

Approved for tabling in the House

REPUBLIC OF KENYA




BAI
SNA
28/9/2021

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (FIFTH SESSION)

PARLIAMENT
OF KENYA
LIBRARY

DEPARTMENTAL COMMITTEE ON HEALTH

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 SEP 2021	
DAY: Tuesday	
TABLED BY:	Chairperson DC on Health
CLERK-AT-TABLE:	Retnide Chebet

REPORT ON

THE HEALTH (AMENDMENT) BILL, 2020 (NATIONAL ASSEMBLY BILL NO. 28 OF 2020)

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

SEPTEMBER, 2021

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CHAIRPERSON'S FOREWORD

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*". Standing Order 127 (3) provides that "*the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House*"

The Health (Amendment) Bill, 2020 (*National Assembly Bill No. 28 of 2020*) underwent First Reading on 8th October, 2020 and was committed to the Departmental Committee on Health for consideration and reporting to the House.

This report contains deliberations on the Bill. Most importantly, the Bill seeks to amend the Health Act to make it mandatory for male circumcision to be performed under medically safe hygienic conditions. The Bill also seeks to regulate the practice by ensuring that male circumcision is performed by trained and registered persons.

Following placement of advertisements in the print media on 24th August, 2021 requesting for comments on the Bill from members of the public and relevant stakeholders pursuant to the provisions of Article 118(1) (b) of the Constitution of Kenya and Standing Order 127(3), the Committee received a memorandum from the Ministry of Health, only.

On behalf of the Departmental Committee on Health and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Health (Amendment) Bill, 2020 (*National Assembly Bill No. 28 of 2020*). The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the Ministry of Health, the only stakeholder who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made played significant role in preparation and production of this report.

It is my pleasure to report that the Committee has considered the Health (Amendment) Bill, 2020 (*National Assembly Bill No. 28 of 2020*) and have the honour to table in the House the Committee's report on the Bill with recommendation that the House passes it with amendments as proposed.

HON. SABINA CHEGE, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH

PART I

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Health is established pursuant to the provisions of Standing Order No. 216 of the National Assembly and in line with Article 124 of the Constitution which provides for the establishment of the Committees by Parliament. The mandate and functions of the Committee are;
 - a) *Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
 - b) *Study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
 - c) *Study and review all legislation referred to it;*
 - d) *Study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;*
 - e) *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;*
 - f) *Vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204;*
 - fa) *Examine treaties, agreements and conventions;*
 - g) *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - h) *Consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - i) *Examine any questions raised by Members on a matter within its mandate*

1.2 COMMITTEE SUBJECTS

2. The Second Schedule of the Standing Orders on Departmental Committees outlines the subjects of the Committee's mandate as health, medical care and health insurance.
3. In executing its mandate, the Committee oversees the Ministry of Health, its Semi-Autonomous Government Agencies, Regulatory Bodies and Health Advisory Bodies as follows:
 1. Kenyatta National Hospital (KNH)
 2. Moi Teaching and Referral Hospital (MTRH)
 3. Kenyatta University Teaching Referral and Research Hospital (KUTRRH)
 4. Kenya Medical Training College (KMTTC)
 5. Kenya Medical Supplies Authority (KEMSA)
 6. Kenya Medical Research Institute (KEMRI)
 7. National Hospital Insurance Fund (NHIF)
 8. Pharmacy and Poisons Board (PPB)
 9. National AIDS Control Council (NACC)
 10. National Cancer Institute (NCI)
 11. Kenya Nuclear Regulatory Authority (KENRA)
 12. The Mathari National Teaching and Referral Hospital (MNTRH)
 13. Kenya Health Professionals Oversight Authority (KHPOA)
 14. Kenya Health Human Resource Advisory Council (KHHRAC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Health was re-constituted by the House in July, 2020 and comprises the following Members:

Hon. Sabina Chege, MP (**Chairperson**)
Muranga County
Jubilee Party

Vice-Chairperson
Hon. Joshua Kutuny, MP
Cherengany Constituency
Jubilee Party

Hon. (Dr.) Eseli Simiyu, MP
Tongaren Constituency
Ford Kenya Party

Hon. Gideon Ochanda, MP
Bondo Constituency
ODM Party

Hon. (Dr.) James Nyikal, MP
Seme Constituency
ODM Party

Hon. Alfred Agoi Masadia, MP
Sabatia Constituency
ANC Party

Hon. (Dr.) James K, Murgor, MP
Keiyo North Constituency
Jubilee Party

Hon. Muriuki Njagagua, MP
Mbeere North Constituency
Jubilee Party

Hon. (Dr.) Mohamed D. Duale, MP
Daadab Constituency
KANU Party

Hon. Beatrice Adagala, MP
Vihiga County
ANC Party

Hon. James G Wamacukuru
Kabete Constituency
Jubilee Party

Hon. Prof. Mohamud Sheikh, MP
Wajir South
Jubilee Party

Hon. Sarah Puleta Korere, MP
Laikipia North Constituency
Jubilee Party

Hon. Capt. Ruweida Mohamed, MP
Lamu County
Jubilee Party

Hon. Kipsengeret Koros, MP
Sigowet-Soin Constituency
Independent Party

Hon. Martin Peters Owino, MP
Ndhiwa Constituency
ODM Party

Hon. Joyce Ekai Emanikor, MP
Turkana County
Jubilee Party

Hon. Said Hirabe, MP
Galole Constituency
Ford Kenya Party

Hon. Tongoyo Gabriel Koshal, MP
Narok West Constituency
CCM Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is serviced by the following Secretariat staff:

Head of the Secretariat

Mr. Douglas Katho

Clerk Assistant II

Ms. Christine Odhiambo

Legal Counsel I

Mr. Muyodi Meldaki Emmanuel

Clerk Assistant II

Mr. Eric Kanyi

Fiscal Analyst II

Ms. Fiona Musili

Research Officer II

Mr. Ahmed Yakub

Media Relations Officer

Ms. Catherine Wangui

Serjeant-At-Arms

Mr. Nimrod Ochieng

Audio Officer

PART II

2.0 OVERVIEW OF THE HEALTH (AMENDMENT) BILL, 2020 (NATIONAL ASSEMBLY BILL NO. 28 OF 2020)

2.1 ANALYSIS OF THE BILL

6. The principal object of the Bill is to amend the Health Act, No 21 of 2017 to provide that male circumcision is to be performed under medically safe and hygienic conditions. The Bill also seeks to regulate the practice by ensuring that male circumcision is performed by trained and registered persons.
7. The Bill proposes to insert a new section 74A in the Health Act, which section mandates the national and county governments to formulate policies to guide male circumcision. The Bill further sets out the specific objectives of the policies to be developed to regulate the exercise.

2.2 SUBMISSIONS BY THE BILL'S SPONSOR - HON. ALICE WAHOME, M.P.

8. Hon. Alice Wahome M.P, the sponsor of the Bill submitted as follows:
9. The Health (Amendment) Bill, 2020 (*National Assembly Bill No. 28 of 2020*) is an Act of Parliament to amend the health act to provide for the performance of male circumcision under medically safe and hygienic conditions and for connected purposes.
10. The proposed Section 74A. (1) in the Bill provides as follows-
 - (1) The National and County governments shall formulate policies to guide male circumcision.
 - (2) The objectives of the policies developed under subsection (1) shall be to—
 - (a) provide that male circumcision shall be performed by trained and registered persons;
 - (b) ensure that the health condition of the initiate is considered prior to circumcision;
 - (c) ensure the safety of male circumcision procedures;
 - (d) ensure that male circumcision is performed in hygienic environments; and
 - (e) provide mechanisms for the religious or customary mentorship and counselling of young initiates.
11. An example of complications caused by unregulated male circumcision is the death of Mr. Juliano Kanyonyo, a year old 15 from Gatitu village, Muranga South Sub-County who died after circumcision. His family is seeking justice for their son. The boy sat the 2018 Kenya Certificate of Primary Education (KCPE) examination and scored 375 marks but his family was mourning instead of celebrating the achievement of their son who emerged third in

their school. He had repeated class eight so as to get better marks to take him to a national school, according to the family.

12. In addition, in 2019 there were reports of gangs in Murang'a County circumcising boys as young as 10 years old. An 11 year old boy had allegedly suffered complications following botched circumcisions by a rogue doctor in the same County.

13. The objective of the Bill is to regulate the practice; training; spaces and places for carrying out the operations (who and when); licensing; consideration of the health condition of the patient; sanitation; surgical aspect (standardizing and treatment); personnel to deal with the commercialization aspect; mentoring and content; and cost.

PART III

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

14. Following placement of advertisements in the print media on 23rd August, 2021 requesting for comments on the Bill from the public and relevant stakeholders pursuant to the provisions of Article 118(1) (b) of the Constitution of Kenya and Standing Order 127(3), the Committee received a memorandum from the Ministry of Health only.

3.1 THE MINISTRY OF HEALTH'S SUBMISSIONS

15. The Ministry of Health was in agreement with the amendment and further proposed that the procedure should be performed by persons trained on Infection Prevention and Control (IPC). The Ministry further submitted that the procedure should be carried out in safe and sterile environment to prevent disease transmission.

The Ministry of Health proposed the following amendments to the Bill—

16. Amendment of paragraph (a) of the proposed new subsection (2), to provide that male circumcision shall be performed by persons trained in Infection Prevention and Control.

Justification

This is to ensure that all persons who practice male circumcision shall undergo formal training in infection prevention and control so as to prevent disease transmission of diseases.

17. Deletion of paragraph (e) of the proposed new subsection (2).

Justification

The function is not within the mandate of the Ministry of Health. The function can be delegated to the Ministry of Sports, Culture and Heritage.

PART IV

3.0 COMMITTEE OBSERVATIONS

18. After considering the Health (Amendment) Bill, 2020 (*National Assembly Bill No. 28 of 2020*), the Committee observed the following:

- (i) Circumcision of boys in Kenya is a commonly performed operation and it is done for religious, parental, cultural and medical reasons;
- (ii) The procedure is usually performed in a non-clinical setting by a traditional provider with no formal medical training and as a result serious complications and even deaths have been reported;
- (iii) The health condition of the initiates is usually not considered prior to circumcision;
- (iv) Circumcisions undertaken in non-clinical settings have resulted to delayed wound healing, wound infection, severe loss of blood, mutilation, and even deaths.

4.0 COMMITTEE RECOMMENDATION

19. The Committee, having considered the Health (Amendment) Bill, 2020 (*National Assembly Bill No. 28 of 2020*) and submissions from the stakeholder, recommends that the House approves the Bill with amendments as proposed in the schedule.

PART V

5.0 SCHEDULE OF PROPOSED AMENDMENTS

20. The Committees proposed the following amendments to be considered by the House at Committee stage:

21. **CLAUSE 2**

THAT, clause 2 of the Bill be amended—

(a) by deleting the words “trained and registered persons” appearing in the proposed new paragraph (a) and substituting therefor the words “persons trained on the procedure for circumcision and in infection prevention and control”

Justification

The amendment seeks to ensure that all persons performing male circumcision will be required to undergo formal training on the circumcision procedure and in infection prevention and control to ensure that circumcision is carried out in safe and sterile environments to prevent disease transmission.

(b) by deleting paragraph (e).

Justification

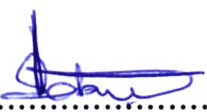
The deletion of the paragraph is necessary since religious and customary mentorship and counselling is not a function within the mandate of the Ministry of Health.

(c) by inserting the following new subsection immediately after subsection (2)—

“(3) The national and county governments shall, within two years from the date of enactment of this Act, present to Parliament the status of implementation of the provisions of this section.”

Justification

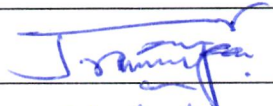
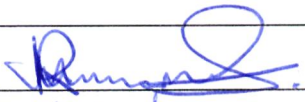
The proposed new subsection (3) seeks to ensure accountability on the part of the national and county governments in providing the training necessary to facilitate the conduct of circumcision in safe and hygienic conditions.

SIGNED.......... DATE 28th SEP, 2021.....

THE HON. SABINA CHEGE, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON HEALTH

**THE NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON HEALTH
ATTENDANCE SCHEDULE**

**ADOPTION SCHEDULE FOR THE CONSIDERATION OF THE REPORT ON THE THE HEALTH (AMENDMENT)
BILL, 2020 (NATIONAL ASSEMBLY BILL NO. 28 OF 2020)**

	NAME	SIGNATURE
1.	Hon. Sabina Chege, MP – Chairperson	Virtual
2.	The Hon. Joshua Kutuny, MP – Vice-Chairperson	Virtual
3.	Hon. Dr. Eseli Simiyu, MP	
4.	Hon. Dr. James Nyikal, MP	Virtual
5.	Hon. Dr. Mohamed Dahir Duale, MP	
6.	Hon. Dr. James Kipkosgei Murgor, MP	
7.	Hon. Alfred Agoi Masadia, MP	
8.	Hon. Muriuki Njagagua, MP	Virtual
9.	The Hon. Joyce Akai Emanikor, MP	Virtual
10.	Hon. Prof. Mohamud Sheikh Mohamed, MP	
11.	Hon. Martin Peters Owino, MP	
12.	Hon. Kipsengeret Koros, MP	Virtual
13.	Hon. Tongoyo Gabriel Koshal, MP	
14.	The Hon. Sarah Paulata Korere, MP	
15.	The Hon. Dr. Gideon Ochanda, MP	
16.	The Hon. Beatrice Adagala, MP	Virtual
17.	The Hon. Said Hiribae, MP	
18.	The Hon. (Capt.) Ruweida Mohammed, MP	
19.	The Hon. James Githua Kamau Wamacukuru, MP	Virtual



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT – FIFTH SESSION
DEPARTMENTAL COMMITTEE ON HEALTH

In the Matter of Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3)

and

In the Matter of Consideration by the National Assembly of Health (Amendment) Bill, 2020 (*National Assembly No. 28*)

**INVITATION TO PUBLIC PARTICIPATION
(SUBMISSION OF MEMORANDA)**

Article 118(1) (1) (b) of the Constitution provides that “Parliament shall facilitate public participation and involvement in the legislative and other businesses of Parliament and its Committees”. National Assembly’s Standing Order 127(3) provides that “the Departmental Committee to which a Bill has been committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House”.

The Health (Amendment) Bill, 2020 (*National Assembly Bill No. 28*) sponsored by Hon. Alice Mahome, M.P. seeks to amend the Health Act to make it mandatory for male circumcision to be performed under medically safe and hygienic conditions. The Bill also seeks to regulate the practice by ensuring that male circumcision is performed by trained and registered persons.

The Bill underwent First Reading on 8th October 2020 pursuant to Standing Order 127(3) and was committed to the Departmental Committee on Health for consideration and report to the House.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee hereby invites members of the public and stakeholders to submit memoranda on the Bill.

The memoranda may be addressed to the **Clerk of the National Assembly**, P.O. Box 41842-00100, Nairobi; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to clerk@parliament.go.ke; to be received on or before **6th September, 2021 at 5.00 p.m.**

Copies of the Bill are available at the National Assembly Table Office or may be accessed on- www.parliament.go.ke/the-national-assembly/house-business/bills.

MICHAEL R. SIALAI, CBS
CLERK OF THE NATIONAL ASSEMBLY
23rd August, 2021.

MINUTES OF THE SIXTIETH (60TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN THE MAIN CHAMBER, PARLIAMENT ON TUESDAY 21ST SEPTEMBER, 2021 AT 10.00 AM

PRESENT

1. **The Hon. Sabina Chege, MP - Chairperson**
2. **The Hon. Joshua Kutuny, MP – Vice-Chairperson**
3. The Hon. Dr James Nyikal, MP
4. The Hon. Dr Eseli Simiyu, MP
5. The Hon. Dr James Kipkosgei Murgor, MP
6. The Hon. Dr Mohamed Dahir Duale, MP
7. The Hon. Muriuki Njagagua, MP
8. The Hon. Dr Gideon Ochanda, MP
9. The Hon. Joyce Akai Emanikor, MP
10. The Hon. Martin Peters Owino, MP
11. The Hon. Kipsengeret Koros, MP
12. The Hon. (Cpt.) Ruweida Mohammed, MP
13. The Hon. Beatrice Adagala, MP
14. The Hon James Githua Kamau Wamacukuru, MP

ABSENT WITH APOLOGY

1. The Hon. Alfred Agoi Masadia, MP
2. The Hon. Sarah Paulata Korere, MP
3. The Hon. Prof Mohamud Sheikh Mohamed, MP
4. The Hon. Tongoyo Gabriel Koshal, MP
5. The Hon. Said Hiribae, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|--------------------|
| 1. Douglas Katho | – | Clerk Assistant II |
| 2. Muyodi Emmanuel | – | Clerk Assistant II |
| 3. Christine Odhiambo | – | Legal Counsel I |
| 4. Nimrod Ochieng | – | Audio Officer |

MIN. NO.NA/DC.H/2021/191: PRELIMINARIES

The Chairperson called the meeting to order at 10.14 am.

MIN.NO.NA/DC.H/2021/193: CONSIDERATION OF THE DRAFT REPORT OF THE HEALTH (AMENDMENT) BILL, 2020 (NATIONAL ASSEMBLY BILL NO. 28 OF 2020)

The Committee considered the draft report and proposed amendments to the schedule of the Health (Amendment) Bill, 2020 (NA BILL NO. 28 OF 2020).

(Details of the specific clauses and amendments are detailed in the report on the consideration of the Health (Amendment) Bill, 2020 (NA BILL NO. 28 OF 2020).

MIN.NO.NA/DC.H/2021/194: ADOPTION OF THE HEALTH (AMENDMENT) BILL, 2020 (NATIONAL ASSEMBLY BILL NO. 28 OF 2020)

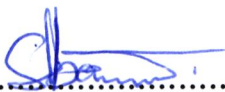
The Committee adopted the report of the Health (Amendment) Bill, 2020 (NA Bill No. 28 of 2020 after being proposed by the Hon. Dr. Gideon Ochanda, MP and seconded by the Hon. (CAPT.) Ruweida Mohammed, MP **(The Committee's proposed amendments are detailed in Part V of the report).**

MIN. NO.NA/DC.H/2021/195: ADJOURNMENT

There being no other business to deliberate on, the meeting was adjourned at 11:53 am.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.  Date. 27/3/2021

MINUTES OF THE FIFTIETH (50TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON HEALTH HELD IN MAJLIS HOTEL, LAMU ON TUESDAY 7TH SEPTEMBER, 2021 AT 10.00 AM

PRESENT

1. **The Hon. Sabina Chege, MP - Chairperson**
2. The Hon. Dr James Nyikal, MP
3. The Hon. Martin Peters Owino, MP
4. The Hon. Kipsengeret Koros, MP
5. The Hon. (CAPT.) Ruweida Mohammed, MP
6. The Hon. Beatrice Adagala, MP

ABSENT WITH APOLOGY

1. **The Hon. Joshua Kutuny, MP - Vice-Chairperson**
2. The Hon. Dr Eseli Simiyu, MP
3. The Hon. Dr James Kipkosgei Murgor, MP
4. The Hon. Dr Mohamed Dahir Duale, MP
5. The Hon. Muriuki Njagagua, MP
6. The Hon. Joyce Akai Emanikor, MP
7. The Hon. Alfred Agoi Masadia, MP
8. The Hon. Dr Gideon Ochanda, MP
9. The Hon. Sarah Paulata Korere, MP
10. The Hon. Prof Mohamud Sheikh Mohamed, MP
11. The Hon. Tongoyo Gabriel Koshal, MP
12. The Hon. Said Hiribae, MP
13. The Hon James Githua Kamau Wamacukuru, MP

IN ATTENDANCE

NATIONAL ASSEMBLY SECRETARIAT

- | | | |
|-----------------------|---|--------------------|
| 1. Douglas Katho | - | Clerk Assistant II |
| 2. Muyodi Emmanuel | - | Clerk Assistant II |
| 3. Christine Odhiambo | - | Legal Counsel I |
| 4. Nimrod Ochieng | - | Audio Officer |

MIN. NO.NA/DC.H/2021/160: PRELIMINARIES

The Chairperson called the meeting to order at 10.11 am.

MIN. NO.NA/DC.H/2021/161: BRIEFING BY THE LEGAL COUNSEL ON THE THE HEALTH (AMENDMENT) BILL, 2020 (NATIONAL ASSEMBLY BILL NO. 28 OF 2020)

The meeting was informed that the Committee had received memoranda from only the Ministry of Health. Thereafter, the Legal Counsel took the Committee through the Bill and explained the import of each proposed amendment.

**MIN.NO.NA/DC.H/2021/62: MEETING WITH THE HON. ALICE WAHOME,
MP ON HEALTH (AMENDMENT) BILL, 2020
(NATIONAL ASSEMBLY BILL NO. 28 OF 2020)**

The Hon. Alice Wahome, MP, took the Committee through the Bill and explained the import of each amendment.

(Details of the specific clauses and amendments are detailed in the report on the consideration of the Health (Amendment) Bill, 2020 (NA BILL NO. 28 OF 2020).

MIN. NO.NA/DC.H/2021/163: ADJOURNMENT

There being no other business to deliberate on, the meeting was adjourned at 11:49 am.

HON. SABINA CHEGE, MP

(CHAIRPERSON)

Sign.......... Date.....27/8/2021.....