

SPECIAL ISSUE

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REPUBLIC OF KENYA

***KILIFI COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2016

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**THE KILIFI COUNTY ANTI-PORNOGRAPHY
BILL, 2016**

A Bill for

**AN ACT of County Assembly to prohibit and penalize
the production, printing, publication, importation,
sale, distribution and exhibition of obscene and
pornographic materials and for connected
purposes**

ENACTED by the County Assembly of Kilifi as
follows—

1. This Act may be cited as the Anti-Pornography Act,
2016 and shall come in operation upon assent.

Short title and
Commencement.

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

Interpretation

“executive member” means the County Executive
Committee Member responsible for matters relating to Culture
and Social Services in the County;

“Person” includes a company, association or other body
whether incorporated or unincorporated.

“porno graphic material” includes any public display in
print, audio, visual, electronic or other similar medium that
describes or exhibits obscenity.

3. In fulfilling the Act’s mandate, Executive Committee
Member must act in accordance with the values and principles
set out in the Constitution and any other written law.

Guiding Principle

4. A person who—

Prohibition of
pornography

- (a) sells, lets to hire, distributes, publicly exhibits or in any
manner puts into circulation, or for purposes of sale,
hire, distribution, public exhibition or circulation,
makes, produces or has possession of any obscene
book, pamphlet, paper, drawing, writing, painting, art,
representation, cinematography films or figure or any
other obscene object that tends to corrupt morals or
which depicts the image of a person; or
- (b) imports, exports or conveys any obscene object for any
of the purposes specified in subsection (a), or
knowingly or having reason to believe that such object
will be sold, hired out, distributed or publicly exhibited
or in any manner put into circulation; or

- (c) stages or participates in a public performance or act which is obscene in nature and in contravention with acceptable norms of public morality; or
- (d) takes part in or receives profits from any business in the course of which the person knows or has reason to believe that the obscene objects are, for any of the purposes specifically in this section, made, produced, purchased, kept, imported, exported, conveyed, publicly exhibited or in any manner put into circulation; or
- (e) advertises or makes known by any means that a person is engaged in or is ready to engage in any act which is an offence under this section, or that any such obscene object can be produced from or through any person; or
- (f) offers or attempts to do any act which is an offence under this section, commits the offence of pornography and upon conviction is liable to—
 - (i) imprisonment for a term of not less than six years or to a fine of not less than five hundred thousand shillings or to both; and
 - (ii) upon subsequent conviction, to imprisonment to a term of not less than seven years without the option of a fine.

5. (1) An Enforcement Officer may, without a warrant—

Powers of the
Enforcement Officer

- (a) enter and search any premises, vehicle, aircraft or ship which the Enforcement Officer has reasonable grounds to believe is being used or has been used or involved in the production of pornographic material or in commission of any other offence under this Act;
- (b) seize any device, equipment or material which the Enforcement Officer has reason to believe has been used in the production of pornographic material or in the commission of any other offence under this Act.
- (c) Arrest any person whom the Enforcement Officer has reasonable grounds to believe has committed an offence in this Act

(2) Upon conviction under subsection(1) (b),that device, equipment or material must be forfeited to and disposed off by the County Government.

6. A person who—

Protection of the
EnforcementOfficers

- (a) assaults, obstructs, resists, delays, refuses entry or search or fails to take all reasonable measures to ensure the safety of or other wise interferes with a Enforcement Officers in the performance of the Enforcement officer's duties; or
- (b) fails to comply with any lawful order, requirement or request of a Enforcement Officers, commits an offence.

7. A person who contravenes a provision in this Act for Generalpenalty
which a penalty has not been provided for, commits an offence and is liable, on conviction, to a fine not exceeding Kenya Shillings five hundred thousand or to imprisonment for a term not exceeding five years or to both.

8. The executive committee member may make regulations Regulations
for the proper administration of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Anti-Pornography Bill, 2016 makes provisions to prohibit and penalize the production, printing, publication, importation, sale, distribution and exhibition of obscene and pornographic materials and for connected purposes.

The Bill mandates the Executive Committee Member in charge of issues related to Culture and Social Services committee to make Regulations for the better carrying out of the provisions of the Act. The Regulations are to be made with the approval of Kilifi County Assembly before they are gazetted. The Bill does not limit any fundamental rights and freedoms.

ELINA STEPHEN MBARU,
Chairperson, Youth Culture and Community Services Committee.