



KEY DEFINITIONS IN THE ACT



CHILDREN ACT 2022 The Act is to give effect to Article 53 of the Constitution, to make provision for children's rights, parental responsibility, alternative care of children including guardianship, foster care placement and adoption- to make provision for care and protection of children and children in conflict with the law; to make provision for, and regulate the administration of children services; to establish the National Council Children's Services and for connected purposes.

The following are the key highlights:



After care means the services offered to children who leave alternative care as they transit to independent living.



Alternative care means the arrangement whereby a child is looked after outside the parental home under the provisions of this Act.



Best interest of the child includes but is not limited to the considerations contemplated under Article 53(2) of the Constitution.



Cabinet Secretary means the Cabinet Secretary for the time being responsible for matters relating to children's affairs.



Care and control with respect to a child, means all rights and duties which relate to the making of the day-to-day decisions concerning the child, and includes actual custody of a child.



Child means an individual who has not attained the age of eighteen years.



Diversion means the intervention and programmes designed to divert children from the criminal justice system.



Parent means the mother or father or any person who is conferred parental rights by the law.



Guardian means an individual who is appointed to exercise care and control of a child.



Intersex child means a child with a congenital condition in which the biological sex characteristics cannot be exclusively categorized in the common binary of female or male due to inherent and mixed anatomical, hormonal, gonadal or chromosomal patterns, which could be apparent prior to, at birth, in childhood, puberty or adulthood.



Kafaalah means the taking in of a child who is deprived of parental or family care and protection by a person professing the Islamic faith who is capable of looking after a child in accordance with this Act.



WHAT THE CHILDREN ACT 2022 ENTAILS



Parents have the responsibility of ensuring the wellbeing of a child so as to foster the positive development of the child.



The duties of the office of the Secretary of Children Services is to safeguard the welfare of children, facilitate the establishment of statutory institutions, and provide protection of children.



The functions of the National Council for Children Services (NCCS) are involvement of child adoption, advising the Cabinet Secretary on matters relating to children, development of child protection policies



The NCCS can establish County and Sub-County Advisory Committees for it to function at County and Sub-County levels.



The NCCS will receive funding from Parliament in addition to sourcing funds from grants, gifts, donations, or other endowments given to the Council.



Child protection units will be established by the Inspector-General in every police station for the purpose of providing, on temporary basis, a safe and non-threatening environment for children in conflict with the law



The Chief Justice may designate Children's Courts in counties and sub-counties and appoint a magistrate to preside over cases involving children in respect to any area of the country.



When a person who does not have legal custody of a child is entrusted with the care of a child, the person has a duty to safeguard the interest and welfare of the child.



Children's court will have a child-friendly setting to the children who are before it.



Children's court will make orders relating to privacy in proceedings in relation to an offence against or by a child of a sexual nature and for child witnesses.



The children's court shall have civil and criminal jurisdiction to conduct proceedings on the protection of children, matters to do with NCCS, hear any charge against a child, hear a charge against any person accused of an offence that causes the harm of a child.



BREAKDOWN OF CHILDREN ACT 2022



The court may make a **maintenance order** when parents of a child file for divorce proceedings.



There are **penalties set out** for cruelty to and neglect of children.



When children in need of care and protection are found guilty of an offence, they will be committed to a rehabilitation school.



Children's court have powers to make access orders, residence orders, exclusion orders, child assessment orders, family assistant orders, wardship orders, and protection orders.



The Court has been empowered to make adoption orders of children.



Children living on the streets are in need of care and protection. They **are to be protected** from all kinds of abuse and neglect.



Clear indication of **children** who may be adopted.



The court is empowered to make certain orders **in respect of children** in need of care and protection.



Foster care placements are meant to **offer protection and nurturing** to children found unattended either on a temporary or permanent basis.



The Act makes clear for who may **apply to adopt** a child.



Inter-country adoptions have been made possible.

Source: Summary of Children Act 2022



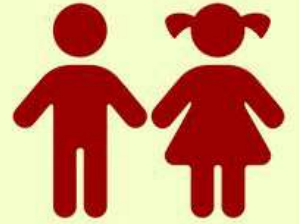
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Children can be adopted by non-resident Kenyans.



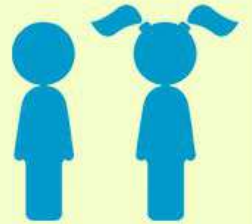
Provides an assessment on child arrest.



Children can be adopted by their family relatives.



A child offender's right to privacy is protected.



The Register General has been mandated to maintain a register known as the "Adopted Children Register".



Detention of children shall be a last resort



Adoption agencies have clearly set out functions.



There are steps for when to consider diversion.



A children's court may try a child for any offence except murder.

Children under 12 years shall not be criminally responsible for any act or omission. Any child who commits an offence while under 14 years shall be presumed not to be capable of differentiating right from wrong.



Punishment of children will have restrictions.