

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

*Approved
2025 D/SNA
9/10/2025*

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON:

THE CONSIDERATION OF THE SEXUAL OFFENCES
(AMENDMENT) BILL, 2023

(NATIONAL ASSEMBLY BILL NO. 78 OF 2023)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 09 OCT 2025	
DAY: Thurs	
TABLED BY:	Hon. Stephen Mogaaka, Member, JLAC
CLERK-AT THE-TABLE:	G. CITERET.



CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER 2025

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LIST OF ABBREVIATIONS AND ACRONYMS

KNCHR	-	Kenya National Commission on Human Rights
OAG	-	Office of the Attorney General
ODPP	-	Office of the Director of Public Prosecutions
NGEC	-	National Gender for Equality Commission
COG	-	Council of County Governors
KLRC	-	Kenya Law Reform Commission
LSK	-	Law Society of Kenya
MCA	-	Member of County Assembly
MCCP	-	Maendeleo Chap Chap Party
MP	-	Member of Parliament
NADCO	-	National Dialogue Committee
ORPP	-	Office of the Registrar of Political Parties
ODM	-	Orange Democratic Movement
TAA	-	The Architects Alliance
UDA	-	United Democratic Alliance
UDM	-	United Democratic Movement
WDM	-	Wiper Democratic Movement

LIST OF ANNEXURES

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
- Annexure 3: The Sexual Offences (Amendment) Bill (National Assembly Bill No. 78 of 2023)
- Annexure 4: Advertisement inviting the public to submit memoranda on the Bill
- Annexure 5: Letter from the Clerk of the National Assembly inviting stakeholders to attend the public participation forum
- Annexure 6: Memoranda by Stakeholders

CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the Sexual Offences (Amendment) Bill, 2023 (National Assembly Bill No. 78 of 2023). The Bill, was read a First Time in the House on 31st July, 2024 and was thereafter committed to the Committee in line with Standing Order 127(1) of the National Assembly Standing Orders.

The Bill seeks to amend the Sexual Offences Act (Cap. 63A) to provide for promotion of national public awareness of sexual offences. Further, the Bill mandates the Cabinet Secretary responsible for education to establish programs to safeguard, protect and promote the right to education of victims of sexual offences, including victims of teenage pregnancies. Finally, the Bill provides for the definition of a Cabinet Secretary so as to align the Act with the Constitution.

In compliance with Article 118(b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Committee placed an advertisement in the print media on 9th August, 2024 inviting the public to submit memoranda by way of written statements on the Bill. The memoranda were to be received on or before 23rd August, 2024 at 5.00 pm (East African Time).

In addition, the Committee vide letters Ref. No. NA/DDC/JLAC/2024/072 dated 23rd September 2024 and Ref. No. NA/DDC/JLAC/2025/010 dated 27th February 2025 invited key stakeholders to submit views on the Bill and attend a public participation forum on 8th October, 2024 and 6th March 2025, respectively. Vide a letter Ref. No. NA/DDC/JLAC/2025/012 dated 4th March 2025, the Committee requested the Stakeholders to share their written memoranda by 12th March 2025.

By the close of the submission deadline, the Committee had received eight (8) memoranda. Uraia Trust, the State Department for Basic Education, the State Department for Medical Services, Kituo cha Sheria, the Office of the Director of Public Prosecutions, the Kenya National Commission on Human Rights, Office of the Attorney General & Department of Justice and the National Gender and Equality Commission gave their views on the Bill which the Committee considered as contained in Chapter Three of this Report.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. The Committee further wishes to thank Uraia Trust, the State Department for Basic Education, the State Department for Medical Services, Kituo cha Sheria, the Office of the Director of Public Prosecutions, the Kenya National Commission on Human Rights, Office of the Attorney General & Department of Justice and the National Gender and Equality Commission for submitting memoranda on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this Report.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199(6) of the National Assembly Standing Orders, it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Sexual Offences (Amendment) Bill, 2023 (National Assembly Bill No. 78 of 2023).

It is my pleasure to report that the Committee has considered Sexual Offences (Amendment) Bill, 2023 (National Assembly Bill No. 78 of 2023) and has the honour to report back to the National Assembly with the recommendation that the **House approves the Bill with amendments.**



Hon. George Gitonga Murugara, CBS, MP
Chairman, Departmental Committee on Justice and Legal Affairs

CHAPTER ONE

I PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
- iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. **To study and review all legislation referred to it;**
 - v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider: -
- (a) The Judiciary;
 - (b) Tribunals;
 - (c) Access to Justice;
 - (d) Public prosecutions;
 - (e) Ethics, Integrity and Anti-corruption;
 - (f) Correctional services;
 - (g) Community service orders and witness protection;
 - (h) Constitutional Affairs;
 - (i) Sovereign immunity;
 - (j) Elections including referenda;
 - (k) Human rights;
 - (l) Political parties; and
 - (m) The State Law Office' including insolvency, law reform, public trusteeship, marriages and legal education.
3. In executing its mandate, the Committee oversights the following Ministries, Departments and Agencies:
- (a) The Judiciary;
 - (b) Judicial Service Commission;

- (c) State Department of Correctional Services;
- (d) State Department of Justice, Human Rights and Constitutional Affairs;
- (e) State Law Office and Department of Justice
- (f) Office of the Director of Public Prosecutions;
- (g) Ethics and Anti-Corruption Commission;
- (h) Independent Electoral and Boundaries Commission;
- (i) Commission on Administrative Justice;
- (j) Office of the Registrar of Political Parties;
- (k) Witness Protection Agency;
- (l) Kenya National Commission on Human Rights;
- (m) Kenya Law Reform Commission; and
- (n) Council of Legal Education.

I.3 Committee Membership

4. The Committee comprises the following Members:

Chairperson

Hon. Murugara George Gitonga, CBS, MP
Tharaka Constituency

UDA Party

Vice-Chairperson

Hon. Mutuse Eckomas Mwengi, OGW, MP
Kibwezi West Constituency

MCCP Party

Hon. Gladys Boss, MGH, MP
Uasin Gishu Constituency

UDA Party

Hon. Maalim Farah, EGH, MP
Dadaab Constituency

WDM-Kenya

Hon. Onyiego Silvanus Osoro, CBS, MP
South Mugirango Constituency

UDA Party

Hon. Francis Kajwang' Tom Joseph, CBS, MP
Ruaraka Constituency

ODM Party

Hon. Wetang'ula Timothy Wanyoyi, CBS, MP
Westlands Constituency

ODM Party

Hon. (Dr.) Otiende Amollo, SC, EBS, MP
Rarieda Constituency

ODM Party

Hon. Muchira Michael Mwangi, MP
Ol Jorok Constituency

UDA Party

Hon. Muchangi Karemba, MP
Runyenjes Constituency

UDA Party

Hon. Makali John Okwisia, MP
Kanduyi Constituency

FORD-Kenya

Hon. Mogaka Stephen M., MP
West Mugirango Constituency

Jubilee Party

Hon. Aden Daud, EBS, MP
Wajir East Constituency

Jubilee Party

Hon. Siyad Amina Udgoon, MP
Garissa County (CWR)

Jubilee Party

Hon. CPA Suleka Hulbale Harun, MP
Nominated Member

UDM Party

1.4 Committee Secretariat

5. The Committee is facilitated by the following staff:

Mr. Ahmed Salim Abdalla
Clerk Assistant I / Head of Secretariat

Mr. Ronald Walala
Senior Legal Counsel

Mr. Abdikafar Abdi
Clerk Assistant III

Ms. Jael Ayiego
Clerk Assistant III

Mr. Isaac Nabiswa
Legal Counsel II

Mr. Omar Abdirahim
Fiscal Analyst I

Ms. Vivienne Ogega
Research Officer III

Mr. John Nduaci
Serjeant-At-Arms

Mr. Meldrick Sakani
Audio Officer III

Ms. Mary Kamande
Public Communications Officer III

Mr. Calvin Karung'o
Media Relations Officer III

Mr. Silas Opanga
Hansard Reporter III

CHAPTER TWO

2 OVERVIEW OF THE SEXUAL OFFENCES (AMENDMENT) BILL, 2023 (NATIONAL ASSEMBLY BILL NO. 78 OF 2023)

2.1 Background

6. The Bill seeks to amend the Sexual Offences Act (Cap. 63A) to provide for promotion of national public awareness of sexual offences. Further, the Bill mandates the Cabinet Secretary responsible for education to establish programs to safeguard, protect and promote the rights to education of victims of sexual offences, including victims of teenage pregnancies. Finally, the Bill provides for the definition of cabinet secretary so as to align the Act with the Constitution.
7. The Bill was read a First Time in the House on 31st July, 2024 and was thereafter committed to the Committee in line with Standing Order 127(1) of the National Assembly Standing Orders.

2.2 Summary of the Bill

8. The Bill seeks to amend the Sexual Offence Act (Cap. 63A) as follows:
 - (a) **Clause 2** of the Bill proposes a definition of the Cabinet Secretary so as to align it with the Constitution.
 - (b) **Clause 3 - 6** of the Bill proposes to substitute the term “Minister” with “Cabinet Secretary” to align the Act with the Constitution.
 - (c) **Clause 7** of the Bill seeks to introduce a new section 46A to provide for promotion of national public awareness of sexual offences through nationwide education and information campaigns. Further, the Bill proposes that the Cabinet Secretary responsible for legal affairs in consultation with the Cabinet Secretary responsible for education to establish programs to safeguard, protect and promote the right to education of victims of sexual offences including victims of teenage pregnancies.
 - (d) **Clause 8** of the Bill proposes to substitute the term “Minister” with “Cabinet Secretary” to align the Act with the Constitution.

CHAPTER THREE

3 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 Legal Framework on Public Participation

9. Article 118 (1)(b) of the Constitution provides that:
“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”
10. The National Assembly Standing Order 127 (3) and (3A) stipulates that:
“(3) The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism including-
(a) inviting submission of memoranda;
(b) holding public hearings;
(c) consulting relevant stakeholders in a sector; and
(d) consulting experts on technical subjects.
(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”

3.2 Memoranda Received on the Bill

11. Pursuant to the aforementioned provisions of the law, the Committee placed an advertisement (*Annexure 4*) in the print media on Friday 9th August, 2024 inviting the public to submit memoranda by way of written statements on the Bill on or before 23rd August 2024 at 5.00 pm (East African Time).
12. Further, the Committee vide letters Ref. No. NA/DDC/JLAC/2024/072 dated 23rd September 2024 and Ref. No. NA/DDC/JLAC/2025/010 dated 27th February 2025 invited key stakeholders to submit views on the Bill and attend a public participation forum on 8th October, 2024 and 6th March 2025, respectively. Vide a letter Ref. No. NA/DDC/JLAC/2025/012 dated 4th March 2025, the Committee requested the Stakeholders to share their written memoranda by 12th March 2025 (*Annexure 5*).
13. The Committee received eight (8) memoranda from Uraia Trust, the State Department for Basic Education, the State Department for Medical Services, Kituo cha Sheria, the Office of the Director of Public Prosecutions, the Kenya National Commission on Human Rights, Office of the Attorney General & Department of Justice and the National Gender and Equality Commission. The memoranda are annexed to this report as *Annexure 6*.
14. State Department for Medical Services and ODPP submitted memoranda in full support of the Bill while Uraia, KNCHR, OAG, Kitui Cha Sheria, NGEK and the State Department for the Basic Education submitted memoranda with proposed amendments. The stakeholders submitted as follows:

Clause 2

15. **KNCHR** submitted that the definition of the term “Cabinet Secretary” be substituted with “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to interior and national administration or “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to Gender, Culture, the Arts and Heritage. KNCHR observed that the Executive Order No. 2 of 2023 on Organization of Government of Kenya has not specified the mandate holder for the

Cabinet Secretary role for matters relating to justice. KNCHR also observed that various case laws have held that the Attorney-General is not a Cabinet Secretary and therefore cannot perform functions specifically reserved for a Cabinet Secretary under any piece of legislation.

16. **OAG** submitted the deletion and substitution of the term “Cabinet Secretary” with Cabinet Secretary for the time being responsible for matters related to Gender. The OAG noted that the State Department for Gender and Affirmative Action is better equipped to oversee the coordination of efforts related to sexual and gender-based violence (SGBV) given its primary focus on prevention, protection, victim advocacy and empowerment.

Committee Observation

17. The Committee observed that the Sexual Offences Act defines the term “Cabinet Secretary” as the Cabinet Secretary for the time being responsible for legal affairs and public prosecutions. In the current constitutional dispensation, prosecution is a preserve of the Director of Public Prosecutions and not a Cabinet Secretary. Therefore, the amendment seeks to align the definition of “Cabinet Secretary” with the provisions of the Constitution of Kenya, 2010. Further, the Committee observed that the Sexual Offences Act places other obligations of the Cabinet Secretary for the time being responsible for legal affairs such as developing a national framework to guide the implementation and administration of the Act. These functions have been sufficiently performed despite there being no designated Cabinet Secretary responsible for legal affairs.

Clause 7

18. **Uraia Trust** submitted that the proposed new 46A lacks specificity that comes with the provision. They submitted that there is need to have types of practical programs that are to be implemented in the public awareness campaign within the proposed amendment legislation.
19. **The State Department for the Basic Education** proposed the deletion of the proposed new section 46A(1)(b) since the promotion of the right to education is the role of the Cabinet Secretary responsible for matters relating to education. Further, they noted the Ministry of Education has developed various policies and guidelines to promote the right to education of victims of sexual offences including victims of teenage pregnancy.
20. **Kituo cha Sheria** proposed amendments to the new section 46A to include that the Cabinet Secretary shall promote comprehensive public awareness on reproductive health, including sexual offences, through nationwide education and information campaigns; and the establishment and implementation of programs that safeguard, protect and promote the educational rights and access of victims of sexual violence, including teenage pregnancy.
21. **KNCHR** proposed the addition of a new sub-clause 46A(1)(c) that provides that the Cabinet Secretary shall, in consultation with the Cabinet Secretary responsible for matters relating to education, establish a framework for reporting, investigating and further legal and policy actions for sexual offences within institutions of learning.
22. **NGEC** proposed amending the proposed new section 46A to include the Cabinet Secretary responsible for gender and affirmative action in coming up with the programs to safeguard, protect and promote the right to education of victims of sexual offences.

Committee Observation

23. The Committee observed that the proposed new section 46A gives the Cabinet Secretary the responsibility of promoting public awareness on sexual offences and, in consultation with the Cabinet Secretary responsible for education, establishing programs to safeguard the right to education of victims of sexual offences. The Ministry of Education is responsible for designing and implementing policies on the right to education. Therefore, this role may be left to the Ministry of Education to avoid instances of overlapping of functions.

Other proposed amendments to the Sexual Offences Act

24. **Uraia Trust** proposed amendments to the definition of the terms “child” and “consent”. For the term “child”, they proposed the adoption of the definition contained in Article 260 of the Constitution and for the term “consent”, they proposed a clear definition be provided for in the interpretation section.
25. **KNCHR** proposed amendments on the following issues—
- (a) encompassing the experiences and needs of all individuals beyond the binary gender identities such as intersex persons;
 - (b) recognizing adolescent consensual sex;
 - (c) sexual harassment and other forms of violence against women in public spaces other than work places;
 - (d) forensic tracking system/sexual assault forensic evidence tracking system examination kits;
 - (e) implied consent to sexual activity;
 - (f) criminalization of out-of-court settlements in sexual offence cases; and
 - (g) establishment of SGBV courts.

Committee Observation

26. The Committee observed that some of the proposed amendments are progressive with respect to sexual offences. However, inclusion of the proposals would unduly expanded the scope of the Bill. The proposals may be considered for introduction in a separate amendment Bill to allow exhaustive public participation.

CHAPTER FOUR

4 COMMITTEE OBSERVATIONS

27. Upon reviewing the Bill and the submissions received, the Committee made the following observations:
- (1) The Bill seeks to amend the Sexual Offences Act (Cap. 63A) to mandate the Cabinet Secretary responsible for legal affairs to provide for promotion of national public awareness of sexual offences. Further, the Bill mandates the Cabinet Secretary, in consultation with the Cabinet Secretary responsible for education, to establish programs to safeguard, protect and promote the right to education of victims of sexual offences, including victims of teenage pregnancies.
 - (2) The Bill provides for the definition of a Cabinet Secretary to align the Act with the Constitution. The Committee observed that the change from “Minister” to “Cabinet Secretary” has already been effected by the Attorney-General through the power to revise laws conferred by the Revision of Laws (Cap. 1). In addition, in the current constitutional dispensation, prosecution is a preserve of the Director of Public Prosecutions and not a Cabinet Secretary.
 - (3) The establishment of programs to safeguard and promote the right to education is vital in ensuring inclusive and equitable quality education for every child. However, the Committee noted that it is the Ministry of Education that is responsible for making and implementing policies on the right to education including programs to safeguard, protect and promote the right to education of victims of sexual offences including victims of teenage pregnancies.
 - (4) The Bill is essential in the promotion of public awareness on sexual offences. It will be instrumental in preventing and combating sexual abuse against children, sexual violence and exploitation.

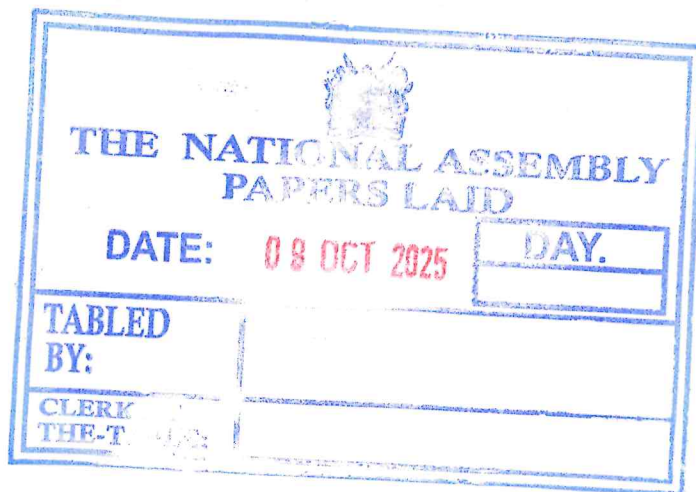
CHAPTER FIVE

5 COMMITTEE RECOMMENDATIONS

28. The Committee, having considered the Sexual Offences (Amendment) Bill (National Assembly Bill No. 78 of 2023) and the submissions from members of the public and stakeholders, recommends that the House approves the Bill with amendments as contained in the Schedule of Amendments.

SIGNED..........DATE.....09/10/2025.....

HON. GEORGE GITONGA MURUGARA, CBS, MP
CHAIRMAN
DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

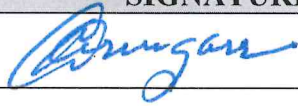
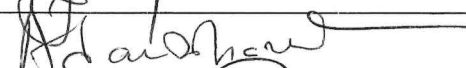
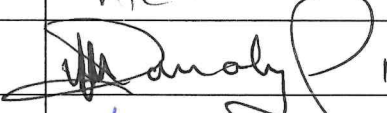




**THE NATIONAL ASSEMBLY
13TH PARLIAMENT (FOURTH SESSION) - 2025
JUSTICE AND LEGAL AFFAIRS COMMITTEE**

ADOPTION SCHEDULE

Adoption of the Report on the consideration of the Sexual Offences (Amendment) Bill, (NA Bill No. 78 of 2023) sponsored by Hon. Donya Aburi, MP

No.	HON MEMBER	SIGNATURE
1.	HON. MURUGARA GEORGE GITONGA, CBS, MP – <i>Chairperson</i>	
2.	HON. MUTUSE ECKOMAS MWENGI, OGW, MP – <i>Vice Chairperson</i>	<i>Virtually</i>
3.	HON. GLADYS BOSS. MGH, MP	
4.	HON. MAALIM FARAH, EGH, MP	
5.	HON. FRANCIS KAJWANG' TOM JOSEPH, CBS, MP	
6.	HON. ONYIEGO SILVANUS OSORO, CBS, MP	
7.	HON. (DR.) OTIENDE AMOLLO, SC, EBS, MP	
8.	HON. WETANGULA TIMOTHY WANYONYI, CBS, MP	
9.	HON. MUCHIRA MICHAEL MWANGI, MP	
10.	HON. ERIC MUCHANGI KAREMBA, MP	
11.	HON. ADEN DAUD, EBS, MP	
12.	HON. MAKALI JOHN OKWISIA, MP	
13.	HON. MOGAKA STEPHEN M, MP	
14.	HON. SIYAD AMINA UDGOON, MP	
15.	HON. CPA SULEKA HULBABLE HARUN, MP	

