

Bill No. 2 of 2021

THE HINDU MARRIAGE (AMENDMENT) BILL, 2021

By

SHRI MANISH TEWARI, M.P.

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BILL

further to amend the Hindu Marriage Act, 1955.

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

1. (1) This Act may be called the Hindu Marriage (Amendment) Act, 2021.

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.

25 of 1955.

2. In section 13 of the Hindu Marriage Act, 1955, in sub-section (1), after clause (vii), the following clause and proviso thereunder shall be inserted, namely:—

Amendment of section 13

45 of 1860.

“(viii) is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code, 1860:

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Provided that divorce shall not be granted on this ground, unless the respondent has, prior to the presentation of the petition, undergone at least three years' imprisonment out of the said period of seven years.”

STATEMENT OF OBJECTS AND REASONS

Section 13(1) of the Hindu Marriage Act, 1955 provides that any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the basis of certain grounds that have been enunciated in the clauses (i) to (vii) of this section. However, under the Special Marriage Act, 1954, in section 27(c) there is yet another ground on which divorce may be sought, *i.e.*, is as follows:—

“Respondent is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code (Act No. 45 of 1860):

Provided that divorce shall not be granted on this ground, unless the respondent has, prior to the presentation of the petition undergone at least three years' imprisonment out of the said period of seven years.”

There seems to be no reason as to why a person whose marriage is solemnized under Hindu Marriage Act, 1955 should not be afforded this ground of divorce in as much that the dominant logic and purpose for inclusion of this clause in Special Marriage Act, 1954 holds true even for Hindu Marriage Act, 1955. Therefore, a person whose Marriage is solemnized under the Hindu Marriage Act, 1955 shall also have the opportunity to seek divorce on the grounds that his or her spouse is undergoing a sentence of imprisonment for seven years or more for an offence as defined in the Indian Penal Code, 1860. A proviso has been added at the end that the divorce shall not be granted on this ground, unless the respondent has, prior to the presentation of the petition undergone at least three years' imprisonment out of the said period of seven years.

The Bill seeks to achieve the above objects.

NEW DELHI;
October 24, 2019

MANISH TEWARI

ANNEXURE

EXTRACT FROM THE HINDU MARRIAGE ACT, 1955

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13. (1) Any marriage solemnized, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party— Divorce.

- (i) * * * * *
- (ia) * * * * *
- (ib) * * * * *
- (ii) * * * * *
- (iii) * * * * *
- (iv) * * * * *
- (v) * * * * *
- (vi) * * * * *

(vii) has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of it, and that party been alive.

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BILL
further to amend the Hindu Marriage Act, 1955

(Shri Manish Tewari, M.P.)