

AS INTRODUCED IN LOK SABHA

Bill No. 95 of 2021

THE INFORMATION TECHNOLOGY (AMENDMENT) BILL, 2021

By

SHRI KODIKUNNIL SURESH, M.P.

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BILL

further to amend the Information Technology Act, 2000.

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 Information Technology (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.

Substitution
of new section
for section
43A.

2. For section 43A of the Information Technology Act, 2000, the following section shall be substituted, namely:— 21 of 2000.

Compensation
for failure to
protect data.

“43A. Where a body corporate, possessing, dealing or handling any sensitive personal and financial data or such information in a computer resource which it owns, controls, operates either on its own or through intermediaries under agreement, is negligent in implementing and maintaining security practices and effecting protocols and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation with additional applicable interest to the person so affected as determined by the competent authority or tribunal.”

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STATEMENTS OF OBJECTS AND REASONS

The Information Technology Act, 2000, is an important gatekeeper legislation that protects the rights to privacy of individuals utilizing the electronic and internet enabled services and equipments provided by internet service providers in the country.

With alarming rise in breach of privacy and data, including personal and financial identity being rampantly breached, often with established service providers and companies in connivance, it is imperative to consistently safeguard the right to privacy and data integrity of individuals. It is imperative that timely statutory interventions and legislative support is rendered to streamline and operationalize a robust compensation mechanism so that the aggrieved parties are compensated fairly.

The Bill, therefore, seeks to amend the Information Technology Act, 2000, with a view to extent the ambit of the principal Act to delever recourse to end users by—

- (a) protecting and safeguarding the rights of individuals against data theft and data privacy by including financial data under the ambit of parent Act.
- (b) imposing an obligation on the body corporate possessing, dealing or handling any sensitive personal data, financial data or such information whether on its own or through any intermediaries to implement and maintain security practices of such sensitive personal data, etc.; and
- (c) imposing applicable interest in addition to the compensation payable by the body corporate in case of wrongful gain or wrongful loss compensations for losses suffered to any person .

Hence this Bill.

NEW DELHI;
January 25, 2021.

KODIKUNNIL SURESH

ANNEXURE

EXTRACT FROM THE INFORMATION TECHNOLOGY ACT, 2000

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Compensation
for failure to
protect data.

43A. Where a body corporate, possessing, dealing or handling any sensitive personal data or information in a computer resource which it owns, controls or operates, is negligent in implementing and maintaining reasonable security practices and procedures and thereby causes wrongful loss or wrongful gain to any person, such body corporate shall be liable to pay damages by way of compensation to the person so affected.

Explanation.—For the purposes of this section,—

(i) —body corporate means any company and includes a firm, sole proprietorship or other association of individuals engaged in commercial or professional activities;

(ii) —reasonable security practices and procedures means security practices and procedures designed to protect such information from unauthorised access, damage, use, modification, disclosure or impairment, as may be specified in an agreement between the parties or as may be specified in any law for the time being in force and in the absence of such agreement or any law, such reasonable security practices and procedures, as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit;

(iii) —sensitive personal data or information means such personal information as may be prescribed by the Central Government in consultation with such professional bodies or associations as it may deem fit.

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further to amend the Information Technology Act, 2000.

(Shri Kodikunnil Suresh, M.P.)