

A BILL

FOR

AN ACT TO REPEAL THE PRISONS ACT CAP. P29 LAWS OF THE
FEDERATION OF NIGERIA, 2004 AND ENACT THE NIGERIAN PRISONS AND
CORRECTIONAL SERVICE, TO MAKE COMPREHENSIVE PROVISIONS FOR
THE ADMINISTRATION OF PRISONS IN NIGERIA; AND FOR RELATED, 2016

Sponsored by Hon Danburam Abubakar Nuhu

[] Commencement

1 BE IT ENACTED by the National Assembly of the Federal
2 Republic of Nigeria-

3 1.-(1) There is established for the Federation a Prisons Service to
4 be known as the "Nigerian Prisons and Correctional Service" (in this Bill
5 referred to as "the Service"). Establishment of
prison service

6 (2) There shall be for the administration of the Service a Controller
7 General, Deputy Controllers-General and such other subordinates to the
8 Controller-General as may be necessary for the administration of the
9 Service.

10 (3) The National Headquarters of the Service shall be located at the
11 Federal Capital Territory, Abuja.

12 (4) The Controller General may establish Zonal Headquarters of
13 the Service and the State Command.

14 2.-(1) The Minister may, by order in a Federal Gazette, declare any
15 public building with requisite facilities in an appropriate location within
16 Nigeria, to be a prison and by the same or subsequent order specify the area
17 for which the Prison is established. Establishment and
classification of
prisons

18 (2) Every prison shall include-

19 (a) the grounds and buildings within the prison enclosure; and

20 (b) any detention centre for the temporary detention or custody of
21 prisoners newly apprehended or under remand which is declared by the

1 Minister by order in the Federal Gazette to be part of the prison.

2 *First Schedule.*

3 (3) The categories of prisons in the Federation shall be set out in the
4 First column of the First Schedule to this Bill and there shall be confirmed in
5 each category in the second column thereof.

6 (4) The Minister shall by the order establishing a prison or a separate
7 order in the Federal Gazette-

8 (a) designate every prison as a prison of a particular category;

9 (b) for the separation of different classes of prisoners in prison of any
10 category appropriate any part of the prison to particular classes of prisoners;
11 and

12 (c) any prisoner of a class to which any prison or part of a prison has
13 been appropriated under the provisions of this section may lawfully be
14 imprisoned therein, whether or not the warrant or the order for his
15 imprisonment has been issued by a court having jurisdiction in the place where
16 the prison is situated.

Appointment of
Controller
General of Prisons
and other Staff

17 3.-(1) The Controller-General and the Deputy Controllers-General
18 shall be appointed from amongst serving General Duty prison officers by the
19 President acting on the advice of the Board.

20 (2) The Controller-General shall have the general charge and
21 superintendence of the service and to perform such other functions as may be
22 conferred upon him under this Act or any other Law.

23 (3) When the Controller-General is absent from office a Deputy
24 Controller-General shall act for him and shall:

25 (a) not deal with any matter involving a change in policy; and

26 (b) report to the Controller-General upon his return any matter of
27 importance dealt with by him during such absence.

Establishment
of prisons service
board

28 4.-(1) There is Established for the Service, the prison Service Board
29 (in this Bill referred to as "the Board).

30 (2) Chairman and seven (7) other members (to be referred to as Board

1 Members). The Chairman of the Board to be appointed by the President can
2 be from any of these Retired Public Officers:

3 (i) a retired General Duty Prison Officer of not less than the rank of
4 Deputy Controller-General of Prisons with good track records and skilful on
5 prison duties;

6 (ii) a retired High Court Judge with not less than ten (10) years'
7 experience in the Bench.

8 (3) The other seven (7) members shall comprise:

9 (i) two (2) Retired Prison General Duty Officers from the rank of
10 Assistant Controller-General of Prisons and above with good track record of
11 Service;

12 (iii) a representative from the Ministry of Interior of not less than
13 the rank of a Director;

14 (iv) a representative from the Federal Ministry of Justice of not less
15 than the rank of a Director;

16 (v) a representative from the Nigerian Bar Association of the rank
17 of Senior Advocate of Nigeria (SAN) or Legal Aid Council of Nigeria of not
18 less than the rank of a Director;

19 (vi) a representative from the National Human Rights Commission
20 of Nigeria or Civil Society Organization;

21 (vii) the Controller-General of Prisons to be a sitting member on
22 advisory capacity.

23 (4) The Secretary of the Board shall be a serving General Duty
24 Prison Officer of not less than the rank of an Assistant Controller-General of
25 Prisons, with good track record of service.

26 (5) There shall be for the Service administrative, psychological,
27 educational, medical, technical, welfare and other officers as the Board may
28 consider necessary for efficient running of the Service.

29 (6) The officers of the Service shall subject to Subsection (1) of this
30 section, be appointed and disciplined by the Board.

	1	(7) Notwithstanding the provisions of subsection (3), junior officers
	2	of the Service shall be appointed, promoted and disciplined by the Controller-
	3	General.
Tenure of Office	4	5.-(1) The Chairman of the Board shall have tenure of four (4) years
	5	which can be renewed for another term of four (4) years subject to good
	6	performance.
	7	(2) The tenure of the other seven (7) members shall be for five (5)
	8	years which can be renewed for another five (5) years subject to good
	9	performance.
	10	(3) The Secretary of the Board shall maintain Board's Secretariat and
	11	keep all records and proceedings of Board meetings.
Functions of the service board	12	6. In accordance with its enabling laws, the functions of the Board
	13	will include:
	14	(i) formulation of general policy guidelines for the Nigerian Prisons
	15	and Correctional Service and the administration of the ACT of the Service,
	16	subject to the general control of the Chairman;
	17	(ii) the Board shall exercise powers similar to those of the Federal
	18	Civil Service Commission as entrenched in the Constitution to appoint,
	19	promote and exercise disciplinary control over senior staff of the Nigerian
	20	Prisons and Correctional Service.
Cessation of membership	21	7. The office of a member of the Board shall become vacant if:
	22	(a) he resigns as a member of the Board by notice in writing under his
	23	hand addressed to the President and resignation shall take effect on the date of
	24	receipt by the President of such letter;
	25	(b) a member of the Board may be removed from office by the
	26	President if he is satisfied that it is not in the interest of the Board or the interest
	27	of the public that the member should continue in office.
Emolument, etc., of members t	28	8. The Chairman and members of the Board shall be paid such
	29	emoluments, allowances and benefits in accordance with the existing
	30	regulations on such payment.

1 **9.-(1) Subject to subsection (2) of this section, every prisoner**
2 **confined in a prison shall be deemed to be in the legal custody of the Prison**
3 **Superintendent, and shall be subject to prison discipline and regulations**
4 **made under this Bill whether or not he is within the precincts of the prison.**

Custody of
prisoners

5 **(2) In the case of a prisoner under sentence of death, the Prison**
6 **Superintendent shall at such time on the day on which the sentence is to be**
7 **carried out as may be fixed by the sheriff, and from that time until the actual**
8 **carrying out of the sentence:**

9 **(a) the prisoner shall be in legal custody of the sheriff; and**

10 **(b) the sheriff shall have jurisdiction and control over that portion**
11 **of the prison where the prisoner is confined and the prison officer serving**
12 **therein so far as may be necessary for the safe custody of the prisoner during**
13 **that period and for the purpose relating to such custody.**

14 **(3) Subject to this Bill, the Prison Superintendent is authorized and**
15 **required to keep and detain all persons duly committed to his custody by any**
16 **court, judge, magistrate, justice of the peace or other authority lawfully**
17 **exercising civil or criminal jurisdiction, according to the terms of any**
18 **warrant or order by which any such person has been committed until that**
19 **person is discharged by due course of law.**

20 **(4) In the event that the prison has exceeded its maximum capacity,**
21 **the State Controller shall notify the Chief Judge of the State or the State**
22 **Criminal Justice Committee.**

23 **(5) Upon receipt of the notification referred to in subsection (4)**
24 **above, the Chief Judge of the State or the State Criminal Justice Committee**
25 **shall within a period not exceeding one month take necessary steps to rectify**
26 **the overcrowding.**

27 **(6) Without prejudice to subsection (4), the State controller of**
28 **Prisons in consultation with the Prison Superintendent shall have the power**
29 **to reject more intake of prisoners where it is apparent that the prison in**
30 **question is filled to capacity.**

Report on prisoner	1	10. When a person is sentenced, committed or transferred to prison,
	2	the Service shall take reasonable steps to obtain, as soon as practicable:
	3	(a) relevant information about the offence and the person's personal
	4	history, including the person's psychosocial mental health status, economic,
	5	criminal and young offenders history;
	6	(b) any reason and recommendation relating to the sentencing or
	7	committal that are given or made by the court that convicted, sentenced or
	8	committed the person and any court that hears an appeal from the conviction,
	9	sentence or committal;
	10	(c) any report relevant to the conviction, sentence or committal that is
	11	submitted to a court mentioned in the subparagraph (b);
	12	(d) any other information relevant to administering the sentence or
	13	committal, including existing information, from the victim impact, statement
	14	and the transcript of any comments made by the sentencing judge regarding
	15	serving the sentence.
Prison labour	16	11.-(1) Subject to this section, the effect of a sentence of
	17	imprisonment with Prison labour passed upon a prisoner shall be that the
	18	prisoner shall be imprisoned for the period of the sentence and during his
	19	imprisonment shall work at such labour as may be directed by Prison
	20	Superintendent.
	21	(2) The labour referred to in subsection (1) of this section shall take
	22	place within or outside the prison, so far as practicable.
	23	(3) The medical officer may order any prisoner to be excused from
	24	labour or to perform light labour, and any prisoner ordered to perform light
	25	labour shall be required to do work for which he is certified by the medical
	26	officer to be fit.
	27	(4) This section is without prejudice to any provision of this Bill or
	28	regulations made there under providing for the remission of sentences.
Removal of a prisoner	29	12.-(1) The Controller-General or, if authorized in writing by the
	30	Minister, any Prison Superintendent, may by order under his hand direct that

1 any person in the prison under the sentence of the court for offence
2 committed by him shall be removed from the prison in which he is confined
3 to another prison; and where a person is removed to a prison other than that
4 named in the warrant or order together with the order of removal (which may
5 be endorsed on or separate from the warrant or order), shall be sufficient
6 authority-

7 (a) for the removal of the prisoner to the prison named in the order
8 of removal and his detention there; and

9 (b) for the carrying out of the sentence described in the warrant or
10 order, or for any part of the sentence which remains un-executed.

11 (2) Where it appears to the Controller-General-

12 (a) that the number of prisoners in a prison is greater than can
13 conveniently be kept there and that it is more convenient to transfer the
14 excess number of prisoners to another prison;

15 (b) that by reason of the outbreak within the prison of a disease or
16 for any other reason it is desirable to provide for the temporary shelter and
17 safe custody of any prisoner; or

18 (c) the Controller-General may by order under his hand direct that
19 as many of the prisoners as may be indicated in the order shall be kept and
20 detained in a building or place which is outside the prisons and specified in
21 the order and that building or place shall be deemed to form part of the prison
22 for the purposes of this Bill until the order is cancelled.

23 (3) Nothing in this Bill shall be construed as authorizing the-

24 (a) transfer or removal of a prisoner to a prison of a different
25 category from that in which he was previously confined; or

26 (b) keeping or detaining of a prisoner in a building or place in
27 which are confined prisoners of a different class from that to which he
28 belongs.

29 13.-(1) Where the presence of a prisoner is required before a court,
30 the court may issue an order addressed to the Prison Superintendent

Production of
prisoner before a
court

1 requiring the prisoner to be produced before the court in proper custody at the
2 time and place specified in the order, and by endorsement on the order require
3 that person to be brought up again at any adjourned hearing.

4 (2) In subsection (1) of this section, proper custody means the custody
5 of prison officers.

6 (3) If a prisoner charged with an offence is brought before a court
7 under this section, the same procedure shall be followed with respect to the
8 offence as would have been followed if he had been brought before the court on
9 a warrant.

10 (4) If the Controller General receives a request or subpoena that the
11 presence of a prisoner is required at any place in Nigeria he shall in writing
12 under his hand-

13 (a) order the prisoner to be taken to that place, in compliance with the
14 request after being satisfied that the request is in the public interest; or

15 (b) order the prisoner to be taken to that place forthwith, in the case of
16 a subpoena; and

17 (c) a prisoner taken from prison in pursuance of any such order shall
18 be kept in such custody and shall be deemed to be in lawful custody.

Medical check-up
on prisoner

19 14.-(1) Where it appears to the Prison Superintendent that a prisoner
20 undergoing a sentence of imprisonment or under sentence of death is of
21 unsound mind, he shall forthwith report the matter to the State Controller of
22 prisons who-

23 (a) shall appoint two or more qualified medical practitioners and
24 clinical psychologists (one of whom may be the medical officer of the prison)
25 to inquire into the prisoner's soundness of mind; and

26 (b) may if he thinks it necessary, order the removal of the prisoner
27 from the prison to another prison or to a hospital.

28 (2) The medical practitioners and clinical psychologists appointed
29 under subsection (1) of this section shall-

1 period not exceeding 5 years from the date of the last review.

2 23.-(1) A prison officer from whose lawful custody a prisoner
3 escapes commits an offence unless he has taken adequate measures at all
4 times to prevent such escape, and the burden of proving that such adequate
5 measures were taken in the case lies on the prison officer concerned.

Escape of a
prisoner, etc., and
penalty

6 (2) Where the person who escaped from the custody of a prison
7 officer is under sentence of death or imprisonment for life or is charged with
8 or has been detained on suspicion of having committed an offence
9 punishable with death or imprisonment for life, the officer concerned
10 commits a felony and is liable on conviction to imprisonment for seven
11 years, in any other case the prison officer commits a felony and is liable on
12 conviction to imprisonment for five years.

13 (3) Where an inmate dies or suffers serious bodily injury, the State
14 Controller of Prisons shall investigate the incident and report to the
15 Controller-General who shall forthwith inform the Minister.

16 (4) Where the investigation reveals that the injury was caused by
17 the negligence or unlawful action of a Prison officer, the officer shall be
18 dismissed from Service and in the case of death of an inmate, the officer
19 shall be prosecuted.

20 (5) The Minister or a person authorized by the minister may subject
21 to and in accordance with the regulations, pay compensation in respect of
22 the death or disability of an inmate or person in an approved programme or
23 labour.

24 24.-(1) The Controller-General of Prisons shall subject to the
25 approval of the Minister and for the purpose of carrying into effect the
26 provisions of this Bill, make regulations with respect to-

Regulations

27 (a) the organization and administration of prisons; and

28 (b) standing orders for the good, order, discipline and welfare of
29 prisoners.

Standing orders	1	25. The Board may make standing orders relating to appointments to
	2	offices in the Service, promotion, transfer, dismissal and discipline of the staff
	3	of the Service.
Delegation of duties	4	26. -(1) Subject to this section-
	5	(a) the Minister may delegate any of his functions under this Bill to the
	6	Controller General of Prisons or;
	7	(b) as regards a state or offences committed under the laws of a state to
	8	the State Authority.
	9	(2) A delegation under subsection (1) of this section may be made
	10	subject to such conditions and limitations, if any as the Minister thinks fit.
	11	(3) The delegation of a function under subsection (1) of this section
	12	shall not prevent the Minister from continuing to exercise the function himself
	13	if he deems fit.
Repeal of Cap P29 LFN 2004	14	27. -(1) The Prisons Act, Cap P29 Laws of the Federation of Nigeria,
	15	2004 is repealed.
	16	<i>Third Schedule</i>
	17	(2) The savings and transitional provisions in the Third Schedule to
	18	this Act shall have effect notwithstanding any other provision of this Act.
Interpretation	19	28. In this Bill-
	20	"Board" means the Immigration and Prisons Service Board;
	21	"Chief Judge" includes Chief Judge of the Federal High Court, Chief Judge of
	22	the Federal Capital Territory and the Chief Judge of a State;
	23	"Controller-General" means the Comptroller General of Nigeria Prisons
	24	Service;
	25	"Function" includes power and duty;
	26	"Medical Officer" in relation to a prison includes a person directed under this
	27	Bill to perform the functions of a medical officer in respect of that prison;
	28	"Minister" means the Minister charged with the responsibility of prisons;
	29	"Prison Officer" means an officer of whatever rank appointed pursuant to this
	30	Bill;

1 "Prisoner" means any person lawfully committed to custody;
 2 "Public Holiday" includes a day which is Saturday or Sunday;
 3 "Sentence of Imprisonment" means any sentence involving confinement in
 4 a prison (whether or not it is combined with labour of any kind) and includes
 5 a sentence given by way of commutations as well as an original sentence
 6 passed by the court;
 7 "Sheriff" in relation to a person means the Sheriff of the State in which that
 8 prison is situated;
 9 "State" means a State of the Federation and shall include the Federal Capital
 10 Territory;
 11 "State Authority" means the Governor of a State and the State Authority in
 12 relation to a person confined in prison;
 13 "Prisons Superintendent" means the prisons officer for the time being in
 14 charge of the prison.

15 29. This Bill may be cited as the Nigerian Prisons and Correctional Citation
 16 Services Bill, 2016.

17 SCHEDULES
 18 FIRST SCHEDULE
 19 CLASSIFICATION OF PRISONS
 20 FIRST COLUMN
 21 *Section 2 (3)*
 22 CATEGORY OF PRISONERS
 23 *Maximum Security Prisons (3 years and above)*
 24 SECOND COLUMN
 25 CLASS OF PRISONERS TO WHICH APPROPRIATED
 26 Prisoners under sentence of death or life imprisonment; persons detained for
 27 offence punishable with death or life imprisonment; persons sentenced to
 28 imprisonment of three years and above for theft, fraud or embezzlement,
 29 habitual criminals repeated escapist.
 30 Medium Security Prison (less than three years and above): Persons

- 1 sentenced to imprisonment for assault and battery.
- 2 Minimum Security Prison: Debtors, civil offenders and persons sentenced to
3 imprisonment for pick pocketing and shoplifting.
- 4 Female Prison: Female Prisoners of all classes.
- 5 Open Prison or Prison Farm Centre: Well behaved prisoners of any class on
6 approval by the Controller General.
- 7 Satellite Prison: Persons on remand, unconvicted persons awaiting trial,
8 persons sentenced to imprisonment of three months or below.
- 9 Juvenile Institution: Juvenile Offenders.
- 10 Lunatic Asylum: All classes of civil and criminal lunatics.

11 SECOND SCHEDULE

12 *Section 5 (2)*

- 13 1. Controller General of Prisons
- 14 2. Deputy Controller General of Prisons
- 15 3. Assistant Controller General of Prisons
- 16 4. Controller of Prisons
- 17 5. Deputy Controller of Prisons
- 18 6. Assistance Controller of Prisons
- 19 7. Chief Superintendent of Prisons
- 20 8. Superintendent of Prisons
- 21 9. Deputy Superintendent of Prisons
- 22 10. Assistant Superintendent of Prisons I and II
- 23 11. Chief Inspector of Prisons
- 24 12. Deputy Chief Inspector
- 25 13. Assistant Chief Inspector
- 26 14. Principal Inspector of Prisons
- 27 15. Senior Prisons Inspectors
- 28 16. Prisons Inspectors
- 29 17. Assistant Inspector of Prisons
- 30 18. Senior Prison Assistant

1 19. Prison Assistant I, II and III

2 THIRD SCHEDULE

3 SAVINGS AND TRANSITIONAL PROVISIONS

4 *Section 23 (2)*

5 1. All prisons declared under the repealed Prisons Act Cap. P29,
6 Laws of the Federation of Nigeria, 2004 shall be deemed to have been
7 declared under this Act.

8 2. Subsidiary legislation made or deemed to have been made
9 under the repealed Prisons Act Cap. P29, Laws of the Federation of Nigeria,
10 2004 if it was in force immediately before the commencement of this Act,
11 shall continue in force with necessary modifications and may be amended or
12 revoked as if it had been made under this Act.

13 3. The rights, assets, obligations and liabilities of the Prison
14 Officers Reward Fund as established by the repealed Prisons Act Cap. P29,
15 Laws of the Federation of Nigeria, 2004 shall, at the commencement of this
16 Act, vest in and devolve upon the fund as continued by this Act.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal Cap. P29, Laws of the Federation of Nigeria, 2004 in order to address issues that are not provided in Cap. P29, Laws of the Federation of Nigeria, 2004. It also seeks to establish clear rules setting out the obligations of the Prisons Service and rights of prison inmates.