

Bill No. 55 of 2020

THE MEDICAL TERMINATION OF PREGNANCY (AMENDMENT)
BILL, 2020

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BILL

further to amend the Medical Termination of Pregnancy Act, 1971.

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

1. (1) This Act may be called the Medical Termination of Pregnancy (Amendment) Act, 2020. Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

34 of 1971. 2. In the Medical Termination of Pregnancy Act, 1971 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

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

10 '(aa) "Medical Board" means the Medical Board constituted under sub-section (2C) of section 3 of the Act;'

(ii) after clause (d), the following clause shall be inserted, namely:—

'(e) "termination of pregnancy" means a procedure to terminate a pregnancy by using medical or surgical methods.'

Amendment
of section 3.

3. In section 3 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

"(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,—

(a) where the length of the pregnancy does not exceed twenty weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twenty weeks but does not exceed twenty-four weeks in case of such category of woman as may be prescribed by rules made under this Act, if not less than two registered medical practitioners are,

of the opinion, formed in good faith, that—

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from any serious physical or mental abnormality.

Explanation 1.—For the purposes of clause (a), where any pregnancy occurs as a result of failure of any device or method used by any woman or her partner for the purpose of limiting the number of children or preventing pregnancy, the anguish caused by such pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation 2.—For the purposes of clauses (a) and (b), where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by the pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

(2A) The norms for the registered medical practitioner whose opinion is required for termination of pregnancy at different gestational age shall be such as may be prescribed by rules made under this Act.

(2B) The provisions of sub-section (2) relating to the length of the pregnancy shall not apply to the termination of pregnancy by the medical practitioner where such termination is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board.

(2C) Every State Government or Union territory, as the case may be, shall, by notification in the Official Gazette, constitute a Board to be called a Medical Board for the purposes of this Act to exercise such powers and functions as may be prescribed by rules made under this Act.

(2D) The Medical Board shall consist of the following, namely:—

(a) a Gynaecologist;

(b) a Paediatrician;

(c) a Radiologist or Sonologist; and

(d) such other number of members as may be notified in the Official Gazette by the State Government or Union territory, as the case may be."

4. After section 5 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 5A.

5 "5A. (1) No registered medical practitioner shall reveal the name and other particulars of a woman whose pregnancy has been terminated under this Act except to a person authorised by any law for the time being in force.

Protection of privacy of a woman.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment which may extend to one year, or with fine, or with both."

5. In section 6 of the principal Act, in sub-section (2), after clause (a), the following clauses shall be inserted, namely:—

Amendment of section 6.

10 "(aa) the category of woman under clause (b) of sub-section (2) of section 3;

(ab) the norms for the registered medical practitioner whose opinion is required for termination of pregnancy at different gestational age under sub-section (2A) of section 3;

15 (ac) the powers and functions of the Medical Board under sub-section (2C) of section 3."

STATEMENT OF OBJECTS AND REASONS

The Medical Termination of Pregnancy Act, 1971 (34 of 1971) was enacted to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto. The said Act recognised the importance of safe, affordable, accessible abortion services to women who need to terminate pregnancy under certain specified conditions.

2. With the passage of time and advancement of medical technology for safe abortion, there is a scope for increasing upper gestational limit for terminating pregnancies especially for vulnerable women and for pregnancies with substantial foetal anomalies detected late in pregnancy. Further, there is also a need for increasing access of women to legal and safe abortion service in order to reduce maternal mortality and morbidity caused by unsafe abortion and its complications. Considering the need and demand for increased gestational limit under certain specified conditions and to ensure safety and well-being of women, it is proposed to amend the said Act. Besides this, several Writ Petitions have been filed before the Supreme Court and various High Courts seeking permission for aborting pregnancies at gestational age beyond the present permissible limit on the grounds of foetal abnormalities or pregnancies due to sexual violence faced by women.

3. Accordingly, the Medical Termination of Pregnancy (Amendment) Bill, 2020, *inter alia*, provides for,—

(a) requirement of opinion of one registered medical practitioner for termination of pregnancy up to twenty weeks of gestation;

(b) requirement of opinion of two registered medical practitioners for termination of pregnancy of twenty to twenty-four weeks of gestation;

(c) enhancing the upper gestation limit from twenty to twenty-four weeks for such category of woman as may be prescribed by rules in this behalf;

(d) non applicability of the provisions relating to the length of pregnancy in cases where the termination of pregnancy is necessitated by the diagnosis of any of the substantial foetal abnormalities diagnosed by a Medical Board;

(e) protection of privacy of a woman whose pregnancy has been terminated.

4. The proposed Bill is a step towards safety and well-being of women and will enlarge the ambit and access of women to safe and legal abortion without compromising on safety and quality of care. The proposal will also ensure dignity, autonomy, confidentiality and justice for women who need to terminate pregnancy.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 14th February, 2020.

DR. HARSH VARDHAN

ANNEXURE

EXTRACT FROM THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971

(34 OF 1971)

* * * * *

3. (1)* * * *

(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,—

When pregnancies may be terminated by registered medical practitioners.

(a) where the length of the pregnancy does not exceed twelve weeks, if such medical practitioner is, or

(b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners are, of opinion, formed in good faith, that—

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Explanation I.—Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation II.—Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

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further to amend the Medical Termination of Pregnancy Act, 1971.

(Dr. Harsh Vardhan, Minister of Health and Family Welfare)