

AS INTRODUCED IN THE RAJYA SABHA
ON 2ND FEBRUARY, 2024

Bill No. XVI of 2024

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES
(AMENDMENT) BILL, 2024

A

BILL

further to amend the Protection of Children from Sexual Offences Act, 2012.

BE it enacted by Parliament in the Seventy fifth year of the Republic of India
as follows:—

1. (1) This Bill may be called the Protection of Children from Sexual Offences
(Amendment) Act, 2024.

Short title and
commencement.

5 (2) It shall come into force on such date as the Central Government may, by
notification in the Official Gazette, appoint.

Amendment of section 19.

- 2. In the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the principal Act), in section 19, for sub-section (6), the following shall be substituted, namely: — 32 of 2012.

“(6) The Special Juvenile Police Unit or local police shall, without unnecessary delay but within a period of twenty-four hours, produce the child against whom an offence under sub-section (1) has either been committed or was likely to be committed, before the Child Welfare Committee and report the matter to the Special Court or where no Special Court has been designated, to the Court of Session, including need of the child for care and protection and steps taken in this regard: 5 10

Provided that on production of the child, the Child Welfare Committee shall conduct an inquiry from the child in the manner as prescribed under the Juvenile Justice (Care and Protection of Children) Act, 2015.”

Amendment of section 21.

- 3. In the principal Act, in section 21, for sub-section (2), the following shall be substituted, namely:— 15 2 of 2016.

“(2) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of section 19 in respect of a subordinate under his control or an apprehension that such an offence is likely to be committed or the knowledge that such an offence has been committed, shall be punished with imprisonment for a term which may extend to one year and with fine.” 20

Amendment of section 25.

- 4. In the principal Act, in section 25, after sub-section (2), the following new sub-sections shall be inserted, namely:—

“(3) The statement recorded before the Child Welfare Committee shall be treated as a supplementary statement to the statement recorded before the Magistrate under sub-section (1). 25

“(4) Where there is any deviation in the statement given before the Magistrate and the statement given before the Child Welfare Committee, the Special Court shall also take into consideration the statement given to the Child Welfare Committee.” 30

Amendment of section 33.

- 5. In the principal Act, in section 33, sub-section (8) shall be omitted.

Insertion of new Chapter VIII A.

- 6. In the principal Act, after Chapter VIII, the following new Chapter shall be inserted, namely:—

“CHAPTER VIII A

COMPENSATION AND FINANCIAL AID 35

38A. Any victim under this Act shall be paid final compensation, as applicable. Final Compensation.

38B. (1) The Special Court may, on its own or on an application filed by or on behalf of the victim, recommend the award of final compensation, where the accused is convicted, or where the case ends in acquittal or discharge, or the accused is not traced or identified, and in the opinion of the Special Court the child has suffered loss or injury as a result of that offence: 40 Procedure for final compensation.

5 Provided that the Special Court may, on its own or an application filed by or on behalf of the victim, pass an order for interim compensation to meet the needs of the child for relief or rehabilitation at any stage after registration of the First Information Report and in such cases, the interim compensation paid shall be adjusted against the final, compensation, if any.

(2) The Special Court may also make a recommendation for appropriate compensation, in case it is satisfied that the compensation awarded under this Act or any Act or Scheme, as may be applicable in the case, is not adequate for rehabilitation of the victim.

10 **38C.** (1) An application for payment of interim or final compensation, as the case may be, may be filed by or on behalf of the victim to the concerned District Legal Services Authority.

Role of the District Legal Services Authority.

15 (2) In cases where the Special Court has made a recommendation, the concerned legal aid counsel or the victim or any person on behalf of the victim may file the application for payment of compensation to the concerned District Legal Services Authority.

(3) The District Legal Services Authority shall in accordance with the applicable scheme, decide the quantum of the compensation.

20 (4) In order to decide the quantum of compensation and/or any other financial aid that the victim may be in need of, the District Legal Services Authority shall conduct an inquiry and take such factors, as may be prescribed, into consideration for the purpose.

25 (5) In cases where the Special Court has made a recommendation for awarding compensation, the payment of compensation or any other financial aid, as the case may be, shall be made by the District Legal Services Authority within thirty days of such recommendation.

30 (6) In cases where an application is filed by or on behalf of the victim, the payment of compensation or any other financial aid, as the case may be, shall be made by the District Legal Services Authority within sixty days of receipt of such application.

(7) In case of rejection of the application under sub-section (1), the victim shall be informed of their entitlement to appeal against the order before State Legal Services Authority.

35 (8) The District Legal Services Authority shall, wherever deemed necessary, assign its empanelled counsels for representing the case for award of compensation before the Special Court.

(9) The empanelled counsels of the District Legal Services Authority shall be responsible for proactively taking up the applications filed before it for payment of compensation.

(10) In cases where the compensation amount is not disbursed due to shortage of funds, the assigned counsel of the District Legal Services Authority shall inform the concerned Special Court where the trial of the case of the victim is pending or has concluded in this regard.

(11) The District Legal Services Authority shall develop mechanisms and protocols, as deemed necessary, to ensure that the Child Care Institutions properly utilise the victim compensation, in the best interest of the minor victim. 5

Role of the
State Legal
Services
Authority

38D. (1) Any application for payment of compensation received from the District Legal Services Authority shall be disposed of within a period of fifteen days of its receipt by the State Legal Services Authority. 10

(2) The State Legal Services Authority shall examine all factors related to the rehabilitation of the victim and then decide the payment of compensation and the quantum thereof.

(3) In case of shortage of funds, the State Legal Services Authority shall take all steps to ensure that compensation is being released to the victims in a timely manner. 15

(4) The State Legal Services Authority shall develop a mechanism to track and map the victim compensation applications with the outcomes of the applications.

(5) The State Legal Services Authority shall develop a digitized mechanism to track disbursement of funds for victim compensation through banks and ensure that bankers are crediting the compensation to the concerned accounts in a timely manner. 20

(6) In case of Bank Accounts of minor victims without parents or legal guardians, the State Legal Services Authority may communicate with the bankers to ensure that the victim compensation disbursed is being utilised in a timely fashion for immediate rehabilitative care of the minor victim. 25

(7) The State Legal Services Authority shall create a grievance redressal mechanism and forum to actively look into complaints filed by the victim or on behalf of the victim, regarding award of and/or non-receipt or late receipt of victim compensation.” 30

7. In the principal Act, in section 43, after clause (b), the following new clauses shall be inserted, namely:— 10

Amendment of
section 43.

“(c) heads of educational institutions, teachers or any other person dealing with children in educational institutions shall be provided periodical training on the matters relating to the implementation of the provisions of the Act. 35

(d) sensitization and periodic training on the implementation of the provisions of the Act shall also be provided to the person in-charge, staff, and other personnel of Child Care Institutions.” 15

STATEMENT OF OBJECTS AND REASONS

The objective of a law is fully achieved when it adapts with the changes required over the passage of time. This year marks twelve years of the Protection of Children from Sexual Offences (POCSO) Act, 2012, which became the first comprehensive law of the country against child sexual abuse. The examination of POSCO by Courts, child experts, children organizations, and other stakeholders have brought out a series of recommendations to be included in the Act to increase its relevance. Since then, POCSO Act, 2012 has undergone amendments in the year 2019 and the new POCSO Rules, 2020 have been implemented in 2020. However, there are many more important reforms that need to be included in the Act to keep pace with the recent amendments to child-related legislation and the evolving child rights policies. The ambiguities surrounding certain provisions in the Act need to be addressed through clear and concise provisions. While the Rules, 2020 cover many procedural aspects of dealing with the victim and their case, there need to be strict provisions provided under the Act for complete and effective implementation.

There are certain ambiguities surrounding the manner in which heads of educational institutions or teachers or any other personnel dealing with children in such institutions have to report the offence and deal with the complaint under the POCSO Act, 2012. In many cases, the Court has been of the view that the onus of late reporting or non-reporting cannot fall on the shoulders of the heads of educational institutions or teachers and that they need to be given training in matters relating to implementation of the various provisions of the Act so that they are equipped to verify the facts before they lodge a complaint under this Act.

Another important aspect of this law that poses serious ambiguity is about providing compensation to victims. A well-stated procedure is what is lacking in the existing legislation and the roles and responsibilities of the State and the authorities need to be clearly defined. There is a need for a well-established procedure to be entailed and followed by all levels of authorities so that the victims are able to get their right to compensation and access to compensation. The amendment brought out in this Bill provides for a clear procedure that helps in understanding the steps to award compensation as well as imposes a duty on the authorities to create mechanisms for tracking the process of awarding and payment of the compensation. This will help the victims in getting compensation in a timely manner and curb the existing delays in victim compensation delivery.

This Amendment Bill proposes changes to the law which are victim-centric and friendly. The amendments are an endeavor to overcome the existing ambiguities and help in making the implementation process more transparent and helpful for the victims as well as for the institutions working towards implementation of the provisions of this Act.

Hence, this Bill.

FAUZIA KHAN

ANNEXURE

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 (32
OF 2012)

	* * * * *
Punishment for failure to report or record a case.	<p>21. * * * * *</p> <p>(2) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of section 19 in respect of a subordinate under his control, shall be punished with imprisonment for a term which may extend to one year and with fine.</p>
Recording of statement of a child by Magistrate	<p style="text-align: center;">* * * * *</p> <p>25. (1) If the statement of the child is being recorded under section 164 of the Code of Criminal Procedure, 1973 (2 of 1974) (herein referred to as the Code), the Magistrate recording such statement shall, notwithstanding anything contained therein, record the statement as spoken by the child:</p> <p style="text-align: center;">Provided that the provisions contained in the first proviso to sub-section (1) of section 164 of the Code shall, so far it permits the presence of the advocate of the accused shall not apply in this case.</p> <p>(2) The Magistrate shall provide to the child and his parents or his representative, a copy of the document specified under section 207 of the Code, upon the final report being filed by the police under section 173 of that Code.</p>
Procedure and powers of Special Court.	<p style="text-align: center;">* * * * *</p> <p>33. * * * * *</p> <p>(8) In appropriate cases, the Special Court may, in addition to the punishment, direct payment of such compensation as may be prescribed to the child for any physical or mental trauma caused to him or for immediate rehabilitation of such child.</p>
Public awareness about Act.	<p>43. The Central Government and every State Government, shall take all measures to ensure that—</p> <p>(a) the provisions of this Act are given wide publicity through media including the television, radio and the print media at regular intervals to make the general public, children as well as their parents and guardians aware of the provisions of this Act;</p> <p>(b) the officers of the Central Government and the State Governments and other concerned persons (including the police officers) are imparted periodic training on the matters relating to the implementation of the provisions of the Act.</p>
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RAJYA SABHA

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BILL

further to amend the Protection of Children from Sexual Offences Act, 2012.

(Dr. Fauzia Khan, M.P.)