

It is imperative to specify whose mandate it is to establish a rescue centre. There is a danger in leaving it to all state agencies or non-state agencies at a time when all efforts are being made by the State to ensure progressive elimination of institutional care of children. We have discussed this before.

(Question of the amendment proposed)

*(Question, that the words to be inserted be inserted,
put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairman, we are considering the children’s remand home. Yes, Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I just wanted to seek your guidance. This Bill has had quite a few amendments. I am sure that by the time the amendments were being done, it might have been a bit confusing. We are supposed to be going alphabetically, but I notice that some of my proposed amendments are coming much later on page 1285. For instance, the definition of the terms “children court”, “child labour”, “child voluntarily acknowledges responsibility”, “community service”, “cyber bullying” that I have proposed are appearing on pages 1285 and 1286. I do not know whether we will go as per the Order Paper or alphabetically. That way, it will be cleaned up. Will we move as per the Order Paper?

The Temporary Deputy Chair (Hon. Patrick Mariru): There are existing definitions on which we are proposing amendments. There are also completely new definitions that will come later.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chairman, please proceed with the definition of the children’s remand home in paragraph (e).

Hon. Josephat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move: THAT Clause 2 of the Bill be amended—

(e) in the proposed definition of the term “children’s remand home” by deleting the word “are” appearing immediately after the word “law” and substituting therefor the words “maybe”;

This amendment is to make it a possible cause of action by the court and not a definite procedure. This will make it possible for courts and the justice system to consider other options outside remand homes while dealing with a child in conflict with the law.

(Question of the amendment proposed)

*(Question, that the word to be left be left out,
put and agreed to)*

*(Question, that the word to be inserted in place thereof
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us have the Hon. Chairman.

Hon. Josephat Kabinga (Mwea, JP): Is that on the definition of the word “detention”?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Paragraph (g).

Hon. Josephat Kabinga (Mwea, JP): Sorry, Hon. Temporary Deputy Chairman. We seem to have different pages. I thought it was only Hon. Millie who had an amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Yes, you are correct. I am told that that is an amendment by Hon. Millie.

Hon. Josephat Kabinga (Mwea, JP): Hon. Millie, thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie, you have the Floor.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT the Bill be amended in Clause 2 –

(g) by deleting the definition of the term “detention” and substituting therefor the following new definition-

“detention” includes means confinement of a child in conflict with the law in a police cell, place of safety, rehabilitation school, child protection unit, child rescue center, children remand home or other residential facility in which the child is deprived of liberty;

You will notice that detention should be for children who are in conflict with the law. I am providing for children in conflict with the law otherwise we will be considering children who are in need of care and protection as being in detention when the ones who are in detention are children in conflict with the law.

Hon. Josephat Kabinga (Mwea, JP): We agree

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Chair, can you kindly, move your amendment on the Paragraph (f) on the Definition of a “Director?”

Hon. Josephat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT Clause 2(f) of the Bill be amended—

(f) by deleting the definition of the term “Director”;

We are proposing that we delete the definition of the term “Director.” We have explained throughout the Committee of the whole House that we are aligning with nomenclature changes in

the scheme of service as the Director of Children Services is now referred to as Secretary of the Children Services.

Thank you.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie on definition of “Diversion.”

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, Clause 2(h) of the Bill be amended—

(h) by deleting the definition of the term “diversion” and substituting therefor the following new definition-

“diversion” means the intervention and programmes designed to divert children from the criminal justice system with the aim of—

(a) reducing stigmatization of children in conflict with the law;

(b) identifying children at risk and connecting them with appropriate support services in an attempt to reduce the likelihood of the children engaging in antisocial behaviour;

(c) providing programmes and support to children who have engaged in offending conduct, prevent them progressing further into the system; and

(d) reducing recidivism by children in conflict with the law.

Part of the reason for “diversion” is to ensure that we do not have repeated offence by children, and to also divert children from the criminal justice system so that they are not stigmatised and that they do not learn criminal activities and become hardened by being in the justice system.

I move.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2(i) of the Bill be amended—

(i) by deleting the definition of the term “grooming” and substituting therefor the following definition-

“grooming” means establishing a relationship of trust or emotional connection with a child or an adult child care giver, either personally or through electronic means, with the aim to manipulate the child or adult care giver and which relationship may facilitate sexual contact or

other child abuse that promotes, induces or normalizes sexual activity or behaviour among or with children.

You notice that part of grooming entails manipulation. It also ensures that you build a relationship. There are also parts of components of grooming that are missing in the definition, and also the main purpose is of course, to facilitate sexual contact or other child abuses that promote, induce or normalise sexual activity or behaviour among or with children.

I move.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Do you want to say something, Hon. Chair?

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, we have a small problem with that. The proposal attempts to protect or exempt an adult child caregiver.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Pardon? No, no, no! On a point of order, Chair.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is out of order, Hon. Millie?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman. The Member may not quite understand what I am actually, seeking. Let me explain so that he can get it.

(Hon. Josphat Kabinga rose in his place)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, why not have an ear to what Hon. Millie is saying? She is on a point of order

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I will explain, and request your technical team to listen. I am trying to include an adult caregiver as part of the grooming. This is because many people use adult caregivers to groom. This would then read, “grooming” means establishing a relationship of trust or emotional connection with a child or an adult child care giver.” Sometimes, the groomer not only reaches the child but also, the caregiver. The caregiver is then the one who introduces the child to the abuser.

We, therefore, want to ensure that the adult who is also used to reach the child, and manipulate him or her is also captured in this amendment. It is therefore, the exact opposite; I want to nab the person who is grooming a child online including, the caregiver. The groomers do not just reach the child but where they discover that there is a child who is mentally challenged, they reach the adult caregiver whom they then give money or rather promises to reach child or even when it is a very young child.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I request for a minute, for a further consultation between Hon. Millie and I on this. It will be very quick; we will not take time.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Do not take a lot of time. We do not want to have an abeyance in the House.

Hon. Josphat Kabinga (Mwea, JP): We will not take time, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): I will give you half of a minute.

(Hon. Josphat Kabinga and Hon. (Ms.) Odhiambo-Mabona)

consulted)

Okay. We can now have the Hon. Chair; or was it Hon. Millie?

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman.

I would like to request that Hon. Millie reports what we have agreed on.

Thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, because we cannot agree whether an adult can be groomed or not, I will drop the adult caregiver where it is provided but I believe that adults can also be groomed. However, because this is a children's Bill, I will drop the part of the adult caregiver but include the words of trust or emotional connection with the child and also with the aim to manipulate the child but drop the caregiver and include the word "among" or "with children."

The Temporary Deputy Chairman (Hon. Patrick Mariru): So, in essence, you are doing a further amendment to your amendment.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I am doing a further amendment to my amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair.

Hon. Josphat Kabinga (Mwea, JP): Yes, and we fully agree with that, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, in such circumstances, I will go ahead and put the Question.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

I hope the technical teams for both the Hon. Chair, and Hon. Millie have that further amendment in writing for the sake of record. We are on Paragraph (j)

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, Clause 2(j) of the Bill be amended—

(j) by deleting the definition of the term "intersex" and substituting therefor the following definition—

"intersex child" means a child with a congenital condition in which the biological sex characteristics cannot be exclusively categorised in the common binary of female or male due to inherent and mixed anatomical, hormonal, gonadal or chromosomal patterns, which could be apparent prior to, at birth, in childhood, puberty or adulthood";

Again, it is about the way they are arranged. I would like to propose that the definition of term "intersex" be amended as indicated above.

Definition of an "intersex child" under Section 2 of the Bill is inaccurate. This definition is broader as it comprises the full aspects of being intersex as opposed to physical characteristics.

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This definition is in line with what is adopted in the Report by the Government Taskforce on Policy, Legal, Institutional and Administrative Reforms regarding an intersex person that examined the legal policy, institutional and administration challenges that the intersex children and others are facing.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Hon. Mariru): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, Clause 2(j) of the Bill be amended—

(j) by deleting the definition of the term “legal custody” and substituting therefor the following definition-

“legal custody” means the temporary conferment, to a person, of parental rights and responsibilities of a person having lawful custody over a child for a defined period of time under an order of a Court of competent jurisdiction;

The Order Paper refers to “legal custody” to mean temporary parental rights and responsibilities. This is not true because it is not always temporary. It means that the conferment were personal parental rights and responsibilities of a child for a defined period of time, which could be temporary or even longer. This is to make the meaning clearer since legal custody is not always temporary.

Legal custody is not always temporary. The wording or phrasing of the sentence so far is also not very clear. As I seek clarity, I want to indicate that legal custody is not always temporary.

(Question of the amendment proposed)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Sorry, Hon. Temporary Deputy Chairman.

(Hon. (Ms.) Odhiambo-Mabona stood in her place)

The Temporary Deputy Chairman (Hon. Patrick Mariru): I was putting the Question, you cannot say sorry and stand. What is it?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Sorry, Hon. Temporary Deputy Chairman. You will excuse us because you do understand. I am actually using what I sent to the Legal Department but sometimes I do understand that because of the sheer amounts of amendments, it may not come out as exactly as it were. They are actually telling me the amendment

as per the Order Paper. My proposed amendments as per the Order Paper still has “temporary”. That is not my intention.

I will do a further amendment to my amendment. Let me read what I had proposed.

Hon. Temporary Deputy Chairman, I beg to move:

THAT the Bill be further amended in Clause 2 –

(j) by deleting the definition of the term “legal custody” and substituting therefor the following definition-

“legal custody” means the conferment to a person or parental rights and responsibilities of a child for a defined period of time under an order of a court of competent jurisdiction.

There is no word “temporary”, that is why I am doing a further amendment to my amendment.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Very well, I will carry that again then in the circumstances.

(Question of the further amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move;

THAT Clause 2 of the Bill be amended—

(g) by deleting the definition of the term “National Adoption Committee”.

The National Adoption Committee is proposed to be deleted and its functions be carried out by the National Council for Children Services.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT Clause 2 of the Bill be amended—

(h) in the proposed definition of the term “nursery” by deleting the words “for reward” and substituting therefor the words “at a fee”;

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move;

THAT the Bill be amended in Clause 2 –

(k) in the definition of the term “obscene material” by inserting the words “morally repugnant or sexually explicit” immediately after the words “portray harmful”;

It defines obscene material to include any book, electronic, social media and videos which portray harmful material. I am seeking to add the words, “which portray harmful morally repugnant or sexually explicit” so that obscene should include sexually explicit or morally repugnant information to the child.

(Question of the amendment proposed)

*(Question, that the words to be inserted be inserted,
put and agreed to)*

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, you know because of this arrangement, I have to figure out where my amendments are.

Hon. Temporary Deputy Chairman, I beg to move;

THAT the Bill be amended in Clause 2 –

(l) in the definition of the term “parent” by deleting the words “who is liable by law to maintain a child or is entitled to his custody”;

The definition in the Bill seems to suggest that a guardian is a parent. The amendment expands the scope of who a parent is. It also includes parents whose children are born through Assisted Reproduction Technology (ART), so that they do not have to go to court through court orders all the time.

Hon. Temporary Deputy Chairman, I had noticed at some point that my amendment may not be the way I had proposed it, if the Chair could listen.

I will move it as a further amendment to read, “parent” means the mother or father or any person conferred parental rights by law and includes a mother or father of a child born through Assisted Reproduction Technology but shall not include a surrogate mother”.

As provided in the Bill right now, it says, “parent” means the mother or father or any person who is liable by law to maintain a child or is entitled to his custody.” If I have a custody of a child, I am not a parent, I am a guardian. I cannot be a parent. So, we are actually changing the definition of parent by this further amendment. I have many children that I live with, I am not their parent but I take care of them and I do all that I need to do for them to survive.

So, that is why my proposed definition is in further amendment as I have indicated, because it is not captured on the Order Paper.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair

Hon. Joshat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chair. This is a very important term. I know we are taking your time.

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The Temporary Deputy Chairman (Hon. Patrick Mariru): No, you are not taking my time, you are taking your time and it is important.

Hon. Josphat Kabinga (Mwea, JP): It is for that reason that I would like to ask for half a minute to consult on this particular one.

The Temporary Deputy Chairman (Hon. Patrick Mariru): In the meantime, Hon. Okelo will be speaking.

Hon Jared Okelo (Nyando, ODM): Hon. Temporary Deputy Chairman, I am in agreement with Hon. Millie’s definition of what parent or parenthood is. The mere fact that those who are taking custody of a child have been left out of this definition, is very good. They are guardians so to speak. Whoever coined that definition of a guardian within the English term, knew that there would be children who would be under the care of certain people who do not necessarily have to be their parents.

I am in full agreement with Hon. Millie’s definition and I hope that the Chair will not be in conflict with this definition. I hope that even as they consult that this matter will be settled within the shortest possible space of time.

I thank you.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. We have agreed with my colleague and I would ask her to report what we have agreed on.

Hon. (Ms.) Odhiambo - Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. I thank Hon. Jared for the comments. I just want to indicate that we have agreed that due to the fact that I maintain a child or I have custody of a child does not make me a parent. Also, since my Assisted Reproduction Technology Bill is still stuck in the Senate, I cannot introduce what is not in law.

I am proposing my amendment with a further amendment that “parent means the mother or father or any person who is conferred that right by law”.

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments, one is by the Chair of the Committee and another one is by Hon. Millie. Hon. Chair.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move;

THAT Clause 2 of the Bill be amended—

(i) in the proposed definition of the term “place of safety” by deleting the words “fit person” and substituting therefor the words “school, feeding centre, hospital”;

Hon. Temporary Deputy Chairman, this is to expand and clarify the definition of “place of safety”.

(Question of the amendment proposed)

*(Question, that the words to be left
out be left out, put and agreed to)*

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, my amendment proposes to clarify that a fit person cannot be a place and the Committee has taken into account my concerns.

I withdraw my amendment.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, with your permission, can we consult very briefly to enable us move faster?

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is okay. That is on paragraph (n).

(Hon. (Ms.) Odhiambo-Mabona consulted Hon. Josphat Kabinga)

Hon. Jared, do you want to say something on paragraph (n)?

You seem to have agreed now. Hon. Millie, we are in paragraph (n).

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, it is unfortunate that today we are quite busy. We have been consulting before and we have been moving faster. Because of that, we do not seem to agree on this one, but to enable us move forward, I withdraw it. If we think it is important, we could recommit it later.

The Temporary Deputy Chairman (Hon. Patrick Mariru): That is withdrawn.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended-

(k) in in the proposed definition of the term “residence order” by inserting the following new paragraph immediately after paragraph (b) —
“(c) where the child is to live”

This amendment seeks to include the arrangement of where the child is to live.

(Question of the amendment proposed)

(Question, that the words to be inserted be inserted, put and agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended -

- (l) in the proposed definition of the term “restorative justice” by deleting the word “the” appearing immediately after the words “as well as”;

This amendment seeks to correct a typographical error.

(Question of the amendment proposed)

(Question, that the word to be left out be left out, put and agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended-

- (m) in the proposed definition of the term “step parent” by inserting the word “a” immediately after the word “means”;

This amendment, again, seeks to correct a typographical error.

(Question of the amendment proposed)

(Question, that the word to be inserted be inserted, put and agree to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Members, we are done with proposed amendments to existing definitions. Now we shall go to new definitions. We shall start with that of the Chair in paragraph (n), Second Reading.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended-

(n) by inserting the following new definitions in proper alphabetical sequence—
“existing Charitable Children’s Institution” means a charitable children institution registered, approved or licenced by the Council prior to the commencement of this Act;

“forced male circumcision” comprises all procedures involving partial or total removal of the male genitalia or other injury to the male genital organs, or any harmful procedure to the male genitalia, for non-medical reasons, that is performed with or without any undue influence, inducement, enticement, coercion, or intimidation on a male child —

- (a) without consent of the child's parents or guardian;
- (b) belonging to a community that does not practise male circumcision and without the consent of the child's parents or guardian;
- (c) with the intention to cause grievous harm or injury to a child;

(d) in a manner that infringes on a child’s right to privacy or subjects a child to ridicule, embarrassment, humiliation or otherwise harms a child;

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is it, Hon. Millie? Be on record.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman, I was just wondering whether that is the way to go because the Hon. Chair is stipulating all the amendments at once. Are we going one by one or all of them?

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, how many new definitions do you have under (n)? These are new definitions.

Hon. Josphat Kabinga (Mwea, JP): These are now definitions. Do I move one by one or as indicated in the Order Paper then give justification.

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is only one. It is only (n) but it is quite wordy. Let us move that way.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended-

(n) by inserting the following new definitions in proper alphabetical sequence—

“existing Charitable Children’s Institution” means a charitable children institution registered, approved or licenced by the Council prior to the commencement of this Act;

“forced male circumcision” comprises all procedures involving partial or total removal of the male genitalia or other injury to the male genital organs, or any harmful procedure to the male genitalia, for non-medical reasons, that is performed with or without any undue influence, inducement, enticement, coercion, or intimidation on a male child —

(a) without consent of the child's parents or guardian;

(b) belonging to a community that does not practise male circumcision and without the consent of the child's parents or guardian;

(c) with the intention to cause grievous harm or injury to a child;

(d) in a manner that infringes on a child’s right to privacy or subjects a child to ridicule, embarrassment, humiliation or otherwise harms a child;

I have just read up to, “secretary” then we have “the ministry” and “the principal registrar”.

The Temporary Deputy Chairman (Hon. Patrick Mariru): So, you have moved Second Reading?

Hon. Josphat Kabinga (Mwea, JP): Yes.

(Question of the new clause proposed)

(New clause read the First Time)

*(Question, that the new clause
be read a Second Time, proposed)*

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Let us now have Hon. Millie. You have quite a number. I propose that we consider (o) as one.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, since we are not going one by one, can we just consult on one?

The Temporary Deputy Chairman (Hon. Patrick Mariru): You can do that because we have very many amendments under (o). It will be good for you to agree if you must. If you do not agree we proceed.

(Hon. (Ms.) Odhiambo-Mabona consulted Hon. Josphat Kabinga)

Hon. Jared, I am sure you are following. It is under (o). I can see you flipping papers.

(Laughter)

We are under (o), the Hon. (Prof.) can help you.

I am sure, Hon. Chair, you are almost done. We cannot have the House in abeyance.

Hon. Josphat Kabinga (Mwea, JP): Hon. Temporary Deputy Chairman, there was a part that Hon. Millie opted to drop from her proposed amendments because that would be taken care of in what she is proposing separately. Some of the definitions were included in that part. When deleted, we will need to go through them one by one to know what was included in that part and not what is being left in the draft. We are almost done. We would be done if we had another half-a-minute.

The Temporary Deputy Chairman (Hon. Patrick Mariru): Please, take half-a-minute. The House cannot be put in abeyance as you consult. Proceed, Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I beg to move:

The further amendment, based on consultations and given that there were proposed amendments I had dropped that are affecting a lot of these definitions, I am going to indicate which ones we are accepting and which ones we are not. I drop the definitions of “appropriate adult” and “children’s court” because they are already defined. I will drop the definition of “child labour” because it is already referred to under the Employment Act and also in the Bill. I drop “a child voluntarily acknowledges responsibility” because it had to do with the amendments that I drop. The same with “community service”. So, I drop the definition of “a child voluntarily acknowledges responsibility”. I drop the definition of “community service”. Because some of the definitions here

are under the Cyber Crimes Act, we have agreed that I will drop “cyber bullying”, “cyber enticement”, “cyber harassment”, and “cyber stalking”. I drop all those.

I move the definition of “deferential treatment” which is preferential treatment accorded to a child who is vulnerable or who is in a precarious socio-economic situation and include affirmative action measures to protect the rights of that child. I retain the definition of “domestic servitude”, “economic exploitation”, and “*guardian ad litem*”. I drop the definition of “independent observer” which was in relation to the amendments that I had indicated. I drop the definition of “inquiry magistrate” which was in my proposed amendments. I drop “preliminary inquiry” which was also in my proposed amendments. I drop “prescribed” which also related to my dropped amendments. I, however, move to introduce “psychological abuse” which is referred to but not defined. I also seek to include “residential facility” which is also not defined. I drop “residential requirement” which was in relation to my other amendments which have been dropped. I also drop the definition of “rehabilitation”. I drop the definition of “welfare officer” because it was meant to replace another definition which has already been deleted by the Committee. I adopt the definition of “a welfare report”.

Thank you, Hon. Temporary Deputy Chairman. I so move.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Hon. Chair, do you want to say something? Let us proceed.

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a Second Time)

(Question, that the new clause be added to the Bill, put and agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): Now, we have a new clause by Hon. Edith Nyenze. She is not in the House. So, those new clauses are dropped. We have, in effect, dealt with amendments under Clause 2.

(Hon. (Ms.) Edith Nyenze’s proposed amendments dropped)

(Clause 2 as amended agreed to)

Long Title

The Temporary Deputy Chairman (Hon. Patrick Mariru): We have two amendments—one by the Chairperson and another by Hon. Millie. We shall start with the Chair.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Chairman. I beg to move:

THAT, the Bill be amended by deleting the long title and substituting therefor the following—

“AN ACT of Parliament to give effect to Article 53 of the Constitution; to make provision for children rights, parental responsibility, alternative care of children including guardianship, foster care placement and adoption; to make provision for care and protection of children and children in conflict with the law; to make provision for and regulate the administration of children services; to establish the National Council for Children’s Services and for connected purposes”.

The amendment seeks to set out the general overview of the Bill in a broader manner as to give clarity to the general purpose and intention of the Bill.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Long title as amended agreed to)

The Temporary Deputy Chairman (Hon. Patrick Mariru): The amendment of the Chair having been carried, that of Hon. Millie falls.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Chair, can I say something to that? It is not that I want to oppose or something like that I just wanted to indicate to the Chair that we really needed to have included the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, but I will let it pass.

The Temporary Deputy Chairman (Hon. Patrick Mariru): It is gone.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Title agreed to)

(Clause 1 agreed to)

Hon. Members, the Children Bill (National Assembly Bill No. 38 of 2021) is done. It has been quite something. It is almost done. Mover?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee does report to the House its consideration of the Children Bill (National Assembly Bill No. 38 of 2021) and its approval thereof with amendments.

(Question proposed)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Patrick Mariru): What is out of order, Hon. Millie?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, sometimes I get confused a little bit about procedure. At what point should he indicate anything about procedure?

The Temporary Deputy Chairman (Hon. Patrick Mariru): That will come at a later stage. We are now in the Committee of the whole House. We will do that when we resume in the House.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you.

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. Patrick Mariru) in the Chair]*

REPORT

THE CHILDREN BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): The Chairperson.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to report that a Committee of the whole House has considered the Children Bill (National Assembly Bill No. 38 of 2021) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Mover.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I beg to move that the House does agree with the Committee in the said report. I request Hon. Millie Odhiambo to second.

The Temporary Deputy Speaker (Hon. Patrick Mariru): The Leader of the Majority Party, amendment for recommittal cannot be moved by the one seconding. You should do it. She will second what you have moved. So you better move with the amendment. The Clerks-at-the-Table can assist you. Take the Motion again with the recommittal part.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the House does agree with the Committee in the said report subject to recommittal of clauses 30, 64 and 250. I request Hon. Millie Odhiambo to second the Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. Even our systems are now confused. I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Leader of the Majority Party, do you want to say something?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, as you can see, it is really a momentous situation. This is probably the longest Bill we have had to process. Under Standing Order 53, I request that we defer putting the Question to another time so that we can celebrate the passage of this Bill when we have more Members in the House.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Leader of the Majority Party, I agree with the first part of your reasoning. The second part of celebration is for you to organise as the Leader of the Majority Party. The Speaker has nothing to do with it. We shall defer putting the Question. To that extent, we are done with that significant part of processing the Children Bill (National Assembly Bill No. 38 of 2021).

Next Order.

MOTIONS

ADOPTION OF REPORT ON ESTABLISHMENT OF PARLIAMENTARY HEALTH SERVICES UNIT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Chairperson of the Committee on Members' Services and Facilities, Hon. Aseka.

Hon. Christopher Wangaya (Khwisero, ANC): Thank you, Hon. Temporary Deputy Speaker. I beg to move the following Motion:

THAT, this House adopts the Report of the Select Committee on Members' Services and Facilities on Establishment of a Parliamentary Health Services Unit, laid on the Table of the House on Wednesday, 11th August 2021.

The Parliamentary Service Commission is established under Article 127 of the Constitution of Kenya. Article 127(6) (a) of the Constitution confers on the Commission the responsibility of providing services and facilities to ensure efficient and effective functioning of Parliament. Further, Article 127(6)(e) of the Constitution bestows upon the Commission the duty of performing functions necessary for the wellbeing of Members and staff of Parliament. It is against this background that Standing Order 212B established the Committee on Members' Services and Facilities. The Committee is charged with the mandate of receiving and considering views of Members of the National Assembly on the services and facilities provided to them by the Commission for their benefit and wellbeing. The Committee is also charged with the responsibility of advising and reporting on all matters connected to the services and facilities. The Committee is, therefore, the forum through which Members of the National Assembly channel views regarding their welfare to the Commission.

Following the advent of the COVID-19 pandemic in 2019, the Committee considered several matters that relate to the health and wellbeing of Members of Parliament. From our experience, it is apparent that COVID-19 and other communicable diseases are not going anywhere soon. Members require to be equipped with coping strategies. It is, therefore, our wish to request the National Assembly to impress upon the Parliamentary Service Commission to consider establishing a unit to be known as the Parliamentary Health Services Unit. Members who have perused the Report would have noted that it explores the possibility of establishing the Unit.

I take this opportunity to thank all members of the Committee for their input and valuable contribution during the deliberations and in writing this Report. The Committee takes this opportunity to thank the offices of the Speaker and Clerk of the National Assembly for the logistical support provided.

The PSC Strategic Plan 2019-2030 aligned its vision to the Government's Vision 2030 and the subsequent Big Four Agenda. Notably, some of the strategic objectives support the wellness of Members and staff of Parliament. Moreover, the plan envisions to create an enabling environment to facilitate Members of Parliament to effectively and efficiently discharge their constitutional mandate as per the following strategic objectives:

- a) Strategic objective 10 speaks to excellent service delivery, which considers the wellness of Members and staff of Parliament for effective and efficient service delivery.
- b) Strategic Objective 17 - Embrace a green compliant Parliament which envisions adopting and implementing modern waste recycling technologies in Parliament.
- c) Strategic Objective 18 - Create a parliamentary square of modern facilities and a secure working environment to provide adequate facilities and securities for Members and staff of Parliament.

Hon. Temporary Deputy Speaker, in view of the above, it is proposed that a comprehensive one-stop preventive Health Unit be established within Parliament to offer early detection and referrals services and plan the coordination of current and future emergency health events. Although the Parliamentary Service Commission (PSC) is committed to the welfare of the Members and staff as demonstrated through provision of a comprehensive medical scheme, there is significant evidence regarding the burden of disease attributable to the environment and Non-Communicable Diseases (NCDs). The poor health habits of many workers, growing rates of chronic disease and the rising cost of health services necessitate creation of wellness programmes to cater for health-risk assessments and screenings.

It is imperative to put more emphasis on health programmes that seek to improve the quality of life of its Members and staff of Parliament while at the same time reduce the rising costs for its employees' health care. Indeed, studies have also shown that corporate wellness or wellness programmes are successful in helping workers make positive health changes due to several factors such as convenience, environmental support, and co-worker or social acceptance. The deployment of a Public Health Specialist from the Ministry of Health to Parliament was not only well timed just before the outbreak of the COVID-19 pandemic, but also a great milestone in the realisation of mitigation measures. The Commission could consider guaranteeing the gains by establishing a fully-fledged Health and Wellness Unit within its control. Urgent matters such as COVID-19 tests and vaccination would be efficiently and effectively handled from within.

Hon. Temporary Deputy Speaker, the justification for this proposal to establish the Health Unit is informed by the gaps identified in practice and when addressed will inform the effective implementation of the PSC Strategic Plan 2019-2030. There is inadequate coordination of health functions due to lack of technical health expertise in wellness, food safety and quality control, sanitation, environment and waste management, health promotion and education/empowerment, vector vermin control/pest control, emergency response during public health events, health risk assessments, among others.

I will move to the objectives of the Health and Wellness Centre. Through the wellness programme, the aim is to enhance the health of Members and staff of Parliament which will ultimately increase productivity. Also the Health and Wellness Unit will:

- a) Provide a healthy and safe work environment that will support employee's health and wellbeing.
- b) Enhance professional knowledge and skills of employees for improved productivity and retention.

- c) Build the knowledge, skill, and ability of staff to take control over their wellbeing by helping individuals become actively involved in activities that improve their personal health.
- d) Reduce or eliminate unnecessary stress caused by the work environment.
- e) Ensure HIV/AIDS, nutrition and lifestyle awareness, prevention, non-discrimination, and health support.

Hon. Temporary Deputy Speaker, this Unit has several benefits. The wellness programme is a health promotion tool and a great investment for the organisation. Through this programme, employees would be motivated to perform well in their optimal physical and psychological health. Employees are also more likely to be attracted to continue serving in the organisation. Indeed, wellness programmes are critical to improving the health of individuals as most adults spend more of their working hours at work, making it a great venue for promoting healthful habits. The worksite organisational culture and environment are, therefore, powerful influences on behaviour and these needs to be put to use as a means of helping workers to adopt a healthier lifestyle.

As I conclude, I wish to note that the Committee recommends that:

- a) The PSC considers establishing a “Wellness and Health Unit” within Parliament with a clinic and public health; and, health club sections.
- b) The PSC considers refurbishing the current Health Club in compliance with the protocols and guidelines issued by the Ministry of Health on containment of COVID-19. The PSC should channel the budget meant for outsourcing health club services towards setting up a Health and Wellness Unit.
- c) That notwithstanding, the Commission should expedite the completion of the multi-storey building to provide a lasting solution on the issue of a Health and Wellness Unit.
- d) The PSC should consider putting Health Club staffers on a five-year contract renewable upon satisfactory performance in line with the Parliamentary Service Act.
- e) The National Youth Service (NYS) sourced officers who have obtained invaluable experience in protection of Members and property of Parliament in the past 5 years should be considered for permanent employment within the PSC.

Hon. Temporary Deputy Speaker, I ask Hon. Okelo to second. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon Okelo.

Hon. Jared Okelo (Nyando, ODM): I thank you very much, Hon. Temporary Deputy Speaker. I want to take this opportunity, even as I second, to underscore a few points around this Motion that has been advanced by the Committee on Members’ Services and Facilities. If there is anything that we have learnt from the coronavirus pandemic, it is that the world is still not safe. The coronavirus has mutated and repositioned itself where it diminishes and recurs without notice. The world is still grappling with this pandemic. As a matter of fact, this Parliament lost Members courtesy of the coronavirus. Therefore, we must create better mitigation measures such as the ones that have been proposed by this Committee.

When you walk out here you will not see any ambulance on standby. That does not mean that this House or Parliament cannot go through emergency situations. Therefore, this will go a long way to create an enabling environment for us to tackle issues that may knock on our doors without notice. The health and wellness measures that will be created by the PSC, if this Motion is adopted, will be there to handle these kinds of emergencies that periodically affect Members or members of staff of Parliament.

We acknowledge the support offered by PSC in terms of medical where each and every Member is insured. We are eternally grateful for this kind of support, but that would mean that you run to a health institution. That takes me back to what I said about an emergency. There are certain things that can be handled immediately somebody falls ill. No one is immune to issues of sickness and sickness does not provide any notice. So, whereas we appreciate that we get into health institutions or hospitals and we are attended to, we also need to come up with a programme where emergency issues can be adequately handled. When we travel out of this country, courtesy of COVID-19, we pay so much money to hospitals such as the ones that fall under the purview of our scheme but if we had those issues around here, then, firstly, we would save on time - not just time to travel to a health institution but to get our results in good time. This is because some of them would keep you waiting for ages because they have a widespread catchment of clients. So, this is going to save Parliament these monies that are spent but again also address issues of general health and welfare.

Some of us now have resorted to going to commercial gyms where we jog and do all kinds of stuff just to keep our health in good shape. The proposal that has been presented by this Committee will be addressing the general health and welfare of Members of this House together with the members of staff who have played a pivotal role towards midwifing...

Therefore, Hon. Temporary Deputy Speaker, I second the Motion. I thank you.

(Question proposed)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Leader of the Majority Party.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Report by the Committee. I thank them for not only the work that they have put into this Motion but also the quality of the Report. At times, you get a Report but you cannot quite see what the Committee intends to do. I congratulate them for that.

I also want to underscore that the establishment of a Parliamentary Health Services Unit is not just about the COVID-19 disease. I am surprised because we have not passed this Motion, so that we can establish the Parliamentary Health Services Unit which can be enjoyed by the Members before we break. The good thing is that we do not prepare these facilities for ourselves. It is for Parliament now and in future. It is never too late. Typically, we think of health services from the medical provision. We are generally unfit because of the nature of our work. I am an example of that. Because of being tied here, I have piled up a few kilos for the last two years which I did not have.

(Laughter)

I do not have the time to go to the golf course and keep moving around. I sit here for a long time. I can tell that it is the same thing with the Hon. Temporary Deputy Speaker because of being forced to sit down for long. I should move from here and go for a checkup. It is the same thing with many Members. The stress levels that we are taken through by the electorate require that somebody prods us to go for checkups. If you tell Members that they need to start making arrangements to go to hospital for those medical checkups, it is like time is premium. When you are seen in any hospital going for a normal checkup, the next thing that you see is information being sent to your constituents that they should start looking for a new *mheshimiwa*. It is because you were seen lining up in a hospital. Anything that is done by a politician is taken politically.

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This deters people from going for checkups. When we establish the Parliamentary Health Services Unit, Members will walk in and out of it freely, be examined, get the right advice in terms of what they need to do and even get their Body Mass Indices (BMIs) and all those other things checked.

We will also have proper medical records of Members of Parliament so that the Clerk's office and Speaker's office are kept abreast on where we are. We spend so much money on hospitalisation. If Members have an in-house facility, some of these diseases can be detected early. They can go there with confidence knowing that information will be kept strictly private. Confidentiality is one of the things that we have not got right in this country. I can tell you that there are Members who do not go for early checkups because they do not want it to be known. When we have an in-house facility, I am sure that will help control confidentiality of records. I know that there are several organisations in the corporate world which have health services units. Three of them are listed here, including Safaricom Limited Company. I know that Kenya Breweries Limited has it too. It operates four clinics for its staff. Literally, every organisation that really cares about its staff and has numbers has invested in a health services unit. When you help members of staff, they stay healthy and there is high productivity in the organisation. Within that framework, I really support this establishment of a Parliamentary Health Services Unit.

For those who go to the gym and health club, there is a service that is provided by... I forget its name. It is not the massage and sauna services.

(Hon. Amos Kimunya consulted Members)

The reflexology services are rather painful but there is always a queue to obtain them. Members appreciate their value. I want to see beyond that. They also monitor blood pressure. I would like to see that being done with proper medical advice. You are told what has been done, the results and what you need to do. Members appreciate all that because it is provided. Before it was introduced, nobody went to look for reflexology services outside Parliament. The fact that it is provided within Parliament, you can see the demand has increased as people appreciate it. I can see that it will be the same for all these other services when they start being provided in-house.

On risk assessment, we know what to do. We need to promote wellness to prevent diseases as opposed to the need to cure them. We eat food based on how we appreciate it, which is visual. However, we do not care about the damage it is likely to cause us. Again, being given nutritional services might even help the choice of menus. I am happy because this idea comes from the same Committee that also looks at our facilities. We should now move to a healthy food section progressively. I am not sure that we have that currently within our restaurant services. However, it will come as a natural product from this Motion.

We talked about stress. I totally agree with this Motion. There is very little to disagree with in the proposal by the Committee. I support the Motion. I hope that we can establish a Parliamentary Health Services Unit within the next two or three months. By the time we leave we will have tested it. Those Members who will come to the 13th Parliament will find a product that has been established, tested and ready for use. They will really feel that the 12th Parliament was caring.

With those few remarks, I beg to support the Motion.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Adhiambo.

Hon. (Prof.) Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker. I would also like to support this Motion. When we come up with a Parliamentary Health Services Unit, we will promote, improve and ensure that there is a sense of wholeness. The persons

we are looking at will be at the centre of attention. They will be enabled to grow and enhance how they contribute.

Even though the work of Members of Parliament is not classified as essential, where people work for almost 24 hours... It is clear that Members sit in the Chamber or go to Committee meetings. They are called upon to respond to the various needs of the persons they are accountable to. This is an extremely important idea. When we look at the well-being of Members of Parliament, we should talk of how we can ensure that there is a deliberate mechanism for them to feel comfortable and safe. As the Leader of the Majority Party indicated, we know that Members of Parliament are always on the radar. Unfortunately, there is an effort to catch them on the wrong-footing a number of times.

I support this Motion. It is, indeed, an extremely foundational framework that will enable Parliament to have the maximum output from Members of Parliament. As had been indicated, a Parliamentary Health Services Unit will not only provide medical services but it will also give an opportunity for Members and staff to think of wellness and the complete inner sense of contentment and satisfaction.

Hon. Temporary Deputy Speaker, I support this Motion because it will enhance productivity at work and ensure that, if there were to be any issues that could later affect, in a significant manner, the health of any Member of Parliament, they can be addressed much early and handled.

I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Shaban.

Hon. (Dr.) Naomi Shaban (Taveta, JP): Thank you Hon. Speaker for giving me this opportunity to add my voice and congratulate the Select Committee on Members' Services and Facilities.

This was an idea that was born following a recommendation by the Commission itself that we require such a facility in Parliament so that our people can be taken care of. The genesis of this is basically because, and I see they have catered for all issues that were raised, we have quite a number of Members and our staff who would require to be taken care of before things get out of hand.

For example, the stress management programme can really enhance workmanship and help Members because the kind of work we do is very stressful. Even our staff members undergo a very difficult work environment especially because even when we are in session, they have to work until very late hours to meet the demands of a legislature of this magnitude.

Stress management is one of the issues that are practised in most of the big institutions such as Kenya Pipeline, Central Bank of Kenya, Safaricom, Kenya Ports Authority and many other institutions. They all have a staff clinic where their members of staff are looked after so that things do not get out of hand. Most of the problems we face, as Hon. Members and members of staff, are basically not only work related, but also the kind of eating habits we have. All my colleagues and staff are aware that we work for long hours in a day and eat at weird hours. The time we are not supposed to be eating, that is time we get home. When we get food on the table, we eat without looking at our watches to see the time and that is one of the causes of our lifestyle problems. Not because we have three meals in a day, but because we eat at the wrong times. Even when we go out to the field we end up eating food we are not sure how it has been prepared.

The Parliamentary Health Services Unit is going to take care of many things even physiotherapy services. I know most Members rely on the gymnasium for sauna services and reflexology and masseurs who have been taking care of them, but it is not good enough. When we

will have the health services unit in proximity of Parliament, it will make it possible for us to access a service that would otherwise not be accessed easily.

For example, if I know I have a plenary sitting in Parliament, at the same time a Committee meeting to attend and I am supposed to see a doctor to have a wellness check-up, it complicates my timetable and in the end you keep pushing it ahead thinking there will come a day when you will have enough time to go and see a your medical provider to give you the service.

Most of the times we discover most of our health problems when they are getting out of hand. Apart from our medical cover paying a colossal amount of money, we still end up going beyond because of Members and staffers who were not able to be taken care of at the right time and were not able to go for a check-up at the right time.

I do not have a lot to say. This is very comprehensive and this is a service that we should start enjoying before the 12th Parliament goes for the next elections.

I support this Report. Thank you very much.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Arbelle Malimo.

Hon. Marselino Arbelle (Laisamis, JP): Thank you very much, Hon. Temporary Deputy Speaker for equally giving me this opportunity to contribute to this Health Report.

The Committee has recommended to have a health services unit within the precincts of Parliament. During induction, I was not told where I should go for exercises in case I am tired or in case I want to have some massage or something like that. Although I have heard that some Members go somewhere underground for exercises, sauna or something like that, I have never been to that place.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Arbelle. How can you say that Members go somewhere underground? Where is that?

Hon. Marselino Arbelle (Laisamis, JP): Hon. Temporary Deputy Speaker, I have heard there is somewhere at the basement of our continental offices where it is presumed it is a place for such services. Now that we have a new office block which is going to be opened in the 13th Parliament, it is important that we have this health unit.

This morning, I heard from CNN that some countries like North Korea are experiencing COVID-19 wave. I have also read that a country like United Kingdom is experiencing something called monkey pox. We are used to chicken pox. It is the first time I am hearing of monkey pox. Maybe some people are playing around with monkeys over there and then they transmit to us diseases which are carried only by animals. That is why we come across this thing called COVID-19. No one ever knew what COVID-19 was.

As a result of this pandemic, Kenyans have learned to observe hygiene. At least, you have seen a container with water and soap at the entrance of every Government office. It is not only at Government offices, but all institutions and buildings. People tend to wash their hands first. That is very good. As you go about your chores for the day, you will touch here and there, and your nose. So, you will end up carrying a lot of germs with you. It is very important that Kenyans have learned how to observe hygiene. The Committee is set out to look at the welfare of Members of Parliament. That is very key.

I have a personal experience: I receive many calls from morning to evening. Even when I go to sleep, the phone just keeps ringing. You can imagine how much stress an MP goes through. At the end of the day, it is important to take care of the health of such an MP.

Let me also say that when we have this facility available to the MPs, it should not just be physical machines. I have seen instances where we are not provided with water and fresh fruits. When you finish your jogging, running or something, you should at least have some drink by the

side. That is also very key. I think the Select Committee on Members' Services and Facilities will look at that.

Whenever I take my meals at the cafeteria here, which I do very rarely, they do not meet my specifications. I take my meals in some Somali restaurant from outside. When I take meals here, I find that the foods they serve are extremely cold. It is like they have just been taken out of a freezer. African countries grow fresh foods and vegetables then we export them to European countries. They can keep such foods in freezers over there. Here, we are supposed to just pick them from the farm or markets and bring them to the table and cafeterias. They do not have to keep it in deep freezers. It is going to affect our teeth. I think the Committee can also take note of that.

With those few remarks, just to give an opportunity to my colleagues to also contribute, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): I am sure Hon. Kilonzo will get to know your food specifications. I could tell that he was quite mesmerised. Hon. Obara Akinyi.

Hon. (Ms.) Eve Obara (Kabondo Kasipul, ODM): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity. I too stand to support the Motion because it is timely. It has come at the right time. It should have been done yesterday.

In any environment, like where we work in Parliament with so many members of staff and MPs a lot of man-hours, particularly with the staff, have been lost while people seek medical attention. Bringing this closer to the population within the community of Parliament is the best thing that has happened. If you look at research, the number of man-hours lost in many organisation are very costly to those institutions.

During the recent pandemic of coronavirus, so many infections took place within the confines of Parliament. It is because of the kind of our work environment. Many people were infected when it could have been avoided, if we had a facility where detecting would be quick and timely, before it could spread to other people. I must say we were fortunate and lucky that not very many people lost their lives as in other areas where they worked within confined environments.

Thirdly, with this facility being put in place come next Parliament, we will have easy access to quick consultation. Particularly for lifestyle diseases that are common with the kind of jobs we do in Parliament. With the high pressure of work, being parliamentarians, diabetes and those kinds of things abound. Having an institution or the unit around here, we will make quick consultation and maybe even have regular checks which are not possible when you are up and about Committees, out in the countryside or those kinds of things. Such kinds of lifestyle diseases will be eliminated or controlled properly.

The other issue is on our dietary control. Again, with the eating habits and the kinds of food that we have here, being guided on kinds of food for age groups or underlying conditions will be easily accessed. The biggest problem when people are very busy is on self-prescription. People go to the pharmacies or chemists and get their drugs. With the facility within Parliament, this will not be necessary. One will quickly walk to the resident doctor within the institution to take care of these small matters. We are usually too busy to visit doctors outside the premises.

With those few remarks, I support. I appreciate and thank the Committee for a job well-done.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Ali Athman.

Hon. Ali Sharif (Lamu East, JP): Asante Mhe. Naibu Spika wa Muda.

Naungana na wenzangu kupongeza Kamati husika kwa kuja na Ripoti hii. Kwa kweli, utakubaliana na mimi kwamba suala la afya ni nyeti na muhimu sana. Nawashukuru kwa kuwa wamelizingatia kikamilifu na kuliwekea mikakati.

Mengi yamezungumzwa na wenzangu kuhusiana na suala hili. Masikitiko makubwa ni kwamba ni kweli sisi Waheshimiwa tuko na zile kadi za bima ya afya. Lakini, utapata kwamba unapopatikana na matatizo ukiwa hapa Bunge ama sehemu nyingineyo, huna budi kukimbilia hospitali kujiangalia afya. Kuna mambo mengine ambayo unapaswa kupitia hata kabla hujafika hospitali. Tukiwa hapa Bunge, Waheshimiwa huwa na kazi nyingi katika shughuli zao.

Vilevile, wanapitia mambo mengi hapa na pale katika suala nzima la kuendeleza shughuli zao za kawaida. Kwa hivyo, itakuwa vyema kuweco na kitengo maalum. Hata ikiwezekana, kuwe na sehemu maalum ya hawa madaktari ama wahudumu hapa Bunge ambapo Waheshimiwa wanaweza kufika wakati wowote na kuangalia mambo madogo madogo ya afya yao. Mfano ni kupima presha, kupima sukari na mambo madogo madogo ambayo naamini humbidi mtu atoke aende hospitali akapige foleni. Kukipatikana kitengo hiki ambacho kitakuwa kimewekwa katika Majengo haya ya Bunge kwa sababu hii, itasaidia pakubwa na litanufaisha.

Vilevile, kwa maoni yangu, sitaki jambo hili liwe ni pendekezo la Waheshimiwa tu. Kwa sababu afya ni jambo muhimu, ingekuwa bora jambo hili lifikishwe hata mashinani. Kwa masikitiko makubwa, utapata ni wengi wanakuwa na shida sana kujielewa wana matatizo gani. Ni kwa sababu hawawezi kufikia huduma hizi za kujiangalia afya. Pengine mtu anajua hospitali iko lakini kufika kule na kuanza kujiangalia inakuwa changamoto. Utapata kwamba pengine Serikali ina ule utaratibu wa kuwafikishia watoto chanjo mahali walipo. Malengo haya ni kuhakikisha watoto wamepeva chanjo kwa sababu ya magonjwa yanayochipuka.

Katika sehemu nyingi za nchi hii na kaunti zetu, utapata watu ni wagonjwa lakini hawawezi kufikia zile huduma za kujua magonjwa yao. Ndiposa utapata mtu amekaa na mara presha imepanda ila hajui alikuwa nayo; mtu amekaa, amepatikana na matatizo haya na hajui.

Kwa hivyo, itakuwa vyema ikiwa Kamati itaangalia haya mambo zaidi na kuhakikisha kuwa kaunti zetu ziko na huduma za madaktari wa kutembea kama wale wanaopeana chanjo kwa watoto wadogo.

Ukifanya utafiti wako, nchi hii yetu iko na watu wengi wanaoathirika na madhara ya afya ilhali hawajui. Itakuwa bora tukipata serikali yenye mipangilio ya kuenda mashinani kuangalia afya za wananchi pale wako. Sio lazima mtu aende hospitalini kujua hali ya afya yake. Tunafaa kuwa na utaratibu wa kufuata watu mahali walipo. Suala la afya ni muhimu sana na tunahitaji kulizingatia.

Ningependekeza kuwe na kituo maalum na wahudumu wa kisawasawa hapa Bunge. Mtu akiwa na matatizo yoyote au akihisi kuangalia afya yake, sio lazima atoke kwa Bunge na kuenda hospitali ya Aga Khan au Pandya. Anafaa kujua kuna sehemu ya kuenda na kujipima kujua hali yake. Dharura yoyote ikitokezea, badala ya kukimbizwa moja kwa moja mpaka hospitali, kuwe na sehemu hapa ya mtu kupata huduma ya kwanza. Baada ya hapo ndio utaratibu ufanyike wa mtu kupelekwa hospitali. Litakapopatikana hili nina imani tutakuwa tumeweka miundo msingi ya kuhakikisha kwamba afya yetu imeangaziwa kikamilifu.

Kwa hayo machache, naunga mkono Hoja hii. Na inafaa kupanuliwa zaidi ndio badala iwe ni masuala ya Wabunge peke yao, iwe inashughulikia masuala ya wananchi wote. Utaratibu unafaa kutafutwa wa kuangalia afya ya wananchi kwa namna moja au nyingine. Asante.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Manje.

Hon. Joseph Manje (Kajiado North, JP): Thank you, Hon. Temporary Deputy Speaker, for giving me this chance to contribute to this Motion. I want to see things differently. I want to oppose creation of a medical unit within Parliament. We should concentrate on the core business of Parliament, which is legislation. If you create something, it is with the intention of growing it into a big thing. Our Parliament is located in a good place where there are medical facilities around.

It is in the capital city where there are good hospitals. The Nairobi Hospital, Kenyatta National Hospital and many other hospitals are within reach. If we establish a health unit within Parliament, it will be a continuation of creating amorphous bodies within Parliament. We will start recruiting matrons, doctors and other staff. There is no way we will create a facility as good as the Nairobi Hospital or Aga Khan Hospital. That should not be the way to see things. If we establish a health unit in Parliament, county assemblies will start thinking along the same lines. They will establish health units within the assemblies. There will be a multiplication of units offering services that should be offered by the medical fraternity. We would have diverted from what we came to do here.

We should remember that health is a very sensitive area. You do not want to go to a unit and find the person treating you is also treating another person. Politics is very different. It is better if it is left open so that you can go to any facility in the country. That will secure Members of Parliament. We need to concentrate on what we came to do here. Establishing a health unit will be diversionary. We will be trying to create employment in different areas instead of leaving it to the medical fraternity.

I oppose.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Kilonzo, I saw you seated there but you had not registered interest to speak. But go ahead.

Hon. Charles Kilonzo (Yatta, Independent): Hon. Temporary Deputy Speaker, I agree with the previous speaker. I think this is a very wrong approach. The key business of this House is to legislate. What we are saying here is that let us have a dispensary. The next time we will want to make it a Level 3 or 4 hospital. It is a totally wrong approach. We have enough facilities. The private sector has done well in healthcare. We already have an insurance cover. It is one thing to ask the healthcare providers to come and lease a space within Parliament and provide their services. It is another thing to say you want to establish a healthcare unit. So the Committee needs to rethink this. What would be the reaction of the public? It will be that once we get elected we cannot use the same facilities being used by the public who elect us.

We really need to rethink. We should be fighting for those public facilities to be improved to the level whereby a Member of Parliament or anybody can use them whether it is clinics by the local authority or the Kenyatta National Hospital under the national Government. That should be the approach. However, this idea of let us have our own facility because you do not want to mix with the public or, as my colleague says, let us recruit or upgrade; I think is a totally wrong approach. I really plead with the Committee to rethink. It is one thing to have a gym. It is another to say you want to open a health unit. It is basically saying in a soft way you want to open a hospital at the end of the day.

I really strongly encourage the PSC to rethink. Even if this was to be approved, I think PSC needs to know this Parliament needs money to support Members of Parliament to provide services and do what they are supposed to do as Members of Parliament. I am not saying they have not done, but there is more to be done as opposed to this. There is no way you can compete with Aga Khan or the Nairobi West Hospital. Those are the experts. We are experts in making law. Let us stick to our line and let the medical fraternity stick to theirs. I oppose.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Muli and then we have Hon. Aseka replying.

Hon. Fabian Muli (Kangundo, Muungano): Thank you very much, Hon. Temporary Deputy Speaker, for giving me the opportunity to add my voice on this Motion. Health is very important especially to human life and is a basic requirement. Any logistical support given to

support matters of health is well accepted and well received, but sometimes when we want to legislate on matters of health, we do not look like we are selfish or look like there is the health for Members of Parliament and the public. We need to talk about the constituencies, that is the whole country.

With the experience I have especially in my constituency, my Level 4 hospital is crying for medicines and equipment. If you see how the dispensaries are spread, they have not been audited to check whether they have medicine or they are just stalled projects. We have many stalled health projects, hospitals which are crying for not having medicines and hospitals which are crying for not having doctors or any support to them. So, I am feeling that as Hon. Members, we need to think about the health and these institutions. The Ministry of Health needs to come up with a way to save our country. If today we are to audit ourselves, the country will have almost 1,500 wards which are led by Members of County Assembly (MCAs). If today we can say every ward will have an equipped Level 4 hospital, this Parliament should not be thinking of having its own hospital. If today we fight for our Kenyatta National Hospital to have first class service, we should not feel as Members we need our own speciality in this Parliament.

Hon. Temporary Deputy Speaker, my point of view is that I am not going to oppose anything in relation to support of health facility because I do not know the school of thought somebody used to come up with this idea. Maybe he was thinking to have a doctor sitting here or have a room which is supporting the health of people. There are not only Members, but also staff in this Parliament. I am not going to oppose, but we should consider helping our constituencies which have brought us here. Dispensaries are all stalled. The Level 4 hospitals do not have medicine. My cry is that we think about a unified way to help this country in the matter of health.

Thank you very much, Hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Aseka, you may now reply.

Hon. Christopher Wangaya (Khwisero, ANC): Thank you, Hon. Temporary Deputy Speaker. First of all, I appreciate Members who have contributed to this Report and assure them that the Report does not seek to put up a hospital, but just a first aid area within which Members who may fall sick within the premises of Parliament can get urgent medical attention and also to expand some of the facilities that we have like the gym for health and well-being. If we need to have a good gym, we need to create more space and have more machines that can accommodate the number of Members of Parliament that we have.

We also note those concerns that have been raised by Members, but I want to beseech Members that this is a very good thing for Members of Parliament and staff of Parliament. As much as we are here to legislate, let us also realise that we are also human beings and we can even fall sick within our legislative areas. I request that we support this Report and as a Committee, we will follow up with the PSC to see that it is implemented in the shortest time possible. Thank you, on. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall not put the Question on that item today. We shall do that in the subsequent time.

Next Order!

(Putting of the Question deferred)

STUDY VISIT TO THE LEGISLATIVE ASSEMBLY OF ALBERTA, CANADA

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The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson of the Committee on Members' Services and Facilities.

Hon. Christopher Wangaya (Khwisero, ANC): Thank you, Hon. Temporary Deputy Speaker. I seek your indulgence to allow us to do some further consultation within the Committee on this Report and to table it later if you allow us.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, that is deferred.

(Motion deferred)

Next Order!

BILL

Second Reading

THE PROMPT PAYMENT BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson of the Departmental Committee on Finance and National Planning. The Chair is not in. That is deferred.

(Bill deferred)

Next Order!

Second Reading

THE MUNG BEANS BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson of the Departmental Committee on Agriculture and Livestock. Where are Chairs today? That Chair is not present today as well and so that item is deferred.

(Bill deferred)

Next Order!

Second Reading

THE COUNTY BOUNDARIES BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have the Chairperson of the Departmental Committee on Justice and Legal Affairs. That Chair is not present as well and so that matter is as well deferred.

(Bill deferred)

ADJOURNMENT

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The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, there being no other business and the time being 5.47 p.m., this House stands adjourned until Thursday, 19th May 2022, at 2.30 p.m.

The House rose at 5.47 p.m.