

**DRAFT BILL**

**A BILL TO PROVIDE FOR THE CONSTITUTION OF IMPLEMENTATION MACHINERY, INCLUDING BUT NOT LIMITED TO ESTABLISHMENT OF EXCLUSIVE SPECIAL COURTS FOR THE SPEEDY TRIAL OF SPECIFIED OFFENCES AGAINST WOMEN AND CHILDREN AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.**

**CHAPTER I  
PRELIMINARY**

**1. Short Title, Extent and Commencement -**

- (1) This Act may be called the "Special Courts and Machinery for Implementation of SHAKTI Act, 2020"
- (2) It extends to the whole of the State of Maharashtra.
- (3) It shall come into force on such date as the State Government may by notification, in the Gazette of Maharashtra , appoint.

**2. Definitions**

In this Act, unless the context otherwise requires :

- (a) "Code" means the Code of Criminal Procedure, 1973;
- (b) "Exclusive Special Court" means an Exclusive Special Court for the implementation of SHAKTI Act 2020 and as established under Section 3 of this Act
- (c) " Government" means the State Government of Maharashtra;
- (d) "Implementation Machinery" means including, but not limited to the employees of the State Government and local bodies including Police Officers, Medical Officers, Legal Officers, Women and Child Development Officers, Forensic Officers and all other concerned agencies
- (e) "Specified Offence" means an offence against women and children under Sections 326A, 376, 376-A, 376-AB, 376-B, 376-C, 376-D, 376-DA, 376-DB, 376-E, of the Indian Penal Code and the offences in Sections 4 to 10 as prescribed under the Protection of Children from Sexual Offences Act, 2012 (Central Act 32 of 2012).
- (f) Words and expressions used herein and not defined but defined in the Code or the Protection of Children against Sexual Offences Act shall have the meaning respectively assigned to them in the Code or the Protection of Children from Sexual Offences Act, 2012.

## CHAPTER II

### ESTABLISHMENT OF EXCLUSIVE SPECIAL COURTS

#### **3. Establishment of Exclusive Special Courts.**

(1) The Government shall, for the purpose of speedy trial of "specified offence" as defined in Section 2(e) of this Act, by notification, establish in each district, one or more Exclusive Special Courts.

(2) An Exclusive Special Court shall be presided over by a Judge to be nominated by the Government with the concurrence of the High Court.

(3) No person shall be qualified for nomination as a Judge of Exclusive Special Court unless she/ he is or has been an Additional Sessions Judge or Sessions Judge in the State.

#### **4. Cognizance of cases by Exclusive Special Courts.**

Notwithstanding anything contained in the Code of Criminal of Procedure, 1973, the Exclusive Special Courts may take cognizance of "specified offence" as mentioned in Section 2(e) of this Act.

#### **5. Jurisdiction of Exclusive Special Courts.**

(1) An Exclusive Special Court shall have jurisdiction to exclusively conduct trial for "specified offence" as defined in Section 2(e) of this Act.

(2) Exclusive Special Court should deal with only such offences as are mentioned in sub-section (1) above.

(3) While trying an offence under the Exclusive Special Court, an offence (other than the offence referred to in Sub-section (1) above), against which the charges may be framed against the accused under the Code of Criminal Procedure, 1973, shall also be tried at the Exclusive Special Court under the same trial.

#### **6. Working of Exclusive Special Courts**

The provisions of the Code of Criminal Procedure, 1973 as amended from time to time shall apply to the proceedings before an Exclusive Special Court and for the purposes of the said provisions, the Exclusive Special Court shall be deemed to be a court of

Sessions and the person conducting a prosecution before Exclusive Special Court, shall be deemed to be a Public Prosecutor.

#### **7. Provision relating to Special Public Prosecutor.**

(1) The State Government shall, by notification in the Official Gazette, appoint a Special Public Prosecutor preferably, Woman Public Prosecutor for the purpose of conducting such trials under the Exclusive Special Court set up under Section 3 of this Act.

(2) A person shall be eligible to be appointed as Special Public Prosecutor under subsection (1) above, only if she/he has been in practice for not less than 7 years as an Advocate.

(3) Every person appointed as Special Public Prosecutor would be chosen from a panel recommended by a Screening Committee constituted under Section 8 of this Act. The Public Prosecutor appointed under this Section, shall be deemed to be a Public Prosecutor within the meaning of Clause (u) of Section 2 of the Code of Criminal Procedure and provision of that code shall have effect accordingly.

(4) The tenure of the Special Public Prosecutor so appointed on a case to case basis would be for the duration of the trial of the concerned offence.

#### **8. Constitution of Screening Committee**

For appointment of Special Public Prosecutor, a Screening Committee will be constituted at the concerned District/Commissionerate under the District Collector/Commissioner of Police with one member being the Superintendent of Police (District), with at least one member of such Committee being a woman of repute in the field of crime against women and one member having eminence in the legal field.

**CHAPTER III**  
**CONSTITUTION OF SPECIAL POLICE TEAMS**

**9. Constitution of Special Police Teams.**

(1) The State Government shall constitute a 'Special Police Team' at District or Commissionerate Level to be called the District or Commissionerate Special Police Team headed by an officer of the rank of Deputy Superintendent of Police for investigating the specified offences under section 2(e) of this Act.

(2) The investigation of "specified offence" as defined under Section 2(e) of this Act shall be carried out by such officer as in sub section (1) of this Section, in the Crime Branch of the District or Commissionerate. He/She shall be assisted by other officers on a case to case basis and shall be supported by equipment and personnel as required, in the investigation.

Provided that every such team shall consist of at least one woman Police officer and women personnel, data entry operators and other support staff.

(3) The State Government shall ensure the availability of required manpower and construction of such infrastructure and availability of such equipment, as required for the investigation of the specified offences.

(4) The State Government shall provide adequate amount of funds under the investigation fund to the concerned Police District / Commissionerate in order to achieve the requirements of investigation of the specified offences.

**10. Constitution of Appraisal Committee**

The State Government shall constitute an Appraisal Committee headed by the Police Head of the District/Commissionerate and consisting of such members who can assist the Police Head in the process of appraisal to scrutinize and decide on the committing of offences reported under Sections 326A, 376, 376-A,376-AB, 376-B, 376-C, 376-D, 376-DA, 376-DB, 376-E,of the Indian Penal Code(45 of 1860), to the Exclusive Special Court constituted for the said purpose.

The constitution of the Committee shall be such that at least one member of such Committee shall be a woman of repute in the field of crime against women and one member shall be of eminence in the legal field and any invitee member of eminence in a related field, as required, on a case to case basis.

#### **11. Working of the Appraisal Committee**

The Appraisal Committee in the district or commissionerate shall after receiving information about the recording of any offence under Sections 326A, 376, 376-A, 376-AB, 376-B, 376-C, 376-D, 376-DA, 376-DB, 376-E, of the Indian Penal Code (45 of 1860), shall meet within twenty four hours of the reporting of such offence to the said Committee and conduct careful scrutiny of the facts of the case as is known till said time to decide regarding treating the said offence to be committed to the Exclusive Special Courts.

Provided any reference to any reporting and recording of offence under the aforesaid sections would not prevent the registration of such offence, regardless of the decision of the Appraisal Committee.

#### **12. Punishment for False Complaint or False Information**

Any person, who makes false complaint or provides false information against any person, in respect of an offence committed under Sections 326A, 326B, 354, 354A, 354B, 354C, 354D, 354E, 376, 376-A, 376-AB, 376-B, 376-C, 376-D, 376-DA, 376-DB, 376-E, of the Indian Penal Code (45 of 1860), solely with the intention to humiliate, extort or threaten or defame him, shall be punished with imprisonment for a term up to one year or with fine or with both.

#### **13. Procedure For Media**

(1) No person shall make any report or present comments on any victim of offences as specified in Section 2(e) of the Act, using/through any form of media or studio or photographic facilities without having complete and authentic information, which may have the effect of lowering the victim's reputation or infringing upon victim's privacy.

(2) No report in any media shall disclose the identity of a victim (woman or child) including victim's name, address, photograph, family details, educational institution/workplace, neighbourhood or any other particulars which may lead to disclosure of identity of the victim.

Provided that for reasons to be recorded in writing, the Special Court competent to try the case under this Act, may permit such disclosure, if in it's opinion, such disclosure is in the interest of the victim.

(3) The publisher or owner of the media or studio or photographic facilities shall be jointly and severally liable for the acts and omissions of their employee/s.

(4) Whoever contravenes the provisions of Sub Sections (1) or (2) of this Section shall be liable to be punished under the provisions of Section 228-A of the Indian Penal Code (45 of 1860)

#### **CHAPTER IV**

#### **ESTABLISHMENT OF INSTITUTIONS FOR PROVIDING SERVICES TO VICTIMS**

14. The State Government shall establish institutions (One-Stop Centres, Swadhar Gruha, Ujwala Centres etc.) for providing services to victims of the specified offences, including providing medical/psychiatric support and care, psychiatric counselling, facilitating legal aid and financial aid and rehabilitation in coordination with the concerned agencies, specially endowed with the said function by specific Government order.

15 (i) The State Government shall constitute a Women Help Desk in every Police Station to provide help and information regarding the specified offences and the procedure to be followed in reporting the specified offences as also other offences against women and children. These help desks will be manned as far as possible, by a Woman Police Officer and will be housed in a women and child friendly environment.

(ii) The State Government shall also constitute "Prevention of Crime against Women & Children Cells" in the Crime Branch of every Police District/ Commissionerate of adequate size. It shall be manned by Women Police Officers round the clock and have a women and child friendly environment.

**CHAPTER V**  
**COMPENSATION TO VICTIMS**

16. The State Government shall constitute and put in place such machinery in coordination with the High Court to ensure that the victims of the specified offences are provided with stipulated sums of money under the Victim Compensation Scheme at different stages of the investigation and trial of the Specified offences.

**CHAPTER VI**  
**SENSITISATION PROGRAMS AND PREVENTIVE MEASURES**

**17. Public Awareness**

The State Government through Information and Publicity Department and through different forms of media, shall take all measures to ensure that

- a) the provisions of this Act shall be given wide publicity through all forms of media including the television, radio, the print media and social media at regular intervals to make the general public aware of the provisions of this Act.
- b) the provisions of the Act shall be given wide publicity in educational institutions, especially ashramshalas, student hostels, working women hostels, etc. through specially designed programmes to promote awareness and to encourage reporting of such offences as described in the Act
- c) the provisions of this Act and key guidelines as published by the Government from time to time towards the implementation of this Act, shall be prominently displayed at all Government offices, police stations, hospitals, dispensaries educational institution and institutions providing health care, relief, shelter and rehabilitation to the victims of the specified offences as described in the act.
- (d) the implementation machinery, including the employees of the State Government and local bodies including Police Officers, Medical Officers, Legal Officers, Women and Child Development Officers, Forensic lab Officers and all other concerned agencies shall be imparted periodic training on the matters relating to the implementation of the provisions of this Act.





**CHAPTER VII  
WOMEN AND CHILDREN OFFENDERS REGISTRY**

**18. Establishment of Women and Children Offenders Registry**

The State Government shall establish, operate and maintain a register, in electronic form, to be called the "Women and Children Offenders Registry", in which the full details of the persons convicted of "specified offence" as defined in Section 2(e) of this Act shall be maintained and made available to law enforcement agencies. This Registry shall be linked to the National Registry of Sex Offenders.

**CHAPTER VIII  
MISCELLANEOUS**

**19. Overriding effect over any other Laws.**

The provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force and, in case of any inconsistency, the provisions of this Act shall have overriding effect on the provisions of any such law to the extent of the inconsistency.

**20. Protection of action taken in good faith.**

No suit, prosecution or other legal proceedings shall lie against any person for anything done in good faith or intended to be done in pursuance of this Act.

**21. Power to make rules.**

(1) The State Government may, by notification, make rules, for carrying out all or any of the purposes of this Act.

(2) Every rule made under this Act shall, immediately after it is made, be laid before the Legislature of the State.

- The Government of Maharashtra has issued instructions regarding the constitution of Special Courts for the trial of offences against women and children under sections 326A, 376, 376-A, 376-AB, 376-B, 376-C, 376-D, 376-DA, 376-DB, 376-E of the Indian Penal Code, 1860 in all districts and Special Courts for trial of offences against children under The Protection of Children from Sexual Offences Act, 2012 in most of the districts.
- The Offences against women, especially sexual offences have increased many fold. The perpetrators continue their inhuman acts on innocent and helpless women and children, despite changes in Law. Therefore, it is felt necessary to constitute Exclusive Special Courts for speedy trial of specified offences against women and children under Sections 326 –A, 376, 376-A, 376-AB, 376B, 376C, 376-D, 376-DA, 376-DB, 376-E of the Indian Penal Code and the offences prescribed under sections 4 to 10 of The Protection of Children from Sexual Offences Act, 2012 to ensure speedier justice to the victim/ survivor.
- Moreover, it is also felt necessary to constitute special police teams for investigation of the specified offences , constitution of appraisal committee at the different police districts/commissionerates, screening committee for recommending appointment of Special Public Prosecutors and matters incidental thereto with provisions made by the State for the requisite infrastructure, manpower, equipment, technological support and investigation fund.
- In this context the Government of Maharashtra felt it necessary to put in place specially designed awareness and sensitization programme to prevent specified offences.
- It is also felt necessary by the State Government to establish institutions for providing services to victims/survivors to ensure relief, support and rehabilitation.
- Accordingly, the Government has decided to propose a new legislation for the above purpose.
- The Bill seeks to give effect to the above objective

