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**SENATE BILLS, 2019**

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**THE KENYAN SIGN LANGUAGE BILL, 2019****A Bill for**

**AN ACT of Parliament to give effect to Article 7(3)(b) of the Constitution on the promotion and development of the use of Kenya Sign language; to give effect to Article 54(1)(d); to provide for the inclusion of sign language in education curriculum; to provide the use of sign language in legal proceedings; and for connected purposes.**

**ENACTED** by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

**1.** This Act may be cited as the Kenyan Sign Language Act, 2019.

Short title.

**2.** In this Act—

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to education;

“deaf community” means the distinct group of people who are deaf and who use sign language as their first or preferred language;

“Kenya signed English” means manually coded English involving producing signs which correspond to an English word in an English sentence in English word order designed to facilitate communication between the deaf and hearing community;

“Kenya sign language” means sign language predominantly used in Kenya by the deaf community;

“public university” means a university established and maintained out of public funds;

“recognized schools” means schools registered under the Basic Education Act;

No. 14 of 2013

“relevant public authority” means an entity established by the Constitution, an Act of Parliament or any other law; and

“sign language” means system a system of communication, both visual or tactile, as the case may be, by manual signs or symbols including body movement.

3. The objects of this Bill are to—

Objects.

- (a) ensure that persons who are deaf or hard of hearing integrate into society;
- (b) protect and promote the right to justice and fair administration action with respect to persons who are deaf and hard of hearing;
- (c) promote access to quality education by learners who are deaf or hard of hearing;
- (d) provide for the recognition and regulation of sign language interpreters;
- (e) promote access to public services by deaf persons;
- (f) promote the inclusion and diversity in the workplace by creating opportunities for persons who are deaf or hard of hearing to compete for employment opportunities; and
- (g) promote literacy development of learners who are deaf or hard of hearing.

## PART II – KENYA SIGN LANGUAGE

4. (1) The Kenya sign language is the language used by the deaf or hard of hearing in Kenya for expressing themselves and communicating with others.

Recognition.

(2) The community of deaf persons in Kenya shall have the right to use and preserve Kenyan Sign Language.

5. The national government and county governments when exercising their powers and functions under the Constitution or any other written law shall, so far as is reasonably practical, ensure that—

Duty of Public Authorities.

- (a) members of the deaf community are consulted on all matters related to the development, use and promotion of Kenya sign language;
- (b) Kenya sign language is used in the promotion to the public of government services and in the provision of information to the public;
- (c) all public bodies shall do all that is reasonable and necessary to provide free interpretation in the Kenyan Sign Language to those who wholly rely on it to access statutory entitlements or services provided by that public body;

- (d) information relating to public services shall be made accessible to the deaf community through the use of appropriate means including Kenya sign language.

6. (1) A person whose first or preferred language is Kenya sign language is entitled to use Kenya signed English language where the person is—

Use of sign language in legal proceedings.

- (a) member of a court, tribunal or body before which proceedings are being conducted;
- (b) is a party or witness in a legal proceeding;
- (c) is an Advocate of the High Court of Kenya representing a party in proceedings; or
- (d) is given leave by the presiding officer to use Kenya Sign English.

(2) A presiding officer in a legal proceeding shall ensure that a competent and recognized interpreter is available to a person entitled under subsection (1) to use Kenya signed English.

(3) The presiding officer shall make a determination as to the accuracy of any interpretation from Kenya sign language into spoken or written language or from spoken to written language into Kenya signed English.

(4) Any person intending to use sign language in any legal proceeding may be required under any regulations made under this Act or any other written law, give reasonable notice of that intention, and generally regulate the procedure to be followed where Kenya Sign Language is, or is to be used in such proceedings.

(5) Any such failure may warrant an award of costs as per any regulations, rules of court or any other appropriate written rules of procedure, but no person may be denied the right to use Kenya Sign Language in any legal proceedings because of any such failure.

7. The Cabinet Secretary for Education shall—

Educational support for deaf learners.

(a) ensure that deaf learners and learners who are hard of hearing are taught in a manner which they are able to understand and use the dominant language of instruction in the education system;

(b) ensure that teachers of deaf children assist learners to acquire sufficient competence in the use of the English and Kiswahili language including ensuring that Kenya sign language is taught in sign form and not written form;

(c) ensure development of supportive instructional materials for the education of deaf learners and learners who are hard of hearing;

(d) set aside adequate funds for the development of educational materials for deaf learners and learners who are hard of hearing;

(e) ensure that Kenya sign language in digital form contains inscription in standard English as a medium of instruction;

(f) institutions of education for the deaf cater for formal and non-formal education, skills development and self-reliance for deaf learners as appropriate;

(g) ensure that institutions offering teaching training offer, as part of their curriculum, courses on Kenya sign language and interpretation;

(h) ensure that there are sufficient number of placements for teachers of children who are deaf or hard of hearing and who are attending recognized schools; and

(i) establish a scheme for the provision of Kenya Sign Language classes to—

(i) the parents, siblings and grandparents of a child who is deaf; and

(ii) other persons who may serve as a guardian or primary care giver to a child who is deaf or hard of hearing.

**8. (1)** The Kenya Institute for Curriculum Development shall develop, review and approve appropriate programmes, curricula and curriculum support materials for learners who are deaf and hard of hearing.

Curriculum development.

(2) Notwithstanding the provisions of subsection (1), the Institute shall carry out a comprehensive assessment and review of the programmes, curricula and curriculum support programmes and instructional materials for learners who are deaf and hard of hearing.

(3) In carrying out the review and assessment under subsection (2), the Institute shall invite and collaborate authors to submit published works relevant to the curriculum for deaf learners for purposes of inclusion as curriculum support materials.

(3) The institute shall, one year after the commencement of this Act, prepare and transmit to Parliament a report of the review carried out under subsection (1).

**9.** (1) The Cabinet Secretary for matters related to persons with disabilities shall, in consultation with members of the deaf community, develop a national system of standards, accreditation and procedures for Kenya sign language interpretation.

Standards, accreditation and procedures.

(2) For purposes of subsection (1), the Cabinet Secretary shall—

- (a) regulate the provision of Kenya sign language interpretation;
- (b) establish additional procedures and criteria for registration of Kenya sign language interpreters;
- (c) establish and maintain a register of Kenya Sign Language interpreters; and
- (d) determine the education, training and qualifications required for a person to be registered as a Kenya sign language interpreter.

**10.** (1) A person who wishes to provide Kenya sign language interpretation services shall apply for registration by the Ministry in accordance with the criteria and procedures determined by the Cabinet Secretary under section 8.

Registration of sign language interpreters.

(2) An application under subsection (1) shall be made in a form prescribed in Regulations by the Cabinet Secretary.

**11.** (1) The Cabinet Secretary shall appoint a public officer within the Ministry as the registrar Kenya sign language interpreters.

Registrar.

(2) The Cabinet Secretary shall, in consultation with the most representative registered association for sign language interpreters, determine the conditions and qualifications for registration as a sign language interpreter.



**12.** (1) The registrar shall keep and maintain a register in which the name of every person registered by the Cabinet Secretary to provide sign language interpretation services shall be entered showing—

Register of sign language interpreters.

- (a) the date of the entry in the register;
- (b) the address of the person registered;
- (c) the qualifications of the person; and
- (d) such other particulars as the Cabinet Secretary may prescribe.

(2) A person whose name is entered upon the register under subsection (1) shall inform the registrar of any changes in the particulars set out under subsection (1).

**13.** (1) The registrar shall issue a certificate of registration to a person whose name is entered into the register.

Certificate of registration.

(2) Where the name of a person is removed from the register, the registrar shall give notice to that person, or if the person is dead, to that person's legal personal representative, requiring surrender of the certificate of registration to the registrar.

(3) A certificate of registration issued by the registrar shall be valid and shall remain in force for one year.

**14.** A person may, during normal office hours and on payment of the prescribed fee, inspect the register and any document relating to an entry and may obtain from the registrar a copy or extract from the register of any such document.

Inspection of register.

**15.** (1) The Cabinet Secretary shall, in consultation with the most representative registered association of sign language interpreters, publish in the *Gazette* a code of conduct for sign language interpreters.

Code of conduct.

(2) The code published under subsection (1) shall act as a guide for the provision of quality sign language interpretation services.

(3) A person who contravenes the provisions of the code under subsection (1) may be removed from the register of sign language interpreters.

**16.** (1) The national and county governments shall—

Sign language at the workplace.

- (a) take all reasonable measures to promote and encourage the use of basic Kenya sign language among its deaf and hearing employees;
- (b) set aside adequate funds for the promotion of Kenya sign language including funding activities to celebrate and promote awareness of the language;
- (c) conduct awareness and training seminars on the use of the Kenya sign language; and
- (d) provide sign language interpreters where necessary or requested in all national and county government offices including during all conferences, meetings cultural events, sport competitions, community affairs and activities conducted by government agencies.

(2) An employer shall create reasonable opportunity for persons who are deaf or hard of hearing to be eligible for employment in the respective organization and shall promote the career progression of such employees.

**17.** (1) The national and county government shall take all necessary steps to propagate sign language competency among hearing people by offering sign language as a language subject in the mainstream curriculum.

Promotion of Kenya sign language.

(2) Kenyan sign language shall be offered as a discipline of study at technical and vocational training institutions, public colleges and public universities.

(3) Public institutions of higher learning shall undertake continuous research in the use and development of sign language.

**18.** (1) The Cabinet Secretary responsible for matters relating to persons with disabilities shall, in consultation with the most representative registered association for deaf persons, National Council for persons with disabilities and the Council of Governors, develop a Kenya Sign Language Action Plan six months upon the commencement of this Act.

Action plan for Kenya sign language.

(2) A plan developed under subsection (1) shall include—

- (a) an assessment of the approach which the national and county government entities are taking in

interactions with, and the provision of its services to, members of the deaf community;

- (b) an assessment of the accessibility of national and county government services by members of the deaf community;
- (c) a statement on the actions proposed to be taken by national and county governments so as to take into consideration the needs of the deaf community in delivery of services;
- (d) details of the consultations held and proposed to be held by the national and county government with members of the deaf community in respect of delivery of services; and
- (e) details of the guidance and training which national and county government entities have given and proposed to give to staff in respect of the needs of members of the deaf community.

(2) The plan developed under section (1) shall be reviewed regularly and in any case every five years.

**19.** The Cabinet Secretary may make Regulations for the better carrying out of the provisions of this Act. Regulations.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

The principal objective of this Bill is to provide for the use of sign language in judicial proceedings, schools and public institutions to ensure that deaf learners are given the same opportunities as all other learners to be productive members of the society. Article 10(2) of the Constitution designates human dignity, equity and social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized as national values and principles of governance.

Further Article 7(3)(b) of the Constitution provides that the State shall promote the development and use of indigenous languages, Kenya sign language, braille and other communication formats and technologies accessible to persons with disabilities. Similarly Article 54(1)(d) provides that a person with any disability is entitled to use Sign language, Braille or other appropriate means of communication. The Constitution therefore contemplates that public institutions shall put in place facilities to ensure the inclusion of deaf persons and person who are hard of hearing in their processes.

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

Clause 9 of the Bill provides that the Cabinet Secretary responsible for matters relating to education may make Regulations for the better carrying out of the provisions of the Act. The Bill therefore delegates legislative powers to the cabinet secretary. The Bill however does not limit fundamental rights and freedoms.

### **Statement on how the Bill concerns county governments**

The Bill concerns county governments in terms of Articles 110(1)(a) of the Constitution in that it contains provisions that create obligations both for the national and county governments to ensure that they put in place mechanisms for efficient delivery of services to deaf persons. The Bill therefore concerns county governments in terms of Articles 110(1)(a) of the Constitution as it affects the functions and powers of the county governments as set out in Part 2 of the Fourth Schedule to the Constitution.

**Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution**

This Bill does not propose any additional expenditure of public funds. This Bill is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 28th May, 2019.

GERTRUDE MUSURUVE,  
*Senator.*

MARGARET KAMAR,  
*Senator.*