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KAJIADO COUNTY BILLS, 2023

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**THE KAJIADO COUNTY DISABILITY MAINSTREAMING BILL,
2023**

A Bill for

AN ACT of the Kajiado County Assembly to provide for the rights and rehabilitation of persons with disabilities; to achieve equalization of opportunities for persons with disabilities; to establish the County Board for Persons with Disabilities; and for connected purposes.

ENACTED by the County Assembly of Kajiado, as follows—

PART 1—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Kajiado County Disability Mainstreaming Act, 2023 and shall come into force thirty (30) days from the date of publication in the *Kenya Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

“Aged person” includes a person with a disability who has been forced into retirement from employment due to his or her disability;

“assistive devices and services” means implements, tools and specialized services (including the services of qualified interpreters for the deaf and qualified teachers for the blind, guides and assistants for the physically disabled) provided to persons with disabilities to assist them in education, employment or other activities;

“Board” means the Kajiado County Disability Mainstreaming Board established under this Act;

“Fund Management Committee” means the Fund Management Committee established under this Act;

“County” means the Kajiado County;

“County Executive Committee member” means the County Executive Committee Member for the time being responsible for matters relating to disability mainstreaming in the County;

“County Government” means the County Government of Kajiado;

“disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day to day activities;

“discriminate” means to accord different treatment to different persons solely or mainly as a result of their disabilities and includes using words, gestures or caricatures that demean, scandalize or embarrass a person with disability;

“doctor” means a person registered or licensed as a medical practitioner under the Medical Practitioners and Dentists Act;

“intellectual disabilities” means disability associated with mental disorder, cerebral palsy and autism;

“organizations for persons with disabilities” means registered associations or societies formed for the purposes of rendering services to persons with disabilities;

“organizations of persons with disabilities” means registered associations or societies formed by persons with disabilities for their welfare and protection; and

“person with disability” means any person living with any kind of disability and registered with the National Council for Persons with Disability including a parent or a child wholly dependent on a person with disability.

Object and Purpose of the Act

3. The object and purpose of this Act is to ensure the realization of the rights of persons with disabilities in the County through—

- (a) the establishment of a Board for persons with disabilities;
- (b) setting out the rights and privileges of persons with disabilities;
- (c) the establishment of a Fund for persons with disabilities;
- (d) generally protecting persons with disabilities from any form of discrimination and promote their welfare; and
- (e) promote the welfare of people living with disabilities.

Guiding Principles

4. In the performance of functions under this Act, all actors shall be guided by the following principles—

- (a) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices;
- (b) non-discrimination;
- (c) full and effective participation and inclusion in County Affairs;
- (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; and
- (e) equality of opportunity.

**PART II—ESTABLISHMENT OF THE KAJIADO COUNTY
DISABILITY MAINSTREAMING FUND**

Establishment of the Fund

5. (1) There is established a Fund to be known as the Kajiado County Disability Mainstreaming Fund.

(2) The Fund shall consist of—

- * (a) monies appropriated by the County Assembly;
- (b) grants and donations to the Fund; and
- (c) income generated from the proceeds of the Fund.

(3) The County Assembly shall appropriate monies to the Fund but not less than Kenya Shillings Fifty Million in any financial year.

(4) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established.

Uses of the Fund

6. (1) The Board may use the monies of the Fund to—

- (a) support education programmes including the grant of bursary to persons with disabilities;
- (b) facilitate training, capacity building, mentorship and the provision of business development services to persons living with disabilities and enterprises owned by persons living with disabilities in the County;
- (c) buy assistive devices for persons with disabilities;
- * (d) facilitate the acquisition, adoption and utilization of persons with disabilities;
- (e) cater for the administration expenses of the Fund; and
- (f) any other activity in furtherance of the objectives of this Act.

(2) Subject to the provisions of this Act and Regulations, the Board may use the monies of the Fund to finance—

- (a) start-up businesses for persons living with disability;
- (b) persons with disabilities;
- (c) local purchase order;
- (d) local service order;
- (e) micro and small enterprises;

- (f) asset purchase;
- (g) agri-business;
- (h) grants and scholarships; and
- ~~*~~ (i) support and facilitate the provision of ^{severe} medical services to persons with disabilities including nutritional services;
- ~~*~~ (3) The Board shall give special consideration to persons with intellectual disabilities.

Administration of the Fund

7. (1) There shall be a Fund Administrator pursuant to the provisions of the Public Finance Management Act, 2012.

(2) The County Executive Committee Member responsible for Finance shall in consultation with the responsible County Executive Committee Member designate a person to be responsible for administration of the Fund in accordance with the applicable law.

(3) The Fund Administrator shall—

- (a) supervise and control the administration of the Fund in consultation with the department responsible for disability mainstreaming and the Board;
- (b) open and operate a bank account with a bank to be approved by the County Treasury;
- (c) cause to be kept proper books of account and other books and records in relation to the fund as well as other various activities and undertakings of the Fund;
- (d) prepare, sign and transmit to the Auditor-General Office financial statements in respect of each financial year and all other accounts relating to the Fund in accordance with the Public Audit Act, 2003 and such other details as the County Treasury may from time to time direct;
- (e) furnish additional information which is proper and sufficient for the purpose of examination and audit by the Auditor-General in accordance with the provisions of the Public Audit Act; and
- (f) prepare quarterly reports on the receipts into and issues out of the Fund and submit to the County Executive Committee Member.

(4) Every statement of account shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund as at the end of the financial year concerned.

(5) All monies received by the Fund shall be maintained in a separate account in the name of the Kajiado County Disability Mainstreaming Fund opened and administered under the Public Finance Management Act, 2012.

Expenditure on the Fund

8. (1) The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the Administrator of the Fund, and approved by the Board at the beginning of the financial year to which they relate.

(2) Any revision of the approved annual work programme, and of any cost estimate, shall be referred to the Board for approval.

Capital of the Fund

9. The initial capital of the Fund shall be the amount as shall be appropriated by County Assembly. The Fund shall be a Revolving Fund as appropriated by the County Assembly each financial year.

Retention of Receipts

10. All receipts, earnings and accruals to the Fund, and the balance of the Fund at the close of each financial year, shall be retained by the Fund for use for the purpose for which the Fund is established.

PART III—ESTABLISHMENT OF THE KAJIADO COUNTY DISABILITY MAINSTREAMING BOARD

Establishment of the Board

11. (1) There is established the Kajiado County Disability Mainstreaming Board.

(2) The Board shall consist of the following members nominated by the County Executive Committee Member—

- (a) three persons nominated by organizations representing persons with various categories of disabilities within the County, one of whom shall be a parent of a person with intellectual disabilities;
- (b) two members appointed from a panel of names submitted to the County Executive Committee Member by organizations for persons with disabilities;
- (c) representatives of the Departments responsible for the following—
- (i) disability mainstreaming;
 - (ii) education;

(dpo)

- (iii) health;
 - (iv) public service; and
 - (v) finance.
- (d) Fund Administrator, who shall be the secretary to the Board and will be an *ex-officio* member;
- (e) such other members as may be co-opted by the Board with the approval of the County Executive Committee Member; and
- (f) the members of the Board shall elect a chairperson and a vice-chairperson among themselves but among the persons appointed under subsections (a) and (b) of this section.
- (3) The membership of the Board shall have at least a third of the members being persons with disabilities.
- (4) The Chairperson and the vice-chairperson shall be of the opposite gender.
- (5) In appointing persons as members of the Board, the County Executive Committee Member shall ensure that the process is carried out in an open and transparent manner and that—
- (a) the membership of the Board shall equitably represent the types of disabilities in the County;
 - (b) not more than two-thirds of the members are of the same gender;
 - (c) the composition of the Board shall reflect the sub counties in the county and regional and ethnic diversity; and
 - (d) the Board shall be put in place within 90 days after the commencement of this Act.
- (6) The members of the Board appointed under section (2) (a) and (b) shall hold office for a period of three years and shall be eligible for reappointment for one further term of three years.
- (7) The Chief Officer responsible for disability mainstreaming shall provide such public officers as may be necessary for secretariat services to the Board.
- (8) The quorum at any meeting of the Board shall be half of the members and the Board shall meet atleast four times in a financial year.

Functions of the Board

12. (1) The Board shall—

- (a) provide overall management, design and oversight of the Kajiado County Disability Mainstreaming Fund;

- (b) advise the County Executive Committee Member on disability mainstreaming affairs in the County;
- (c) develop and implement strategic plans for implementation of the Act;
- (d) consider, verify and approve funding to the uses of the Fund;
- (e) approve disbursement of the Fund;
- (f) receive reports on the performance of the Fund from the Fund Management Committee established under this Act;
- (g) develop relevant guidelines and review them as the need arises, to guide the operations and implementation of the Fund;
- (h) develop and facilitate sectoral linkage on the Fund;
- (i) monitor and evaluate of the programmes and activities under the Fund;
- (j) prepare an annual report on the operations and performance of the Fund to the County Executive Committee Member;
- (k) oversee the management and administration of the Fund;
- (l) put in place necessary mechanisms for sanctions and their enforcements; and
- (m) prepare quarterly reports to the County Assembly.

Vacation of office

13. A member of the Board, other than *ex-officio* member, may—

- (a) at any time resign from office by notice in writing to the County Executive Committee Member responsible for disability mainstreaming affairs;
- (b) be removed from office by the County Executive Committee Member responsible for disability mainstreaming affairs, if the member—
 - (i) has been absent from three consecutive meetings of the Board without permission from the Chairperson;
 - (ii) is adjudged bankrupt;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
 - (v) is incapacitated by prolonged physical or mental illness; or
 - (vi) is otherwise unable or unfit to discharge his / her functions.

Fund Management Committee

14. (1) There is established a committee to be known as a Disability Mainstreaming Fund Management Committee.

(2) The Committee shall consist of the following members—

- (a) the Chief Officer for the time being responsible for disability mainstreaming affairs in the County shall be the Chairperson of the Committee;
- (b) five persons representing different kinds of disabilities each representing a sub-county nominated by organizations of persons with disabilities in the sub-county and appointed by the County Executive Committee Member responsible for gender mainstreaming in the County; and
- (c) the Chief Officer in charge of disability mainstreaming affairs to appoint an officer in the Department who shall be the Secretary to the Committee.

(3) A person appointed under sub-section (2)(b) shall serve for a term of three years.

Functions of the Management Committee

15. The Fund Management Committee shall be responsible for—

- (a) receiving, sorting and verifying the applications for the uses of the Fund submitting them to the Board for approval under this Act;
- (b) monitor and evaluate the progress and performance of the eligible applicants under this Act;
- (c) recommending to the Board the applicants who shall be considered for funding under this Act;
- (d) assisting in monitoring and evaluating the progress and performance of the micro and small enterprises supported under this Act;
- (e) creating awareness among the residents of the sub-county or ward about the Fund and mobilizing potential beneficiaries under this Act;
- (f) advising the Board on such projects that may be funded under this Act in the various sub-counties;
- (g) facilitating the Board in the implementation of the Act in the sub county or ward; and

- (h) carrying out such other roles as are necessary for the implementation of this Act, from time to time, be assigned by the Board.

Qualifications for appointment to the Committee

16. A person shall be qualified for appointment as member Fund Management Committee if the person—

- (a) holds at least a secondary school level education certificate;
- (b) meets the requirements of Chapter Six of the Constitution of Kenya, 2010;
- (c) is a person with disability experienced in matters relating to business, trade within the micro or small enterprise sector; and
- (d) is a resident of the sub-county where the person is nominated to represent.

Application of Government Regulations and procedures

17. Subject to the provisions of the Public Finance Management Act, 2012, existing Government Regulations and Procedures shall apply in the administration of the Fund.

Role of the County Executive Committee Member

18. The County Executive Committee Member responsible for disability mainstreaming affairs shall facilitate, and oversee the operations of the Board in the implementation of the Fund and in particular shall—

- (a) develop policy measures relating to the Fund;
- (b) give guidelines on the fund allocation formula for uses of the funds; and
- (c) through the Board, liaise with local business and corporate enterprises and encourage peer mentoring engagements for all the Fund recipients.

PART IV—FUND APPLICATIONS AND DISBURSEMENTS

Disbursement of funds

19. The funds shall be disbursed under the following conditions—

- (a) all disbursement from the Fund shall be approved and minuted by the Board;
- (b) all disbursements from the Fund shall be for the benefit of persons with various disabilities in the County and institutions for persons with disabilities within the County;

- (c) all disbursements from the Fund shall be made through the individual and group bank accounts respectively;
- (d) the record of the amounts received by each person or group and the record of expenditure of amounts so received shall be submitted to the Committee and the Board within thirty days after the close of the relevant financial year, together with a copy of the relevant bank statements and no disbursements for the succeeding financial year shall be made into the accounts until the said records are duly received; and
- (e) the Board may impose reasonable requirements, including restrictions, on a particular person or group and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the County Executive Committee Member responsible for disability mainstreaming.

Administrative cost

20. The administrative cost for the fund shall be a maximum of three (3) per-cent the annual allocation.

Eligibility criteria for Fund application

21. (1) A person who qualifies for funding under this Act may apply for a loan or financial assistance as the case may be to the Fund Management Committee in the prescribed form and in accordance with the prescribed conditions.

(2) An application for a loan or financial assistance may be made by a registered enterprise, an individual or registered group of persons with disabilities subject to the prescribed conditions provided that the conditions shall not be prohibitive to accessing the funds by the intended beneficiaries.

(3) The Board shall prescribe the limits of amounts that can be disbursed as a loan or financial assistance to an applicant.

(4) The Board may, where an applicant meets the prescribed conditions approve the loan or financial assistance application or reject the application and shall give reasons for rejection in writing to the applicant.

Requirements for application

22. (1) Applicants shall qualify to benefit from the Fund if—

(a) for an individual—

(i) is a person living a disability registered by the National Council for Persons with Disability and has an identity card to that effect; and

(ii) is a resident of Kajiado County;

(b) for a group—

(i) is a registered group for persons with various disabilities composed of a hundred per cent residents of Kajiado County;

(ii) is registered with the Department of Social Services or the Registrar of Societies;

(iii) is based and operational at the County, Sub-county or ward level; and

(iv) hold a bank account in the name of the group;

(c) for an institution—

(i) is a registered entity; and

(ii) has listed groups of persons with disabilities within it.

(2) On behalf of the County Government, the Board shall enter into an agreement with the identified beneficiaries on the terms of the of the usage of the Fund prior to release of funds through signing a prescribed form.

Unauthorized business

23. The Funds under this Act shall not be utilized to conduct any business of the following nature—

(a) unauthorized money lending services; and

(b) unlawful business under any written law.

Offences and penalties

24. An applicant who—

(a) in filing a Fund application form, knowingly makes any false statement in regard to any matter affecting his/her request for a financing under this Act;

- (b) being required under paragraph (a) to answer any questions, furnish any information or particulars or produce any document or paper, neglects to do so without reasonable cause; or
- (c) benefits based on false information shall be guilty of an offence and in the case of paragraphs (a) and (b), shall be liable to a fine of not more than one hundred thousand shillings or to imprisonment for a term of not more than six months and in the case of paragraph (c) to a fine of not more than one hundred thousand shillings or to imprisonment for a term of not less than eight months.

Winding up of the Fund

25. In the event of winding up of the Fund under this Act, the cash balances shall be transferred to the County Revenue Account while other assets of the Fund shall be transferred to the Department for the time being responsible for matters relating to disability mainstreaming.

PART V—RIGHTS AND PRIVILEGES OF PERSONS WITH DISABILITIES

Records for job placement

26. Every person with disability has a right to employment and to attain this right, the Board shall consult with village and ward administrators and other government agencies in both the National and County Government to maintain a record of persons with disabilities who are in possession of various levels of skills and training in the county and shall update such records regularly for purpose of job placement.

Health of persons with disabilities

27. The Board shall ensure that the implementation of the County health programmes puts measures in place for—

- (a) prevention of disability;
- (b) early identification of disability and early rehabilitation of persons with disabilities;
- (c) enabling persons with disabilities to receive free rehabilitation and medical services, related to the disability, in public health facilities in the County;
- (d) assist in provision of essential health services to persons with disabilities who require specialized services that are not available in the County;
- (e) provide facilities for persons with disabilities undergoing therapy;

- (f) establishment of Disability Rehabilitation Centers in the County;
- (g) prompt attendance by medical personnel to persons with disabilities and; and
- (h) provision of mobile clinics to people with disabilities in the remote far-fetched areas of the County.

→ parent of PWD

Exemptions, Waivers and variations

28. (1) Upon application by a person with disability or a group of persons with disability, the Executive Committee Member responsible for Finance may exempt, waive or vary fees or charges payable to the County Government on a case to case basis.

(2) Reservations shall be made for persons with disabilities in commercial trading zones and other public zones as the case may be.

Right to inclusion

29. The County Government shall reserve ten percent of the following for persons with disabilities —

- (a) all rental houses and building constructed by the County Government for business use;
- (b) houses under tenant purchase schemes arranged by the County Government;
- (c) houses owned by the County Government on Mortgage Scheme;
- (d) stalls both rental and for purchase in the public markets owned by the County Government;
- (e) commercial trading zones;
- (f) employment opportunities in the County Public Service;
- (g) space in commercial premises owned by the County Government;
- (h) kiosks licensed by the County Government; and
- (i) procurement opportunities reserved for special interest groups.

Parking spaces

30. (1) Upon application a person or a group of persons with disabilities shall be entitled to the use of recreational or sports facilities owned or operated by the County Government for social, sporting or recreational activities.

(2) Persons with disabilities shall be entitled to participate in all national and international sports events.

(3) For the purpose of subsection (2) the County Executive Committee Member responsible for Sports shall, in consultation with the Board, provide the necessary suitable environment including—

- (a) architectural infrastructure;
- (b) apparatus and equipment;
- (c) training and medical personnel; and
- (d) transportation facilities for the participants.

(4) Section (1) shall not apply in case where there is exclusive private hire of such facilities.

Rights to sports and recreation

31. (1) There shall be awareness, capacity building programs and advocacy activities on disability mainstreaming in the County.

(2) The Committee and the Board shall ensure implementation of this section.

Right to non discrimination

32. (1) Persons with disabilities shall be entitled to a barrier-free and disability friendly environment to enable them to have access to buildings, roads and other social amenities, assistive devices and other equipment to promote mobility.

(2) All public amenities or public service vehicle shall adapt it to suit persons with disabilities in such manner as may be specified by the Board.

(3) Where the Board considers that any premises, services or amenities are inaccessible to persons with disabilities by reason of any structural, physical, administrative or other impediment to such access, the Board may issue an adjustment order to the owner of the premises or the provider of the services or amenities concerned requiring the owner or provider to make adjustment to the premises to ensure accessibility to persons with disabilities.

Right to education

33. (1) Persons with disabilities shall have equal basis with others to the right to education.

(2) The County Government shall put in place measures to ensure that education and training of persons with disabilities is directed to—

- (a) the full development of human potential, sense of dignity and self-worth;

- (b) fostering respect for human diversity, human rights and fundamental freedoms with particular reference to those set out in the provisions of various international conventions on the right of persons with disabilities;
- (c) the development of persons with disabilities of their personalities, talent and creativity as well as the mental and physical abilities to their fullest potential;
- (d) enabling persons with disability to participate effectively in a free society;
- (e) no person or learning institution shall deny admission to a person with disability to any course of study by reason of such disability;
- (f) special schools and institutions, especially for the deaf, the blind and persons with mental disabilities shall be established to cater for formal education, skills development and self-reliance; and
- (g) the Board shall put in place an integrated system of special and non-formal education for persons with all forms of disability.

Access to Justice

34. The County Government shall cooperate with the relevant institutions to ensure access to justice for persons with disabilities is granted.

Right to admission

35. (1) A person with disability shall not be denied—

- (a) admission into any premises to which members of the public are ordinarily admitted; or
- (b) the provision of any services or amenities to which members of the public are entitled, unless such denial is motivated by a genuine concern for the safety of such person.

(2) The proprietor of the premises referred to in sub-section (1) shall not have the right, on the ground of a person's disability alone, reserve the right of admission to his or her premises against such a person.

Non-derogation of rights

36. The rights set out under this part are in addition to, and do not derogate in any way with the rights set out under Article 54 of the Constitution of Kenya, 2010.

PART VI—MISCELLANEOUS PROVISIONS**Formulation of regulations**

37. The County Executive Committee Member may make regulations generally for the better carrying out of the provisions of this Act and, without limiting the generality of the foregoing, may make regulations—

- (a) prescribing the procedures and forms applicable under this Act; and
- (b) prescribing the procedure and forms for persons entitled to subsidized medical care, bursary and social assistance under this Act.

MEMORANDUM OF OBJECTS AND REASONS

The main object and purpose of this Bill is to facilitate and in particular to establish the Kajiado Disability Mainstreaming Fund, the Board and the Management Committee; establish a framework for disability mainstreaming in the County; capacity building and involvement of persons living with disabilities in the management of their own affairs.

The Bill further provides for the administration of the Fund and disbursement of the funds to the beneficiaries of the Fund.

Dated the 4th August, 2023.

BETTY TAANY,
Chairperson, Committee on Disability Mainstreaming.