

**MEMORANDUM SUBMITTED BY CSOs, MEDICAL ASSOCIATIONS AND
EXPERTS ON THE REPRODUCTIVE HEALTH BILL No. 23 of 2019**

To: Clerk of Senate/Secretary
Parliament Service Commission
P.O. Box 41842-00100
Nairobi

Greetings,

We the organizations listed herein, Federation of Women Kenya-Lawyers (FIDA-Kenya); the Centre for Reproductive Rights (CRR); The African Women's Development and Communication Network (FEMNET); Forum for African Women Educationist –Kenya (FAWE); Network for Adolescent and Youth of Africa (NAYA); KELIN; the CRADLE;; Family Health Option-Kenya (FHOK); Centre for the Study of Adolescence (CSA); the CRADLE, Centre for Citizens Empowerment Programme; African Women's Development and Communication Network; IPAS; Marie Stopes Kenya, Kenya Medical Association; Kenya Medical Women's Association; 100 Million Campaign, the Kenya Adolescent and Sexual and Youth Sexual Reproductive and Health Rights (KAYSRH) and Intersex Persons Society of Kenya came together on the 9th, March 2020 at the Intercontinental Hotel to submit proposed amendments and develop a joint memorandum on the Reproductive Health (RH) Bill, 2019.

We are grateful for the opportunity to submit our proposals on the draft Reproductive Health Bill to this Committee.

We have a common interest on the promotion and protection of reproductive and sexual health rights. We also have a wide geographical coverage as we work in various counties. At both National and County level we advocate for reproductive and sexual health rights of various special interest groups including women, girls, youth, intersex persons, persons with disabilities, marginalized persons, and the very poor in our society amongst others.

We commend Hon. Senator Susan Kihika for the great step she has taken by introducing the much needed National Legislation on Reproductive Health. The same is long overdue, and its absence has continued to inhibit the full enjoyment of sexual and reproductive health rights of the special interest groups mentioned above.

Whilst the Constitution of Kenya, 2010 enshrines the right to Reproductive Health under Article 43 (1), the lack of an enabling legislation has impeded the full realization of this right by Kenyans.

In addition to the challenges posed by the lack of a clear legislative framework on Reproductive Health, we are also cognizant of the various social and cultural factors that hinder the enjoyment of Reproductive and Sexual Reproductive Health by various groups of citizens. The passing of the Reproductive Health Bill offers a great opportunity to put in place measures including, creating awareness and providing relevant information to citizens regarding Reproductive and Sexual Health which is critical and ending stigma and ignorance around this critical aspect of health.

We realize that to adequately address the gaps in Reproductive and Sexual Health in our country we must adopt a life cycle approach; that is one that address the Reproductive and Sexual Health needs of an individual from before birth to after Reproductive age. We must

also take a Gender Approach where we consciously include men in the conversation and also address their Reproductive and Sexual Health needs. It is also critical that the proposed legislation addresses special interest groups including intersex persons and persons with disabilities.

We also appreciate that we must be guided by International standards as set out in various treaties and conventions on Reproductive and Sexual Health that Kenya is a party to and which are part of our laws in line with Article 2(6) of the Constitution, 2010. This would include having the proposed Reproductive Health legislation adopt internationally recognized definitions of various terms. Our proposals as set out herein reflect the above approaches.

We have also focused on critical issues such as forced or coerced sterilization, menstrual health and hygiene.



We collectively, submit the following amendments and proposals.

REVIEW OF THE REPRODUCTIVE HEALTH CARE BILL No. 23 of 2019

Title/Clause	Comments	Proposed Amendment	Reasons
<p>PART I- Preliminary Interpretation</p>	<ul style="list-style-type: none"> - 'adolescent' definition <i>delete</i> - 'adolescent friendly reproductive health services' <i>delete</i> - 'antenatal care' <i>delete</i> - 'family planning' <i>delete</i> 	<ul style="list-style-type: none"> - 'adolescent' means any person aged between ten and nineteen years - 'adolescent friendly services' means Sexual and Reproductive Health services delivered in ways that are responsive to specific needs, vulnerabilities and desires of adolescents. These services should be offered in a non-judgmental and confidential way that fully respects human dignity - "antenatal care" includes the correct diagnosis of pregnancy; the periodic examination of both mother and the baby in utero; and the screening and management of complications during pregnancy to ensure the best health conditions for both mother and baby; - Replace the word 'family planning' 	<p>We propose that the definition of adolescents should be in line with the standard definition provided by WHO.</p> <p>On the adolescent services, we propose that the definition provided in the bill should be deleted and the same be adopted as it has been clearly defined as per the National Adolescent Sexual and Reproductive Health Policy, 2015</p> <p>We propose the inclusion of the words <i>to ensure the best health conditions for both mother and baby.</i> Antenatal care should not only be considered during pregnancy but the same should be effective to ensure that both the mother and the baby are in safe health conditions at that period.</p> <p>The international standard on the</p>

	<p>'intra-partum services' delete</p>	<p>with 'contraception' means the deliberate prevention of pregnancy by measures that prevent the normal process of ovulation, fertiliation and implantation</p> <p>"family planning" means the conscious effort by a person to plan for and attain the number of children desired by the person and to regulate the spacing and timing of the births of the children with the use of contraceptives, voluntary sterilization or natural family planning.</p> <p>- Intra-partum services means the correct diagnosis followed by periodic examinations, screening and management of complications in the period from onset of labour to the completed delivery of the newborn and the placenta in order to ensure the best health conditions for both mother</p>	<p>use of the word family planning is limited as it seems to leave out individuals, adolescents, youth etc. in need of the services but are not in the definition of starting a family...thus the most acceptable term used is <i>Contraception</i> as opposed to the use of family planning</p> <p>In the definition of family planning, we adopt the Bill's definition with slight amendment. The reason is that family planning is inclusive to men and women.</p> <p>However, we support the inclusion to the definition of contraception.</p> <p>Delete the words <i>completed delivery of the placenta</i> and replace with <i>from onset of labour to the complete delivery of the newborn and the placenta in order ensure the best health conditions for both mother and new born.</i></p>
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	<ul style="list-style-type: none"> - Neonatal services <i>delete</i> - 'post-natal' <i>delete</i> - 'Pregnancy' <i>delete</i> - 'referral services' <i>delete</i> 	<p>and new born;</p> <ul style="list-style-type: none"> - 'neonatal services' means correct diagnosis of; screening; and management of complications in the first twenty eight days of the life of the newborn - 'Post-natal' means the services offered to a mother and a new-born in the period beginning immediately after birth and ending forty two days after birth in order to ensure the best health conditions for both mother and the new-born - 'pregnancy' means the status of carrying a developing embryo or embryos or foetus or fetuses - 'referral services' means the process of seeking appropriate treatment in which a health worker at one level of the health system including cross-referral of the health, having insufficient resources to manage a condition, seeks the assistance of an adequately 	
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	<ul style="list-style-type: none"> - 'right to safe motherhood' <i>delete</i> - 'trained health professional' <i>delete</i> 	<p>resourced facility</p> <ul style="list-style-type: none"> - 'right to safe motherhood' means the right to access information and quality service by women throughout pregnancy, child-birth and post-partum period with the desired outcome of a live and healthy mother and baby - The definition provided in the Health Act, 2017 to be adopted. 	<p>The definition provided in the Bill leaves out the medical practitioners thus the same needs to be adopted as provided in the Health Act, 2017</p>
<p>In addition to the definition set out in the Bill, we propose inclusion of these terms as they are in related to the proposed amendments we propose herein.</p> <ul style="list-style-type: none"> - "abortion" has the meaning assigned to it under the Health Act, No. 21 of 2017 - Ipas suggest the Bill to define Termination of Pregnancy. However, if we propose to use the term abortion, we should not use it interchangeably with Termination of pregnancy. We can be consistent to avoid confusion. <p>"access to" means the ability of an individual to acquire, obtain or receive appropriate, safe, accountable, effective, quality and timely health information and services;</p> <p>"advanced reproductive age " means any age between forty-five and sixty-five years;</p> <p>"antenatal period" means the period beginning at the onset of pregnancy and ending with the onset of labour;</p> <p>"baby in utero" means an unborn human off-spring;</p> <p>"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for health</p> <p>"consent" means the voluntary agreement with what is proposed or done by a health-care provider without any force, fraud or threat and with full knowledge and understanding of the medical and social consequences of</p>			

the matter to which the consent relates;

“counselor” means a counselor registered under the Counsellor and Psychologists Act, (No. 14 of 2014);

“contraceptive methods” refers to the means by which deliberate prevention of pregnancy is achieved by use of devices, drugs, or surgery;

“disease” refers to any physical or mental condition that causes pain, dysfunction, distress, social problems or death to the person afflicted or similar problems for those in contact with the person;

“foetus” means a baby in utero;

“gerontological age” means any age above sixty-five years;

“health” refers to a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity

“health care professional” includes any person who has obtained health professional qualifications and licensed by the relevant regulatory body;

“health care provider” means a person who provides health care services and includes-

(a) a medical practitioner or dentist registered under the Medical Practitioners and Dentists Act (Cap. 253);

(b) a pharmacist or a pharmaceutical technologist registered or enrolled under the Pharmacy and Poisons Act (Cap. 244);

(c) a nurse registered and licensed under the Nurses Act (Cap. 257);

(d) a clinical officer registered and licensed under the Clinical Officers (Training, Registration and Licensing) Act (Cap. 260);

(e) a laboratory technician or technologist registered and licensed under the Medical Laboratory Technicians and Technologist Act, 1999 (No. 10 of 1999);

(f) a counsellor registered under the Counsellors and Psychologists Act, (No. 14 of 2014);

(g) any other health care professional registered under any law;"

“health care service” means the prevention, promotion, management or alleviation of disease, illness, injury, and other physical and mental impairments in individuals, delivered by health care professionals through the health care system's routine health services, or its emergency health services and includes-

(a) the physical or mental examination of that person;

(b) the treatment or prevention of any physical or mental defect,

illness or deficiency and the giving of advice in relation to that defect, illness or deficiency;

- (c) the performing of any surgical or other invasive procedure;
- (d) the giving of advice in relation to or treatment of any condition arising out of a pregnancy;
- (e) the prescribing, dispensing, supplying or applying of any medicine, appliance or apparatus in relation to any defect, illness, deficiency or pregnancy;
- (f) X-ray, laboratory and other investigative and diagnostic procedures;
- (g) physiotherapy, speech therapy, occupational therapy and other types and variations of similar rehabilitative treatment;
- (h) nursing or midwifery in health institutions and other places where nursing and midwifery services may be rendered, including home-based nursing and midwifery services by duly qualified registered and experienced nurses and midwives;
- (i) the supply of accommodation in any institution established or registered in terms of any law as a health institution or any other institution or place where surgical or other medical procedures are performed, provided that such accommodation is necessitated by any physical or mental defect, illness, deficiency or a pregnancy;
- (j) the provision of counselling services;

"health extension worker" means a health care professional working in health centers in rural and medically under-served areas, where they provide emergency treatments and a range of other health services to patients;

"health facility" means the whole or part of a public or private institution, building or place, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service;

"health regulatory body" refers to an institution authorised by law to regulate the practice of medicine or health care provision;

"informed choice" means a voluntary decision by a client to use or not to use a reproductive health care service after receiving comprehensive and understandable information regarding the advantages, disadvantages, risks and alternatives of that service

"Intra-partum period" means the period beginning with the onset of labour and ending with the delivery of the placenta

	<p>“neonate” refers to a child from birth until twenty-eight days of life;</p> <p>“neonatal” means of newborns or relating to a newborn child;</p> <p>“newborn” means a child between child-birth and forty two days of age;</p> <p>“nurse” means a nurse registered and licensed under the Nurses Act (Cap. 257);</p> <p>“maternal” means any issues related to pre-conception, pregnancy, child-birth and the first forty two days after delivery by a woman;</p> <p>“maternal care” includes health care of a woman during pre-conception, pregnancy, child-birth and forty-two days after childbirth;</p> <p>“maternal health” means the health of a woman during pre-conception, pregnancy, child-birth and forty-two days after child-birth;</p> <p>“medical practitioner” means a medical practitioner registered under the Medical Practitioners and Dentist Act (Cap. 253);</p> <p>“morbidity” means illness or ill-health.</p> <p>“mortality” means death or loss of life;</p> <p>“pharmacist or a pharmaceutical technologist” means a pharmacist or a pharmaceutical technologist registered or enrolled under the Pharmacy and Poisons Act (Cap. 244);</p> <p>“pre-conception” means the period before conceiving a pregnancy and includes the period of planning for the pregnancy itself;</p> <p>“Pre-conception health care” means the identification of potential physical, genetic, psychosocial, environmental and behavioural risk factors for adverse pregnancy outcomes, and the reduction of those risks prior to conception through counselling, education and intervention for both mother and father of the child.</p> <p>“post-abortion care” means the correct diagnosis and management of incomplete abortion and related complications including linkage to other reproductive health services providers;</p> <p>“post-natal care” means the services offered to a mother and a newborn in the period beginning immediately after birth and ending forty two days after birth in order to ensure the best health conditions for both mother and the new-born;</p> <p>“post-natal period” means the period beginning immediately after birth and ending forty two days after birth;</p>
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	<p>“post-partum care” means the services offered to a mother during the period beginning immediately after delivery and ending forty two days after delivery in order to ensure the best health conditions for the mother ;</p> <p>‘post-partum period” means the period beginning immediately after delivery and ending forty two days after birth;</p> <p>"referral" means the process by which a given health facility transfers a client service, specimen and client parameters to another facility to assume responsibility for consultation, review or further management;</p> <p>“reproductive health” means a state of complete physical, mental and social well-being, and not merely the absence of disease or infirmity, in all matters and cycles relating to the reproductive system and to its functions and processes;</p> <p>“reproductive rights” include the right of all individuals to attain the highest attainable standard of sexual and reproductive health and to make informed decisions regarding their reproductive lives free from discrimination, coercion, misinformation or violence;</p> <p>“sex” means the biological characteristics that define humans as female, male or intersex</p>	
<p>Objects</p>	<p>Amend Clause 3 (a), (b) and (c) Insert a new clause 3 (a), (b), (c), (d), (e), (f), (g), (h) Delete Clause 4, 5</p>	<p>3. (a) provide a framework for the provision, advancement and protection of comprehensive, quality and equitable reproductive health rights and services for every person without discrimination pursuant to Article 27 (4) of the Constitution;</p> <p>(b) Provide a framework for addressing unique reproductive health issues at every stage of a reproductive cycle;</p> <p>(c) create an enabling environment for the reduction in child and maternal</p>

		<p>morbidity and mortality rates;</p> <p>(d) recognise powers and functions of both levels of governments in the provision of, and guaranteeing access to reproductive health</p> <p>(e) obligate the National and County Governments to collect and maintain sex, gender, special needs and age disaggregated data on reproductive health</p> <p>(f) establish programs targeting maternal, paternal, new-born, child, adolescent, persons with disability, intersex persons, young persons, advanced reproductive age groups and gerontological person's reproductive health services;</p> <p>(g) provide a framework for the integration of community health workers in the health system;</p> <p>(h) promote innovative, scientific,</p>	
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		<p>comprehensive and integrated approaches to the delivery of reproductive health care service</p>	
	<p>Insert a new Part immediately after PART I</p> <p>Insert Clause 4, 5, 6</p>	<p>PART II- REPRODUCTIVE EDUCATION AND INFORMATION</p> <p>4. (1) The Cabinet Secretary shall develop and publish a national policy on reproductive health which shall be reviewed at least once in every eight years</p> <p>(2) The Cabinet Secretary shall ensure that the relevant stakeholders participate effectively in the development of the national policy on reproductive health</p> <p>(3) The Cabinet Secretary and the relevant county executive committee member shall develop and publish a reproductive health report on its website and in at least two newspapers of national circulation</p> <p>(4)The Cabinet Secretary shall prescribe regulations in relation to the content and timelines for the preparation of the report.</p> <p>5. A health-care provider</p>	

		<p>shall give comprehensive and accurate information to a person seeking reproductive health services including but not limited to diagnosis, service providers and the advantages and disadvantages of any proposed treatment option.</p> <p>6. A health care provider shall offer provider-initiated reproductive health care information to a person seeking any health care service</p>	
	<p>Insert a new Part immediately after new PART II to read as PART III</p> <p>Amend Clause 4, 5, 6</p> <p>Insert new Clause 7, 8,9,10,11,12,13,14,15,16 and 17</p>	<p>PART III- REPRODUCTIVE HEALTH FACILITIES AND SERVICES</p> <p>7. A health facility shall provide quality reproductive health care services to all</p> <p>8. A person who seeks a reproductive health care service shall be entitled to dignity and respect free from any form of discrimination from persons employed or providing health care services in a health care facility</p> <p>9. A person who questions a diagnosis shall be assisted by a health care provider in obtaining a second opinion without intimidation</p> <p>10. A health facility that does not have the requisite measures to</p>	

		<p>assist a person who seeks reproductive health care services shall refer such person to the next best available health facility without delay.</p> <p>11. (1) A health care provider shall not seek or receive any unlawful inducement to assist a person.</p> <p>(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of not less than one million shillings or to imprisonment for a term of not more than two years, or to both.</p> <p>12. (1) A health care provider shall not engage in any sexual act with a person or a client who seeks any health information or health service.</p> <p>(2) A person who contravenes subsection (1) shall, on conviction, be liable to a fine of not more than one million shillings or to imprisonment for a term not more than two years, or to both.</p> <p>13. (1) A health care provider and health facility shall keep all reproductive health information and any other information relating to the health status or treatment of a client confidential except as otherwise provided for under this Act.</p>	
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		<p>(2) Subject to the Constitution and any other written law, a person may disclose information contemplated under subsection (1) if —</p> <ul style="list-style-type: none"> (a) a client consents to such disclosure in writing in the prescribed form (b) it is in compliance with a court order; and (c) such information does not represent a serious threat to public health <p>14. (1) A reproductive health care provider has the right to—</p> <ul style="list-style-type: none"> (a) protection from discrimination on account of any of the grounds set out in Article 27(4) of the Constitution; (b) a safe working environment that minimizes the risk of disease transmission and injury or damage to the healthcare personnel or to their clients, families or property; (c) refuse to treat a client who is verbally or physically abusive except in an emergency situation where no alternative health care personnel is available; and (d) apply for and accept a salaried 	
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		<p>post in the public service or the private sector.</p> <p>(2) A healthcare provider, whether in the public or private sector, shall have the duty—</p> <p>(a) to provide healthcare to the best of his or her knowledge and ability, to every person entrusted and seeking his or her support;</p> <p>(b) to provide emergency medical treatment as is appropriate;</p> <p>(c) to refer a client where the healthcare provider is not in a position to offer the required health service</p> <p>(d) not to receive improper and unlawful inducement to offer health-care services</p> <p>(e) not to put private personal interests above the health-care needs of a client</p> <p>(f) to inform a client seeking health services, in a manner commensurate with his or her understanding, of his or her health status</p> <p>(g) to seek continuous knowledge and skills in relation to his or her field of knowledge</p> <p>15. A health-care facility offering reproductive health care services shall</p>	
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		<p>meet the prescribed minimum medical standards as provided for under the Health Act, 2017.</p> <p>16. A health care facility shall constitute of a functional unit with ambulatory services including boat-ambulatory services where appropriate, dedicated to reproductive health emergencies</p> <p>17. (1) The county executive member responsible for health shall in consultation with the county public service board provide training for health extension workers in paramedical assistance on reproductive issues in emergent cases. health</p> <p>(2) The county public service board shall provide training for community reproductive health workers and midwives on reproductive health care services</p> <p>(3) The county public service board may recruit community reproductive health workers and mid-wives for the efficient discharge of functions under this Act, upon such terms and conditions of service as the county public service board may determine upon the advice of the salaries and remuneration commission.</p>	
	<p>Insert a new Part immediately after new PART III to read as</p>	<p>PART IV- ACCESS TO PRE- CONCEPTION INFORMATION AND</p>	

	<p>PART IV</p> <p>Insert Clause 18, 19, 20, 21, 22, 23, 24</p>	<p>SERVICES</p> <p>18. 1) A person who is capable of giving informed consent has the right to the following pre-conception services</p> <p>(a) information, education, screening, behavioral counseling, and interventions or treatment for life-style behavior that may risk the health of the mother and child including first and second hand tobacco use, psychoactive substance use, and alcohol use</p> <p>(b) screening and management of diseases and conditions that may put the child and mother at risk such as anaemia, diabetes, lupus and genetic conditions</p> <p>(c) provision of guidance and information on environmental hazards and prevention</p> <p>(d) screening and diagnosis of couples following six to twelve months of attempting pregnancy, management of underlying causes of infertility or sub-fertility and their preventable and unpreventable causes</p> <p>(e) information, counselling and referral to licensed adoption and assisted reproductive technologies</p>	
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		<p>services for couples having challenges in conceiving naturally;</p> <p>(f) guidance and age-appropriate, comprehensive information on sex and interpersonal violence including impact of early, unwanted and rapid successive pregnancies, rape and post-rape care and referral and psychosocial support to victims of violence;</p> <p>(g) provider-initiated HIV counseling, testing and interventions for the well-being of the child, including male-partner testing, provision of antiretroviral prophylaxis for women not eligible for, or not on, antiretroviral therapy to prevent mother-to-child transmission</p> <p>(h) treatment and management of depression in women planning pregnancy and other women of child-bearing age</p> <p>(i) provision of vaccination for preventable disease</p>	
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		<p>(j) screening for female genital mutilation to detect any complication and access to treatment including defibulation of infibulated females before or early in pregnancy</p> <p>(k) removal of cysts and treatment of any other related complication</p> <p>(l) family planning services including contraception and natural family planning</p> <p>(m) monitoring nutritional status and promoting exercise</p> <p>(n) any other relevant pre-conception care services as may be prescribed from time to time</p> <p>19. The national and county governments shall ensure availability, accessibility, acceptability and quality family planning services including contraceptive methods and counseling</p> <p>20. (1) A health-care provider prescribing a contraceptive method shall pro-actively provide relevant information to the client on the advantages and disadvantages of the method.</p> <p>(2) A healthcare</p>	
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		<p>provider performing the function under subsection (1) shall ensure informed consent is given by the client.</p> <p>21. The county governments shall ensure availability of information and education on natural family planning methods</p> <p>22. A health-care facility that provides a reproductive health care service shall collate sex and age-desegregated data and submit the report to the Committee annually</p>	
PART IV- SAFE MOTHERHOOD	<p>Amend PART IV to read as PART V</p> <p>Amend Clause 24, 25 Insert new Clause 23, 24,25,26,27,28,29 and 30</p>		
Clause 23, 24, 25	<p>Amend Clause 23, 24, 25 Insert Clause 23, 24, 25, 26, 27, 28, 29 and 30</p>	<p>23. Maternal care shall be offered by-</p> <ul style="list-style-type: none"> (a) medical practitioners; (b) clinical officers; (c) nurses; and (d) midwives. <p>24. (1) A health facility shall ensure access to the highest attainable standard and quality of pre-conception, pre-natal, ante-natal, intra-partum, post-partum, neo-natal and post-natal services.</p> <p>(2) A pregnant woman is entitled to—</p> <ul style="list-style-type: none"> (a) early diagnosis of pregnancy (b) referral for and provision of appropriate pre-natal care (c) referral to child-birth preparation classes; (d) after counseling, to adoption services at licensed agencies if desirable; (e) services in the ante-natal period including emergency and referral care; (f) services during the post-partum and post- 	

		<p>natal period</p> <ul style="list-style-type: none"> (g) provision of dignified and respectful care; (h) ninety working days of maternity leave upon delivery of the new-born in accordance with the Employment law (i) sensitization and education on the benefits of breast-feeding, proper nutrition, vaccinations , growth promotion of children, child protection and any other child care interventions (j) sensitization and education on management of needs of vulnerable children and referral to available services (k) provision of adolescent-friendly antenatal services in case of adolescent mothers (l) any other services that may be prescribed relating to prenatal, antenatal, post-natal, intra-partum and post-partum period <p>(3) The provisions of subsection (2) shall in no way be construed to limit or undermine the provisions of the Health Act, 2017.</p> <p>(4) For the purposes of this section, adoptive parents shall be eligible for maternity and paternity leave upon the commencement of the stay with the child whether or not the adoption process has been finalised in a court of law;</p> <p>25. (1) A woman who delivers a still-born child or who loses a child within three-months of delivery shall be entitled to all the rights of a post-partum mother including counselling and maternity leave;</p> <p>(2) A woman who experiences a miscarriage shall be entitled to forty two days lochia leave;</p> <p>(3) A woman who is diagnosed with a condition that causes or requires termination of pregnancy is entitled to correct diagnosis, emergency treatment and forty two days lochia leave.</p> <p>26. The national and county governments shall ensure that mothers are afforded services necessary to address the leading causes of maternal morbidity and mortality</p> <p>27. The national and county governments shall ensure that every public facility is fitted with accessible, proximate and appropriate nurseries for nurturing parents including lactating mothers and care-givers</p>
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		<p>28. (1) The national and county governments shall provide free ante-natal care, delivery services and post-partum care</p> <p>(2) No woman shall be detained in a health facility post-delivery due to an inability to pay medical bills;</p> <p>29. The county governments shall ensure access to-</p> <p>(a) information, screening, management and treatment of conditions including but not limited to –</p> <ul style="list-style-type: none"> (i) communicable and non-communicable diseases during pregnancy; (ii) sexually transmitted infections; (iii) reproductive tract infections (iv) reproductive-related cancers (v) post-abortion care; and <p>emergency obstetric and gynecological services</p> <p>30. (1) A new-born is entitled to comprehensive new-born care, including emergency care, referral care and immunization..</p> <p>(2) The national and county governments shall ensure that a new-born is afforded services necessary to address leading causes of new-born morbidity and mortality including but not limited to pre-maturity, neo-natal sepsis and asphyxia</p> <p>(3) Notwithstanding subsection (1), the Cabinet Secretary may, by regulations, prescribe neo-natal and child services available to various categories of children until the age of twelve years</p>
Clause 26	Amend Clause 26(1) Insert Clause 26(3)	<p>That clause 26 (1) is amended to read</p> <p>(1) Abortion is not permitted unless in the opinion of a trained health professional-</p> <ul style="list-style-type: none"> (a) there is need for emergency treatment; (b) the life of the woman is in danger;

		<p>(c) the pregnancy is as a consequence of a rape or defilement and endangers the physical, mental, psychosocial or social wellbeing of the woman.</p> <p>(d) there exists a substantial risk that the foetus would suffer from a severe physical or mental abnormality that is incompatible with life outside the womb.</p> <p>Amend Bill by inserting Clause 26(3) to read: Termination of pregnancy shall be performed by a trained health professional.</p>
Clause 27	Amend 27(1) Insert Clause 27(2)	<p>Amend Clause 27(1) to read: A trained health professional, who has a conscientious objection to the termination of pregnancy as provided under this Act, has a legal duty to record the objection in writing, and undertake a timely, appropriate and effective referral of the pregnant woman to a trained health professional who is willing to provide this service.</p> <p>Amend clause 27 by Inserting clause to read: (2) A trained health professional shall not exercise conscientious objection in cases of emergency treatment.</p>
Clause 27	Amend 27(2)	<p>Amend clause 27 by Inserting clause to read: (2) A trained health professional shall not exercise conscientious objection in cases of emergency treatment.</p> <p>4. (1) Subject to the provisions of this Act, termination of pregnancy may take place-</p> <p>Amend clause 27 (2) to read: in the case of a person living with mental or intellectual disability, on the basis of the free and informed consent, after providing the support that the person may require in making the decision on termination of pregnancy -</p> <p>(i) after consultation with the parents, guardian or such other persons with legal responsibility over the said person; or</p> <p>(ii) where the person is committed to an institution, with the consent of the legal guardian of that person or where such guardian is unknown or cannot be traced, with the</p>

		consent of the senior most officer in the institution and in any event, the best interest of the person living with mental disability shall prevail.
Clause 32 (1)	Amend Clause 32(1)	Amend clause 32 (1) to read: Adolescent-friendly reproductive health services shall be age-appropriate, non-judgemental, confidential, evidence-based and culturally sensitive and shall include: – (a) Mentorship; (b) Unbiased counseling on: (i) relationships; (ii) abstinence; (iii) prevention of pregnancy; (iv) post-abortion care (v) sexually transmitted infections and HIV/AIDS; (vi) sexual and gender based-violence; (vii) substance and drug abuse; (c) Life and negotiation skills; (d) Keeping sexual boundaries; (e) such other reproductive-health services as the Cabinet Secretary shall determine.
Clause 33	Clause 33(a) Delete Replace with	Delete Clause 33 (a) Replace with: 33 (a) Despite the provisions of subsection (1, an adolescent may consent to his or her own medical treatment or services, if the adolescent - (a) is pregnant; (b) is already a parent; (c) is already sexually active; or (d) in the opinion of a trained health-care provider, is of sufficient maturity and has the mental capacity to understand the benefits, risks, social or other implications of the treatment or service offered. Amend Bill by inserting clause 33 (3) to read: (3) parental consent may be dispensed with for children in need of care and protection as provided for under section 119 of the Children Act, (Cap 141);
	Amend Bill by inserting clause 34 (1) immediately after the proposed 33	34. A health care provider shall- a) provide adolescent-friendly reproductive health services that are responsive to specific needs, vulnerabilities, and desires of adolescents; and b) facilitate the provision to adolescents of confidential, age-appropriate, comprehensive, non-judgmental and accessible reproductive health services. (2) Where a health-care provider from whom reproductive health services is sought by an adolescent

		<p>has a conscientious objection to the provision of the services, the health care provider shall provide reasons in writing and, shall refer the adolescent to a qualified person for provision of the necessary services.</p> <p>(3) In case of a referral, a health-care provider shall ensure that the adolescent is referred in a timely, effective and appropriate manner..</p>
	<p>Insert Clause 35 Immediately after the proposed Clause 34</p>	<p>35 (1) A health care provider shall not perform female genital mutilation on a female person.</p> <p>(2) Despite the provisions of sub-section (1), a person who has any health complications as a result of female genital mutilation shall access treatment from any health care provider without discrimination.</p> <p>(3) This provision shall in notbe construed to limit the provisions of the Prohibition of Female Genital Mutilation Act, (No. 32, of 2011)</p>
	<p>Insert Part VIII immediately after Part VII</p>	<p>Amend Bill by Inserting Part VIII to Read: PART VIII - REPRODUCTIVE HEALTH FOR YOUNG PERSONS</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 35 to read:</p>	<p>36. The provisions of this part elaborate the rights of young persons to reproductive healthcare and shall not be seen as limiting or qualifying any other right under this Act.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 36 to read:</p>	<p>37. (1) The National government shall develop standards and guidelines for provision of reproductive health information to young persons that is gender, sex and disability inclusive</p> <p>(2) The National and county governments shall ensure that the information in 42(1) is published and publicized.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 37 to read:</p>	<p>38. A health-care provider shall provide comprehensive, relevant and accurate information to any young individual seeking reproductive health services including any diagnosis, treatment options, service providers and advantages and disadvantages of any proposed treatment option;</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 38 to read:</p>	<p>39. Except as otherwise provided in the Act, a young person is entitled to a confidential and non-judgmental reproductive healthcare service.</p>
	<p>Amend Bill by Inserting</p>	<p>40 (1) The national and county governments shall provide</p>

	<p>the following provisions immediately after the proposed Clause 39 to read:</p>	<p>information and develop programs that include young persons in reproductive health care services which include—</p> <ul style="list-style-type: none"> (a) accurate information on family planning methods , risks of each method and its effectiveness; (b) pre-conception information and services; (c) life-style beliefs, practices and perceptions that enhance high infant and maternal morbidity and mortality rates including norms on multiple partners, non-use of contraceptives and partner violence and interventions; (d) Partners’ support programs for positive mother and child outcomes; (e) role of men and women in safe pregnancy, delivery and post-partum care; (f) provision of screening, diagnosis, treatment and management services on sexually transmitted infections including HIV that may have a bearing on a child’s health; (g) the health benefit of child spacing and co-parenting for a healthier child;
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 40 to read:</p>	<p>41. A healthcare facility shall provide free and optional prospective parents’ counselling for young persons.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 41 to read:</p>	<p>42. The healthcare facility shall provide screening, diagnosis and treatment options for common reproductive health-diseases for young persons.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 42 to read:</p>	<p>43. The healthcare facility shall offer provider-initiated infertility counselling to men and women having challenges conceiving and available options.</p>
	<p>Amend Bill by Inserting Part IX immediately</p>	<p>PART IX -REPRODUCTIVE HEALTH FOR ADVANCE REPRODUCTIVE AGE PERSONS</p>

	after the proposed Part VIII to Read:	
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 43 to read:	44. The provisions of this part elaborate on the rights of reproductive health care for advance-reproductive age persons and shall not limit or qualify any other right under this Act.
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 44 to read:	45. (1) The National Government shall undertake continuous reproductive-health related research to inform policy interventions and service provision for advance-reproductive age persons.
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 45 to read:	<p>46. The national and county governments shall facilitate provider-initiated information on reproductive health-related problems for advanced reproductive age persons which shall include—</p> <ul style="list-style-type: none"> a) the impact on sexual activity on advanced age persons of chronic conditions such as vaginal atrophy, reproductive cancer, and cardiovascular disease; b) sexual difficulties and interventions in men such as erectile dysfunction; and lower libido for women; ; c) sexual and hormonal difficulties and interventions in women including genitourinary conditions, and gynecological malignancies; d) screening and counseling services for healthy reproduction and sexual relations in advanced reproductive-age persons; e) assisted reproduction technologies for persons seeking to have children; <p>(3) The County governments shall ensure that there is continuous public awareness to address the sexual and reproductive health needs and rights of advanced reproductive-age group.</p> <p>(4) Each county shall establish a dedicated advanced reproductive -age persons unit.</p>
	Amend Bill by Inserting Part X immediately after	PART X- REPRODUCTIVE HEALTH FOR GERONTOLOGICAL PERSONS

	the proposed Part IX to Read:	
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 46 to read:	<p>47. The provisions of this part elaborate the rights of reproductive health care for gerontological persons and shall not limit or qualify any other right under this Act;</p> <p>45. (1) The National Government shall undertake continuous reproductive-health-related gerontological research to inform policy interventions and service provision on gerontological persons</p> <p>(2) The national and county governments shall provide information on reproductive health-related problems for gerontological age persons which includes—</p> <p>a) chronic conditions such as benign prostatic hyperplasia affecting urinary functions for men; vaginal atrophy including yeast infection for women; and reproductive cancers such as prostate cancer, and cardiovascular disease;</p> <p>b) sexual difficulties in men such as erectile dysfunction, lower libido for women and available interventions;</p> <p>c) sexual and hormonal difficulties including genitourinary conditions, gynecological malignancies, and available interventions;</p> <p>d) counseling services for healthy reproductive and sexual relations in gerontological age persons;</p> <p>(3) The County governments shall ensure that there is continuous public awareness on the sexual and reproductive health needs and rights of gerontological age persons.</p> <p>(4) Each county shall establish a dedicated Gerontology unit.</p>
	Amend Bill by Inserting Part XI immediately after the proposed Part X to Read:	PART XI- REPRODUCTIVE HEALTH CARE FOR PERSONS WITH DISABILITIES
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 47 to read:	48. The provisions of this part elaborate the reproductive rights of persons with disabilities and shall not limit or qualify any other right under this Act;

	Amend Bill by Inserting the following provisions immediately after the proposed Clause 48 to read:	<p>49. The County Government shall ensure that -</p> <p>a) basic reproductive health services is provided in the first tier of health provision in the county without any discrimination;</p> <p>b) there is increased access to information and communication on sexual and reproductive health in braille, audio form, large print, simple language, sign language and pictures in all county health facilities;</p> <p>c) there is continuous training, education and inclusion of rights of persons with disabilities among health-care providers on reproductive health;</p> <p>d) there are continuous activities to raise awareness and address sexual and reproductive health needs and rights of persons with disabilities; and</p> <p>e) women and girls with disabilities are provided with the same quality of health-care.</p>
	Amend Bill by Inserting Part XII immediately after the proposed Part XI to Read:	PART XII- REPRODUCTIVE HEALTH-CARE FOR INTER-SEX PERSONS
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 49 to read:	50. The provisions of this part elaborate the reproductive rights of inter-sex persons and shall not limit or qualify any other right under this Act.
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 50 to read:	<p>51. (1) The national and county governments shall put in place measures to ensure that all intersex persons have access to the highest attainable standard of reproductive health-care services.</p> <p>(2) The national and county governments shall ensure that all health facilities have qualified personnel and sufficient facilities and equipment to prevent, correctly diagnose, treat and manage conditions affecting intersex persons.</p>
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 51 to read:	<p>52 (1) The national government shall promote and facilitate research in connection with the prevention, diagnosis, management and treatment of medical and reproductive conditions which affect intersex persons.</p> <p>(2) The National Government shall develop policies, standards and guidelines on the prevention, diagnosis, treatment and management of medical conditions affecting intersex persons.</p>

		<p>(3) In the formulation of policies and standards under this section, the national government shall be guided by the following principles—</p> <p>(a) the best interests of the child should be the primary consideration in the treatment and management of medical conditions in intersex children;</p> <p>(b) the right of all persons to affordable, accessible and quality health-care without discrimination;</p> <p>(c) the right of all persons to emergency medical treatment without discrimination;</p> <p>(d) all management and treatment interventions should respect the client’s right to bodily autonomy;</p> <p>(e) the right to privacy and confidentiality;</p> <p>(f) the right to dignified treatment and care in all health facilities;</p> <p>(g) the right to scientifically accurate, evidence-based reproductive and sexual health information and education;</p> <p>(h) the right to early and correct diagnosis of medical conditions; and</p> <p>(i) the right to the highest attainable standard of mental healthcare including psychosocial support.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 52 to read:</p>	<p>53. (1) A person shall not subject an intersex person to intersex genital mutilation which includes but is not limited to forced or coerced sterilization, forced gender assignment surgery, forced genital examinations and forced human experimentation.</p> <p>(2) A health-care provider shall ensure that an intersex person shall give informed consent to all surgical and non-surgical medical procedures.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 53 to read:</p>	<p>54. (1) A healthcare provider who, by any surgical or non-surgical procedure, renders an intersex client incapable of sexual reproduction without prior, express or informed consent of the client commits an offence;</p> <p>(2) A healthcare provider who, by any surgical or non-surgical procedure, renders an intersex client incapable of sexual reproduction having obtained consent through force, inducement misinformation, or intimidation</p>

		<p>commits an offence;</p> <p>(3) It is no defence to a charge under this section that parental consent was sought where an intersex client is a child or infant.</p> <p>(4) A person found guilty of an offence under this section shall, on conviction, be liable to a fine not exceeding one million shillings or to a term of imprisonment not exceeding two years, or to both.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 54 to read:</p>	<p>55. (1) A health-care provider who performs cosmetic genital surgery on an intersex client without prior, express or informed consent of the client commits an offence.</p> <p>(2) A health-care provider who performs cosmetic genital surgery on an intersex client having obtained consent through force or by means of willful misinformation, threats or intimidation commits an offence.</p> <p>(3) It is no defence to a charge under this section that parental consent was sought where an intersex client is a child or infant.</p> <p>(4) A person guilty of an offence under this section shall, on conviction, be liable to a fine not exceeding one million shillings or to a term of imprisonment not exceeding two years or to both.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 55 to read:</p>	<p>56. (1) Any person, including health-care providers, parents and guardians, who administers any hormones to an intersex person without prior consent commits an offence.</p> <p>(2) Any person, including health-care providers, parents and guardians, who administer any hormones to an intersex person having obtained consent through willful misinformation, force or by means of threats or intimidation commits an offence.</p> <p>(3) A person guilty of an offence under this section shall, on conviction, be liable to—</p> <p>(a) a fine not exceeding one million shillings or to a term of imprisonment not exceeding two years or to both;</p>

		<p>(b) in the case of health-care providers, disciplinary proceedings under Section 20 of the Medical Practitioners and Dentists Act;</p> <p>(c) make reparations in the form of compensation and any other form granted by a court of law.</p>
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 56 to read:	57. A child whose parent is convicted of any offence against the child under this part shall be considered as a child in need of care and protection under the Children's Act, Cap 141.
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 57 to read:	58. The national and county governments shall undertake public education and awareness campaigns aimed at eradicating stigma among the general public on the medical and reproductive conditions affecting intersex persons.
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 58 to read:	59. The national and county governments shall ensure the publishing and publicizing of comprehensive and accurate information on medical and reproductive conditions affecting intersex persons.
	Amend Bill by Inserting Part XIII immediately after the proposed Part XII to Read:	PART XIII- MENSTRUAL HYGIENE AND RIGHTS
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 59 to read:	<p>60. Content of menstrual hygiene management, includes:</p> <p>(a) access by women and girls to clean disposable and re-usable sanitary towels ;</p> <p>(b) free access by school-going girls of disposable and re-usable sanitary towels;</p> <p>(c) access to clean and private facilities for women and girls to change sanitary towels as often as necessary for the duration of the menstrual period;</p> <p>(d) access by women and girls to soap and water for hygiene and sanitation in public spaces; and</p> <p>(e) availability of dignified facilities to dispose of used menstrual management materials.</p> <p>(2) There is established menstrual hygiene spaces</p>

		<p>that are clean, safe and dignified in all health facilities, schools and public facilities that meet the requirements set out under set regulations.</p> <p>(3). The national and county governments shall integrate information on menstrual health, hygiene and sanitation awareness in public health campaigns.</p> <p>(4). The national government, shall provide free, sufficient and quality sanitary towels to every girl registered and enrolled in a public basic education institution who has reached puberty and provide a safe and environmentally sound mechanism for disposal of the sanitary towels.</p> <p>(5). There shall be continuous education by the Ministry of Gender and Education to demystify the cultural and religious stigma attached to menstruation.</p>
	Amend Bill by Inserting Part XIV immediately after the proposed Part XIII to Read:	PART XIV- REPRODUCTIVE HEALTH CARE COMMITTEE
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 60 to read:	<p>61. (1) There is established a body to be known as the Reproductive Health Care Committee under the Ministry responsible for Health.</p> <p>(2) The secretariat of the Committee shall be based in Nairobi City County.</p>
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 61 to read:	<p>62. The functions of the Committee are to-</p> <p>(a) Advise the Cabinet Secretary on matters relating to reproductive health care;</p> <p>(b) ensure the co-ordination and implementation of national and county government policies, regulations and obligations under national and international laws relating to reproductive and child health care rights;</p> <p>(c) in conjunction with other relevant bodies, carry out regular surveys in all aspects of reproductive health in order to establish the status of the cultural and other practices on reproductive health and well-being ;</p> <p>(d) provide administrative guidance to the Committee's secretariat;</p> <p>(e) recruit and supervise the chief executive officer;</p> <p>(f) propose, formulate laws, rules, guidelines and policies for the implementation of reproductive health care rights;</p>

		<p>(g) collate data and carry out research to monitor and evaluate progress on the implementation of laws, rules, guidelines and policies of reproductive health care rights;</p> <p>(h) develop policies to protect all persons from practices that violate their reproductive health rights;</p> <p>(i) carry out such duties or functions as may be necessary to achieve the objects and purposes of this Act.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 62 to read:</p>	<p>Members of the Committee</p> <p>63. (1) The Committee shall consist of-</p> <p>(a) a chairperson appointed by the Cabinet Secretary for the time being responsible for health;</p> <p>(b) the Principal Secretary, responsible for health or a person designated by the Principal Secretary;</p> <p>(c) the Principal Secretary responsible for education or a person designated by the Principal Secretary;</p> <p>(d) a representative of the County Reproductive Health Coordinators;</p> <p>(e) the Director of the National Council for Population and Development;</p> <p>(f) a representative nominated by the Kenya Medical Practitioners and Dentists Council with expertise on reproductive health;</p> <p>(g) a pharmacist nominated by the Pharmacy and Poisons Committee;</p> <p>(h) a representative of the Nursing Council of Kenya;</p> <p>(i) a representative of faith-based organizations appointed by the Inter-religious Council of Kenya;</p> <p>(j) one civil society organization working in the area of advanced reproductive health care and gerontological issues for advanced reproductive aged and gerontological persons;</p> <p>(k) One representative from Kenya National Commission on Human Rights Commission with expertise on adolescent reproductive health;</p>

		<p>(l) One representative from the Law Society of Kenya with expertise on women reproductive health;</p> <p>(m) One representative of the professional medical bodies;</p> <p>(n) One representative from the private sector in the medical professional</p> <p>(o) Two young persons, of either gender representing the youth with a proven record of knowledge, experience and commitment to advocacy for reproductive health care, one of whom must be a person with disability, nominated by the Cabinet Secretary</p> <p>(2) In appointing persons under section 1 (d) to (o), regard shall be had of equitable ethnic and gender representation.</p> <p>(3) A person shall not be eligible for nomination under sub-section (1), if that person does not fulfill the requirements of Chapter Six of the Constitution.</p> <p>(4) The Ministry of Health shall provide secretariat services to the committee.</p>
	Amend Bill by Inserting Part XV immediately after the proposed Part XIV to Read:	PART XV—COUNTY REPRODUCTIVE HEALTH CARE COMMITTEES
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 63 to read:	64. There is established in every County a County Reproductive, Health Care Committee.
	Amend Bill by Inserting the following provisions immediately after the proposed Clause 64 to read:	<p>65. The County Reproductive, Health Care Committee shall comprise of —</p> <p>(a) the County Executive Committee Member responsible for health, who shall be the chairperson;</p> <p>(b) the County Executive Committee Member responsible for education;</p> <p>(c) the County Executive Committee Member responsible for finance;</p>

		<p>(d) the County Executive Committee Member responsible for children and youth;</p> <p>(e) the County Executive Committee Member responsible for women;</p> <p>(f) the County Executive Committee Member responsible for mature and older persons;</p> <p>(g) the County Executive Committee Member responsible for persons with disabilities;</p> <p>(h) two other persons, appointed by the County Executive Committee Member responsible for health amongst persons who have served with distinction in the public, civil society, community based organizations, religious or private sector, who has knowledge and experience in matters relating to reproductive rights and health service;</p> <p>(i) one person appointed by the County Executive Committee Member responsible for health representing practising health professionals; and</p> <p>(j) the County Director of health who shall be the secretary to the Committee.</p> <p>(3) Members appointed under subsection (2) shall hold office for a term of three years and may be eligible for reappointment for one further term.</p> <p>(4) The County Executive Committee Member responsible for Health shall, by regulation prescribe the procedure for nominating members appointed under subsection (2)</p> <p>(5) In appointing and constituting the County Reproductive Health Care Committee, due regard shall be paid to the constitutional principles of youth, gender and ethnic representation.</p> <p>(6) The County Department of Health shall provide secretariat services to the committee. Function of the County Reproductive Health Care Committee.</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 65 to read:</p>	<p>66. (1) The County Reproductive Health Care Committee shall—</p> <p>(a) advise the Governor in all matters regarding reproductive health, maternal and child healthcare services in the County;</p> <p>(b) advocate for prioritization and investment</p>

		<p>in interventions aimed at reducing new-born, child and maternal morbidity and mortality rates in the county;</p> <p>(c) ensure equitable access to reproductive health and services in the county and improve responsiveness to the needs of the mother and the child;</p> <p>(d) require the County Department of Health to undertake periodic inquiry into reproductive health and services including maternal, paternal, new-born and child deaths and prepare an annual status report to be published and publicize;</p> <p>(e) encourage community engagement and accountability in the promotion and delivery of reproductive health care including maternal, new-born and child health services in the County;</p> <p>(f) ensure availability and improve quality of integrated reproductive health care, including maternal, new-born and child health services within the county;</p> <p>(g) perform any other functions assigned to it under this Act or any other written law that is necessary for the achievement of the objectives of this Act</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 66 to read:</p>	<p>Duties of the County Department of health.</p> <p>67. (1) The County Department responsible for Health shall monitor and evaluate the performance of all reproductive, including maternal, new-born and child health service providers to ensure compliance with the intent and purposes of this Act.</p> <p>(2) The County Department responsible for Health shall implement the National Governments relevant policies on reproductive health and services including maternal, new-born and child health standard for the relevant health services providers.</p> <p>(3) The county department responsible for health shall develop programs and training, which shall be made available to all reproductive health including maternal, new-born and child health service providers and their staff.</p> <p>Public awareness at county levels. 81. (1) The national and county departments of health shall facilitate adequate education and public awareness programmes to ensure realisation of the Act.</p>

	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 67 to read:</p>	<p>County governments' obligation.</p> <p>68. (1) Each county government shall-</p> <p>(a) encourage and support education and scientific research in the field of reproductive rights including maternal, new-born, child-health, adolescents, persons with disability, advanced reproductive age persons, and gerontological persons;</p> <p>(b) popularize the advanced and practical technique for reproductive health care for all; and</p> <p>(c) disseminate the scientific knowledge in this field to the people.</p> <p>Recognition of efforts made in reproductive works and service</p>
	<p>Amend Bill by Inserting the following provisions immediately after the proposed Clause 68 to read:</p>	<p>69. The county governments may formulate programs to recognise or award organizations and individuals who have made remarkable achievements, including significant scientific research, in the work of reproductive rights and service provision with a focus on maternal, new-born and child health.</p> <p>Report to County Assembly.</p>
	<p>Amend the Bill by inserting the following provisions immediately after the proposed clause 69 to Read:</p>	<p>70. (1) The Executive Committee Member responsible for Health in each county shall prepare and submit an annual report to the County Assembly on the status of reproductive rights and health with special regard to maternal, new-born and child health services in the county.</p> <p>(2) The report shall contain—</p> <p>(a) the general status of reproductive health care and services and indicators in the County;</p> <p>(b) state of funding of reproductive health care and services in general;</p> <p>(c) state of funding for maternal, new-born and child health services in the county;</p> <p>(d) the availability and state of health facilities relating to reproductive services and those dedicated to maternal, new-born and child health services in the county;</p> <p>(e) staffing levels and skills for maternal, new-</p>

		<p>born and child health services relative to service- seekers in the county;</p> <p>(f) status of reproductive service health commodities, supplies and equipment in the county with a special focus on maternal, new-born and child;</p> <p>(g) recommendations on specific actions to be taken in enhancing access to quality reproductive health care and especially of maternal, new-born and child-health services in the county; and</p> <p>(h) any other information relating to reproductive health services.</p> <p>(3) Where any recommendations contained in a report submitted under subsection (1) have not been implemented, the Executive Committee Member shall report to the County Assembly the reasons therefore. Public participation on reproductive health care services.</p> <p>85. (1) The Executive Committee Member responsible for Health in each county shall convene an annual citizens' open day to review, discuss and make recommendations with members of the public for improvement of reproductive health care provision in the county with a focus on maternal, new-born and child health.</p> <p>(2) Notice for this event shall be made to the public through county e-platforms and other mass media at least fourteen days before the date of the event.</p>
		<p>Amend the Bill by inserting clause 70 immediately after the proposed clause 69 to Read: Offences and Penalties</p> <p>71. A person who contravenes any provision of this Act to which no express penalty has been prescribed, commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to a term of imprisonment not exceeding two years or to both .</p>
	<p>Amend the Bill by inserting the following provisions immediately after the proposed clause 70 to Read:</p>	<p>Regulations.</p> <p>72. The Cabinet Secretary shall in consultation with the Committee and other regulatory health bodies, make regulations or any other statutory instrument necessary to promote the objects of this Act.</p>

We do propose that Part III (Section 8-22) of the proposed Bill be deleted in its entirety. The *Assisted Reproductive Technology Bill, No. 34 of 2019* which is before the National Assembly has brought out in clear understanding what the proposed part intends to cure. For example the proposed Bill, talks about an assisted reproduction facility holding the responsibility of running the whole process whereas the Assisted Reproduction Technology Bill, 2019 establishes an authority that is under a duty to provide clear procedures and guidelines on how to facilitate the issues surrounding assisted reproductive technology.

Some gaps that have been identified in the Bill and in light of the same we have proposed inclusion of the following;

- 1. REPRODUCTIVE EDUCATION AND INFORMATION-** Under this part the following should be established proactively to cater for the needs of all persons in terms of the intended reproductive education and information they are entitled to receive. There bare minimum as provided
 - Reproductive health policy and reproductive health reports.
 - Right to comprehensive information.
 - Duty of health-care providers to offer reproductive information

- 2. REPRODUCTIVE HEALTH FACILITIES AND SERVICES-**
 - This Part should focus on the quality of services to be provided by the health facilities with regards to the reproductive health care. The services should be clearly stated that they should be non-discriminatory.
 - This Part also needs to highlight on the offence a health care provider to protect any harassment towards a patient/client.
 - Sexual relations between health care providers and patients/client's needs to bring in light with regards to the proposed Bill.
 - There needs to be clear provisions on the reproductive health care facilities, Rights and duties of the health care providers and a provision on the emergency health care services in each county.

- 3. ACCESS TO PRE-CONCEPTION INFORMATION AND SERVICES**
 - Define what preconception services should include i.e. screening, diagnosis, management, providing counselling services relating to reproductive health.
 - National and County government shall be under duty to ensure that persons are able to have access, availability, acceptability and quality contraception services.
 - Right to information should be at per with the duty to provide the same in a proactive manner outline bot advantages and disadvantages of the services being sought
 - Data collation is key as the same should reflect on the sex and age data analysis.

- 4. FATHERHOOD AND REPRODUCTIVE HEALTH-CARE FOR MEN** The National government to be obligated with the responsibility of undertaking continuous research to inform policy interventions on male sexual and reproductive health needs and rights and the inclusion of men in sexual and reproductive health care-system
 - There needs to be a provider initiated information and programs for men.
 - Counselling services should be key and addressed to both men and women on issues of Reproductive health care

- 5. REPRODUCTIVE HEALTH FOR ADVANCE REPRODUCTIVE AGE PERSONS, GERONTOLOGICAL PERSONS**

The life cycle approach that we have mentioned looks at the reproductive issues post reproductive age. There is need to define who are classified as advanced reproductive age and gerontological. We have proposed the same in terms of definition.

6. REPRODUCTIVE HEALTH CARE FOR PERSONS WITH DISABILITIES

Since the inception of the Kenyan Constitution on our grounds, there is a strong message on inclusion and thus the need to propose that the reproductive issues on persons living with disabilities should have a separate chapter and not be packed and given a by the way statement to indicate their interest are covered in small print. We have provided the proposal and its elements.

7. REPRODUCTIVE HEALTH-CARE FOR INTER-SEX PERSONS- INTERSEX

PERSONS SOCIETY OF KENYA (IPSK) is a registered organisation by the government of Kenya on 11/5/2018 and has a community membership of 523 intersex persons. Kenya recognises intersex persons through Persons deprived of the Liberty Act Section 2, The 11 th Parliament committee on Administration and National Security (2017), Taskforce on Policy, Legal, Institutional and Administrative Reforms regarding the Intersex Persons in Kenya established by the Attorney General of Kenya and The Kenyan Government through 2019 census recognises the existence of the intersex persons in the country. This recognition is meant to ensure that we the intersex persons are included in the policies that affect us and therefore any policy and laws must be cognizance of the intersex persons need. We there recommend that a chapter on the new bill to include the issues of intersex person as from the definition of who an intersex person is, the inclusion on the definition of sex and a whole chapter on the various reproductive issues and what the government should be mandated to do to ensure their interests are protected and catered for.

8. FORCED OR COERCED STERILIZATION The case of *S W K v 5 others v Medecins Sans Frontieres – France & 10 others (2016) e-KLR* brought into light the issue of forced or coerced sterilization. We propose a chapter on its own to address this issue as the same has not been extensively discussed any law thus the urgency to have the conversation in this Bill.

9. MENSTRUAL HYGIENE AND RIGHTS- a chapter on this needs to be addressed and put the Government in diminishing the stigma surrounding menstruation.

10. REPRODUCTIVE HEALTH CARE COMMITTEE whose roles will focus in assisting the Cabinet Secretary in charge of Health in coming up with standards and regulations with regards to reproductive affairs

11. COUNTY REPRODUCTIVE HEALTH CARE COMMITTEES- they will be responsible in overseeing that reproductive health care is duly observed and in line with the guidelines provided in realising reproductive rights.

12. SAFE MOTHERHOOD We propose that it be expansively outlined. We have proposed the need to include a section on women who encounter still births, women who have a condition or state known as *lochia*. There is also need to include a section on the issue of Detention of women post-delivery. The same has been outlined above on the proposed amendment to that effect and the same is supported as it was determined in *Petition No. 562 f 2012 M A O & another versus Attorney General & 4 others (2015) e-KLR* where detention in such cases was declare unlawful and a violation of a constitutional human right of liberty and freedom.

Also in line with the *Breastfeeding Bill of 2019* there is need to include a section on lactating mother and specifically address the issues surrounding lactating women i.e. the lactation stations should be dignified.