



REPUBLIC OF KENYA  
TWELFTH PARLIAMENT - (THIRD SESSION)  
THE SENATE  
**ORDER PAPER**  
WEDNESDAY, MARCH 20, 2019 AT 2.30 PM

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages (as listed in the Appendix)
4. Petitions
5. Papers (as listed in the Appendix)
6. Notices of Motion (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. **COMMITTEE OF THE WHOLE**  
**\*THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL**  
**(SENATE BILLS NO. 1 OF 2018)**  
(Sen. Kimani Wamatangi, MP)  
*(Consideration of the National Assembly Amendments)*  
*(Resumption of debate interrupted on Tuesday, 19<sup>th</sup> March, 2019)*  
*(Division)*
9. **COMMITTEE OF THE WHOLE**  
**\*THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2018)**  
(Sen. Aaron Cheruiyot, MP)  
*(Resumption of debate interrupted on Wednesday, 21st November, 2018)*  
*(Division)*
10. **COMMITTEE OF THE WHOLE**  
**\*\*\*THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL (NATIONAL ASSEMBLY BILLS NO. 10 OF 2018)**  
(The Senate Majority Leader)

11. COMMITTEE OF THE WHOLE

**\*\*THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**

(Chairperson, Standing Committee on Education)

12. COMMITTEE OF THE WHOLE

**\*THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)**

(Sen. Amos Wako, MP)

13. COMMITTEE OF THE WHOLE

**\*THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**

(Sen. Ledama Olekina, MP)

14. COMMITTEE OF THE WHOLE

**\*THE DATA PROTECTION BILL (SENATE BILLS NO. 16 OF 2018)**

(Chairperson, Standing Committee on Information and Technology)

15. COMMITTEE OF THE WHOLE

**\*THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL (SENATE BILLS NO. 17 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

16. COMMITTEE OF THE WHOLE

**\*THE COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING BAYS) BILL (SENATE BILLS NO. 18 OF 2018)**

(Sen. Ledama Olekina, MP)

17. COMMITTEE OF THE WHOLE

**\*THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO. 19 OF 2018)**

(Sen. Samuel Poghio, MP)

18. MOTION - APPROVAL OF SENATORS TO SERVE IN SELECT COMMITTEES

(The Senate Majority Leader)

**THAT**, pursuant to Standing Orders 187 and 189, the House approves the nomination of Senators to serve in Select Committees of the Senate as follows

-

- a) Standing Committee on Energy

Sen. George Ochilo Ayacko Mbogo, EGH, MP to replace Sen. Mercy Chebeni, MP

- b) Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

Sen. Mercy Chebeni, MP to replace Sen. George Ochilo Ayacko Mbogo, EGH, MP.

...../Bill

19. **\*\*THE COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL (SENATE BILLS NO. 34 OF 2018)**  
(Chairperson, Standing Committee on Finance and Budget)  
(*Second Reading*)
20. **\*THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**  
(Sen. Mutula Kilonzo Jnr., MP and Sen. Sakaja Johnson, MP)  
(*Second Reading*)
21. **\*THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)**  
(Sen. Ledama Olekina, MP)  
(*Second Reading*)
22. **\*THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO 31 OF 2018)**  
(Sen. (Dr.) Agnes Zani, MP)  
(*Second Reading*)
23. **\*THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 32 OF 2018)**  
(Sen. (Arch.) Sylvia Kasanga, MP)  
(*Second Reading*)
24. **\*THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**  
(Sen. Ledama Olekina, MP)  
(*Second Reading*)
25. **MOTION - REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS' INFRASTRUCTURE PROJECTS**  
(Chairperson, Standing Committee on Finance and Budget)

**THAT**, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments' infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers' residences, laid on the Table of the Senate on Thursday, 29<sup>th</sup> November, 2018.

NOTICE

The Senate resolved on 13<sup>th</sup>February, 2019 as follows:-

**THAT**, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

- \*\*\*\*** - Denotes a Majority /Minority Party Bill
- \*\*\*** - Denotes a National Assembly Bill
- \*\*** - Denotes a Committee Bill
- \*** - Denotes any other Bill

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**A. \*THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL  
(SENATE BILLS NO. 1 OF 2018)  
(Sen. Paul Kimani Wamatangi, MP)**

**Schedule of amendments as passed by the National Assembly *on Thursday, 6<sup>th</sup> December, 2018***

**CLAUSE 2**

Clause 2 amended by inserting the definition of the word “county public officer” in its proper sequence—

“county public officer” has the meaning assigned to it under the County Governments Act.

**CLAUSE 5**

Clause 5 of the Bill amended in sub clause 2 by inserting the following new paragraph immediately after paragraph (f)–

“(fa) a representative of the Ministry responsible for matters related to devolution;

**CLAUSE 6**

Clause 6 of the Bill amended in sub clause (1) by deleting the words “to be at the service of the Governor elect” appearing in paragraph (c) and substituting therefor the words “for the Governor-elect”.

**CLAUSE 16**

Clause 16 of the Bill amended by-

- a) renumbering the proposed clause as subclause (1);
- b) inserting the following new paragraph immediately after paragraph (b) —  
“(c) to swearing of a speaker of a county assembly who assumes office under Article 182(5) of the Constitution”;
- c) inserting the following new subclause after the proposed clause—  
“(2) Upon nullification of an election of a county governor and a receipt of the notification by a relevant speaker, the speaker of a county assembly shall assume office as a governor within seven days and an election shall be held pursuant to Article 182(5) of the Constitution.”

**CLAUSE 21**

Clause 21 of the Bill amended by inserting the word “committee” immediately after the word “governor”.

**CLAUSE 23**

Clause 23 of the Bill amended by inserting the following new subsection immediately after the proposed new subsection (1B)—

“(1C) Where a vacancy arises as contemplated under section (1A), the speaker of a county assembly shall act as a governor and an election shall be held pursuant to Article 182(5) of the Constitution”.

**B. \*THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

**NOTICE** is hereby given that Sen. Kinyua Nderitu, MP Chairperson of the Senate Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the County Governments (Amendment) Bill, 2018, at the Committee Stage –

**CLAUSE 2**

**THAT** the Bill be amended by deleting clause 2 and substituting therefor the following new clause –

Amendment of section 58 of No. 17 of 2012.

2. Section 58 of the County Governments Act is amended in—

(a) subsection (1) by –

(i) deleting paragraph (c) and substituting therefor the following new paragraph –

(c) the secretary to the board who shall be nominated and appointed by the governor with the approval of the county assembly.

(ii) inserting the following new subsections immediately after subsection (1) –

(1A) The secretary to the board shall be an *ex-officio* member of the Board and shall have no right to vote at any meeting of the Board.

(1B) In nominating or appointing a person as a member of the Board, the Governor shall—

(a) observe the principles of gender equity, ethnic and other diversities of the people of Kenya, and shall provide an equal opportunity for persons with disabilities; and

(b) take into account the national values and principles set out in Articles 10, 27 and 232 of the Constitution.

...../ **Amendments**

(b) subsection (3) by deleting paragraph (c) and substituting therefor the following new paragraph –

- (c) in the case of the chairperson -
  - (i) possesses a minimum of a bachelors degree from a university recognised in Kenya;
  - (ii) is registered as a human resource management professional of good standing under the Human Resource Management Professionals Act; and
  - (iii) has at least ten years working experience in a managerial position either in the public or private sector.

**C.\*THE COUNTY EARLY CHILDHOOD EDUCATION BILL, (SENATE BILLS NO. 26 OF 2018)**

**A. NOTICE** is given that Sen. (Dr.) Christopher Langat, MP Chairperson, Standing Committee on Education, intends to move the following amendments to the County Early Childhood Education Bill, Senate Bills No. 26 of 2018, at the Committee Stage-

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended in paragraph (d) by deleting the words “that are secular in nature and that promote culture” appearing immediately after the words “curriculum programs” and substituting therefor the words “that promote positive culture”.

**CLAUSE 19**

**THAT** clause 19 be amended by-

- (a) deleting sub-clause (3) and substituting therefore the following new sub-clause-
  - (3)The compound in which an education centre is situated shall not be less than one acre in measurement.

- (b) deleting sub-clause (4).

**CLAUSE 30**

**THAT** clause 30 of the Bill be amended-

- (a) in sub-clause 1 by inserting the words “living with disability” immediately after the words “one person” appearing in paragraph (e);
- (b) in sub-clause (3) by deleting the words “and shall report to the County Education Board in the performance of his or her functions under this Act” appearing immediately after the words “board of management”; and

...../ **Amendments**

- (c) by inserting the following new sub-clause immediately after sub-clause (3)-  
 (3A) The board of management shall report to the County Education Board on the performance of its functions under this Act.

**CLAUSE 38**

**THAT** clause 38 of the Bill be amended in sub-clause (1) by deleting the word "training" appearing immediately after the words "Recruitment and" in paragraph (a) and substituting therefor the words "professional development".

**CLAUSE 41**

**THAT** clause 41 be amended in sub-clause (1) by deleting the word "three" appearing immediately after the words "the age of" and substituting therefor the word "four".

**CLAUSE 49**

**THAT** clause 49 be amended by inserting the words "and the County Education Boards" at the end of the clause.

**CLAUSE 63**

**THAT** clause 63 be amended-

- (a) in sub-clause (1) by –
  - (i) inserting the words "of either gender" immediately after the words "two persons" in paragraph (a);
  - (ii) deleting paragraph (b) and inserting therefore the following new paragraph-
    - (b)the county executive committee member responsible for education or a representative nominated by the county executive member in writing;
  - (iii) by inserting the following new paragraph immediately after paragraph (b)-
    - (ba) one public officer in the department responsible for health, nominated by the respective county executive committee member responsible for matters relating to health;

- (b) by inserting the following sub-clauses immediately after sub-clause (1)-

(1A) The appointments under subsections (1)(a) and (1)(d) shall be for a term of three years renewable for one further term.



(1B) The Committee shall, at its first meeting elect a Chairperson.

(C)The County executive committee member responsible for education shall establish a secretariat to support the Committee.

**NEW CLAUSE 66A**

**That** the following new clause be inserted immediately after clause 66-

Qualified persons. **66A.** A person employed as an early childhood teacher at the commencement of this Act and does not possess the minimum requirements as stated under section 36(1) shall continue to qualify for employment as an early childhood teacher if that person obtains the necessary qualifications within four years of the commencement of this Act.

**CLAUSE 1**

**THAT** clause 1 of the Bill be amended by deleting the word "County" appearing immediately after the words "cited as the".

**B. NOTICE** is given that Sen. (Dr.) Agnes Zani, intends to move the following amendment to the County Early Childhood Education Bill, Senate Bills No. 26 of 2018, at the Committee Stage-

**CLAUSE 67**

**THAT** clause 67 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1)-

(1A) The Cabinet Secretary shall in consultation with the Teachers Service Commission and the Council of County Governors prescribe minimum standards relating to schemes of service for early childhood teachers within one year of enactment of this Act.

**D. \*THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)**

(Sen. Amos Wako, MP)

(i) **NOTICE** is given that Sen. Samson Cherarkey, MP Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage-

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended-

- (a) in the introductory clause by inserting the words “and developmental programmes” immediately after the words “in governance processes”;
- (b) by inserting the following new paragraph immediately after paragraph (f)-
  - (g) promote participation by non-state actors in decision-making processes.

**CLAUSE 4**

**THAT** clause 4 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph-

- (a) that the public, communities and organisations to be affected by a decision shall have a right to be notified, heard and involved in the decision-making process;

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended in sub-clause (2)-

- (a) by deleting paragraph (c) and substituting therefor the following new paragraph-
  - (c) independent commissions or offices, boards, authorities or any other public body, the respective chief executive officer or secretary to the public body;
- (b) in paragraph (f) by deleting the words “County Secretaries” appearing immediately after the words “County Executive” and substituting therefor the words “respective county executive committee member”.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended in sub-clause (2) by deleting the word “specific” appearing immediately after the word “include” in paragraph (a) and substituting therefor the words “any further”;

**CLAUSE 7**

**THAT** clause 7 of the Bill be amended by inserting the words “publicize and” immediately after the words “authority shall”.

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended in sub-clause (4) by inserting the words “including information on the purpose, dates and participants” immediately after the words “of public participation” in paragraph (a).

**CLAUSE 9**

**THAT** clause 9 of the Bill be amended by inserting the words “within six months of the coming into operation of this Act” immediately after the words “the Cabinet Secretary may”.

**SCHEDULE**

**THAT** the schedule to the Bill be amended-

(a) in paragraph 2 by deleting the word “continuing” appearing immediately after the words “shall facilitate” and substituting therefor the word “continuous”;

(b) in paragraph 5 by inserting the words “youth, minorities and marginalized communities” immediately after the words “persons with disabilities” in sub-paragraph (2);

(c) by deleting paragraph 8 and substituting therefor the following new paragraph-

**8.** Every public participation forum shall be undertaken within a reasonable timeframe from the earliest possible time for consultation, allowing a reasonable period for each stage of the process.

(d) in paragraph 11 by deleting sub-paragraph (b) and substituting therefor the following new sub-paragraphs-

(b) the final decision, including the reasons for the decision, is made widely available in a timely manner to the public;

(ba) the final decision is publicized in the same manner required for giving notice for public participation under these guidelines;

(e) in paragraph 13 by inserting the words “and may be subject to penal consequences under any relevant law” immediately after the words “from a meeting” in sub-paragraph (2).

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the word “general guidelines”-

“public participation” means the process through which the public are broadly engaged in understanding and contributing to decision-making processes of the policy making, law making and implementation level.

#### **TITLE**

**THAT** the Bill be amended in the long title by inserting the words “at the national and county level of government” immediately after the words “effective public participation”;

- (ii) **NOTICE** is given that Sen. Petronilla Were Lokorio, MP intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage—

#### **CLAUSE 4**

**THAT** clause 4 of the Bill be amended—

(a) by numbering the existing clause as sub-clause (1);

(b) in the new sub-clause (1) by deleting the words “taken into consideration in” appearing immediately after the words “views shall be” in paragraph (d) and substituting therefor the words “the basis of”;

(c) by inserting the following new sub-clauses immediately after sub-clause (1)—

(2) In conducting public participation, the responsible authority shall—

(a) allocate sufficient time before the public participation event to create public awareness on the subject matter;

(b) avail the relevant information to the members of the public with respect to the issue under consideration;

(c) engage the relevant stakeholders in such manner as the responsible authority shall consider appropriate;

(d) where the issue under consideration is of a technical nature, avail an independent technical expert to take members of the public through the matter under consideration in detail; and

(e) put in place a feedback mechanism to enable stakeholders submit their views and to receive feedback on the decisions made by the responsible authority.

(3) Where the issue for public participation relates to a matter that affects the nation generally, the responsible authority shall conduct public participation forums with respect to that matter in at least twenty-four counties.

...../ **Amendments**

(4) The responsible authority shall, in determining the counties in which public participation is to be conducted under sub-section (3), ensure that the forums are held in the counties alternately and that the residents in the counties in which the forums are not conducted are carried out through an alternative appropriate method.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3)—

(4) The responsible authority shall publicize and publish, by notice in the *Gazette*, the guidelines.

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended in sub-clause (5) by deleting the words “in such other manner” appearing immediately after the words “and publicized in” and substituting therefor the words “through such other appropriate platform”.

**SCHEDULE**

**THAT** paragraph 10 of the schedule be amended by inserting the following new sub-paragraph immediately after sub-paragraph (4) to read—

(4A) The confidentiality requirement imposed by the responsible authority shall be reasonable and not unduly fetter the rights of the applicant.

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 7—

Provision of **7A.** The responsible authority shall provide the resources for public necessary resources for the conduct of public participation. participation under this Act.

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the word “general guidelines” —

...../ **Amendments**

“public participation” means an effective and reasonable process in which the public is properly engaged in a given matter of public interest for the purpose of obtaining their views with the aim of facilitating a favourable outcome.

(iii) **NOTICE** is given that Sen. (Dr.) Agnes Zani, MP intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage-

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended by inserting the following new subclause immediately after subclause (2)-

(2A) The responsible authority shall, in developing the guidelines specified under subsection (1), consult with the departments in the respective entity.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended in subclause (1) by inserting the words “in accordance with this Act” immediately after the words “shall develop guidelines”.

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended in subclause (4) by inserting the following new paragraph immediately after paragraph (b)-

(ba) particulars of persons or organizations that have taken part in any public participation exercise conducted by the relevant entity.

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 8-

General penalty.	<b>8A.</b> A person contravenes a provision of this Act commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings.
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**SCHEDULE**

**THAT** the schedule be amended-

(a) in paragraph 4(2) by deleting subparagraph (f) and substituting therefor the following new paragraph-

(f) radio stations and print media.

(b) in paragraph 5 by inserting the words “including ensuring non-discrimination and reasonable access to information by such persons” immediately after the words “public participation processes” appearing in subparagraph (2);

(c) in paragraph 10(3) by deleting subparagraph (c) and substituting therefor the following new sub-subparagraph -

(c) shall be subject to the limitations on the right to access to information as set out in section 6 of the Access to Information Act.

**E. \*THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**

(Sen. Ledama Olekina, MP)

(i) **NOTICE** is given that Sen. Johnson Sakaja, MP the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2018, at the Committee Stage—

**CLAUSE 2**

Amend **THAT** the Bill be amended by deleting clause 2 and substituting  
ment of the following new clause—

section Section 2 of the Retirement Benefits (Deputy President and  
2 of Act Designated State Officers) Act, 2015, hereinafter referred to as the  
No. 8 of “principal Act”, is amended by—  
2015

(a) inserting the following new definition immediately after the definition of the term “entitled person”—

“pensionable emoluments” means basic salary excluding housing, transport and any other allowances or fluctuating emoluments;

(b) deleting the definition of the term “retired vice president” and substituting therefor the following new definition—

“retired Vice-President” means a person who, having held the office of the Vice President at any time after 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

...../ *Amendments*

**CLAUSE 7**

**THAT** clause 7 of the Bill be amended by—

- (a) renumbering the proposed new section 10 as subsection (1); and
- (b) inserting the following new subsection immediately after subsection (1)—

(2) Where an entitled person has no surviving spouse or an eligible child the benefits payable shall form part of the estate of the deceased for administration.

**CLAUSE 8**

**THAT** the Bill be amended by deleting clause 8.

**CLAUSE 9**

**THAT** the Bill be amended by deleting clause 9.

**CLAUSE 10**

**THAT** the Bill be amended by deleting clause 10.

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 7—

Amendment **7A.** The First Schedule of the principal Act is amended in of First paragraph (h) by deleting the word “two” appearing at the Schedule of beginning of the paragraph.

Act No. 8 of  
2015

- (ii) **NOTICE** is given that Sen. (CPA) Farhiya Ali Haji, MP intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Act, Senate Bills No. 2 of 2018, at the Committee Stage—

**CLAUSE 5**



**THAT** clause 5 of the Bill be amended by inserting the following new paragraphs after paragraph (a)-

...../ *Amendments*

(aa) in subsection (1) by deleting the word "four" appearing immediately after the words "once every" in paragraph (c) and substituting therefor the word "five".

(ab) in subsection (1) by deleting the word "four" appearing immediately after the words "once every" in paragraph (d) and substituting therefor the word "five"

**NEW CLAUSES**

**THAT** the Bill be amended by introducing the following new clauses after clause 5

**NEW CLAUSE 5A**

**THAT** section 5A of the Act be amended by-

- (a) deleting the word "four" appearing immediately after the words "once every" in paragraph (c) and substituting therefor the word "five".
- (a) deleting the word "four" appearing immediately after the words "once every" in paragraph (d) and substituting therefor the word "five"

**NEW CLAUSE 5B**

**THAT** section 5B of the Act be amended by-

- (a) deleting the word "four" appearing immediately after the words "once every" in paragraph (c) and substituting therefor the word "five".
- deleting the word "four" appearing immediately after the words "once every" in paragraph (d) and substituting therefor the word "five"

**NEW CLAUSE 5C**

**THAT** section 6 of the Act be amended by-

- (a) deleting the word "four" appearing immediately after the words "once every" in paragraph (c) and substituting therefor the word "five".
- (b) deleting the word "four" appearing immediately after the words "once every" in paragraph (d) and substituting therefor the word "five"

...../ **Amendments**

**NEW CLAUSE 5D**

**THAT** section 7 of the Act be amended by-

- (a) deleting the word "four" appearing immediately after the words "once every" in paragraph (c) and substituting therefor the word "five".
- (b) deleting the word "four" appearing immediately after the words "once every" in paragraph (d) and substituting therefor the word "five"

**F. \*\*THE DATA PROTECTION BILL (SENATE BILLS NO. 16 OF 2018)**

(Chairperson, Standing Committee on Information and Technology)

**NOTICE** is given that Sen. Gideon Moi, MP the Chairperson of the Standing Committee on Information and Technology, intends to move the following amendments to the Data Protection Bill (Senate Bills No. 16 of 2018) at the Committee Stage –

**CLAUSE 3**

**THAT** the Bill be amended by deleting clause 3 and substituting therefor the following new clause –

Application

**3. (1)** This Act shall apply to –

- (a) the protection of personal data of a data subject in the processing of such data by –
  - (i) an agency established in the Republic of Kenya; and
  - (ii) an agency not established in the Republic of Kenya but processes personal data of a data subject who is a resident of the Republic of Kenya; and
- (b) the processing by automated or any other means of personal data which forms or is intended to form part of a filing system.

(2) This Act shall not apply to the processing

of personal data –

...../ **Amendments**

(a) by or on behalf of a public body responsible for national security the purpose of which is the prevention, detection, investigation or punishment of a crime; or

(b) by a person in the course of a personal or household activity.

(3) Despite the provisions of subsection (2)(a) and except where the security of the country, the life, safety or health of a person, or property is in imminent danger, a public body that intends to process personal data without the consent of the data subject shall make an application *ex parte* to a court for orders to process such data.

**CLAUSE 7**

**THAT** clause 7 of the Bill be amended in sub-clause (2) by –

(a) deleting paragraph (b) and substituting therefor the following new paragraph –

(b) the data subject or a guardian, where the data subject is a child or a person who is legally incapacitated, has consented to the collection of the personal data from another source;

(c) deleting paragraph (c);

(d) by deleting the words “the interests” appearing immediately after the words “protection of” in paragraph (e)(ii) and substituting therefor the words “fundamental rights and freedoms”;

(e) deleting paragraph (f) and substituting therefor the following new paragraph –

(f) the life, safety or health of a person or property is in imminent danger.

(f) deleting sub-clause (3) and substituting therefor the following new sub-clause –

(3) An agency shall collect or process personal data using lawful means that do not intrude to an unreasonable extent upon the privacy of a data subject.

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended by –

- (a) re-numbering the existing clause as sub-clause (1); and
- (b) inserting the following new sub-clause immediately after sub-clause (1) –

(2) Where the data subject is in control of the means of inputting or processing his or her personal data, it shall be the responsibility of the data subject to ensure that personal data is complete, accurate, up-to-date and not misleading.

**CLAUSE 9**

**THAT** clause 9 of the Bill be amended by –

- (a) deleting paragraph (e) and substituting therefor with the following new paragraph –
  - (e) the deletion of personal data relating to the data subject which is in possession of an agency; and
- (b) inserting the following new paragraphs immediately after paragraph (f) -
  - (g) be informed of the period within which personal data is to be stored; and
  - (h) data portability.

**CLAUSE 10**

**THAT** clause 10 of the Bill be amended in sub-clause (1) by –

- (a) deleting the introductory clause and substituting therefor the following new clause –
  - (1) Before an agency collects personal data directly from a data subject, the agency shall inform the data subject, in a language the data subject understands, of —
- (b) deleting the word “hold” appearing immediately after the words “agency that will” in paragraph (d) and substituting therefor the words “be in possession of”;
- (c) deleting paragraph (h) and substituting therefor the following new paragraph –
- (g) the rights conferred on the data subject under section 9 of this Act.

...../ *Amendments*

**CLAUSE 11**

**THAT** clause 11 of the Bill be amended in sub-clause (1) by deleting the words “in the recent past” appearing immediately after the words “taken those steps” and substituting therefor the words “within the past twelve months”.

**CLAUSE 12**

**THAT** clause 12 of the Bill be amended –

- (a) in paragraph (a) by deleting the words “publicly available” and substituting therefor the words “a matter of public record”;
- (b) by deleting paragraph (c); and
- (c) by deleting paragraph (f) and substituting therefor the following new paragraph –
  - (f) compliance would endanger the life, safety or health of a person or endanger property;

**CLAUSE 13**

**THAT** clause 13 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1) –

- (1A) Subsection (1) shall not apply to a data subject where the decision is –
  - (a) necessary for entering into, or performing, a contract between the data subject and the agency;
  - (b) authorised by a law to which the agency is subject and which lays down suitable measures to safeguard the data subject’s rights, freedoms and legitimate interests; or
  - (c) based on the explicit consent of the data subject.

**CLAUSE 14**

**THAT** clause 14 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “information on” at the beginning of paragraph (b);
- (b) inserting the words “information on” at the beginning of paragraph (c);
- (c) deleting the word “transmitted” appearing immediately after the words “is to be” in paragraph (d) and substituting therefor the word “disclosed”; and

- (d) deleting the words “processed data” appearing immediately after the words “deletion of” in paragraph (f) and substituting therefor the words “data which has been processed”.

...../ *Amendments*

**CLAUSE 16**

**THAT** clause 16 of the Bill be amended –

- (a) by re-numbering the existing clause as sub-clause (1);
- (b) in the new clause (1) by –
  - (i) inserting the words “is a breach of security or there” after the words “Where there” in the introductory clause;
  - (ii) deleting the words “as soon as reasonably practicable” appearing at the beginning of paragraph (a) and substituting therefor the words “within seventy two hours”;
- (c) by inserting the following new sub-clauses immediately after the new sub-clause (1) –

(2) The notification under subsection (1)(a) shall set out sufficient information to enable the data subject to take protective measures against potential consequences of the data breach, including —

- (a) description of the nature of the breach;
- (b) description of the likely consequences of the breach;
- (c) description of the measures that the agency intends to take or has taken to address the breach;
- (d) recommendation on the measures to be taken by the data subject to mitigate the adverse effects of the breach; and
- (e) where possible, the identity of the person who may have accessed or processed the personal data.

(3) An agency may delay the issuance of a notification under subsection (1) for the purpose of preventing, detecting or investigating a crime by the relevant public entity.

**CLAUSE 17**

**THAT** clause 17 of the Bill be amended –

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) Where an agency is in possession of personal data or where a person believes that an agency is in possession of personal data relating to him or her, that person —

- (a) may obtain from the agency a confirmation as to whether the agency possesses such personal data and the purposes for processing the personal data; and

...../ *Amendments*

(b) shall have access to that data.

- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause –

(2) An agency to which an application for access to personal data has been made may charge a prescribed fee for the provision of the personal data and the fee shall not exceed the actual costs of making copies of such information and if applicable, supplying them to the data subject.

**CLAUSE 18**

**THAT** clause 18 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “holds” appearing immediately after the words “an agency which” and substituting therefor the words “is in possession of”; and
- (b) in sub-clause (2) inserting the words “or such other personal data relating to the data subject as the data subject may request” immediately after the words “or misleading data”.

**CLAUSE 19**

**THAT** clause 19 of the Bill be amended –

- (a) in sub-clause (1) by –
  - (i) deleting paragraph (c) and substituting therefor the following new paragraph –
- (b) the retention of the data is necessary for a lawful purpose related to the function or activity performed by the agency;
  - (ii) by deleting the words “parties to the contract” appearing immediately after the words “contract between the” in paragraph (d) and substituting therefor the words “the data subject and the agency”;

- (c) by inserting the following new sub-clause immediately after sub-clause (3) –

(3A) An agency may, for purposes of subsection (3), anonymise the data retained under subsection (3) in such a manner as to ensure that the data subject is no longer identifiable.

**CLAUSE 20**

**THAT** clause 20 of the Bill be amended by deleting the word “holds” appearing immediately after the words “an agency that” and substituting therefor the words “is in possession of”.

...../ *Amendments*

**CLAUSE 21**

**THAT** clause 21 of the Bill be amended by –

- (a) re-numbering the existing clause as sub-clause (1); and
- (b) inserting the following new sub-clause immediately after the new sub-clause (1) –
  - (2) An agency that uses personal data for commercial purposes shall, where possible, anonymise the data in such a manner as to ensure that the data subject is no longer identifiable.

**CLAUSE 23**

**THAT** the Bill be amended by deleting clause 23.

**CLAUSE 24**

**THAT** clause 24 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “in the case of a data subject who is a child or a person who is legally incapacitated, the guardian” immediately after the words “the data subject” in paragraph (a);
- (b) deleting paragraph (d) and substituting therefor the following new paragraph –
  - (d) with respect to information that has made public by the data subject.

**CLAUSE 25**

**THAT** the Bill be amended by deleting clause 25.

**CLAUSE 27**

**THAT** the Bill be amended by deleting clause 27.

**CLAUSE 29**

**THAT** clause 29 of the Bill be amended –

- (a) in paragraph (a) deleting the words “or any other person having authority to make decisions on behalf of the child” appearing immediately after the words “parent or guardian”; and



- (b) by deleting paragraph (d) and substituting therefor the following new paragraph –
- (c) in the best interest of the child.

**CLAUSE 30**

**THAT** the Bill be amended by deleting clause 30.

...../ *Amendments*

**CLAUSE 31**

**THAT** clause 31 of the Bill be amended –

- (a) by re-numbering the existing clause as sub-clause (1);
- (b) in the new sub-clause (1) by –
  - (i) deleting the words “third party” appearing immediately after the word “the” appearing at the beginning of paragraph (a) and substituting therefor the words “Commission satisfied that the other country”;
  - (ii) deleting paragraph (c) and substituting therefor the following new paragraph –
    - (c) the transfer is necessary –
      - (i) for the performance or conclusion of a contract between the data subject and the agency;
      - (ii) for the establishment, exercise or defence of a legal claim;
      - (iii) for the protection of fundamental rights and freedoms of a person; or
      - (iv) in the interest of the public.
  - (iii) by deleting paragraph (d); and
- (c) by inserting the following new sub-clause immediately after the new sub-clause (1) –
  - (2) The Commission shall prescribe guidelines for the transfer of personal data outside the country and the filing of reports on personal data transferred outside the country by an agency.

**CLAUSE 36**

**THAT** clause 36 of the Bill be amended –

- (a) by deleting sub-clause (4) and substituting therefor the following new sub-clause –
  - (4) Despite the provisions of this Act, a person whose personal data is collected or processed contrary to this Act or who suffers loss

as a result of disclosure of personal data my lodge a claim before a court for an appropriate remedy.

(b) by inserting the following new sub-clause immediately after sub-clause (4) –

(5) In determining a claim under subsection (4) a court shall consider –

...../ **Amendments**

- (a) the nature and the seriousness of the breach;
- (b) the categories of personal data affected;
- (c) any benefit gained or loss suffered as a result of the breach;
- (d) the number of previous violations;
- (e) the duration of time over which the breach occurred;
- (f) any action taken by the agency to remedy or mitigate the breach; and
- (g) the nature and status of the agency.

**CLAUSE 38**

**THAT** clause 38 of the Bill be amended –

(a) in sub-clause (1) by deleting the words “five hundred thousand” appearing immediately after the words “not exceeding” and substituting therefor the words “one million”; and

(b) by inserting the following new sub-clause immediately after sub-clause (1) –

(1A) Despite subsection (1), where the offence –

- (a) committed relates to special personal information the person shall be liable, on conviction, to a fine not exceeding five million shillings or to a term of imprisonment not exceeding ten years; or
- (b) is committed by a body corporate, the body corporate shall be liable, on conviction, to a fine not exceeding two million shillings or two percent of its annual turnover, whichever is higher.

**NEW CLAUSE 18A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 18 –

Right to data portability.	<b>18A.</b> (1) A data subject has the right to receive personal data which the data subject has provided to an agency, in a structured, commonly used and machine-readable format.
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(2) A data subject has the right to transmit the data obtained under subsection (1) to another agency.

(3) Where possible, the data subject shall have the right to have the personal data transmitted directly from one data agency to another.

...../ **Amendments**

(4) The right under this section shall not apply to circumstances where —

(a) processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority; or

(b) it may adversely affect the rights and freedoms of another.

(5) An agency shall comply with data portability requests, free of charge and within a period of seven days from the date of the request.

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended –

(a) by deleting the definition of the word “data controller”;

(b) by deleting the definition of the word “data subject” and substituting therefor the following new definition –

“data subject” means a natural person to whom personal data relates;

(c) by deleting the definition of the word “disclosure” and substituting therefor the following new definition –

“disclosure”, in relation to personal data, includes the disclosure of information extracted from such data and the transfer of such data to another person but does not include a disclosure made directly or indirectly by an agency to its employee or agent for the purpose of enabling the employee or agent to carry out its duties and,

where the identification of a data subject depends partly on the data and partly on other information in the possession of the agency, the data shall not be considered as disclosed unless the other information is also disclosed;

(d) by deleting the definition of the word “exempt information”;

(e) in the definition of the word “personal data” –

- (i) by deleting paragraph (d) and substituting therefor the following new paragraph –
  - (d) the biometrics of a person;
- (ii) by deleting paragraph (g); and
- (iii) by deleting paragraph (h);

...../ **Amendments**

- (f) in the definition of the word “processing” by inserting the word “storage” immediately after the words “collection, organisation” in paragraph (a); and
- (g) by deleting the definition of the word “special personal information” and substituting therefor the following new definition –

“special personal information” means the personal data of a child or data revealing a natural person’s race, health status or ethnic origin.

**SHORT TITLE**

**THAT** the Bill be amended by deleting clause 1 and substituting therefor the following new clause –

Short title and commencement.	1. This Act may be cited as the Personal Data Protection Act, 2018, and shall come into operation six months from the date of assent.
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**G. \*THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL**  
**(SENATE BILLS NO. 17 OF 2018)**  
 (Sen. Aaron Cheruiyot, MP)

**NOTICE** is given that Sen. Johnson Sakaja, MP the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Care and Protection of Older Members of Society Bill, 2018, at the Committee Stage—

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended in paragraph (b) by inserting the word “dignity” immediately after the words “protect the status”.

**CLAUSE 4**

**THAT** clause 4 of the Bill be amended in paragraph (b) by deleting

the words "human being" appearing immediately after the words "of every" and substituting therefor the words "older member of society".

**PART II**

**THAT** the Bill be amended by deleting the heading to Part II and substituting the following new title—

"RIGHTS AND ENTITLEMENTS OF OLDER MEMBERS OF SOCIETY"

...../ *Amendments*

**CLAUSE 5**

**THAT** the Bill be amended by deleting clause 5 and substituting therefor the following clause—

Rights of  
Older  
Members of  
Society.

**5.** An older member of society has the right to enjoy the rights conferred under the Constitution and in particular shall not be unfairly denied the right to—

- (a) participate in community life in a position appropriate to their interests and capabilities;
- (b) participate in intergenerational programmes;
- (c) establish and participate in associations of older members of society;
- (d) participate in activities that enhance their income generating capacity;
- (e) access opportunities that promote their optimal level of social, physical, mental and emotional wellbeing;
- (f) fully participate in the affairs of the society;
- (g) pursue their personal development;
- (h) manage their own property;
- (i) live in dignity and respect and be free from abuse; and
- (j) receive reasonable care and assistance from their family and the State.

**NEW CLAUSES**

**THAT** the Bill be amended by inserting the following New Clauses immediately after Clause 5-

Right to  
Legal

**5A.** (1) An older member of society has a right to legal capacity and the right to access support necessary to exercise that

Capacity. legal capacity.

(2) An express or implied disqualification on the grounds of age prescribed in a law, custom or practice shall not deprive an older member of society the right to legal capacity.

Right to Equality and Non-Discrimination.

**5B.** (1) An older member of society shall be entitled to equal protection and equal benefit of the law.

...../ *Amendments*

(2) An affirmative action measure aimed to achieve equality of older members of society shall not constitute discrimination.

(3) An older member of society shall live in dignity and security, free from exploitation and physical or mental abuse and be treated fairly.

Right to Documents of Registration.

**5C.** (1) An older member of society has a right to be issued with a passport, national identity card, certificate of birth and any other document of registration or identification irrespective of their age.

(2) Where a birth certificate is not issued, the older member of society shall use alternative document including a national identity card to serve the purpose.

Right to Protection and Safety in Situations of Risk and Humanitarian Emergencies.

**5D.** (1) An older member of society has a right to suitable and specialised protection and safety in a situation of risk, including a situation of armed conflict, humanitarian emergency and the occurrence of a natural disaster.

(2) An institution whether public or private shall maintain an inventory of all older members of society and shall submit the inventory quarterly to the national government, county government and other agencies responsible for disaster management.

(3) The national government and each county government shall be responsible for emergency management and shall take appropriate measures to ensure the inclusion of older members of society in every scheme, program, mission as well as its disaster management system during the occurrence of any disaster emergency, for the safety and protection of such persons.

Right to Education. **5E.** (1) The national government and each county government shall ensure that older members of society have access to educational, cultural, spiritual and recreational resources.

(2) The Ministry responsible for education shall develop programmes and structures for the education and training of older members of society.

Right to Health **5F.** (1) The national government and each county government shall take appropriate measures to ensure that an older member of society who is not covered in an existing medical scheme gets affordable, accessible, adequate and quality free medical care.

...../ **Amendments**

(2) Medical assessment reports for older members of society shall be free of charge in public health institutions.

(3) An older member of society shall not be compelled to undergo any test as a precondition to or for continued enjoyment of provision of health cover.

Right to Admission into Public and Private Premises, and Public Transport **5G.** (1)A person shall not, on the ground of old age be denied-  
(a) admission into a premise to which members of the public are ordinarily admitted; or  
(b) the provision of a service or amenity to which members of the public are entitled.  
(2) The proprietor of a premise referred to in subsection (1) (a) shall not have the right, on the ground of a person's age, to reserve the right of admission to the premises against an older member of society.

Right to Sports, Recreation, Leisure and Culture. **5H.** (1) An older member of society has a right to participate in sports, recreation, leisure and cultural activities including national and international sports events.

(2) Public and private institution with sporting, recreation, leisure and cultural activities shall ensure that the activities are sensitive to the needs of older members of society.

(3) An older member of society shall be entitled to the use, free of charge, of recreational or sports facilities owned or operated by the government during social, sporting or recreational activities.

(4) The national and county governments shall provide older members of society with a suitable environment for sports, recreation

and leisure, including training support and medical personnel.

(5) Section (4) shall not apply in cases where there is exclusive private hire of such facilities.

Right of  
Access to  
Justice

**5I.** (1) Law enforcement agencies shall take into consideration the age of an older member of society on arrest, detention, trial or confinement.

(2) A suit involving an older member of society shall be disposed off expeditiously having due regard to their age and suffering.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended in subclause (2) by inserting the word "periodic" immediately after the word "promote" appearing at the beginning of paragraph (c).

*...../ Amendments*

**CLAUSE 26**

**THAT** clause 26 of the Bill be amended in subclause (1) by inserting the following new paragraphs immediately after paragraph (e) —

(f) the number of older members of society who have died in the home within the year and the cause of death; and

(g) the number of accidents in the home and complaints reported in relation to older members of society.

**CLAUSE 27**

**THAT** clause 27 of the Bill be amended-

(a) in paragraph (d) by inserting the words "county executive committee member and" immediately after the words "reports to the";

(b) by inserting the following new paragraph immediately after paragraph (e)—

(f) facilitate the enjoyment of all the rights of older members of society as conferred under the Constitution.

**CLAUSE 30**

**THAT** clause 30 of the Bill be amendedby inserting the following new paragraph immediately after paragraph (e)—



(f) the right of expression on matters regarding their welfare.

**H. \*THE COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING BAYS) BILL**  
**(SENATE BILLS NO. 18 OF 2018)**

(Sen. Ledama Olekina, MP)

**NOTICE** is given that Sen. Wamatangi Kimani Paul, MP Chairperson to the Standing Committee on Roads and Transportation, intends to move the following amendments to the County Planning (Roads, Pavements and Parking Bays) Bill, 2018, (Senate Bill No. 18 of 2018) at the Committee Stage—

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

...../ *Amendments*

No. 6 of 1996

(b) provide a framework for planning of commercial structures along county roads in accordance with the Physical Planning Act;

**CLAUSE 4**

**THAT** clause 4 of the Bill be amended by deleting the words “and all commercial buildings constructed along major roads” appearing immediately after the words “county roads”.

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended—

(a) in sub-clause (1) by—

(i) deleting the words “all roads” and appearing immediately after the words “drainage systems along” in paragraph (b) and substituting therefor the words “county roads”;

(ii) deleting the words “national and” appearing immediately after the words “constructed along” in paragraph (c);

(iii) deleting paragraph (d) and substituting therefor the following new paragraph—

(d) construct, maintain and facilitate the construction and maintenance of adequate parking

bays in the respective county.

(iv) deleting paragraph (e);

(v) deleting paragraph (f) and substituting therefor the following new paragraph—

No 6 of (f) facilitate regular inspection of all buildings, roads, streets, lanes, alleys, parking bays and walkways under the jurisdiction of the county government to ensure that they adhere to prescribed building codes and standards as set out in the Physical Planning Act, the Urban Areas and Cites Act and any other written law;

(b) by inserting the following new sub-clause immediately after sub-clause(2)—

...../ **Amendments**

(3) The CEC shall, for purposes of subsection (2) consult with the National Council for Persons with Disabilities established under section 3 of the Persons with Disabilities Act.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended by inserting the words “in accordance with the Physical Planning Act” immediately after the words “in the county”.

**CLAUSE 7**

**THAT** clause 7 of the Bill be amended —

(a) by deleting sub-clause (1); and

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(1) The county executive committee member shall, in consultation with the National Lands Commission, designate public land for the construction of parking bays within the county.

**CLAUSE 8**

**THAT** the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

Construction and maintenance of walkways by the county government	8. Each county government shall construct and maintain walkways along all county roads in the respective county.
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**CLAUSE 9**

**THAT** the Bill be amended by deleting clause 9 and substituting therefor the following new clause—

Designation of Pedestrian Crossing	<p>9. (1) The county executive member shall designate areas for use by pedestrians for the purpose of crossing a county road in a manner that does not interfere with the flow of traffic and that complies with national and county legislation.</p> <p style="text-align: right;"><i>...../ Amendments</i></p> <p>(2) The county executive member shall, for the purpose of subsection (1) and where necessary, designate a pedestrian crossing and maintain a footbridge or any other convenience for use by pedestrians to cross a county road.</p>
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**CLAUSE 10**

**THAT** the Bill be amended by deleting clause 10 and substituting therefor the following new clause —

Access ways to commercial buildings	<p>10. (1) Subject to subsection (2), an owner of a commercial building which is situated along a county road—</p> <p>(a) may, with the approval of the county government, construct an access-way to the property in which the commercial building is situated in such a manner that the access-way does not obstruct a county road or extend directly from a county road.</p> <p>(b) shall allocate adequate space for access to the building in accordance with the Physical Planning Act and any other written law.</p>
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No. 6 of 1996

(2) The county government shall ensure that there is an alternative means of access to commercial buildings in the area where the building is situated.

(3) Every person who, immediately before the commencement of this Act, owns a commercial building situated along a county road shall comply with provisions of this section—

(a) within a period of twelve months from the date of the commencement of this Act; or

...../ *Amendments*

(b) within a period of twelve months from the date of completion of the construction of an alternative means of access to the building as provided under subsection (2).

(4) A person who contravenes subsection(1)(b) commits an offence and is liable, on conviction, in accordance with section 30 of the Physical Planning Act.

**CLAUSE 11**

**THAT** the Bill be amended by deleting clause 11 and substituting therefor the following new clause—

Construction and maintenance of walkways by owners of commercial buildings.

**11.** (1) The owner of a commercial building may construct and maintain a walkway next to the commercial building where the county government—

(a) has designated an area next to the building for the construction of a walkway; and

(b) has not constructed or has failed to

	<p style="text-align: center;">maintain the walkway.</p> <p>(2)A person shall not construct or maintain a walkway under subsection(1)—</p> <p style="padding-left: 40px;">(a) unless such person has applied for and obtained approval of the county executive committee member; and</p> <p style="padding-left: 40px;">(b) otherwise in accordance with the prescribed standards.</p>
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**CLAUSE 12**

**THAT** clause 12 of the Bill be amended in sub-clause (2) by deleting the words “in accordance with the standards prescribed under this Act” and substituting therefor with the words “in accordance with the Physical Planning Act and any other written law”.

...../ *Amendments*

**CLAUSE 13**

**THAT** clause 13 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “pavement” appearing immediately after the word “A” and substituting therefor the word “walkway”;
- (b) in sub-clause(2) by deleting the word “pavement” appearing immediately after the words “commercial activity on a” and substituting therefor the word “walkway”; and
- (c) by deleting sub-clause (3).

**CLAUSE 14**

**THAT** clause 14 of the Bill be amended —

- (a) by deleting sub-clause (3); and
- (b) in sub-clause (4) by deleting the word “seize” appearing immediately after the words “committee member may” and substituting therefor the word “walkways”.

**CLAUSE 15**

**THAT** the Bill be amended—

- (a) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

Cap 39 of 1953 (4) A person who contravenes this section commits an offence and is liable, on conviction in accordance with section 52A of the Traffic Act.

(b) by deleting sub-clause 5.

**CLAUSE 16**

**THAT** the Bill be amended

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

(1) The county executive committee member may, in consultation with the Cabinet Secretary and all relevant stakeholders, make regulations for the better carrying out of the provisions of this Act;

(b) in sub-clause (2)

(i) by deleting paragraph (a); and

(ii) in sub-clause (2)(b) by deleting the word "pavement" appearing immediately after the words "parking bays and" in paragraph (b) and substituting therefor the word "walkways".

...../ *Amendments*

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended—

(a) by deleting the definition of the word "commercial building" and substituting therefor the following new definition:

"commercial building" shall have the same meaning assigned to it under the Physical Planning Act;

(b) by inserting the following new definition immediately after the definition of the word "national road"—

"walkway" means any egress, footpath, pathway or route for use by non-motorized traffic and shall not include cycle lanes ;

(c) by deleting the definition of the word "heavy commercial vehicle" and substituting therefor the following new definition—

"heavy commercial vehicle" has the meaning assigned to it under section 2 of the Traffic Act;

(d) by deleting the definition of the word "county road" and substituting therefore the following new definition—

"county road" means all roads falling within the mandate of the county governments under Part 2 of the Fourth Schedule to the Constitution and specified under any other written law;

- (e) by deleting the definition of the word "major road";
- (f) by deleting the definition of the word "minor road"; and
- (g) by deleting the definition of the word "national road".

**SHORT TITLE**

**THAT** the Bill be amended by deleting clause (1) and substituting therefor the following new clause—

Short Title	1. This Act may be cited as the County Roads, Walkways and Parking Bays Act, 2018.
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**I. \*THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO. 19 OF 2018)**

(Sen. Samuel Poghio, MP)

**NOTICE** is given that the Chairperson of the Standing Committee on Information and Technology, Sen. Gideon Moi, MP intends to move the following amendments to the County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018) at the Committee Stage —

...../ **Amendments**

**CLAUSE 4**

**THAT** clause 4 of the Bill be amended –

- (h) in subclause (2)(b) by deleting subparagraph (ii) and substituting therefor the following new paragraph –
  - (ii) the Kenya National Highway Authority or any other entity responsible for the management of road reserves, where the advertisement is to be displayed on a road reserve;
- (i) by inserting the following new subclause immediately after subclause (2) –
  - (2A) The county executive committee member shall keep and maintain a register in which shall be recorded all applications made and licences issued under this Act.

**CLAUSE 15**

**THAT** clause 15 of the Bill be amended –

- (a) by deleting the marginal note and substituting therefor the following new marginal note –
  - Publication of application for a licence.
- (b) in subclausue (2) by inserting the words "within seven days from the date of the notice" immediately after the words "under this Act".

**NEW CLAUSE 14A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 14 –

No other government entity to levy fees.	<b>14A.</b> Subject to this Act or any other written law, no other government entity shall levy fees on outdoor advertising.
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**NEW CLAUSE 18A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 18 –

Dispute resolution.	<b>18A.</b> (1) The National government, a county government or any other person who is a party to a dispute arising under this Act shall take reasonable measures to resolve the dispute by alternative dispute resolution before resorting to judicial proceedings.
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...../ **Amendments**

(2) A party is considered to have taken reasonable measures to resolve a dispute by alternative dispute resolution if such a party–

- (a) notifies the other party of the issues that are in dispute and offering to settle them;
- (b) responds appropriately to a notification under paragraph (a);
- (c) provides relevant information and documents to the other party to enable that party understand the issues and determine the best approach to take in responding to the issues; or
- (d) where an alternative dispute resolution mechanism is agreed to –
  - (i) collaborating with the other party in determining the person to facilitate resolution of the dispute; and
  - (ii) attending the alternative dispute resolution process.



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APPENDIX1. MESSAGE

Message from His Excellency the President of the Republic of Kenya on the nominee for appointment to the position of Inspector General of the National Police Service.

*(The Speaker of the Senate)*

2. PAPERS

- a) Report of the Auditor-General on the Financial Statements of Elgeyo Marakwet County Assembly for the Year ended 30<sup>th</sup> June 2018;
- b) Report of the Auditor-General on the Financial Statements of Vihiga County Assembly for the Year ended 30<sup>th</sup> June 2018;
- c) Report of the Auditor-General on the Financial Statements of West Pokot County Assembly for the Year ended 30<sup>th</sup> June 2018;
- d) Report of the Auditor-General on the Financial Statements of Uasin Gishu County Assembly for the Year ended 30<sup>th</sup> June 2018;
- e) Report of the Auditor-General on the Financial Statements of Nandi County Assembly for the Year ended 30<sup>th</sup> June 2018;
- f) Report of the Auditor-General on the Financial Statements of Kiambu County Assembly for the Year ended 30<sup>th</sup> June 2018;
- g) Report of the Auditor-General on the Financial Statements of Nairobi City County Assembly for the Year ended 30<sup>th</sup> June 2018;
- h) Report of the Auditor-General on the Financial Statements of County Assembly of Mandera for the Year ended 30<sup>th</sup> June 2018;
- i) Report of the Auditor-General on the Financial Statements of County Assembly of Kajiado for the Year ended 30<sup>th</sup> June 2018;
- j) Report of the Auditor-General on the Financial Statements of County Assembly of Wajir for the Year ended 30<sup>th</sup> June 2018;
- k) Report of the Auditor-General on the Financial Statements of County Assembly of Murang'a for the Year ended 30<sup>th</sup> June 2018;
- l) Report of the Auditor-General on the Financial Statements County Assembly of Samburu for the Year ended 30<sup>th</sup> June 2018;
- m) Report of the Auditor-General on the Financial Statements of County Assembly of Migori for the Year ended 30<sup>th</sup> June 2018;
- n) Report of the Auditor-General on the Financial Statements of County Assembly of Laikipia for the Year ended 30<sup>th</sup> June 2018;
- o) Report of the Auditor-General on the Financial Statements of County Assembly of Kisii for the Year ended 30<sup>th</sup> June 2018;

- p) Report of the Auditor-General on the Financial Statements of County Assembly of Nyamira for the Year ended 30<sup>th</sup> June 2018;
- q) Report of the Auditor-General on the Financial Statements of County Assembly of Lamu for the Year ended 30<sup>th</sup> June 2018; and
- r) Report of the Auditor-General on the Financial Statements of County Assembly of Garissa for the Year ended 30<sup>th</sup> June 2018;
- s) Report of the Auditor-General on the Financial Statements of County Assembly of Trans Nzoia for the Year ended 30<sup>th</sup> June 2018;
- t) Report of the Auditor-General on the Financial Statements of County Assembly of Makueni for the Year ended 30<sup>th</sup> June 2018;

*(The Senate Majority Leader)*

3. **NOTICE OF MOTION - COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**

(Sen. Charles Reubenson Kibiru, MP)

**THAT, AWARE THAT** Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

**FURTHER AWARE THAT**, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

**COGNIZANT THAT**, any diversion from the Vision 2030 blueprint as well as the President's "Big Four" Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

**NOTING THAT**, whereas the National Government's Budget is based on Vision 2030 and "Big Four" Agenda, the County Governments' Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

**CONCERNED THAT**, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

**ACKNOWLEDGING**, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business

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community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

**FURTHER ACKNOWLEDGING THAT**, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

**NOW THEREFORE**, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP's) and Annual Development Plans (ADP's) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;
2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

#### 4. STATEMENTS

##### i. Statement Pursuant to Standing Order No. 47 (1)

Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to make a statement on an issue of National concern on the 2019 Gross County Product Report that was launched by the Kenya Bureau of Statistics on 13<sup>th</sup> February, 2019 that highlights the economic status and inequalities within the counties.

##### ii. Statements Pursuant to Standing Order No. 48(1)

- a) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations on the Policy on the transfer of functions to counties;
- b) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to seek a statement from the Standing Committee on Education on the status of implementation of the 100% transition policy to secondary schools and to Technical and Vocational Education Training (TVET);
- c) Nominated Senator (Sen. Mary Seneta, MP) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries on the impact of devolution on livestock farming.

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- d) The Senator for Migori County (Sen. (Dr.) Ochilo Ayacko, MP) to seek statement from the Standing Committee on Land, Environment and Natural Resources concerning the mining activities in Migori County;
- e) The Senator for Migori County (Sen. (Dr.) Ochilo Ayacko, MP) to seek statement from the Standing Committee on National Security and Foreign Relations on the criminal activities of the "*Sangwenya*" gang in Migori County;
- f) Nominated Senator (Sen. Mary Seneta, MP) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries on the current status of Emali holding ground in Kajiado county.

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