

# Bill Summary

## The Protection of Children from Sexual Offences Bill, 2011

- The Protection of Children from Sexual Offences Bill, 2011 was introduced in the Rajya Sabha on March 23, 2011. The Bill was referred to the Standing Committee on Human Resource Development (Chairperson: Shri Oscar Fernandes), which is scheduled to submit its report by June 15, 2011.
  - The Bill seeks to protect children from offences such as sexual assault, sexual harassment and pornography. India is a signatory to the UN Convention on the Rights of the Child since 1992. The parties to the Convention are required to take measures to prevent children from being coerced into any unlawful sexual activity.
  - Any person below the age of 18 years is defined as a “child”. The Bill seeks to penalise any person who commits offences such as “sexual harassment”, “sexual assault”, “penetrative sexual assault”, and “aggravated penetrative sexual assault”.
  - A person commits “sexual harassment” if he uses words or shows body parts to a child with sexual intent, shows pornography to a child or threatens to depict a child involved in sexual act through the media. The penalty is imprisonment for upto three years and a fine.
  - A person commits “penetrative sexual assault” if he penetrates his penis into the vagina, mouth, urethra or anus of a child or makes a child do the same or inserts any other object into the child’s body or applies his mouth to a child’s body parts. If however the child is between 16 and 18 years, it shall be considered whether consent for the act was taken against his will or was taken by drugs, impersonation, fraud, undue influence and when the child was sleeping or unconscious. The penalty is imprisonment between seven years and life and a fine.
  - The Bill penalises “aggravated penetrative sexual assault.” Such an offence is committed when a police officer, a member of the armed forces or a public servant commits penetrative sexual assault on a child. It also includes gang penetrative sexual assault and assault using deadly weapons, fire or corrosive substance. The Bill also covers assault by staff of private hospital and staff of an educational institution if the child is in that institution.
  - Penetrative sexual assault shall be considered aggravated if it injures the sexual organs of the child or takes place during communal violence or the child becomes pregnant or gets any other threatening disease or is below 12 years.
- It also covers cases where the offender is a relative of the child through blood or adoption or marriage or foster care or is living in the same household.
- A person commits “sexual assault” if he touches the vagina, penis, anus or breast of a child with sexual intent without penetration. If the child is between 16 and 18 years, it shall be considered whether the consent was taken against the child’s will or by threat or deceit. The penalty is imprisonment between three to five years and a fine.
  - The offence of “aggravated sexual assault” is committed under similar conditions as for “aggravated penetrative sexual assault”. The penalty for the offence is imprisonment between five to seven years and a fine.
  - A person shall be guilty of using a child for pornographic purposes if he uses a child in any form of media for the purpose of sexual gratification through representation of sexual organs of a child or using a child in sexual acts or other types of obscene representation. The penalty is rigorous imprisonment for upto five years and a fine. On subsequent convictions, the term of imprisonment is upto 7 years and fine.
  - The Bill also includes penalties for storage of pornographic material and abetment of an offence.
  - An offence committed under this Act shall be reported to either the local police or the Special Juvenile Police Unit who has to report the matter to the Special Court within 24 hours. The police also have to make special arrangement for the care of the child. In case a person fails to report a case, he shall be penalised. Also, the Bill includes penalties for making false complaints.
  - Each district shall designate a Sessions Court to be a Special Court. It shall be established by the state government in consultation with the Chief Justice of the High Court. The state government shall appoint a Special Public Prosecutor for every Special Court. The Court shall, as far as possible, complete the trial within one year. The trial shall be held in camera and in the presence of the child’s parents or any person trusted by the child.
  - The guardian of the child has the right to take assistance from a legal counsel of his choice, subject to the provisions of Code of Criminal Procedure, 1973.
  - If an offence has been committed by a child, it shall be dealt with under the Juvenile Justice (Care and Protection of Children) Act, 2000.

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