

Bill No. XXXVI of 2017

**THE COMPULSORY PROTECTION OF WITNESSES AND VICTIMS
OF CRIMES BILL, 2017**

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BILL

to provide for compulsory protection of witnesses and victims of crimes by the State who are intimidated, harassed, physically attacked mostly by various means or of their family member or their near and dear ones by the accused of crimes or by their accomplices or friends or relatives or co-accused or sympathizers committed either directly against the victims or against their family members or their near and dear ones and for matters connected therewith and incidental thereto.

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

1. (1) This Act may be called the Compulsory Protection of Witnesses and Victims of Crimes Act, 2017.

5 (2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Short title,
extent and
commence-
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases the Central Government;

(b) "concealing of the identity of witness" means and includes any condition prohibiting publication or revealing, in any manner whatsoever, directly or indirectly of the name, address and other particulars relating to witness which may lead to the identification of the witness of a crime; 5

(c) "family member" includes parents, spouse, siblings, children and grand children including legally adopted ones of the witness or victim of a crime;

(d) "in-camera proceedings" means proceedings wherein the public and press are not allowed to witness the proceeding; 10

(e) "near and dear ones" include the relatives, in-laws, friends, etc.;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "threat analysis report" means a detailed report prepared by designated police officers of the District or the unit investigating the case reflecting the seriousness and credibility of the threat perception to a witness or victim, as the case may be, or his family members or near or dear ones containing specific details about the nature and seriousness of threats faced by the witness or victim or his family members or near and dear ones to their life, reputation or property; 15

(h) "victim" means a person who is harmed physically or robbed or cheated as a result of a crime; 20

(i) "witness" means any person who possesses information or document about any crime regarded by any Court of law as being material to any criminal proceedings and who has made a statement or who has given or agreed to give evidence in relation to such proceedings; 25

(j) "witness or victim protection application" means an application moved by the witness or the victim, as the case may be, in the prescribed form before the competent court of law for seeking witness or victim protection order;

(k) "witness or victim protection order" means an order passed by the competent court of law detailing the steps to be taken by the local police for ensuring safety of life, reputation or property of the victim or witness, and his family members, near and dear ones and shall include interim order, if any, passed during the pendency or witness of victim protection application. 30

Compulsory protection of witness or the victim of crime.

3. (1) The appropriate Government shall provide compulsory protection to the witness or the victim, as the case may be, who is intimidated, harassed, physically attacked by arms or otherwise, or his kidnapping or of his near and dear ones by the accused of crime or by his accomplices or friends or relatives or co-accused or sympathizer, committed either directly against the witness or the victim or against their family members or near and dear ones whenever a request is made to the appropriate Government by either the witness or victim, as the case may be, or by their family member or near and dear one and the Central Government shall formulate the necessary measures for providing the protection under this act. 35 40

(2) Without prejudice to the generality of the foregoing provisions the measures shall include,—

(a) **procedure of availing protection from the State;**

(b) **concealment of the identity of the witness;** 45

(c) **avoidance of face to face contact between the witness or the victim, as the case may be, and the accused;**

(d) compulsory *in-camera* proceedings so as to protect the identity of the witness;

(e) monitoring of the calls and mails of the witness or the victim, as the case may be, and providing him with an unlisted number;

5 **(f) installation of security devices like Closed circuit television alarms, etc. at the place of residence or office of the witness or victim, as the case may be.**

(g) undertaking any other measure issued under the witness or victim protection order to ensure safety of the witness or victim, as the case may be.

10 **4. (1) During the course of investigation of an offence, the witness of the offence or victim thereof may apply for witness or victim protection order at the court in which the proceedings are being heard in such manner as may be prescribed;**

Process of availing protection.

15 (2) The Court shall, upon receipt of an application under sub-section (1) call for the threat analysis report and shall, upon receipt of the report, evaluate the threat to the life, reputation or property of the witness or victim, as the case may be, or his family members or near or dear ones or any other person, which it deemed fit, to ascertain whether there is necessity to pass a witness or victim protection order or not.

(3) The threat analysis report shall be submitted within seventy-two hours of the receipt of the application.

(4) During the course of hearing of the application, the identity of the witness shall not be revealed to any other person.

20 39 of 1987. **(5) The National or State Legal Service Authority constituted under the Legal Services Authorities Act, 1987 shall provide legal aid to the applicant free of cost.**

5. Notwithstanding anything contained in any other law for the time being in force the National Legal Services Authority shall coordinate and frame policies for effective implementation of the provisions of this Act and rules made thereunder.

National legal Services Authority to coordinate and frame policies for implementation of the act.

25 **6. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds for carrying out the purposes of this Act.**

Central Government to provide funds.

30 **7. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:**

Power to remove difficulty.

Provided that no such order shall be made after expiry of two years from the date of commencement of this Act.

(2) Every order made under his section shall, as soon as may be after it is made, be laid before each House of Parliament.

35 **8. The provisions of this Act shall in addition to and not in derogation of any other law, for the time being in force.**

Act to supplement other laws.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

These days people who are witness to crimes being committed by the criminals do not come forward to depose before the court of law because they fear for their lives, property or reputation and similar fear is felt for their family members and near and dear ones. It is also true that the criminals in particular the hardened ones and organized criminals first of all target the witnesses and victims, their family members, near and dear ones with intimidation, harassment, attacks with arms, acid etc., so that they do not come forward to give evidence in the court due to fear factor. The victims of crimes are threatened to withdraw the case or face the consequences. In most of rape cases and murders it is happening. Many a times the victim or witnesses have been attacked and even murdered. Acid throwing on rape victims is very common. As such in the absence of reliable evidence the criminals go scot free which becomes a morale booster for them to become hardened criminals. Unfortunately of late organised crime has grown and is becoming stronger and more diverse.

It is also true that in the course of investigation and prosecution of crime, in particular the most serious and complex forms of organized crime and heinous crimes like murder, rape, act of terrorism or violence it is essential that the witnesses, the cornerstones for successful investigation and prosecution must have trust in criminal justice system. They need to have confidence to come forward to assist law enforcement and prosecutorial authorities. Similar is the case of victims of crimes. In fact the witnesses as well as victims of crimes have to be assured that they will receive State support and protection from intimidation and the harm that criminal or criminal groups may seek to inflict upon them or upon the family members or near or dear ones in an attempt to discourage or punish them. The apex court of the nation has also emphasized on the need of legislative measures for the protection of victims and witnesses which has to be implemented in letter and spirit.

Hence this Bill.

RAJKUMAR DHOOT

FINANCIAL MEMORANDUM

Sub-Clause (2) (f) of clause 3 of the Bill provides for installation of security devices like Closed Circuit Television (CCTV) alarms etc. at the residence or office of the witness or the victim of a crime. Sub clause (5) of clause (4) of the Bill provides that the National or State Legal Services Authority shall provide legal aid to the applicant free of cost. Clause 6 makes it mandatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees ten thousand crore may involve as recurring expenditure per annum. No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill, gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only. The delegation of legislative power is of normal character.

RAJYA SABHA

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BILL

to provide for the compulsory protection of witnesses and victims of crimes by the State who are intimidated, harassed, physically attacked mostly by various means or of their family members or their near and dear ones by the accused of crimes or by their accomplices or friends or relatives or co-accused or sympathizers committed either directly against the victims or against their family members or their near and dear ones and for matters connected therewith and incidental thereto.

(Rajkumar Dhoot, M.P.)