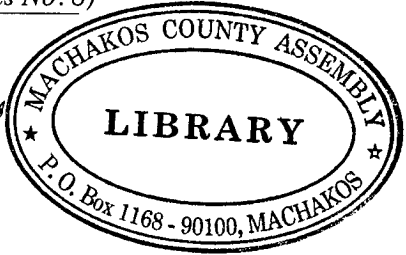


SPECIAL ISSUE

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***MACHAKOS COUNTY GAZETTE
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BILLS, 2015

NAIROBI, 9th July, 2015

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**THE MACHAKOS COUNTY GOVERNMENT HIV AND AIDS
MANAGEMENT BILL, 2015**

A Bill for

AN ACT of County Assembly of Machakos to provide for the institutional framework for the management of HIV and AIDS and for connected purposes.

ENACTED by the County Assembly of Machakos, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Machakos County Government HIV and AIDS Management Act, 2015.

Interpretation

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

“Acquired Immune Deficiency Syndrome (AIDS)” means a condition characterized by a combination of signs and symptoms, resulting from depletion of the immune system caused by infection with the Human Immunodeficiency Virus (HIV);

“Committee” means the County HIV and AIDS Management Committee established under section 4;

“departmental work place HIV and AIDs Control Units” means the respective unit in each line department as established under section 8;

“HIV and AIDs Control Unit” means the units set up under section 6;

“management” in relation to HIV and AIDS means all activities undertaken in accordance with this Act in HIV and AIDS prevention, control, and support of affected and infected persons;

“Human Immunodeficiency Virus (HIV)” means the virus which causes AIDs; and

Object and purpose

3. (1) The object and purpose of this Act is to—

- (a) establish an efficient institutional framework for the Management of HIV and AIDS;
- (b) provide for cooperation among agencies and inclusion of the community in HIV and AIDs Management;

- (c) promote public awareness about the transmission, Management and control of HIV and AIDS;
- (d) promote the realization of rights and fundamental freedoms of persons living with HIV and AIDS;
- (e) provide for the preparation and implementation of a County HIV and AIDs Strategic Plan; and
- (f) resource mobilization.

PART II—HIV AND AIDS MANAGEMENT INSTITUTIONAL FRAMEWORK

Establishment and composition of the County HIV and AIDS Management Committee

4. (1) There is established the County HIV and AIDS Management Committee.

(2) The Committee shall comprise of—

- (a) the County Executive Member responsible for health matters who shall be the chairperson;
- (b) the County Executive Member responsible for education who shall be the vice-chairperson;
- (c) the Chairperson of the County Public Service Board;
- (d) the County Director for Health who shall be the secretary; and
- (e) four other members, appointed by the County Executive Member comprising of—
 - (i) two youth representatives of either gender;
 - (ii) a representative of the private sector; and
 - (iii) a representative of persons living with HIV and AIDS.

(3) In the absence of the Chairperson or in the event of a vacancy in the office, the vice chairperson, or a member appointed by the Committee shall act as the chairperson.

(4) The Committee may co-opt into its membership not more than two persons whose knowledge and expertise may be necessary for such period as it may determine.

Functions and powers of the Committee

5. (1) The Committee shall —

- (a) establish and maintain linkages with the National Government on HIV and AIDS Management and prevention policies;
- (b) advise and oversee the implementation of HIV and AIDS policies in the County;
- (c) develop and regularly review a County HIV and AIDS Management strategic plan;
- (d) coordinate HIV and AIDS Management initiatives among the various County Government departments and AIDS Control Unit;
- (e) ensure the inclusion of HIV and AIDS Management Programmes in County Planning and Budgeting Programmes; and
- (f) perform any other function as may be assigned to it by the County Executive Member.

(2) The Committee shall have all the powers necessary for the proper performance of its functions under this Act.

(3) Without prejudice to the generality of the provisions of sub-section (2), the Committee shall have power to—

- (a) require Government departments to comply with the provisions of this Act or other law relating to the Management of HIV and AIDS;
- (b) subject to the law relating to management of public funds, fund raise for purposes of giving effect to the provisions of this Act; and
- (c) commission HIV and AIDS Management Programmes.

(4) The Committee may, in writing generally or in any particular case, delegate to a member or other person the exercise of any of its powers or the performance of any of the functions under this Act.

(5) The Committee shall, within a period of three months after the end of every year prepare and submit to the County Assembly a report of its operations.

Establishment of HIV and AIDS Control Units

6. (1) There is established, in respect of every Sub-County, an HIV and AIDS Control Unit.

(2) The Unit shall comprise of the following members appointed by the County Executive Member—

- (a) a representative of the County Executive Member who shall be the chairperson;
- (b) a representative of the department of education who shall be the vice chairperson;
- (c) a representative of the County Public Service Board;
- (d) a representative of the department of Health who shall be the secretary; and
- (e) three other members, appointed by the County Executive Member comprising of—
 - (i) two youth representatives of either gender;
 - (ii) a representative of the private sector;

(3) In the absence of the chairperson or in the event of a vacancy in the office, the vice chairperson, or a member appointed by the Unit shall act as the chairperson.

(4) The County Executive Member may co-opt into Membership of the Unit one person whose knowledge and expertise may be necessary for such period as it may determine.

(5) The County Executive member may establish such number of Sub Units in every Sub County as may be necessary.

Functions and powers of the Units

7. (1) The Units shall—

- (a) implement the decisions of the Committee and HIV and AIDS policies in public and private sector including work places within the Sub County;
- (b) co-ordinate HIV and AIDS management initiatives among the various County Government departments;
- (c) develop action plans for HIV and AIDS Management and prepare data base on HIV and AIDS;

- (d) co-ordinate inter-agency HIV and AIDS Management initiatives and advise the departmental HIV and AIDS control units;
- (e) organize public consultative forums and facilitate public education and capacity development; and
- (f) perform any other function as may be assigned to it by the County Executive Member.

(2) The Units shall have all the powers necessary for the proper performance of its functions under this Act.

(3) Without prejudice to the generality of the provisions of subsection (2), the Committee shall have power to require Government Officers to comply with the provisions of this Act or other law relating to the management of HIV and AIDS;

(4) The Units shall, every six months prepare and submit to the Committee a report of its operations.

Departmental work place HIV and AIDS Control Units

8. (1) There is established a departmental work place HIV and AIDS Control Unit in respect of every department which shall be headed by the head of department.

(2) The departmental work place HIV and AIDS Control Units shall consist of such number of officers stationed in the department as the head of department may determine.

(3) Not more than two-thirds of the members of the Unit shall be of the same gender.

(4) The Units shall perform such functions as may be assigned to them by the Committee through the Sub County Units.

PART III—GENERAL PROVISIONS

County HIV and AIDS Strategic Plan

9. (1) The Committee shall cause to be prepared a County HIV and AIDS Strategic Plan for every five years.

(2) The Strategic Plan shall be prepared in a consultative process and shall be laid before the County Assembly for consideration and approval.

(3) The Strategic Plan may, with approval of the County Assembly, be amended from time to time.

- (4) Every Strategic Plan shall set out —
 - (a) objectives of the plan;
 - (b) a comprehensive situational analysis report including the most recent statistics on HIV and AIDS within the County;
 - (c) time bound prevention and management strategies to be undertaken in the next five years;
 - (d) specific roles in the HIV and AIDS Management to be played by —
 - (i) the Government agencies
 - (ii) private sector agencies;
 - (iii) vulnerable groups including the youth, women and the poor;
 - (iv) the general public;
 - (e) implementation plan; and
 - (f) any other relevant information on HIV and AIDS.
- (5) A County Strategic Plan shall be published and circulated throughout the County.

HIV and AIDS Management approaches

- 10.** (1) In developing the County HIV and AIDS Strategic Plan, the Committee shall adopt the following approaches—
- (a) identification of high risk behaviours, lifestyles and activities and develop targeted efficient and cost effective response measures;
 - (b) development of a prioritized and sustainable response arrangement;
 - (c) identification of strategic partners including technical experts and development partners for inclusion in the HIV and AIDS Management Programmes;
 - (d) capacity building and awareness creation to all persons within the County;
 - (e) inter agency co-operation and community involvement; and
 - (f) continuous HIV and AIDS incidence monitoring.

(2) In addition to the approaches set out under Sub-Section (1), the Committee shall put in place measures for—

- (a) reduction of new infections;
- (b) mitigation of adverse effects of HIV and AIDS;
- (c) treatment of tuberculosis and other opportunistic infections;
- (d) prevention of mother-to-child transmissions;
- (e) promotion of voluntary counseling and testing;
- (f) targeting populations with higher risk of infection;
- (g) initiating special youth targeted programmes;
- (h) initiating special gender targeted programmes;
- (i) partnering with the responsible agencies in implementation of HIV and AIDS Programmes; and
- (j) provision of HIV and AIDS Management Services including—
 - (i) provision of drugs
 - (ii) provision of condoms;
 - (iii) inculcation of virtues and values; and
 - (iv) any other relevant service.

Rights of persons living with HIV and AIDS

11. Every person living with HIV and AIDS has the right to—

- (a) protection from compulsory HIV testing;
- (b) privacy of the individual;
- (c) protection from all forms of discrimination;
- (d) provision of basic healthcare and social services;
- (e) protection from re-infection and opportunistic diseases;
- (f) access to universal safety precautions, practices and procedures that carry the risk of HIV transmission; and
- (g) protection against stigmatization.

Responsible agencies

12. (1) The agencies listed in the Schedule shall be the responsible agencies for purposes of this Act.

(2) The responsible agencies shall be responsible to the County Executive Member for the implementation of HIV and AIDS Management Programmes.

Involvement of the community in HIV and AIDS Management

13. (1) The Committee shall put in place measures to ensure meaningful participation of the community in the HIV and AIDS Management Programmes.

(2) The measures referred to under sub-section (1) may target—

- (a) public and private schools and learning institutions;
- (b) clinics and health facilities;
- (c) private sector employers;
- (d) faith based organizations;
- (e) public benefit organizations;
- (f) community based organizations; and
- (g) any other community organization identified for this purpose by the County Executive Member.

Application of National Law and Policies

14. It shall be the responsibility of the Committee, in consultation with the relevant National Government agencies to—

- (a) ensure coordination of HIV and AIDS Management and prevention Programmes between the County and the National Government;
- (b) ensure the implementation of National Government Laws and policies relating to HIV and AIDS within the County;
- (c) sustain any Programmes and plans initiated by the National Government;
- (d) facilitate the implementation of additional measures to manage HIV and AIDS in the County; and
- (e) ensure full implementation of the provisions of this Act or other Law.

Resource mobilization

15. (1) The Committee shall, subject to the relevant laws relating to the Management of Public Finances, put in place measures for resource mobilization.

(2) There is established the Machakos County HIV and AIDS Management Fund, for funding Programmes under this Act.

(3) The sources of the Fund shall be—

- (a) such monies as may be appropriated by the County Assembly;
- (b) grants or donations from other agencies; and
- (c) all monies lawfully accruing to the Fund.

(4) The Fund shall be administered and accounted for by the County Executive Member.

Offences

16. (1) A person who—

- (a) knowingly infects another person with HIV;
- (b) in the course of professional practice, knowingly or negligently causes another to be infected with HIV through unsafe or unsanitary practices or procedures
- (c) in the course of professional practice, knowingly or negligently discloses confidential information for a person living with HIV and AIDS.

Commits an offence

(2) A person convicted of an offence shall, in addition to any other penalty, be liable for imprisonment for a term not exceeding two years or to a fine not exceeding one hundred thousand shillings or to both.

Regulations

17. The Executive Committee Member may make regulations for the better carrying out of the provisions and purposes of this Act.

SCHEDULE—RESPONSE AGENCIES

1. The office of the Governor.
2. The Public Service Board.
3. The County Assembly.
4. The Department of Health and Emergency Services.
5. The Department of Public Service, labor and information.
6. The Department of Lands, Energy, Environment and Natural Resources.
7. The Department of Finance and Revenue Collections.
8. The Department of Transport, Roads, Public Works and Housing.
9. The Department of Water, Irrigation and Sanitation.
10. The Department of Agriculture, Livestock and Cooperative Development.
11. The Department of Trade, Economic Planning and Industrialization.
12. The Department of Decentralized Units, Urban Areas and Municipalities.
13. The Department of Education, Youth and Social Welfare.
14. The Office of the County Director for Health.
15. The National AIDS Control Council (NACC) .
16. The Health NGO Network.
17. Networks for People Living with HIV.
18. Public Benefit Organizations.
19. Such other agencies as may be determined by the County Executive Member.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the prevention, control and Management of HIV and AIDS in the Machakos County.

The structure of the Bill is as follows —

Part I (Clauses 1–3) of the Bill contains preliminary provisions. These include the title of the Bill, interpretation of terms as used in the Bill and object and purpose of the Bill.

Part II (Clauses 4-8) of the Bill provides for HIV and AIDS Management institutional framework. The framework includes the County HIV and AIDS Management Committee, the Sub-County HIV and AIDS Control Units and sub-units and the departmental work place HIV and AIDS Control Units.

Part III (Clauses 9-17) contains provisions of general nature including preparation of County HIV and AIDS strategic plan, approaches to be adopted in HIV and AIDS Management, Rights of persons living with HIV and AIDS, responsible agencies, involvement of Communities, resource mobilization and making of regulations.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided through the estimates.

Dated the 10th June, 2015.

HON. KYALO PETER KYULI,
Member of the County Assembly.

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