

Bill No. 153 of 2022

THE JUVENILE JUSTICE (CARE AND PROTECTION OF
CHILDREN) AMENDMENT BILL, 2022

By

DR. SHASHI THAROOR, M.P.

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BILL

further to amend the Juvenile Justice (Care and Protection of Children) Act, 2015.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Juvenile Justice (Care and Protection of Children) Amendment Act, 2022.

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 86.

2. In section 86 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

2 of 2016.

(a) in sub-section (1), for the words “more than seven years”, the words “three years and above” shall be substituted; and

(b) sub-section (2) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Child welfare is paramount to the growth of a country. However, the lives of our children are in a precarious state owing to the increasing risks and dangers posed to them in the form of trafficking, child labour, corporal punishment, sexual abuse and the like. It is also no hidden truth that the incidence of these harmful acts had seen a sharp rise during the COVID-19 humanitarian crisis with the closure of schools and restrictions in mobility increasing children's vulnerabilities to child labour, child marriage, trafficking and other forms of violence against children. To make matters worse, there is serious underreporting when it comes to such crimes considering that the victims are often in a vulnerable position to complain.

While the date of the commencement for the Juvenile Justice (Care and Protection of Children) Amendment Act, 2021 is yet to be finalized, the changes proposed by the Act has worrying implications. The 2021 Act seeks to amend section 86 of the Juvenile Justice (Care and Protection of Children) Act, 2015 so as to make the offences under the said Act which carry the punishment of more than three years, but less than seven years, a non-cognizable offence. As a result, offences having serious implications on the well-being of a child – such as cruelty to child by Child Care Institution staff; employment of child for begging; giving intoxicating liquor or narcotic drug or psychotropic substance to a child or using a child to vend, peddle, carry, supply or smuggle these; exploitation of a child employee; sale and procurement of children for any purpose; and use of children by militant groups or other adults for legal or illegal purposes – have been made non-cognizable.

The aforesaid amendment will bar the Police to register the First Information Report (FIR) and commence the investigation without an order of the Magistrate. Furthermore, it shifts the balance in favour of those who commit crimes against children, and leaves the children even more vulnerable. This, in turn, would make access to legal justice even more difficult for children victims of crimes, overburden the local courts, cause serious delays and weaken the case of the prosecution.

Our children are the future of our country. We shall be derelict in our duty towards them if we fail to mend this gap in our laws.

The present Bill, therefore, seeks to amend the Juvenile Justice (Care and Protection of Children) Act, 2015 with a view to make all offences under the Act, for which punishment is imprisonment of three years or above as a cognizable offence.

Hence, this Bill.

NEW DELHI;
5 July, 2022.

SHASHI THAROOR

ANNEXURE

EXTRACT FROM THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2015.

(ACT No. 2 OF 2016)

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Classification of offences and designated court.

86. (1) Where an offence under this Act is punishable with imprisonment for a term of more than seven years, then, such offence shall be cognizable and non-bailable.

(2) Where an offence under this Act is punishable with imprisonment for a term of three years and above, but not more than seven years, then, such offence shall be non-cognizable and non-bailable.

(3) Where an offence, under this Act, is punishable with imprisonment for less than three years or with fine only, then, such offence shall be non-cognizable and bailable.

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further to amend the Juvenile Justice (Care and Protection of Children) Act, 2015.

(Dr. Shashi Tharoor, M.P.)