

Bill No. X of 2020

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2020

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BILL

further to amend the Code of Criminal Procedure 1973.

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

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2020.

Short title and commencement.

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

2 of 1974.

2. In section 2 of the Code of Criminal Procedure, 1973, (hereinafter referred to as the principal Act) after clause (i), the following clause shall be inserted, namely,—

Amendment of section 2.

"(ia) "kin of deceased victim" means closest living family members of a deceased victim, and includes the mother, father, brother, sister, son, daughter and spouse of such victim."

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3. In section 173 of the principal Act, in sub-section (2), in clause (i) after sub-clause (h), the following sub-clause shall be inserted, namely:—

Amendment of section 173.

"(i) whether the Victim Impact Statement of the kin of the deceased victim in the form prescribed as per Schedule III of the Act has been attached, where the investigation relates to a deceased victim:

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Provided that at least one Victim Impact Statement shall be recorded as part of the report wherever applicable."

Amendment of section 235.

4. In section 235 of the principal Act, after sub-section (2) the following sub-section shall be inserted, namely:—

"(3) If the accused is convicted in a case where the victim is deceased as a consequence of the offence, the Judge shall, hear the kin of the deceased victim on the question of sentence, have due regard to the Victim Impact Statement submitted under sub-section (2) of section 173, and then pass the sentence according to law.

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Insertion of Third Schedule.

5. After the Second Schedule to the principal Act, the following Schedule shall be inserted, namely,—

"THE THIRD SCHEDULE

[see section 173 (2)(i)]

Format of the Victim Impact Statement

VICTIM IMPACT STATEMENT

I. Victim Information

Name: Phone Number/Contact Information:

Address:

Date of Birth: Relation to the deceased victim:

II. Crime Information

Nature of the Offence:

What was filed: FIR Complaint

Description of

Offender/Offenders.....
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III. Emotional Impact

(Description of how the crime has emotionally affected you or those around you and any direct physical/mental consequence)

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IV. Financial Impact

(Description of expenses personally borne or losses suffered as a result of the crime)

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Nature of Losses:

Amount:.....

V. Sentencing Information

(Description of the sentence that should be awarded to the offender)

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VI. Other Comments, if any

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.....”

STATEMENT OF OBJECTS AND REASONS

In the Indian Criminal Justice System, the State deals directly with the prosecution of the accused. At the same time, the Code of Criminal Procedure, 1973, guarantees to the accused many procedural rights to safeguard against abuse of power by the prosecution or judiciary. In doing so, the criminal justice system of India has side-lined the victims of the crime. This is particularly detrimental in the case of a deceased primary victim. The kin of the deceased also suffers mental trauma, emotional injury and economic loss as a result of the criminal act. It is therefore necessary that Indian Criminal Law also addresses these issues.

The formal procedures in such cases should not only be expeditious, but also fair and accessible to the secondary victims, or the kin of the deceased. The views and concerns of the victims must be presented and considered at the appropriate stages of the trial.

This Bill seeks to increase the accessibility of the justice system for such victims through the introduction of a Victim Impact Statement which becomes a part of the police report and is also considered by the Judge at the time of sentencing the accused. The Statement allows the victim's kin to openly narrate the effect of the crime on them and enumerate the emotional, psychological, and financial consequences of their loss. The statement is intended to identify the totality of the impact that a crime has on a victim.

Lastly, the Bill also mandates the Judge to hear the kin of the deceased victim in such cases, just as the accused is heard, prior to sentencing.

This Bill seeks to achieve the above mentioned objective.

DR. AMAR PATNAIK

ANNEXURE

EXTRACTS FROM THE CODE OF CRIMINAL PROCEDURE, 1973

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173. (1) Every investigation under this Chapter shall be completed without unnecessary delay.

Report of police officer on completion of investigation.

45 of 1860.

(1A) The investigation in relation to an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian Penal Code shall be completed within two months from the date on which the information was recorded by the officer in charge of the police station.

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(2) (i) As soon as it is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government, stating—

- (a) the names of the parties;
- (b) the nature of the information;
- (c) the names of the persons who appear to be acquainted with the circumstances of the case;
- (d) whether any offence appears to have been committed and, if so, by whom;
- (e) whether the accused has been arrested;
- (f) whether he has been released on his bond and, if so, whether with or without sureties;
- (g) whether he has been forwarded in custody under section 170; and
- (h) whether the report of medical examination of the woman has been attached where investigation relates to an offence under sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or section 376E of the Indian Penal Code.

45 of 1860.

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235. Judgement of acquittal or conviction,—

(1) After hearing arguments and points of law (if any), the Judge shall give a judgement in the case.

(2) If the accused is convicted, the Judge shall, unless he proceeds in accordance with the provisions of section 360, hear the accused on the questions of sentence, and then pass sentence on him according to law.

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RAJYA SABHA

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BILL

further to amend the Code of Criminal Procedure, 1973.

(Dr. Amar Patnaik, M.P.)