Bill for Introduction into the Samburu County Assembly —

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THE SAMBURU COUNTY COST, CARE, SUPPORT AND MAINTENANCE OF PERSONS WITH DISABILITIES BILL, 2014

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THE SAMBURU COUNTY COST, CARE, SUPPORT AND MAINTENANCE OF PERSONS WITH DISABILITIES BILL, 2014

A Bill for

AN ACT of the County Assembly of Samburu to support persons with disabilities in the County appropriately; this includes regulations on costs, care and maintenance of individuals with disabilities as well as groups of and/or for persons with disabilities and facilities dealing with persons with disabilities, thereto

ENACTED by the County Assembly of Samburu as follows—

PART 1—PRELIMINARY

1. This Act may be cited as the Samburu County Persons with Disability Cost, Care, Support and Maintenance Bill, 2014.

2. In this Act, unless the context otherwise requires “County” has the meaning assigned to refer Samburu County Government County Executive Committee.

PART II—COST, CARE, SUPPORT AND MAINTENANCE OF PERSONS WITH DISABILITIES

3. (1) The County shall promote the establishment and maintenance of institutions for Persons with severe Disabilities at such places as it thinks fit.

(2) The County Executive Committee Member of the line portfolio shall promote and advise the County of the development and implementation by community based organizations and other stakeholders of suitable community based rehabilitation and welfare programs for the inclusion, integration, maintenance, care and support of children and persons with disabilities, including offenders with disabilities who may at the material time be serving a probationary sentence and ex-prisoners, in the respective communities.

(3) To this end, training under community rehabilitation program shall include vocational and trade
skills, independent living skills and capacity building of children and persons with disabilities in the community.

(4) Where the County Executive Committee Member of the line portfolio is of the opinion that an institution other than an institution established under sub regulation (1) is fit for the rehabilitation of the persons with severe disabilities, the County Executive Committee member may recognize such institution for persons with severe disability for the purpose of this Bill Regulation.

(5) No institution shall be recognized under this Bill unless such institution has complied with the requirements of this Bill.

(6) A person with disability to whom subsection (1) refers shall apply to the county executive Committee member for consideration for admission and funding in an institution with a view to his/her rehabilitation, care and maintenance for a period not exceeding 12 months, provided that the county Executive Committee Member shall thereafter facilitate the implementation of community based care, support and maintenance of children and persons with severe disabilities in the community.

(7) The County Executive Committee Member shall consider every application made in pursuance of this regulation and if it is satisfied—

(a) that the applicant is a person with severe disabilities;

(b) that owing to special circumstances, the applicant is ordinarily resident, and he/she has no alternative source funding, facility and or equipment for care and maintenance, may recommend that persons with a disability be admitted into an institution for the persons with severe disabilities.

(8) In determining any case or application for admission for admission of a person with severe disability in any institution established under this Bill regulation, the County Executive Committee Member shall at its own discretion consider the age, gender, economic status, family background, special needs and nature of disability of the applicant, and the suitability of the proposed institution.
(9) The County Executive Committee Member may, by writing, delegate any of its powers under the provision of this Bill, in relation to any particular matters or class of matters or to any particular place, area, ward, Sub County or the County, so that the delegated powers may be exercised by the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified in the instrument of delegation.

(10) For the purpose of this section “persons with severe disabilities” means a person who in the opinion of a medical professional approved by the County Executive Committee Member, has eighty percent or more disabilities.

4. (1) Where it is established that any person has been guilty of wilful neglect to provide reasonable care and maintenance in respect of a person with disability for whose care and maintenance in respect of a person with disability for whose care and maintenance the person is by or under any law responsible, the court may, on the application of either the person with a disability or County Executive Committee Member, order that the person makes monthly payments towards the maintenance of people with disabilities as the court may think just of having regards to the means of the person.

(2) Without prejudice to the foregoing, the court may, in exercise of its discretion under this sub regulation, reprimand, warn or order the attachment of the assets of the defaulting party and direct that the same be administered by any person or community based organization appointed by a court for the care and maintenance of the persons with disability.

(3) The court shall have power from time to time by an order under this Bill regulation to vary or discharge any previous order made in this regard.

(4) Where the court makes an order under sub-regulation (1) of this Bill regulation the court may, if it thinks fit, order that any person shall, to the satisfaction of the court, secure the monthly payments to a person with disability and may for that purpose give any directions it may consider necessary.
5. (1) The County Executive Committee Member may establish and maintain a general institution for persons with disability at such places as it may think fit.

(2) Without prejudice to the provisions of Bill, where a person with disability has no person who can provide for his care and maintenance or where, owing to the special nature of his disability, such a person must be admitted in an institution for the person with disabilities specially established to cater for such disability, the person may be admitted in an institution for persons with disabilities established under paragraph (1), or the County Executive Committee Member may recommend admission into an institution which caters for the special disability as the case may be.

(3) A person with disability to which clause (1) refers, other than a person with a special disability as referred to therein, shall apply to the County Executive Committee Member for the consideration for admission in a general institution for persons with disabilities.

(4) The County Executive Committee Member shall consider every application made in pursuance to this regulation and if it is satisfied

(a) that the applicant is a person with a disability within the meaning of the Act;

(b) that the applicant has no person who may provide for his or her care and maintenance; and

(c) that owing to special circumstances, the applicant is ordinarily resident who cannot access necessary facilities for care and maintenance, may recommend that the person with a disability be admitted in a general institution for persons with disabilities.

(5) The County Executive Committee Member may specify conditions for admission of persons with disabilities into a general institution for persons with disabilities established under this Bill regulation.

(6) The County Executive Committee Member may be by writing delegates any of its powers under the provisions of this Bill, in relation to any particular matters, or class of
matters or to any particular place, area, ward, sub-county or region specified in the instrument of delegation.

6. (1) Every institution established under this Bill shall be maintained in such a manner and satisfy such conditions as may be specified in writing by the County Executive Committee Member.

(2) The funding of institutions referred to herein shall be subject to this Bill.

7. (1) There shall be established a Fund to be known as the County Development Fund for Persons with Disabilities which shall include funds granted or donated by partner institutions or and sponsors.

(2) The fund shall be established as a permanent fund and the income therefrom shall be used for the benefit of persons with disabilities in the County.

(3) The Fund shall be administered by the Chief Officer of the line portfolio through a board of trustees as hereunder provided herein.

8. (1) The sources of the Fund shall be—

(a) such monies as may be appropriated thereto by the County Assembly,

(b) income generated by investments made by the board of trustees; and

(c) any other donations which the County Executive Committee Member may receive for the purpose of the Fund.

(2) Without limiting the generality the board of trustees may, out of the Fund—

(a) contribute to the expenses, including capital expenses, insurance health cover scheme for persons with disabilities;

(b) contribute to the expenses, including capital expenses, of organizations of or for persons with disabilities;

(c) contribute to the capital expenses of projects undertaken by the County Government for the benefit of persons with disabilities;
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(d) provide or contribute to the cost of assistive devices and services;

(e) pay allowances to persons with disabilities falling in the following categories and who have no other source of income—

(i) persons with severe disabilities and who are therefore not trainable in any skills;

(ii) aged persons with disabilities; and

(iii) single parents with children with disabilities and who cannot therefore seek employment;

(f) make payments or contributions for such purposes as may be prescribed by the County Executive Committee Member.

9. (1) The Fund shall be managed by a board of trustees which shall consist of—

(a) the County Executive Committee Member of the department;

(b) the Chief Officer of the department who shall be the secretary of the board;

(c) three representatives of the religious appointed by the County Executive Committee Member;

(d) a representative appointed by the County Executive Committee Member responsible for Finance;

(e) four representatives appointed by the County Executive Committee Member of the department, consisting of—

(i) one representative nominated by organizations of persons with visual disabilities;

(ii) one representative nominated by organizations of persons with hearing disabilities;

(iii) one representative nominated by organizations of persons with mental disabilities; and

(iv) one representative nominated by organizations of persons with physical disabilities
(f) not more than three persons co-opted by the County Executive Committee member to represent the donors that in his/her opinion have substantially supported the welfare of persons with disabilities.

(2) The County Executive Committee Member shall appoint one of the board members appointed to be the treasurer of the Fund.

(3) The board shall conduct its affairs in accordance with this Act and subject to any law relating to trustees.

10. (1) All persons with disabilities who are in receipt of an income may apply to the County Executive Committee Member responsible for finance for exemption from income tax and any other levies on such income.

(2) The County Executive Committee Member responsible for finance may, by notice in the Gazette, prescribe the procedure for application for and grant of exemption under this section.

(3) Materials, articles and equipment, including motor vehicles that are modified or designed for the use of persons with disabilities, shall be exempt from county government levy.

(4) All goods, items, implements or equipment donated to institutions and organizations of or for persons with disabilities shall be exempt county government levy.

11. (1) Where a certain person with disability is unable to make application for admission into an institution for persons with disabilities under this Act, the application may be made by a designated officer of the County to whom the application may be made or by any other person chosen by the person with disability.

(2) The application referred herein above shall be in such form as may from time to time be specified by the County Executive Committee Member.

12. (1) The department shall, either alone or in collaboration with any person or institution, establish, operate, manage and maintain facilities for the care and maintenance of persons with disabilities.
(2) At purchase or construction or basic repair of a dwelling house, a person with severe disabilities may be advanced credit of up to seventy five percent of the value of the standard living area.

(3) The extent of the standard referred to above, the conditions and the order for providing credit, shall be determined by the County Executive Committee Member with the approval of the County Executive Committee.

13. The County Executive Committee Member shall, from the Fund established, facilitate access to residences for persons with disabilities.

14. The County Executive Committee Member shall, within the limits of its financial capacity by notification, frame a scheme for payment of an unemployment allowance to persons with severe disabilities, registered by the County Executive Committee Member for more than two years and who could not be placed in any gainful occupation.

15. (1) The parents or guardian of a person with disability who is under eighteen years of age and with severe disabilities which require specialized care shall be entitled to a monthly allowance of such amount as may be determined by the board of trustees and approved by the County Executive Committee Member.

(2) The allowances referred to herein above shall, unless the County Executive Committee Member is satisfied that owing to the severity of the disability the circumstances of any particular case so warrant, terminate on the attainment by the person with disability of the age of eighteen years.

(3) Beyond the age of eighteen, the allowances payable under this regulation shall be paid directly to the person with disability and such person may be treated in his/her own right under this Act, and the County Executive Committee Member may recommend the person to whom such allowance may be made.

(4) The parents of a person with severe disabilities shall not receive a monthly allowance if the person with disability is accommodated in an institution with full government support.
16. (1) Any institution or organization referred to in this Act may, in such form as the County Executive Committee Member may from time to time specify, apply to the County Executive Committee Member for assistance in furtherance of the objects of such institutions.

(2) The County Executive Committee Member shall, before considering any application under this Act, ascertain that the institution is registered within the County Government.

(3) Any contribution or funding given by the department shall be within the limits of the economic capacity of the department.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this is to support persons with disabilities in the County appropriately; this includes regulations on costs, care and maintenance of individuals with disabilities as well as groups of and/or for persons with disabilities and facilities dealing with persons with disabilities.

Dated 13th May, 2014.

JONATHAN M. LEMOOSA,
Chairman, Culture, Social and Gender Committee.