

# THE SIAYA COUNTY CHILD CARE BILL, 2015

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# THE SIAYA COUNTY CHILD CARE BILL 2015

## A bill for

**AN ACT of the County Assembly of Siaya to provide for a legal framework within which child care facilities should operate; to provide for a multi sectoral approach in the standards for provision of safety to children; to facilitate the decentralization of related state organs, their functions and services and for connected purposes.**

**ENACTED by the County Assembly of Siaya as follows: - ,**

1. This Act be cited as the Siaya County Child Care Act, 2015. Short title
2. This Act shall come into operation upon assent by the governor Commencement
3. In this Act – Interpretation
  - “Abuse” means any form of physical, sexual, mental, emotional abuse, cruelty, torture, inhuman treatment or neglect directed towards a child;
  - “Applicant” means any person or entity that has applied for a child care facility certificate.
  - “Assessor” Means a Quality Assurance and Standards officer’
  - “Board” means the Board established under section 5 of this Act;
  - “Care” means the provision of what is necessary for the education, health, welfare, maintenance, and protection of the children;
  - “Certificate” means a registration certificate issued under this Act;
  - “Certificate holder” means any person or entity issued with a certificate under this Act;
  - “Child” means an individual who has not attained the age of eighteen years;
  - “Child care facility” means any facility that provides all forms of residence, education, health, welfare, maintenance protection and recreation for children.
  - “Director” means the Director Safer Cities Operations;
  - “Executive Committee Member” means the Executive Committee Member for the time being in charge of education and children;
  - “Safer City” means a zone established by the department of Education and Children to ensure dignified care and safety of children.
  - “Safer city operations” means the office within the Department of Education and children.

4. The object of this Act is to ensure that the service delivery system for children is comprehensive, acceptable, effective and dignified through maintenance, management and regulation of child care services **Object of the Act**

## **PART II – ADMINISTRATION**

5. There is established a Safer Cities Board. **Establishment of the board**
6. (1) The board shall consist of – **Composition**
- (a) A Chairperson who is the chief officer from the time being in charge of education and children.
  - (b) A secretary who is the Director, Safer Cities Operations;
  - (c) Four Members appointed by the Executive Committee Member.
  - (d) A representative of persons with disabilities appointed by the Executive Committee Member.
- (2) The Members appointed by the Executive Committee Member shall serve for the term of three years.
- (3) A person is qualified for appointment as a Member of the board under section 6 (1) (c) and (d) if that person –
- (a) Is a citizen of Kenya
  - (b) Holds a degree from a recognized university
  - (c) Has knowledge and experience in any of the following fields –
    - (i) Education
    - (ii) Health
    - (iii) Planning
    - (iv) Water and environment
    - (v) Early childhood development
    - (vi) Child welfare
    - (vii) Social work; and
  - (d) Meets the requirements of chapter six of the constitution
- (4) A person is disqualified for appointment as a Member of the board if that person –
- (a) Is a member of Parliament or the County Assembly;
  - (b) Is declared to be of unsound mind;
  - (c) Is an un-discharged bankrupt or
  - (d) Is convicted of an offence.

7. The board shall: -

Functions of the board

- (a) Issue registration certificates to qualified persons in both public and private child care facilities;
- (b) Advise the Executive Committee member on standards for child care facilities and minimum qualifications for certification.
- (c) Monitor the operation of facilities and ensure adherence to prescribed standards
- (d) To advice the executive committee member on regulatory issues in the field of child care, special needs development and dignified care;
- (e) Ensure the provision of safe, quality and appropriate child care facilities.
- (f) Ensure the maintenance and security of county owned child care facilities.
- (g) Ensure assessment, early intervention, evaluation and monitoring of children;
- (h) Do such other thing necessary for the discharge of its functions under this Act or as may be provided for by any written law.

8. The board in consultation with the Executive Committee Member may enter into arrangements with any other person or entity dealing with child care.

Consultation

### **PART III – REGISTRATION AND ASSESSMENT OF CHILD CARE FACILITIES**

9. (1) A person shall not establish or maintain a child care facility unless it is registered under this Act.

(2) A person shall not issue any facility to provide early childhood development and care services unless the facility has undergone a quality review and approval in accordance with this Act.

(3) A person who operates a child care facility which is not registered under this Act commits an offence and is liable on conviction, to a fine not exceeding five hundred thousand shilling.

Registration

10.(1) An application for registration of a child care facility under this Act shall be in a manner prescribed by the Executive Committee Member.

(2) An application for registration of a child care facility shall be submitted to the director.

(3) The director shall forward the application under subsection (1) to the board within ten days of receipt.

(4) The board, within twenty one days of receipt of the application shall

Application for registration

ensure: -

- (a) An assessment of the proposed facilities is conducted; and
- (b) An interview is conducted to assess the applicant and the suitability of the persons proposed to be employed in the facility.

(5) The board shall within seven days after the inspection and interview approve or dismiss the application with reasons thereof.

(6) (a) Any applicant dissatisfied with the decision of the board may appeal to the Executive committee member who will form a committee of three members to hear the appeal within fourteen days.

(b) The decision of the committee will be final.

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| <p><b>11.</b> Any person making an application for registration shall pay the prescribed fees.</p>   | <p><b>Fees</b></p>                          |
| <p><b>12.</b> (1) The board shall register a child care facility based upon the written report of the director, if satisfied that –</p> <ul style="list-style-type: none"><li>(a) The applicant is an adult and deemed fit to manage the facility.</li><li>(b) The applicant has not been convicted of any offence</li><li>(c) Where the applicant is a company, firm or other organization, none of its directors or members, has been convicted of an offence.</li><li>(d) None of the persons to be employed by the applicant in the facility has been convicted of an offence.</li></ul> | <p><b>Qualification of an applicant</b></p> |
| <p><b>13.</b> (1) The board shall upon approval of an application for a child care facility issue a certificate to the applicant.</p> <p>(2) A certificate shall be valid for a period of two years from the date of issue and may be renewed on application.</p>  | <p><b>Certificate of registration</b></p>   |
| <p><b>14.</b> The certificate shall be displayed in a conspicuous place within the child care facility.</p>  | <p><b>Display of certificate</b></p>        |
| <p><b>15.</b> The board shall keep a register of all child care facilities.</p>  | <p><b>Register</b></p>                      |
| <p><b>16.</b> A certificate to operate a facility ceases to have effect when</p> <ul style="list-style-type: none"><li>(a) The certificate expires</li><li>(b) The board revokes the certificate for a justifiable reason, or</li><li>(c) The ownership of the facility changes.</li></ul>   | <p><b>Certificate</b></p>                   |
| <p><b>17.</b> (1) A certificate holder shall notify the board in writing of any changes to the facility.</p>   | <p><b>Change to the facility</b></p>        |

(2) The board may require a certificate holder to register a facility as a result of the changes referred to in subsection (1).

**18.**A certificate holder seeking to renew a certificate to operate a facility shall apply to the board in the prescribed manner.

**Renewal of certificate**

**19.**(1) The board may –

**Issuance of certificate**

(a) Decline to issue or renew

(b) Revoke

(c) Suspend; or

(d) Impose conditions on a certificate

Where it has reasonable grounds to believe that a facility would not operate or is not operating in accordance with the prescribed standards or the terms of the certificate.

(2) The certificate holder shall be given an opportunity to be heard before the board takes any action referred to in subsection (1).

(3) The board shall notify the Executive committee member of its decision upon revocation or suspension of a certificate under subsection (1).

(4) The Executive Committee Member may issue an order to the administrator of the facility directing him or her to cease to operate the facility until it complies with the recommendations of the board.

(5) The Executive Committee Member may inform the public of an order issued under subsection (4) in such manner as he considers necessary.

**20.**(1) The board may instruct assessors as it considers necessary to carry out the purpose of this Act.

**Assessment**

(2) An Assessor shall –

(a) Inspect a facility in respect of which an application for a certificate is made; and

(b) Make periodic inspections of a facility.

(3) An assessor may enter and carry out an investigation in respect of any facility where the board has reasonable grounds to suspect that the facility is

operated in contravention of this Act.

**21.** The Executive Committee member may make regulations for the purpose of effective implementation of this Act.

**Regulation**

#### **PART IV – MISCELLANEOUS**

**22.** (1) A person may make a complaint to the Board if that person has reason to believe that –

**Complaints to the Board**

(a) A child care facility is operating illegally or contravening any provision of this Act; or

(b) A Child in a facility, premise or service vehicle has been abused, has suffered injury or is in harm's way

(2) Upon receiving a complaint under subsection (1), the Board shall refer the complaint to the relevant authority.

**23.** (1) The board shall have at least four meetings in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

**Conduct of business and affairs of the Board**

(2) Meetings shall be convened by the secretary in consultation with the chairperson.

(3) The Chairperson shall preside over all meetings and in the absence of the Chairperson; the meeting shall be chaired by a person elected by the board at the meeting for that purpose.

(4) The chairperson may at any time convene a special meeting of the Board, and shall do so within two weeks of the receipt of a written request signed by at least three other members.

(5) At least seven days' notice of a meeting shall be given to every member.

**24.** The quorum of a meeting of the board is four Members.

**Quorum**

**25.** A decision of the board shall be by a majority of the Members present by voting and, in the case of an equality of votes, the person presiding the meeting shall have a casting vote.

**Voting**

**26.** Minutes of all meetings must be kept and entered in records kept for that purpose.

**Minutes**

**27.**(1) If a person is present at a meeting of the board where he or she is directly or indirectly interested in a private capacity, that person must declare such interest.

**Disclosure of minutes**

(2) The person making the disclosure of interest under subsection (1) must not, unless the board otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subsection (1) must be recorded in the minutes of the meeting at which it is made.

(4) A member of the board must not transact any business or trade with the board.

**28.**Any person who –

**Offences**

(a) Fails to comply with any provision of this Act;

(b) Fails to observe any terms and conditions imposed on the issue of a certificate; commits an offence and is liable to imprisonment for a term not exceeding six months or a fine not exceeding five hundred thousand shillings or both.



## **MEMORANDUM OF OBJECTS AND REASONS**

The provide for principal purpose of this Bill is to provide for a comprehensive legislative framework within which child care facilities should operate; to provide for standards for provision of care to children in these facilities and to create a framework for effective management of child care facilities.

**PART I** of the bill provides for preliminary matters including citation and definitions of the words used in the Bill as well as the object of the Act.

**PART II** of the Bill provides for the establishment, composition, qualifications and functions of the Safer Cities Board.

**PART III** deals with registration and assessment of child care facilities.

**PART IV** deals with the miscellaneous aspects of the Bill which includes conduct of business and affairs of the board.

The enactment of this Bill will occasion improvement of child care in Siaya County.

**HON MATHEWS ONDURU  
CHAIRPERSON  
COUNTY SECTORAL COMMITTEE ON HEALTH SERVICES**