

L. A. BILL No. LI OF 2020

A BILL

*further to amend the Indian Penal Code, the Code of Criminal
Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012,
5 in their application to the State of Maharashtra.*

WHEREAS it is expedient further to amend the Indian Penal Code, the
45 of 1860. Code of Criminal Procedure, 1973 and the Protection of Children from
2 of 1974. Sexual Offences Act, 2012, in its application to the State of Maharashtra,
32 of 2012. for the purposes hereinafter appearing; it is hereby enacted in the Seventy-
10 first Year of the Republic of India as follows :—

CHAPTER I
PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the *SHAKTI* Criminal Laws (Maharashtra Amendment) Act, 2020.

(2) It extends to the whole of the State of Maharashtra. 5

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

CHAPTER II

AMENDMENTS TO THE INDIAN PENAL CODE.

Amendment of
section 166A of
45 of 1860.

2. In section 166A of the Indian Penal Code, in its application to the State of Maharashtra (hereinafter, in this Chapter, referred to as “the Penal Code”),— 10 45 of 1860.

(1) in clause (c), after the word and figures “section 509” the word “or” shall be added;

(2) after clause (c), the following clause shall be added, 15
namely :-

“(d) deliberately fails to obey the specific directions given by the police officer in the investigation of offences punishable under section 326A, section 326B, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, 20
section 376DB or section 376E, as required under section 100 of the Criminal Procedure Code, 1973.”. 2 of 1974.

Insertion of
section 175A
in 45 of 1860.

3. After section 175 of the Penal Code, the following section shall be inserted, namely :—

Failure to
share data for
police
investigation.

“**175A.** Notwithstanding anything contained in any law for time 25
being in force, any social media platform or internet or mobile telephony data provider including any intermediary or custodian who fails to share any data including document or electronic record with the Investigation Officer as requested, for the purpose of investigation of offence punishable under section 326A, section 326B, section 354, section 354A, 30
section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E, within a period of seven working days from receiving request shall be punished with simple imprisonment for a term which may extend to one month or a fine of 35
five lakh rupees, or with both.”.

4. After section 182 of the Penal Code, the following section shall be inserted, namely :-—

Insertion of section 182A in 45 of 1860.

5 “182A. Any person, who makes false complaint or provides false information against any person, in respect of an offence punishable under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E, solely with the intention to humiliate, extort, threaten, defame or harass, shall be punished with simple imprisonment for a term which may extend to one year or with fine, or with both.”

Punishment for false complaint or false information to public servant of certain offences.

10 5. In section 228A of the Penal Code, in sub-section (1), for the portion beginning with the words, figures and letter “section 376, section 376A” and ending with the word, figures and letter “section 376E”, the following shall be substituted, namely :—

Amendment of section 228A of 45 of 1860.

“section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E”.

20 6. In section 326A of the Penal Code,—

Amendment of section 326A of 45 of 1860.

(a) for the portion beginning with the words “shall be punished with imprisonment” and ending with the words “and with fine”, the following shall be substituted, namely :-

“shall be punished,—

25 (a) with imprisonment for a term which shall not be less than ten years but which may extend to the remainder of the natural life of such person and with fine; or

30 (b) in cases which have the characteristic of the offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death”;

(b) in the first proviso, after the words “medical expenses” the words “including expenses for plastic surgery and face reconstruction” shall be added.

35 7. In section 326B of the Penal Code, for the portion beginning with the words “shall be punished with imprisonment” and ending with the words “extend to seven years,”, the following shall be substituted, namely :-

Amendment of section 326B of 45 of 1860.

“shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to ten years.”.

Insertion of
section 354E
in 45 of 1860.

8. After section 354D of the Penal Code, the following section shall be inserted, namely :—

Intimidating
woman by
any mode
of
communication,
in addition
to insulting
her modesty.

“**354E.** Whoever intentionally does any act to create a sense of danger, intimidation or fear to a woman, in addition to insulting her modesty, by any act, deed or words including,— 5

(a) offensive communication by telephone, email, social media platform or through any other electronic or digital mode of communication in a manner which is of lascivious or lewd nature; or

(b) threat to upload or disseminates any sound or video file including a real or fabricated depiction of any part of the body of 10 that woman including the involvement of that woman in any sexual act through electronic or any other form of media; or

(c) use of social electronic media or any other media in any form to defame or cause disrepute to that woman; or

(d) use of that woman’s name, particulars, photographs or any 15 other means of identification to directly or indirectly outrage her modesty or violate her privacy,

shall be punished with imprisonment of either description for a term which may extend to two years and with fine which may extend up to one lakh rupees.” 20

Amendment
of section 376
of 45 of 1860.

9. In section 376 of the Penal Code,-

(a) in sub-section (1), after the words “shall also be liable to fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be 25 added;

(b) in sub-section (2),—

(i) after clause (f), the following clause shall be inserted, namely :—

“(f-1) being on the management or employed by the 30 management including staff or contractual employee for the purpose of providing security and maintenance of building or any public utility service inside building or within building complex whether regulated by law or otherwise, commits rape on a woman in such area; or”; 35

(ii) after the words “shall also be liable to fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added; 40

(c) in sub-section (3), after the words “shall also be liable to fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added.

10 **10.** In section 376D of the Penal Code, after the words “and with fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added.

Amendment of section 376D of 45 of 1860.

10 **11.** In section 376DA of the Penal Code, after the words “and with fine” the words “or in cases which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added.

Amendment of section 376DA of 45 of 1860.

CHAPTER III

15 AMENDMENTS TO THE CODE OF CRIMINAL PROCEDURE, 1973.

2 of 1974. **12.** After section 37 of the Code of Criminal Procedure, 1973, in its application to the State of Maharashtra (hereinafter, in this Chapter, referred to as “the Code of Criminal Procedure”), the following section shall be inserted, namely :—

Insertion of section 37A in 2 of 1974.

20 **“37A.** Every social media platform or internet or mobile telephony data provider, including any intermediary or custodian shall be bound to share any data, including the document or electronic record to the Investigation Officer on demand, for the purpose of investigation of offence, punishable under section 326A, section 326B, section 354, section 354A, section 354B, section 354C, section 354D, section 354E, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, or any offence punishable under the Protection of Children from Sexual Offences Act, 2012.”.

Providing data for police investigation

45 of 1860.
32 of 2012.

30 **13.** In section 39 of the Code of Criminal Procedure, in sub-section (1),—

Amendment of section 39 of 2 of 1974.

(1) after clause (v), the following clauses shall be inserted, namely:-

35 “(v-1) sections 326A and 326B (that is to say, offences related causing grievous hurt by use of acid and attempting to throw acid, etc);

(v-2) sections 354, 354A, 354B, 354C, 354D and 354E (that is to say, offences related to assault to outrage modesty, sexual harassment, disrobe, voyeurism, stalking, harassment of woman by any mode of communication, etc.);”;

(2) after clause (va), the following clause shall be inserted, namely:

“(vb) sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB and 376E, both inclusive (that is to say, offences related to rape and gang rape, etc.);”.

Amendment
of section 100
of 2 of 1974.

14. In section 100 of the Code of Criminal Procedure, in sub-section (4), the following proviso shall be added, namely :—

“Provided that, in case of offences under section 326A, section 326B, section 376, section 376A, section 376AB, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code and the offences under the Protection of Children from Sexual Offences Act, 2012, the person conducting the search shall call upon two public servants or two social workers recognized by the Women and Child Development Department of Government of Maharashtra, who are available in the locality in which the place to be searched is situated. Where, such public servants are not available despite diligent efforts, the person conducting the search shall, after recording in writing the same, follow the procedure provided in this sub-section.”.

Amendment
of section 164
of 2 of 1974.

15. In section 164 of the Code of Criminal Procedure, in sub-section (5A), in clause (a), after the words “punishable under” the words, figures and letters “section 326A, section 326B,” shall be inserted.

Amendment
of section 173
of 2 of 1974.

16. In section 173 of the Code of Criminal Procedure,—

(i) in sub-section (1A), for the word, figures and letters “sections 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E ” the word, figures and letters “section 376B or 376C ” shall be substituted ;

(ii) after sub-section (1A), the following sub-section shall be inserted, namely :—

“(1B) In relation to offences under section 326A, section 326B, section 376, section 376A, section 376AB, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code, the investigation shall be completed within a period of fifteen working days from the date on which the information was recorded by the officer-in-charge of the police station :

Provided that, if it is not possible to complete the investigation within the period of fifteen working days from the date on which the information was recorded, then the reasons for the same shall be recorded in writing by the concerned investigating officer; such instances may include the inability to identify the accused; whereupon the said period can be further extended by seven working days by the concerned Special Inspector General of Police or Commissioner of Police:

Provided further that, nothing contained in this section shall be deemed to have any effect on the various provisions of bail specified in this Code.”.

17. In section 309 of the Code of Criminal Procedure, in sub-section (1), for the proviso, the following proviso shall be substituted, namely :— Amendment of section 309 of 2 of 1974.

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45 of 1860. “Provided that, when the inquiry or trial relates to an offence under section 326A, section 326B, section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E, of the Indian Penal Code, the inquiry or trial shall be conducted on the day to day basis and completed within a period of thirty working days from the date of filing of the charge sheet.”.

18. In section 320 of the Code of Criminal Procedure, in sub-section (2), in the table, after entry relating to section 338, the following entry shall be inserted, namely :— Amendment of section 320 of 2 of 1974.

15	“Intimidating woman by any mode of communication, in addition to insulting her modesty	354E	The woman to whom sense of danger, intimidation or fear is created.”.
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19. In section 327 of the Code of Criminal Procedure, in sub-section (2),— Amendment of section 327 of 2 of 1974.
(1) after the words “offence under” the words, figures and letters “section 326A, section 326B,” shall be inserted;

20 (2) after the second proviso, the following proviso shall be added, namely :—

25 “Provided also that, *in camera* proceedings shall be held in the chamber of the Presiding Officer recording the evidence and every effort shall be made by such Presiding Officer to make the victim or vulnerable witnesses feel comfortable and this shall be recorded in the evidence.”.

20. In section 374 of the Code of Criminal Procedure, in sub-section (4),— Amendment of section 374 of 2 of 1974.
(1) after the words “passed under” the words, figures and letters “section 326A, section 326B,” shall be inserted ;

30 (2) for the words “six months” the words “forty-five days” shall be substituted.

21. In section 377 of the Code of Criminal Procedure, in sub-section (4),— Amendment of section 377 of 2 of 1974.
(1) after the words “passed under” the words, figures and letters “section 326A, section 326B,” shall be inserted;

35 (2) for the words “six months” the words “forty-five days” shall be substituted.

Amendment
of section 438
of 2 of 1974.

22. In section 438 of the Code of Criminal Procedure, as amended by the Code of Criminal Procedure (Maharashtra Amendment) Act, 1993, after sub-section (2), the following sub-section shall be inserted, namely :—

Mah. 24 of
1993.

“(2A) Nothing in this section shall apply to any case involving the arrest of any person on accusation of having committed an offence under section 326A or section 326B or section 376 or section 376A or section 376AB or section 376D or section 376DA or section 376DB or section 376E of the Indian Penal Code.”

45 of 1860.

Amendment
of section 439
of 2 of 1974.

23. In section 439 of the Code of Criminal Procedure, in sub-section (1A), for the portion beginning with the words “the person under” and ending with the words “Indian Penal Code”, the following shall be substituted, namely :—

45 of 1860.

“the person under section 326A or section 326B or sub-section (3) of section 376 or section 376AB or section 376DA or section 376DB or section 376E of the Indian Penal Code”.

15 45 of 1860.

Amendment
of FIRST
SCHEDULE
of 2 of 1974.

24. In the FIRST SCHEDULE to the Code of Criminal Procedure, under the heading “I- OFFENCES UNDER THE INDIAN PENAL CODE”,—

(a) after entry relating to section 175, the following entry shall be inserted, namely :—

“175A	Failure to share data by social media platforms and internet or mobile telephony data providers, etc.	Simple imprisonment upto 1 month or fine of 5,00,000 rupees or both	Cognizable	Bailable	Magistrate of the first class”;	20
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(b) after entry relating to section 182, the following entry shall be inserted, namely :—

“182A	Punishment for false complaint or false information to public servant of certain offences.	Simple imprisonment upto 1 year or fine or both.	Cognizable	Bailable	Magistrate of the first class”;	30
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(c) for entries relating to sections 326A and 326B, the following entries shall be substituted, namely :—

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“326A	Voluntarily causing grievous hurt by use of acid, etc.	Imprisonment for not less than 10 years but which may extend to the remainder of the natural life	Cognizable	Non-bailable	Court of Session.	40
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of such person,
and with fine to
be paid to the
victim or in case
of heinous offences
with conclusive
evidence, with
death.

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10	326B	Voluntarily throwing or attempting to throw acid.	Imprisonment for not less than 7 years but which may extend to 10 years and with fine.	Cognizable Non- bailable	Court of Session.”;
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15 (d) after entry relating to section 354D, the following entry shall
be inserted, namely :--

20	“354E	Intimidating woman by any mode of communication, in addition to insulting her modesty.	Imprisonment of either description for a term upto 2 years and with fine which may extend to 1,00,000 rupees.	Cognizable Bailable Any Magistrate.”;
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(e) for entry relating to section 376, the following entries shall be
substituted, namely :--

30	“376(1)	Rape by persons other than persons covered under sub-section (2).	Rigorous imprisonment of not less than 10 years which may extend to imprisonment for life and with fine. In case of heinous offences with conclusive evidence, with death.	Cognizable Non- bailable	Court of Session.
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376(2)	Rape by persons in authority or trust, etc.	Rigorous imprisonment of not less than 10 years which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine. In case of heinous offences with conclusive evidence, with death.	Cognizable	Non-bailable	Court of Session.	5
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						15
376(3)	Persons committing offence of rape on a woman under 16 years of age.	Rigorous imprisonment of not less than 20 years which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine. In case of heinous offences with conclusive evidence, with death.	Cognizable	Non-bailable	Court of Session.”□,	20
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(f) for entries relating to sections 376D and 376DA, the following entries shall be substituted, namely :—

5	“376D Gang rape	Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean the remainder of that person’s natural life and with fine. to be paid to the victim. In case of heinous offences with conclusive evidence, with death.	Cognizable	Non-bailable	Court of Session.
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30	376DA Gang rape on a woman under 16 years of age	Imprisonment for life which shall mean the remainder of that person’s natural life and with fine. In case of heinous offences with conclusive evidence, with death.	Cognizable	Non-bailable	Court of Session.”.
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CHAPTER IV

AMENDMENTS TO THE PROTECTION OF CHILDREN FROM
SEXUAL OFFENCES ACT, 2012.

- Amendment of section 2 of 32 of 2012. **25.** In section 2 of the Protection of Children from Sexual Offences Act, 2012, in its application to the State of Maharashtra (hereinafter, in this Chapter, referred to as “the Protection of Children from Sexual Offences Act”), after clause (m), the following clause shall be added, namely :— 5 32 of 2012.
- “(n) “staff” means any person appointed as regular, temporary, contractual employee or worker and includes any person provided by an outsourced agency that renders assistance of any kind.”. 10
- Amendment of section 4 of 32 of 2012. **26.** In section 4 of the Protection of Children from Sexual Offences Act, in sub-section (2), after the words “shall also be liable to fine” the words “which shall not be less than five lakh rupees or in case which have the characteristic of offence is heinous in nature and where adequate conclusive evidence is there and the circumstances warrant exemplary punishment, with death” shall be added. 15
- Amendment of section 5 of 32 of 2012. **27.** In section 5 of the Protection of Children from Sexual Offences Act,—
- (a) in clause (d), after the words “being inmate” the words “or resident” shall be inserted;
- (b) in clause (h), for the words “corrosive substance; or” the words “corrosive substance or intoxicant; or” shall be substituted; 20
- (c) in clause (j), in sub-clause (i), for the words, brackets, letter and figures “become mentally ill as defined under clause (b) of section 2 of the Mental Health Act, 1987” the words, brackets, letter and figures “have mental illness as defined under clause (s) of section 2 of the Mental Healthcare Act, 2017” shall be substituted. 25 14 of 1987. 10 of 2017.
- Amendment of section 8 of 32 of 2012. **28.** In section 8 of the Protection of Children from Sexual Offences Act, for the words “shall not be less than three years but which may extend to five years” the words “shall not be less than five years but which may extend to seven years” shall be substituted. 30
- Amendment of section 9 of 32 of 2012. **29.** In section 9 of the Protection of Children from Sexual Offences Act,—
- (a) in clause (d), after the words “being inmate” the words “or resident” shall be inserted;
- (b) in clause (h), for the words “corrosive substance; or” the words “corrosive substance or intoxicant; or” shall be substituted; 35
- (c) in clause (j), in sub-clause (i), for the words, brackets, letter and figures “become mentally ill as defined under clause (b) of section 2 of the Mental Health Act, 1987” the words, brackets, letter and figures “have mental illness as defined under clause (s) of section 2 of the Mental Healthcare Act, 2017” shall be substituted. 40 14 of 1987. 10 of 2017.

30. In section 10 of the Protection of Children from Sexual Offences Act, for the words “shall not be less than five years but which may extend to seven years” the words “shall not be less than seven years but which may extend to ten years” shall be substituted. Amendment of section 10 of 32 of 2012.

5 **31.** After section 23 of the Protection of Children from Sexual Offences Act, the following section shall be inserted, namely :— Insertion of section 23A in 32 of 2012.

10 **“23A.** Notwithstanding anything contained in any law for time being in force, any social media platform or internet or mobile telephony data provider including any intermediary or custodian who fails to share any data with the Investigation Officer as requested, for the purpose of investigation of offence, punishable under this Act, within a period of seven working days from receiving request, shall be punished with to imprisonment for a term which may extend to one month or a fine of five lakh rupees, or with both.”. Failure to share data for police investigation.

STATEMENT OF OBJECTS AND REASONS

Sections 326A, 326B, 354, 354A, 354B, 354C, 354D, 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB and 376E of the Indian Penal Code, (45 of 1860) provides for offences against women regarding heinous and sexual offences. The Parliament has enacted the Protection of Children from Sexual Offences Act, 2012 (32 of 2012) to protect the children from offences of sexual assault, sexual harassment and pornography and for establishment of Special Courts for trial of such offences. The offences against women and children, specially sexual offences have been increased many fold in the State. The perpetrators continue their inhuman acts on innocent and helpless women and children despite the penal provisions in the said Acts. Recently, such numerous inhuman acts have been taken place in the State where the women were subjected to rape, burning alive and murder. Such incidents are shocking to the social conscience.

2. In order to effectively control the heinous and sexual offence against women and children, the Government had appointed a Committee to make suggestions for stringent punishment and other related matters to amend the said Acts. The Committee has submitted its report to the Government. The Committee suggested amendments in the Indian Penal Code, the Protection of Children from Sexual Offences Act, 2012 and Code of Criminal Procedure, 1973 (2 of 1974) to provide for heavy fines and penalty upto death to the accused and speedy investigation and speedy trials of the said offences.

The Government has considered the said report and decided to make more stringent punishment for such heinous and sexual crimes against women and children and therefore, proposes to make suitable amendments in sections relating to heinous and sexual offences against women and children in the Indian Penal Code, the Protection of Children from Sexual Offences Act, 2012 and the Code of Criminal Procedure, 1973.

3. The salient features of the proposed law are as follows :—

(1) Amendments are proposed in the Indian Penal Code,—

(i) to provide for life imprisonment for the remainder of natural life of such person and heavy fines for heinous and sexual offences ;

(ii) to provide for death punishment for such grave offences;

(iii) to provide for punishment for failure to share any data with investigating officer relating to such offences by social media platform, internet or mobile telephony data providers, etc.;

(iv) to provide for punishment for not furnishing information or assistance for investigation of offences ;

(v) to provide for punishment for intimidating women by any mode of communication ;

(vi) to provide for punishment for false complaints or false information.

(2) Amendments are proposed in the Code of Criminal Procedure, 1973,—

(i) to make compulsory for media platform, internet or mobile telephony data providers, etc, to share data including any document or electronic record relating to such offences to the investigation officer;

(ii) to call public servant or two social workers while making search of places by investigation officer;

(iii) to complete the investigation within the period of fifteen working days from the date on which the information was recorded by the officer incharge of police station ;

(iv) to complete the inquiry and trial within the period of thirty working days from the date of filing of charge sheet ;

(v) to held *in camera* proceedings in the chamber of Presiding Officer for recording of evidence of victims and witnesses;

(vi) to reduce the period for disposal of appeal by any person or by the State Government from six months to forty-five days ;

(vii) to make stringent provisions for anticipatory bail to the accused persons for the said offences.

(3) Amendments are proposed in the Protection of Children from Sexual Offences Act, 2012,

(i) to provide for life imprisonment for the remainder of natural life of such person and heavy fines for the offences under sections 4, 8 and 10 of Protection of Children from Sexual Offences Act, 2010;

(ii) to provide for death punishment for certain grave offences.

4. The Bill is intended to achieve the above objectives.

Mumbai,
dated the 13th December, 2020.

ANIL DESHMUKH,
Minister for Home.

MEMORANDUM REGARDING DELEGATED LEGISLATION.

The Bill involves the following proposal for delegation of legislative power, namely.

Clause 1(2).— Under this clause, power is taken to the State Government to bring the Act into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. The above-mentioned proposal for delegation of legislative power is of a normal character.

ANNEXURE TO THE L.A. BILL No. LI OF 2020.—
THE SHAKTI CRIMINAL LAW
(MAHARASHTRA AMENDMENT) BILL, 2020.

(Extracts from the Indian Penal Code, 1860)

(45 of 1860)

1. to 166. * * * *

166A. Public servant disobeying direction under law—however, being a public servant,;-- Public servant disobeying direction under law.

(a) and (b)

(c) fails to record any information given to him under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 (2 of 1974), in relation to cognizable offence' punishable under section 326-A, section 326-B, section 354, section 354-B, section 370, section 370-A, section 376, section 375-A, section 376-AB, section 376-B, section 376-C, section 376-D, section 376-DA, section 376-DB, section 369-E or section 509, shall be punished with rigorous imprisonment for a term which shall not be less than six months but which may extend to two years, and shall also be liable to fine.

166-B * * * *

167 to 228. * * * *

228-A (1) whoever prints or publishes the name or any matter which may make know the identity of any person against whom an offence under section 376, section 376-A section 376 AB, section 376-B, section 376-C, section 376-D, section 376-DA, section 376-DB or section 376-E is alleged or found to have been committed hereafter in this section referred to as the victim shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine. Disclosure of identity of the victim of certain offences etc.

(2) and (3) * * * *

229 to 326 * * * *

326-A Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt, shall be punished with imprisonment, of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine. Voluntarily causing grievous hurt by use of acid.

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim.

Provided further that any fine imposed under this section shall be paid to the victim.

Voluntarily
throwing or
attempting to
throw acid.

326-B. Whoever throws or attempts to throw acid on any person or attempts to administer acid to any person, or attempts to use any other means, with the intention of causing permanent or partial damage or deformity or bums or maiming or disfigurement or disability or grievous hurt to that person, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

Explanation 1.—for the purposes of section 326A and this section, “acid” includes any substance which has acidic or corrosive character or burning nature, that is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.

Explanation 2.—for the purposes of section 326A and this section, permanent or partial damage or deformity shall not be required to be irreversible.

327 to 375 * * * *

Punishment for
rape.

376. (1) Whoever, except in the cases provided for in sub-section (2), commits rape, shall be punished with rigorous imprisonment of either description for a term which shall not be less than ten years, but which may extend to imprisonment for life, and shall also be liable to fine.

(2) Whoever,—

(a) being a police officer, commits rape—

(i) within the limits of the police station to which such police officer is appointed; or

(ii) in the premises of any station house; or

(iii) on a woman in such police officer’s custody or in the custody of a police officer subordinate to such police officer; or

(b) being a public servant, commits rape on a woman in such public servant’s custody or in the custody of a public servant subordinate to such public servant; or

(c) being a member of the armed forces deployed in an area by the Central or a State Government commits rape in such area; or

(d) being on the management or on the staff of a jail, remand home or other place of custody established by or under any law for the time being in force or of a women’s or children’s institution, commits rape on any inmate of such jail, remand home, place or institution; or

(e) being on the management or on the staff of a hospital, commits rape on a woman in that hospital; or

(f) being a relative, guardian or teacher of, or a person in a position of trust or authority towards the woman, commits rape on such woman; or

punishment
for rape.

(g) commits rape during communal or sectarian violence ; or

(h) commits rape on a woman knowing her to be pregnant ; or

(j) commits rape, on a woman incapable of giving consent ; or

(k) being in a position of control or dominance over a woman, commits rape on such woman; or

(l) commits rape on a woman suffering from mental or physical disability; or

(m) while committing rape causes grievous bodily harm or maims or disfigures or endangers the life of a woman; or

(n) commits rape repeatedly on the same woman, shall be punished with rigorous imprisonment for a term which shall not be less than ten years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person’s natural life, and shall also be liable to fine.

Explanation.—for the purposes of this sub-section,

(a) “armed forces” means the naval, military and air forces and includes any member of the Armed Forces constituted under any law for the time being in force, including the paramilitary forces and any auxiliary forces that are under the control of the Central Government or the State Government ;

(b) “Hospital” means the precincts of the hospital and includes the precincts of any institution for the reception and treatment of persons during convalescence or of persons requiring medical attention or rehabilitation ;

(c) “police officer” shall have the same meaning as assigned to the expression “police” under the Police Act, 1861 (5 of 1861) ;

(d) “women’s or children’s institution” means an institution, whether called an orphanage or a home for neglected women or children or a widow’s home or an institution called by any other name, which is established and maintained for the reception and care of women or children.

(3) * * * *

376-A to 376-C * * *

376-D Where a woman is raped by one or more persons constituting a Gang rape. group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person’s natural life, and with fine.

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim :

Provided further that any fine imposed under this section shall be paid to the victim.

Punishment for gang rape on women under sixteen year of age.

376-DA Where a woman under sixteen years of age is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons shall be deemed to have committed the offence of rape and shall be punished with imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses and rehabilitation of the victim:

Provided further that any fine imposed under this section shall be paid to the victim.

376-DB and 376-E	*	*	*	*
377 to 511	*	*	*	*

(Extracts from the code of Criminal procedure, 1973)
(2 of 1974)

1 to 99	*	*	*	*
100. (1) to (3)	*	*	*	*

Person in charge of close place to allow search.

(4) Before making a search under his Chapter, the officer or other person about to make it shall call upon two or more independent and respectable inhabitants of the locality in which the place to be searched is situate or of any other locality if no such inhabitant of the said locality is available or is willing to be a witness to the search, to attend and witness the search and may issue an order in writing to them or any of them so to do.

101 to 163	*	*	*	*
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Recording of confessions and statements.

164. (1) to (5)	*	*	*	*
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(5-A) (a) In cases punishable under section 354, section 354A, section 354B, section 354C, section 354D, sub-section (1) or sub-section (2) of section 376, 3 [section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB,] section 376E or section 509 of the Indian Penal Code (45 of 1860), the Judicial Magistrate shall record the statement of the person against whom such offence has been committed in the manner prescribed in sub-section (5), as soon as the commission of the offence is brought to the notice of the police.

Provided that if the person making the statement is temporarily or permanently mentally or physically disabled, the Magistrate shall take the assistance of an interpreter or a special educator in recording the statement.

Provided further that if the person making the statement is temporarily or permanently mentally or physically disabled, the statement made by the person, with the assistance of an interpreter or a special educator, shall be video graphed.

(b)	*	*	*	*
(6)	*	*	*	*
164-A.	*	*	*	*
165 to 172.	*	*	*	*
173. (1)	*	*	*	*

Report of police officer on completion of investigation.

(1-A) The investigation in relation to an offence under section 376, 376A, 376AB, 376B, 376C, 376D, 376DA, 376DB or 376E of the Indian penal code (45 of 1860) shall be completed with two months from the date on which the information was recorded by the officer in charge of the police station.

(2) to (8)	*	*	*	*
174. to 308.	*	*	*	*

309. (1) In every inquiry or trial the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded.

Power to postpone or adjourn proceedings.

Provided that when the inquiry or trial relates to an offence under section 376 ¹[section 376-A, section 376-AB, section 376-B, section 376-C, section 376, D, section 376-DA or section 376-DB of the Indian Penal Code (45 of 1860), the inquiry or trial shall] be completed within a period of two mon from the date of filing of the charge sheet.].

(2)	*	*	*	*
310 to 326.	*	*	*	*
327. (1)	*	*	*	*

Court to be open.

(2) Notwithstanding anything contained in sub- section (1), the inquiry into and trial of rape or an offence under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB, section 376E of the Indian Penal Code (45 of 1860) shall be conducted in camera.

Provided that the presiding Judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the Court :

Provided further that in camera trial shall be conducted as far as practicable by a woman Judge or Magistrate.

(3)	*	*	*	*
328 to 373.	*	*	*	*
374 (1) to (3)	*	*	*	*

Appeals from convictions.

(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code (45 of 1860), the appeal shall be disposed of within a period of six months from the date of filing of such appeal.

	375 and 376.	*	*	*	*
Appeal by the state Government against sentence.	377 (1) to (3)	*	*	*	*

(4) When an appeal has been filed against a sentence passed under section 376, section 376A, section 376AB, section 376B, section 376C, section 376D, section 376DA, section 376DB or section 376E of the Indian Penal Code (45 of 1860), the appeal shall be disposed of within a period of six months from the date of filing of such appeal.

	378 to 438.	*	*	*	*
Special powers of High Court of Session regarding bail.	439. (1)	*	*	*	*

(1-A) The presence of the informant or any person authorised by him shall be obligatory at the time of hearing of the application for bail to the person under sub-section (3) of section 376 or section 376AB or section 376DA or section DB of the Indian Penal Code (45 of 1860).

(2)	*	*	*	*
440 to 484.	*	*	*	*

THE FIRST SCHEDULE CLASSIFICATION OF OFFENCES

Explanatory Notes : (1) In regard to offences under the Indian Penal Code, the entries in the second and third columns against a section the number of which is given in the first column are not intended as the definition of, and the punishment prescribed for, the offence in the Indian Penal Code, but merely as indication of the substance of the section.

(2) In this Schedule, (i)- the expression “Magistrate of the first class” and “Any Magistrate” include Metropolitan Magistrates but not Executive Magistrates; (ii) the word “cognizable” stands for “a police officer may arrest without warrant”; and (iii) the word “non-cognizable” stands for “a police officer shall not arrest without warrant”.

I.-OFFENCES UNDER THE INDIAN PENAL CODE

section	offence	Punishment	Cognizable or non- cognizable	Bailable or non- bailable	by what Court triable
1	2	3	4	5	6
109 to 326.	*	*	*	*	*

1	2	3	4	5	6
326-A	Voluntarily causing grievous hurt by use of acid, etc.	Imprisonment for not less than 10 years but which may extend to imprisonment for life and fine to be paid to the victim.	Cognizable.	Non-bailable.	Court of Session.
326-B	Voluntarily throwing or attempting to throw acid.	Imprisonment for 5 years but which may extend to 7 years and with fine.	Cognizable.	Non-bailable	Court of Session.
327 to 375.	*	*	*	*	*
376.	Rape by a police officer or a public servant or Member of armed forces or a person being on the management or on the staff of jail, remand home or other place of custody or women's or children's institution or by a person on the management or on the staff of a hospital, and rape	Rigorous imprisonment of not less than 10 years but which may extend to imprisonment for life which shall mean the remainder of that person's natural life and with fine.	Cognizable.	Non-bailable	Court of Session.

1	2	3	4	5	6
	<p>committed by a person in position of trust or authority towards the person raped or by a near relative of the person raped.</p>	<p>Rigorous imprisonment for a term which shall not be less than 20 years but which shall mean imprisonment for the remainder of that person's natural life and with fine.</p>	Cognizable.	Non- bailable	Court of Session.
376-A to 376C	*	*	*	*	*
376-D	<p>Gang rape on a woman under sixteen years of age.</p>	<p>Rigorous imprisonment for not less than 20 years but which may extend to imprisonment for life which shall mean imprisonment for the remainder of that person's natural life and with fine to be paid to the victim.</p>	Cognizable.	Non- bailable	Court of Session.

(j) whoever commits penetrative sexual assault on a child, which—

(i) physically incapacitates the child or causes the child to become mentally ill as defined under clause (b) of section 2 of the Mental Health Act, 1987 (14 of 1987) or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently ;

(ii) to (iv) * * * *

(k) to (u) * * * *

6. and 7. * * * *

Punishment for sexual assault.

8. Whoever, commits sexual assault, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to five years, and shall also be liable to fine.

Aggravated sexual assault.

9. (a) to (c) * * * *

(d) whoever being on the management or on, the staff of a jail, or remand home or protection home or observation home, or other place of custody or care and protection established by or under any law for the time being in force commits sexual assault on a child being inmate of such jail or remand home or protection home or observation home or other place of custody or care and protection; or

(e) to (g) * * * *

(h) whoever commits sexual assault on a child Using deadly weapons, fire, heated substance or corrosive substance ; or

(i) * * * *

(j) whoever commits sexual assault on a child, which—

(i) physically incapacitates the child or causes the child to become mentally ill as defined under clause (l) of section 2 of the Mental Health Act, 1987 (14 of 1987) or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently ; or

(ii) * * * *

(k) to (v) * * * *

Punishment for aggravated sexual assault.

10. Whoever, commits aggravated sexual assault shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to seven years, and shall also be liable to fine.

11. to 46. * * * *

SCHEDULE * * * *

**MAHARASHTRA LEGISLATURE
SECRETARIAT**

[L. A. BILL No. LI OF 2020.]

[A Bill further to amend the Indian Penal Code, the Code of Criminal Procedure, 1973 and the Protection of Children from Sexual Offences Act, 2012, in their application to the State of Maharashtra.]

[SHRI ANIL DESHMUKH,
Minister for Home.]

RAJENDRA BHAGWAT,
Secretary,
Maharashtra Legislative Assembly.