

SENATE OF PAKISTAN



REPORT OF THE SENATE STANDING COMMITTEE ON INTERIOR

ON

[THE CRIMINAL LAWS (AMENDMENT), BILL, 2023]
[Amendment in Section 376B of PPC and Schedule-II of Cr.P.C]
PRIVATE MEMBER BILL
INTRODUCED BY
SENATOR SAMINA MUMTAZ ZEHRI
ON 10TH APRIL, 2023

PRESENTED BY

SENATOR MOHSIN AZIZ
CHAIRMAN SSC ON INTERIOR



SENATE SECRETARIAT

SUBJECT: REPORT OF THE SENATE STANDING COMMITTEE ON INTERIOR ON THE CRIMINAL LAWS (AMENDMENT), BILL, 2023.

I, Senator Mohsin Aziz, Chairman Senate Standing Committee on Interior, have the honor to present report of the Committee on a Bill further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898, [The Criminal Laws (Amendment), Bill, 2023], introduced by Senator Samina Mumtaz Zehri on 10th April, 2023. [Amendment in Section 376B of PPC and Schedule-II of Cr.P.C].

2. The composition of the Committee is as under: -

Senator Mohsin Aziz	Chairman
Senator Syed Yousuf Raza Gillani	Member
Senator Azam Nazeer Tarar	Member
Senator Samina Mumtaz Zehri	Member
Senator Sherry Rehman	Member
Senator Saifullah Abro	Member
Senator Faisal Saleem Rehman	Member
Senator Shahadat Awan	Member
Senator Faisal Subzwari	Member
Senator Fawzia Arshad	Member
Senator Danesh Kumra	Member
Senator Dilawar Khan	Member
Senator Kamil Ali Agha	Member
<u>Minister for Interior</u>	<u>Ex-Officio Member</u>

3. The Committee finally considered the Bill in its meeting held on 28th September, 2023. The meeting was attended by the following Members:

1. Senator Mohsin Aziz	Chairman
2. Senator Saifullah Abro	Member
3. Senator Shahadat Awan	Member
4. Senator Kamil Ali Agha	Member
5. Senator Danesh Kumar	Member
6. Senator Fawzia Arshad	Member
7. Senator Samina Mumtaz Zehri	Member/Mover
8. Senator Sherry Rehman	Member
9. Senator Dilawar Khan	Member

4. The Mover briefed the Committee about the objects and reasons of the Bill. She was of the view that sexual assault is a traumatic event that affects the victim mentally as well as physically. The victim of sexual assault or rape requires immediate medical care as well as moral support. Since the medical evidence in cases of rapes is very delicate which can destroy if not preserved immediately or even if not properly preserved, therefore, the immediate medical care of the victim is utmost important in rape cases. The purpose of the instant Bill is to oblige the private and public sector hospitals to immediately administer medical treatment to rape victim without any procedural delays and that too free of cost and if any public or private sector hospital do not fulfill its obligation that needs to be penalized.

5. According to the brief submitted by the Ministry of Interior through their File No.02/07/2023-Law, the ICT Administration, Central Police Office, Punjab and Public Prosecution Department, Government of the Punjab have endorsed the Bill as introduced. However, the Ministry of Interior opined that the medico-legal examination is a specialized field and Incharge of a private hospital cannot be hold responsible or penalized for non-provision of medico-legal examination. The Ministry of Interior did not support the Bill.

6. The Committee drew attention of the Mover towards her other Bill whereby amendment was proposed in the Anti-Rape (Investigation and Trial) Act, 2021 to achieve the similar objective but even at the time of consideration of that Bill by the Committee, the objection of the Ministry of Interior that private hospitals cannot be bound to give medico-legal certificate to the victims of rape was well taken by the Committee and that Bill was recommended by the Committee with the amendment of exclusion of word private hospital.

7. The Mover was of the view that the objective is basically to strengthen the system as most of the times it is difficult for the people to approach public hospitals especially in Balochistan so by the time people reach any public facility the evidence in rape cases destroys so there should be provision of giving medical treatment by the private hospitals. The Mover was of the view that according to the reports there are no Medico Legal Officers in Government hospitals so emphasis should be laid on private hospitals. She stated that it is an open secret that there are buildings of Government hospitals especially in Balochistan but there are no doctors available there.

8. Senator Kamil Ali Agha suggested that every Private Hospital which is approved by the Government should be mandated and obliged to give medical treatment to the rape victims as their social responsibility.

9. The Committee noted that there are two parts of the amendment proposed by the Mover one is to give medical treatment to rape victim by private and public hospitals and then to issue Medico Legal Certificate. The first part is implementable but issuance of MLC by a private hospital has certain repercussion as the MLC has to be produced in the court of law as crucial evidence during trial of the case and there will be problems of admissibility of evidence in the court of law if MLC is issued by a private hospital.

10. The draftsman of the Law Ministry was of the view that the detailed trial and investigation procedure in rape cases has now been given in Anti-Rape (Investigation and Trial) Act, 2021 so there would be no purpose of making any amendment regarding rape cases in PPC or Cr.P.C. He was of the view that private hospital will never engage or involve in treatment of a victim in a criminal case.

11. The Committee was of the view that theoretically speaking the idea is very good but practically it is not possible as keeping in view the subsequent appearance in courts as witnesses, the private hospitals will always show reluctance to give medical treatment to the rape victim.

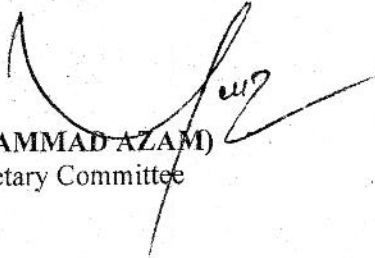
12. After discussion, the Committee amended clause 2 of the Bill as under:

“ 376B Punishment for non-treatment of a rape victim.- (1) The in-charge of every hospital, public or private, shall immediately provide the first-aid or free of cost medical treatment to a rape victim brought in the hospital.

(2) In case the victim is brought in a Government Hospital, the Medico Legal Certificate shall also be issued and in case the victim is brought in a private hospital, the victim shall be referred to the nearest Government

hospital within 24 hours for obtaining Medico Legal Certificate after giving medical treatment to the victim, failing which the In-charge of the hospital shall be punished with imprisonment for a term which may extend to one year or with fine or with both."

13. Thereafter, the Bill as amended was put to the vote of the Committee which was unanimously recommended by the Committee with the recommendation that the House may pass the Bill as reported by the Committee with amendment. The Bill as introduced in the Senate is at **Annexure-A** and the Bill as reported by the Committee is at **Annexure-B**. The Committee also gave approval of presentation of report of the Committee to the House. Hence, this report is presented to the House.


(MUHAMMAD AZAM)
Secretary Committee


(SENATOR MOHSIN AZIZ)
Chairman Committee

INTRODUCED ON 10.04.2023.
[AS INTRODUCED IN THE SENATE]

**A
Bill**

further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code 1860 and the Code of Criminal Procedure, 1898 for the purposes hereinafter appearing;

It is hereby enacted as follows: -

1. Short title and commencement. - (1) This Act may be called the Criminal Laws (Amendment) Act, 2023.

(2) It shall come into force at once

2. Insertion of new section 376B, in Act XLV of 1860.- In the Pakistan Penal Code, 1860 (XLV of 1860), after section 376A, the following new section shall be added, namely:-

'376B. Punishment for non-treatment of a rape victim.-

Whoever, being in charge of a hospital, public or private, refuses to provide the first-aid or free-of-cost medical treatment and to prepare a report of the medico-legal examination without delay, of a victim of an offense under section 375, shall be punished with imprisonment for a term which may extend to one year or with fine or with both."

3. Amendment of schedule-II, Act V of 1898.- In the Code of Criminal Procedure, 1898 (V of 1898) in schedule-II, in the Table, after entry 376A, the following entry shall be inserted, namely: -

376B	Punish ment for non- treatme nt of a rape victim	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for a term that may extend to one year or with fine or with both	Ditto
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STATEMENT OF OBJECTS AND REASONS

Sexual assault is a traumatic event that affects people in different ways, both mentally and physically. So doctors and nurses know care immediately after an assault needs to be understanding, compassionate and sensitive. This is particularly so during forensic examinations where the main purpose is to collect evidence as quickly as possible after, but within 72 hours, of the assault. This evidence may be vital to secure a conviction and may be lost or contaminated if there is a delay.

Unfortunately, various cases have been reported in our country where victims of rape or sexual violence seeking emergency medical assistance following an attack, are either saddled with thousands of rupees in medical bills or blatantly refused from getting the required medical treatment.

The purpose of this amendment is to penalize the medical professionals for the criminal negligence they observe in treating such sensitive cases which is a mandatory component of their official duty.

**SENATOR SAMINA MUMTAZ ZEHRI
MEMBER IN CHARGE**

[AS REPORTED BY THE COMMITTEE]

A

Bill

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'376B Punishment for non-treatment of a rape victim.-

(1) The in-charge of every hospital, public or private, shall immediately provide the first-aid or free of cost medical treatment to a victim of an offence under section 375, brought in the hospital.

(2) In case the victim is brought in a Government Hospital, the Medico Legal Certificate shall also be issued and in case the victim is brought in a private hospital, the victim shall be referred to the nearest Government hospital within 24 hours for obtaining Medico Legal Certificate after giving medical treatment to the victim, failing which the In-charge of the hospital shall be punished with imprisonment for a term which may extend to one year or with fine or with both."

3. Amendment of schedule-II, Act V of 1898.- In the Code of Criminal Procedure, 1898 (V of 1898) in schedule-II, in the Table, after entry 376A, the following entry shall be inserted, namely: -

376B	Punishment for non-treatment of a rape victim	May arrest without warrant	Ditto	Ditto	Ditto	Imprisonment for a term which may extend to one year or with fine or with both	Ditto
2							

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