

**PARLIAMENT OF KENYA**  
**THE SENATE**

**SENATE BILLS DIGEST**

**THE HEALTH (AMENDMENT) BILL, 2025**  
**(SENATE BILLS NO. 12 OF 2025)**

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| <b>Sponsor:</b>               | Sen. Mogeni Erick Okong’o, M.P   |
| <b>Committee referred to:</b> | Standing Committee on Health     |
| <b>Type of Bill:</b>          | Ordinary Bill                    |
| <b>Date of First Reading:</b> | 23 <sup>rd</sup> September, 2025 |

**1. Background**

The right to human dignity, freedom of movement, and liberty are fundamental constitutional rights in Kenya. Article 28 of the Constitution safeguards every person right to inherent dignity while Article 39(1) of the Constitution guarantees every person’s right to freedom of movement. Article 29 (a) and (b) of the Constitution further provides that every person has the right to freedom and security of the person, which includes the right not to be deprived of freedom arbitrarily or without just cause, or detained without trial except during a state of emergency.

Currently, there have been numerous cases where health facilities have detained patients and corpses of patients as security for unpaid medical bills. Kenyan courts have consistently ruled that such detention for inability to pay medical bills is unlawful, arbitrary and unconstitutional. For example, the High court in the case of *Emmah Muthoni Njeri v Nairobi Women’s Hospital [2021] KEHC 8797 (KLR)* stated as follows at paragraph 47 of

*the judgement “The Respondent herein is not empowered under the law to hold any person within the hospital for failure to pay medical bills. The Respondent’s action of holding the Petitioner over an unpaid medical bill makes it culpable for illegally detaining the Petitioner. Although the Petitioner was in breach of her contractual obligation to pay her bill, the Respondent had other options open to it to recover the debt and should not have detained the Petitioner.”*

Despite clear pronouncements by the courts over the matter, the practice of detaining patients over unpaid medical bills continues to occur due to the absence of specific legislative prohibition.

The Health (Amendment) Bill, 2025 (Senate Bills No. 12 of 2025) was published in the Kenya Gazette Supplement No. 120 on 18<sup>th</sup> July, 2025 to address this constitutional violation by explicitly prohibiting the detention of patients and corpses by health facilities.

## **2. Purpose of the Bill**

The Health (Amendment) Bill, 2025 seeks to—

- (a) amend the Health Act to prohibit the detention of patients and corpses of patients by health facilities;
- (b) give effect to Articles 28, 29, and 39 of the Constitution regarding human dignity, freedom and security of person, and freedom of movement;
- (c) align domestic law with international instruments including Article 11 of the International Convention on Civil and Political Rights and Article 6 of the African Charter on Human and Peoples Rights; and
- (d) provide alternative mechanisms for recovery of fees paid to access health services

## **3. Overview of the Bill**

The Bill introduces a new section 7A to the Health Act with the following key provisions;

- **Prohibition of detention of a patient** - A health facility shall not detain a patient

or the corpse of a patient as lien over an outstanding fee incurred in relation to accessing services in the health facility.

- **Criminal offence** - A person in-charge of a health facility who detains a patient over an outstanding fee commits an offence under the law. The applicable penalty shall be the general penalty provided under section 111 of the Health Act Cap 241 which provides that a person convicted of an offence under the Act for which no penalty is provided shall, on conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term of three months, or both.
- **Alternative recovery mechanisms:** The Cabinet Secretary is empowered to make regulations for recovery of fees paid to access services in a health facility.

#### **4. What are the implications of the law once passed?**

Once enacted, the Health (Amendment) Act, 2025 will have significant implications for the healthcare sector in Kenya. Health facilities will be legally prohibited from detaining patients or corpses as security for unpaid medical bills, with facility managers facing criminal liability for violations. This will enhance protection of patients' constitutional rights to dignity, freedom, and liberty while requiring health facilities to develop alternative debt recovery mechanisms in line with regulations to be developed by the Cabinet Secretary.

County governments will also need to ensure compliance across all health facilities under their jurisdiction and may need to revise their health service delivery policies. The law is expected to reduce healthcare related human rights violations, improve access to healthcare services, and restore public confidence in the health system.

#### **5. Way Forward**

##### ***What next?***

Pursuant to standing order 145(5) of the Senate Standing Orders, the Standing Committee on Health shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee submits its report to the Senate.

***What is expected of the members of public?***

The members of the public are expected to present their views to the Standing Committee on Health for its consideration.

***Next steps***

The Bill was read a First Time in the Senate on 23<sup>rd</sup> September, 2025. Pursuant to standing order 148(1) of the Senate Standing Orders, the Standing Committee on Health is required to submit its report to the Senate within thirty (30) calendar days of the committal of the Bill to the Committee, therefore, by 22<sup>nd</sup> October, 2025.

**Any comments on the Bill may be submitted to the Office of the Clerk of the Senate, 1<sup>st</sup> Floor, Main Parliament Buildings, Nairobi, Kenya, through P.O. Box 41842-00100, Nairobi, Kenya or email: [clerk.senate@parliament.go.ke](mailto:clerk.senate@parliament.go.ke) and copied to [healthcommittee.senate@parliament.go.ke](mailto:healthcommittee.senate@parliament.go.ke).**

**Note:**

1. The Digest reflects the Bill as published and does not cover any subsequent amendments to the Bill.
2. The Digest does not have any official legal status

