

SPECIAL ISSUE

Kenya Gazette Supplement No. 201 (National Assembly Bills No. 55)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2025

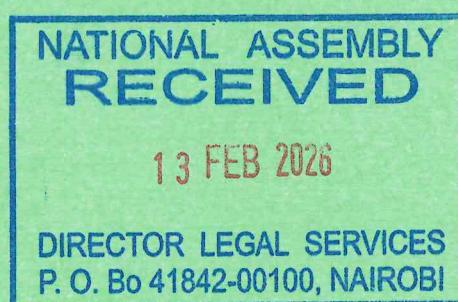
NAIROBI, 24th November, 2025

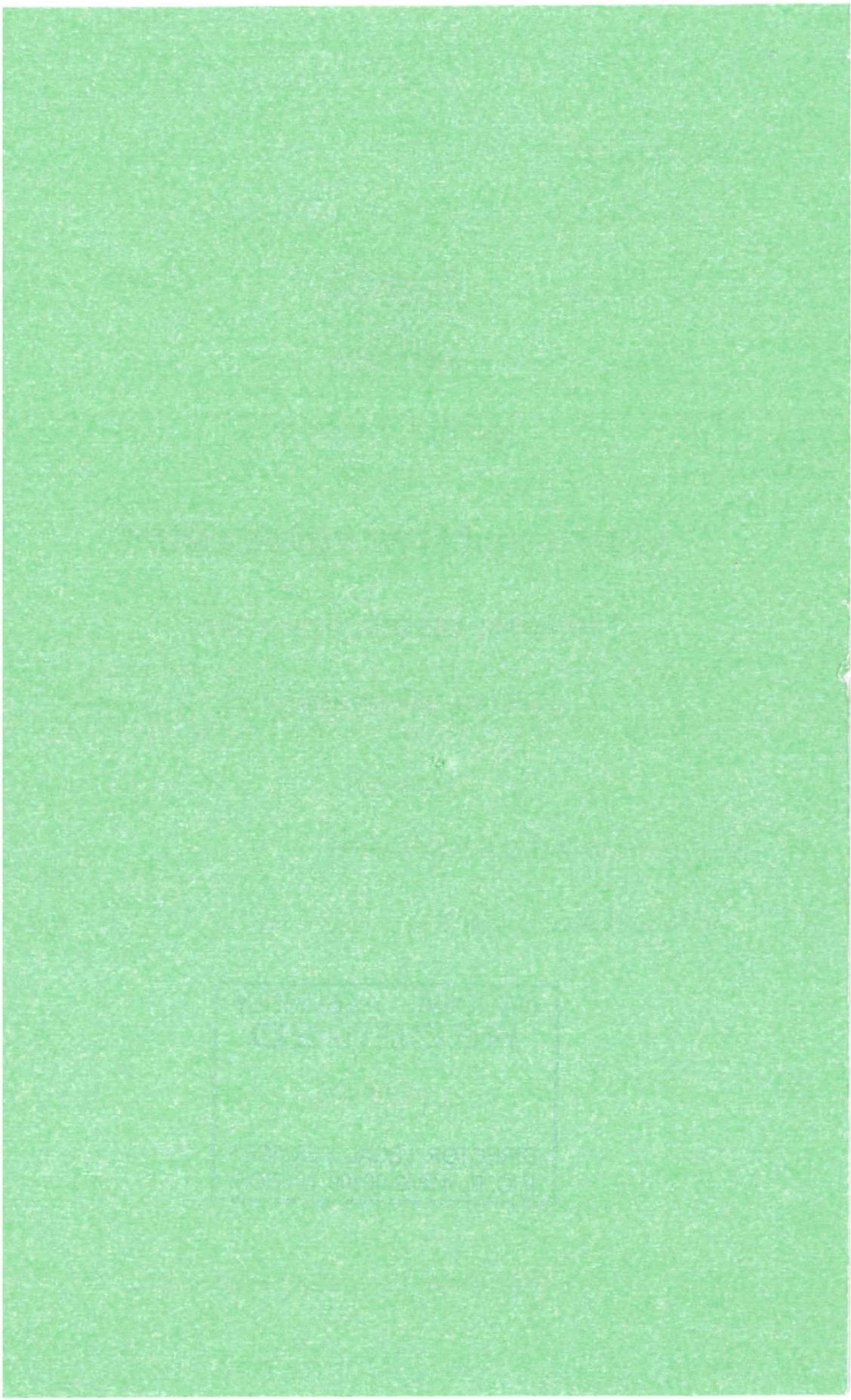
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**THE CRIMINAL PROCEDURE CODE
(AMENDMENT) BILL, 2025**

A Bill for

AN ACT of Parliament to amend the Criminal Procedure Code and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Criminal Procedure Code (Amendment) Act, 2025.

Short title.

2. The Criminal Procedure Code (herein referred to as the “principal Act”) is amended by inserting the following new sections immediately after section 142—

Insertion of new sections 142A, 142B, 142C, 142D and 142E in Cap. 75.

Eligibility for expungement of criminal record.

142A. (1) A person is eligible for expungement of a criminal record upon the lapse of five years from the date of conviction, if the person—

- (a) fulfils their sentence as pronounced by the court; and
- (b) is not convicted of an additional offence.

(2) A person is not eligible for expungement of a criminal record if convicted of—

- (a) a capital offence;
- (b) corruption or an economic crime as provided under the Anti-Corruption and Economic Crimes Act;
- (c) an offence provided under the Proceeds of Crime and Anti-Money Laundering Act; or
- (d) a sexual offence against a minor, mentally handicapped, elderly or vulnerable person.

(3) The criminal record of an offender may be expunged—

- (a) automatically under section 142B; or

Cap. 65.

Cap. 59A.

(b) by the High Court under section 142C.

(4) For the purpose of this section, a sexual offence is an offence that warrants the registration of an offender's details by the Chief Registrar of the Judiciary in the register for convicted sexual offenders.

Automatic expungement.

142B. (1) A person is eligible for automatic expungement of a criminal record for an offence for which—

- (a) a sentence of imprisonment for a term not exceeding six months without the option of a fine is imposed;
- (b) a sentence of imprisonment for a term not exceeding six months without the option of a fine is imposed but the sentence is substituted for community service orders or wholly suspended for a fixed period of time; or
- (c) a sentence of imprisonment for a term not exceeding six months with the option of a fine not exceeding fifty thousand shillings is imposed.

Procedure for expungement of criminal record.

142C. (1) A person may apply to the High Court for the expungement of their criminal record for an offence for which—

- (a) a sentence of imprisonment without the option of a fine is imposed; or
- (b) a sentence of imprisonment with the option of a fine not exceeding one million shillings is imposed.

(2) In determining an application under subsection (1) the High Court shall consider—

- (a) the recommendations of the Director of Public Prosecutions;

Cap. 64.

- (b) a report by a probation officer on the attitude of the applicant towards the offence;
- (c) the victim impact statement of the victim of the crime the applicant seeks an order for expungement; and
- (d) compelling circumstances in granting or denying the application, including the age of the offender at the time of the commission of the offence.

(3) The High Court shall, within fourteen days of granting an order for expungement, notify the Director of Public Prosecutions and the National Police Service to update their criminal records.

Certificate of expungement.

142D. (1) A person may apply to the National Police Service for a certificate of expungement if—

- (a) they have met the requirements under section 142B; or
- (b) the High Court has granted an order for expungement under section 142C.

(2) The National Police Service shall, within fourteen days of an application, update the record of the applicant and issue a certificate of expungement.

(3) Where the criminal record is not updated as per the High Court order for expungement, a person may file a complaint to the Office of the Data Protection Commissioner to enforce their rights as provided in the Data Protection Act.

(4) A person who intentionally or negligently issues a certificate of expungement without authority as provided in section 142B and 142C, commits an

Cap. 411C.

offence and is liable to imprisonment for a term not exceeding ten years or a fine not exceeding one million shillings or both.

Regulations.

142E. The Cabinet Secretary responsible for matters relating to internal security, may make regulations to give effect to the provisions of section 142A, 142B and 142D on—

- (a) the form of application for expungement;
- (b) the certificate of expungement; and
- (c) any other matter necessary in order to achieve the object of this Act.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons for the Bill

The principal object of this Bill is to amend the Criminal Procedure Code, Cap. 75 to provide a framework for the expungement of criminal records in the interests of justice. The rationale of the amendment is to ensure that in the interests of justice those who violate the law and pay their debt to society should not be punished indefinitely.

It seeks to promote rehabilitation and to assist the rehabilitated to re-enter society by removing existing barriers. In Kenya there is a lacuna in the law on expungement of criminal records.

The proposed Bill seeks to provide for the distinction of crimes that can be subject to expungement, the criteria that a person must satisfy for their criminal record to be expunged, the application process for expungement or the automatic expungement of criminal records, the revocation of an expungement certificate and regulations on the same.

Clause 2 of the Bill proposes amendments to section 142 of the Criminal Procedure Code by inserting new Sections 142A, 142B, 142C, 142D and 142E. These new sections provide for application for expungement of criminal records, automatic expungement, court procedure for expungement, certificate of expungement and regulations on expungement.

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

This Bill delegates legislative power and does not limit any fundamental rights or freedoms.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Whether the Bill concern counties

This Bill is not a Bill concerning counties.

BABU OWINO PAUL ONGILI,
Member of Parliament.

Section 142 of Cap. 75 that is proposed to be amended—

142. Mode of proof of previous conviction

(1) In any trial or other proceeding under this Code, a previous conviction may be proved, in addition to any other mode provided by any law for the time being in force—

- (a) by an extract certified, under the hand of the officer having the custody of the records of the court in which the conviction was had, to be a copy of the sentence or order; or
- (b) by a certificate signed by the officer in charge of the prison in which the punishment or any part thereof was inflicted, or by production of the warrant of commitment under which the punishment was suffered, together with, in either case, evidence as to the identity of the accused person with the person so convicted.

(2) A certificate in the form prescribed by the Cabinet Secretary given under the hand of an officer appointed by the Cabinet Secretary in that behalf, who has compared the finger prints of an accused person with the finger prints of a person previously convicted, shall be *prima facie* evidence of all facts therein set out if it is produced by the person who took the finger prints of the accused.

(3) A previous conviction in a place outside Kenya may be proved by the production of a certificate purporting to be given under the hand of a police officer in the country where the conviction was had, containing a copy of the sentence or order, and the finger prints, or photographs of the finger prints, of the person so convicted, together with evidence that the finger prints of the person so convicted are those of the accused person.

(4) A certificate under this section shall be *prima facie* evidence of all facts stated therein without proof that the officer purporting to sign it did in fact sign it and was empowered so to do.