

Fifteenth Kerala Legislative Assembly
Bill No. 169

**THE KERALA HEALTHCARE SERVICE PERSONS
AND THE HEALTHCARE SERVICE INSTITUTIONS
(PREVENTION OF VIOLENCE AND DAMAGE TO
PROPERTY) AMENDMENT BILL, 2023**

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**THE KERALA HEALTHCARE SERVICE PERSONS
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BILL

to amend the Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012.

Preamble.—WHEREAS, it is expedient to amend the Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 (Act 14 of 2012) for the purposes hereinafter appearing;

BE it enacted in the Seventy-fourth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Amendment Act, 2023.

(2) It shall be deemed to have come into force on the 24th day of May, 2023.

2. *Amendment to section 2.*—In section 2 of the Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 (Act 14 of 2012) (hereinafter referred to as the principal Act),—

(a) the existing provision shall be numbered as sub-section (1);

(b) in clause (b) of sub-section (1) so numbered,—

(i) for item (iv) for the words and symbol “Nursing Students;” the words and symbol “Nursing Students and Para Medical Students;” shall be substituted;

(ii) for item (v) the following item shall be substituted, namely:—

“(v) Para Medical Workers, Security Guards, Managerial Staff, Ambulance Drivers and Helpers employed and working in healthcare service institutions; and”

(iii) after item (v), the following item shall be added, namely:—

“(vi) any other person which may be notified by the Government in the Official Gazette from time to time.”;

(c) after clause (c) the following clause shall be added, namely:—

“(ca) “prescribed” means prescribed by rules made under this Act;”;

(d) in clause (e), before the word “activities” the words “verbal abuse or” shall be inserted;

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

“(2) The words and expressions used but not defined in this Act and defined in the Indian Penal Code (Central Act 45 of 1860) or the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), as the case may be, shall have the meaning respectively assigned to them in those Codes.”.

3. *Amendment to section 4.*—In section 4 of the principal Act,—

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Whoever,—

(i) utters any words with an intention to abuse, humiliate or degrade a healthcare service person shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees, or with both;

(ii) commits or attempt to commit or abets or incites the commission of an act of violence as defined in clause (e) of section 2, other than the offence specified in item (i) shall be punished with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees;

(iii) while committing an act of violence against a healthcare service person, causes grievous hurt as defined in section 320 of the Indian Penal Code, 1860 to such person, shall be punished with imprisonment for a term which shall not be less than one year but which may extend to seven years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.”;

(b) in sub-section (2), after the words “healthcare service institution”, the words and symbols “or healthcare service person, as the case may be,” shall be inserted;

(c) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Any offence under items (ii) and (iii) of sub-section (1) shall be cognizable and non-bailable.”.

4. *Insertion of new section 4A.*—After section 4 of the principal Act, the following section shall be added, namely:—

“4A. *Investigation etc. to be completed expeditiously.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

(i) any case registered under this Act shall be investigated by a police officer not below the rank of Inspector and the investigation of such cases shall be completed within a period of sixty days from the date of registration of First Information Report;

(ii) in every inquiry or trial of a case under this Act, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same 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 days to be necessary for reasons to be recorded, and an endeavour shall be made to ensure that the inquiry or trial is concluded within a period of one year:

Provided that where the trial is not concluded within the said period, the court shall record the reasons for not having done so:

Provided further that the said period may be extended by such further period, for reasons to be recorded in writing, but not exceeding six months at a time.

(iii) for the purpose of providing speedy trial, the State Government shall, with the concurrence of the High Court, by notification in the Official Gazette, designate in each District a court of competent jurisdiction as a Special Court to try the offences under this Act;

(iv) for every Special Court the State Government may, by notification in the Official Gazette, designate Special Prosecutor for the purpose of conducting cases in that court.”.

5. *Amendment to section 7.*— In section 7 of the principal Act, sub-section (2) shall be renumbered as sub-section (3) and before the sub-section so renumbered the following shall be added, namely:—

“(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

- (a) deployment of adequate security personnel etc.;
- (b) installation of CCTV camera and other safety and security devices/equipments;
- (c) arrangement of control rooms and alarm systems etc.;
- (d) display of important informations addressing stake holders;
- (e) evolving protocols as to the manner in which doctors, healthcare professionals, students etc. are to be protected/behaved; and
- (f) any other matter which is required to be or may be prescribed under this Act.

6. *Repeal and saving.*—(1) The Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Amendment Ordinance, 2023 (Ordinance No.1 of 2023) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Kerala Healthcare Service Persons And Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 (Act 14 of 2012) prohibits violence against healthcare service persons and prevents damage and loss to property in healthcare service institutions. Taking into account of circumstances of violence that occurred against healthcare service persons and on the basis of the Order dated 27th October, 2021 in R.P. No.379 of 2021 in W.P.(C) No.10659 of 2021 and W.P.(C) No.11820 of 2021 of the Honourable High Court of Kerala, Government have decided to amend the Kerala Healthcare Service Persons And Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 (Act 14 of 2012).

2. The Government have decided to amend section 2(b) of the Kerala Healthcare Service Persons And Healthcare Service Institutions (Prevention of Violence and Damage to Property) Act, 2012 by bringing para medical students and para medical workers, security guards, managerial staff, ambulance drivers and helpers employed and working in medical service institutions and any other persons which Government notifies in the official Gazette, from time to time, within the ambit of the said Act, to make ‘verbal abuse’ against the Healthcare Service Persons as an offence and to grade the offences of violence based on its gravity of offences, to provide separate punishments to offenders, to make offences under items (ii) and (iii) of sub-section (1) of section 4 cognizable and non-bailable, to include provision for giving compensation to the healthcare service persons for the damage or loss occurred to them. Also, the Government have decided to include a new section for providing a provision for ensuring speedy investigation, trial etc. and a provision for designation of special courts and special prosecutors and a sub-section is also added in section 7 for widening the scope of rule making provisions

under this Act. For the above said purposes the Government have decided to amend the Kerala Healthcare Service Persons And Healthcare Service Institutions (Prevention of Violence and Damage to Property)Act, 2012 (Act 14 of 2012).

3. As the Legislative Assembly of the State of Kerala was not in session and as the said proposal had to be given effect immediately, the Kerala Healthcare Service Persons And Healthcare Service Institutions (Prevention of Violence and Damage to Property) Amendment Ordinance, 2023 was promulgated by the Governor of Kerala on the 23rd day of May, 2023 and the same was published as Ordinance No.1 of 2023 in the Kerala Gazette Extraordinary No.1733 dated 24th May, 2023.

4. The Bill seeks to replace the Ordinance No.1 of 2023 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

As per clause 5 of the Bill, by sub-section (2) of section 7 of the principal Act, recommended to deploy security personnels, installation of CCTV camera, other safety devices/equipment and to arrange control rooms and alarm systems etc. The Government will implement those matters step by step. For this, expenditure will be incurred from the Consolidated Fund of the State. However, at this point of time it is not possible to calculate how much amount will be incurred in this behalf. Therefore, the recurring and non-recurring expenditure to be incurred to the Government from the Consolidated Fund can be calculated only when the provisions of the bill are implemented.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (iii) of clause 4A, proposed to be inserted in the principal Act by clause 4 of the Bill, empowers the State Government to designate in each district a court of competent jurisdiction as a Special Court to try the offences under this Act, by notification in the Official Gazette.

2. Sub-clause (iv) of clause 4A, proposed to be inserted in the principal Act by clause 4 of the Bill, empowers the State Government, to designate Special Prosecutor for the purpose of conducting cases in every special court, by notification in the Official Gazette.

3. Sub-clause (2) of section 7, proposed to be inserted in the principal Act by clause 5 of the Bill, empowers the Government to make Rules on the subjects included therein.

4. The matters in respect of which rules or regulations may be made or notifications or orders issued are matters of procedure and are of routine and administrative in nature. Further, the rules are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is therefore of a normal character.

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4. *Penalty and other consequence for violation of section 3.*—(1) Any offender who commits any act in contravention of section 3, shall be punishable with imprisonment for a period which may extend to three years and with fine which may extend to fifty thousand rupees.

(2) In addition to the punishment specified in sub-section (1), the offender shall be liable to pay to the healthcare service institution a compensation of twice the amount of purchase price of medical equipment damaged and the loss caused to the property as may be determined by the Court trying the offence.

(3) If the offender has not paid the compensation under sub-section (2), the said sum shall be recovered under the provisions of the Kerala Revenue Recovery Act, 1968 (15 of 1968), as if it were an arrear of land revenue due from him.

(4) Any offence committed under section 3 shall be cognizable and non-bailable.

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7. *Power to make rules.*—(1) The Government may, by notification in the Official Gazette, make rules for the purposes of carrying out the provisions of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly, while it is in session, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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