

REGISTERED No. M - 302
L.-7646

The Gazette **of Pakistan**

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

ISLAMABAD, FRIDAY, JANUARY 7, 2022

PART III

Other Notifications, Orders, etc.

SENATE SECRETARIAT

Islamabad, the 4th January, 2022

No. F. 24(26)/2021-Legis.— Pursuant of sub-rule (4) of Rule 194 of the Rules of Procedure and Conduct of Business in the Senate, 2012, the following reports of the Standing Committees presented to the Senate on 4th January, 2022, are published for information:—

**REPORT OF THE SENATE STANDING COMMITTEE ON
RELIGIOUS AFFAIRS AND INTER-FAITH HARMONY ON
“GUARDIANS AND WARDS AMENDMENT BILL 2021”**

I, Senator Molana Abdul Ghafoor Haideri, Chairman, Senate Standing Committee on Religious Affairs and Inter-Faith Harmony, have the honor to present the report, on behalf of the Committee, on “GUARDIANS AND WARDS (AMENDMENT) BILL, 2021” introduced in the House and referred by the House on 31st May, 2021 to the Senate Standing Committee on Religious Affairs and Inter-Faith Harmony.

7(1—13)

Price: Rs. 20.00

[7029(2022)/Ex. Gaz.]

2. The composition of the Senate Standing Committee on Religious Affairs and Inter-Faith Harmony is as under:—

1. Senator Molana Abdul Ghafoor Haideri	<i>Chairman</i>
2. Senator Gurdeep Singh	<i>Member</i>
3. Senator Molvi Faiz Muhammad	<i>Member</i>
4. Senator Anwar Lal Dean	<i>Member</i>
5. Senator Bahramand Khan Tangi	<i>Member</i>
6. Senator Prof. Sajid Mir	<i>Member</i>
7. Senator Syed Muhammad Sabir Shah	<i>Member</i>
8. Senator Naseebullah Bazai	<i>Member</i>
9. Senator Hafiz Abdul Karim	<i>Member</i>
10. Senator Muhammad Akram	<i>Member</i>
11. Senator Hajid Hidayatullah Khan	<i>Member</i>
12. Minister for Religious Affairs and Inter-Faith Harmony	<i>Ex- Officio Member</i>
13. Senator Mohsin Aziz	<i>Mover</i>

3. The Committee considered the Bill in its meetings held on 26th October, and 30th November, 2021. In the meeting held on 26th October, 2021 the bill was deferred owing to request by the mover due to his absence.

4. Subsequently, the bill was re-considered in the meeting held on 30th November, 2021 wherein the mover of the bill Senator Mohsin Aziz briefed the Committee that through the bill he intended to amend section 19(b) of the Guardians and Wards Act, 1890 which reads as follows:

“To substitute the clause (b) of section 19 of the Act:

Courts shall not appoint guardian of person of a minor (other than a married female) whose father or mother is living and is not unfit to be guardian of that minor

To add words ‘or mother’ after word ‘father’ in clause (b) of section 19”

5. The mover stated that his intent was to ensure that the property of the minor kids is not misuse at the hands of any other person and that the mother should be declared as a guardian and no one else, in case she is not re-married. The Ministry however informed the Committee that the opinion of Islamic Ideological Council was sought in this matter who did not support the bill.

6. The Ministry suggested that in the next meeting of the Committee, the Chairman, Islamic Ideological Council and the Law Division be invited to seek further clarification in the matter.

7. Accordingly, the next meeting of the Committee was scheduled for 24th December, 2021. However, on 21st December, 2021 a letter was received from the mover wherein he desired for withdrawal of bill from the Committee due to an ambiguity in the present, language of the bill though he said that the same was revised by him. However since the revised amendment was beyond the scope of bill under consideration of the Committee, he desired to withdraw his bill from the Committee so that the new bill could be submitted in the House.

8. The Chairman (Committee) on behalf of the Committee disposed of the matter to the extent and with the advice that the mover will seek a formal ascent of the House for withdrawal of his bill under Rule 115 of the Rules of Procedure and Conduct of Business in the Senate 2012.

Sd/-
MUGHEES AHMAD SHAIKH,
Secretary (Committee).

Sd/-
SENATOR
MOLANA ABDUL GHAFUOR HAIDERI,
Chairman (Committee).

Introduced on 31st May, 2021

[AS INTRODUCED IN THE SENATE]

A

BILL

further to amend the Guardians and Wards Act, 1890

WHEREAS it is expedient further to amend the Guardians and Wards Act, 1890 (VIII of 1890) for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Guardians and Wards (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Amendment of Section 19 Act VIII of 1890.—In the Guardians and Wards Act, 1890 (VIII of 1890), in section 19, for clause (b), the following shall be substituted,

“(b) of a minor, other than a married female, whose father or mother is living and is not, in the opinion of the court, unfit to be guardian of the person of the minor, or”

STATEMENT OF OBJECTS AND REASONS

The Constitution of Pakistan guarantees equality of status and equality of opportunity to all citizens, irrespective of the fact, whether they are men and women. It provides that all citizens are equal before law and there shall be no discrimination on the basis of sex. There is a growing demand for making laws free from gender bias and to provide legal equality to women in all spheres of life.

2. With the above objectives in view, it is proposed to amend the Guardians and Wards Pct, 1890 so as to bring in gender equality and include the mother along with the father as a fit person to be appointed as guardian so that courts shall not appoint any other person as a guardian of minor if either of the parents is fit to be the guardian of such minor.

3. The bill seeks to achieve the above said purposes.

SENATOR
MOHSIN AZIZ,
Member-in-Charge.

REPORT 18 OF 2021

Report of Senate Standing Committee on “The Provincial Motor Vehicles (Amendment) Bill, 2021” moved by Senator Mohsin Aziz in the Senate sitting held on 15th November, 2021.

I, Chairman of Senate Standing Committee on Interior, have the Honour to present report on “The Provincial Motor Vehicles (Amendment) Bill, 2021” moved by Senator Mohsin Aziz in the Senate sitting held on 15th November, 2021.

2. The Bill, upon introduction in the Senate, was referred to the Standing Committee for consideration and report back to the House under Rule-98 of the Rules of Procedure and Conduct of Business in the Senate, 2012.

3. The composition of the Standing Committee on Interior is as under:—

1. Senator Mohsin Aziz	Chairman
2. Senator Syed Yousaf Raza Gillani (Leader of the Opposition)	<i>Member</i>
3. Senator Samina Mumtaz Zehri	<i>Member</i>
4. Senator Azam Nazeer Tarar	<i>Member</i>
5. Senator Moula Bux Chandio	<i>Member</i>
6. Senator Saifullah Abro	<i>Member</i>
7. Senator Rana Macibool Ahmad	<i>Member</i>
8. Senator Faisal Saleem Rahman	<i>Member</i>
9. Senator Shahadat Awan	<i>Member</i>
10. Senator Muhammad Talha Mahmood	<i>Member</i>
11. Senator Fawzia Arshad	<i>Member</i>
12. Senator Syed Faisal Ali Subzwari	<i>Member</i>
13. Senator Sarfraz Ahmed Bugti	<i>Member</i>
14. Senator Dilawar Khan	<i>Member</i>
15. Minister for Interior	<i>Ex-Officio Member</i>

4. The Committee considered and discussed the Bill in its meeting held on 09th December, 2021. The meeting was attended by the following Members: —

1. Senator Mohsin Aziz	Chairman
2. Senator Moula Bux Chandio	<i>Member</i>
3. Senator Saifullah Abro	<i>Member</i>
4. Senator Samina Mumtaz Zehri	<i>Member</i>
5. Senator Shahadat Awan	<i>Member</i>
6. Senator Fawzia Arshad	<i>Member</i>
7. Senator Syed Faisal Ali Subzwari	<i>Member</i>

5. Chairman Committee requested that any member may preside the meeting during discussion on the Bill moved by him. However, the Committee, unanimously, agreed that he should preside the meeting to member may preside the However, the Committee, consider the Bill.

6. The Committee considered “The Provincial Motor Vehicles (Amendment) Bill, 2021” `moved by Senator Mohsin Aziz in the Senate.

7. Senator Mohsin Aziz, Chairman Committee briefed that it has been observed in the recent past that the persons driving motor cars especially public transport are found under the influence of alcohol or drugs which seriously affects motor skills such as eye, hand and foot coordination. Without crucial coordination skills, a person may be unable to avoid an impending harmful situation. Therefore, it is proposed to increase the penalty and also make the conviction transparent by determining the offence subject to an examination of a medical practitioner. The bill seeks to achieve the above said purposes.

8. The Committee discussed the Bill Clause by Clause and amended as follows:—

In provincial motor vehicles amendment bill, 2021, in clause (2),

(i) After the word “motor vehicle”, the word “plying” shall be added; and

(ii) After the word “Government” occurring at the end, the words “or with a breathalyser test conducted by police officer” shall be added.

RECOMMENDATIONS:—

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The Committee recommended that the Senate may pass “The Provincial Motor Vehicles (Amendment) Bill, 2021” moved by Senator Mohsin Aziz, as amended by the committee.

9. The Committee, therefore, recommends that “The Provincial Motor Vehicles (Amendment) Bill, 2021” moved by Senator Mohsin Aziz in the Senate sitting held on 15th November, 2021 may be passed by the Senate as amended. (Copy of the Bill as reported by the Committee is at Annexure-A and Copy of the Bill presented in Senate is at Annexure-B).

Sd/-

TANVIR AHMED,
D. G./ Secretary Committee.

Sd/-

SENATOR
MOHSIN AZIZ,
Chairman Standing Committee on Interior.

Islamabad, the
09th December, 2021

[AS REPORTED BY THE COMMITTEE]

A

BILL

further to amend the Provincial Motor Vehicles Ordinance, 1965

WHEREAS, it is expedient further to amend the Provincial Motor Vehicles Ordinance, 1965 (W.P. Ordinance XIX of 1965) in its application to the Islamabad Capital Territory for the purposes hereinafter appearing;

It is hereby enacted as follows: —

1. Short title and commencement.— (1) This Act may be called the Provincial Motor Vehicles (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Substitution of Section 100, Ordinance XIX of 1965.— In the Provincial Motor vehicles Ordinance, 1965 (W.P. Ordinance XIX of 1965), as in force in the Islamabad Capital Territory, for Section 100, the following shall be substituted, namely: —

“100. Driving while under the influence of alcohol or drugs.— (1) Any person, when driving or attempting to driver, or when in-charge of, a motor vehicle **plying** on a road or other public place is under the influence of alcohol or a drug to such an extent as to be incapable of having proper control of the vehicle, shall be punishable with fine which may extend to twenty-five thousand rupees, or with imprisonment of one month which may extend to six months, or with both, and in the case of a second or subsequent conviction either with fine which may extend to fifty thousand rupees or with imprisonment of six months which may extend to two years, or with both.

(2) No person shall be convicted of an offence punishable under sub-section

(1) unless the extent of the influence is determined by a medical practitioner authorized by the Government **or with a breathalyzer test conducted by the police officer.”**

STATEMENT OF OBJECTS AND REASONS

It has been observed in the recent past that the persons driving motor cars especially public transport are found under the influence of alcohol or drugs which seriously affects motor s ills such as eye, hand and foot coordination. Without crucial coordination skills, a person may be unable to avoid an impending harmful situation. Therefore, it is proposed to increase the panalty and also make the conviction transparent by determining the offence subject to an examination of a medical practitioner. The bill seeks to achieve the above said purposes.

INTRODUCED ON 15-11-2021

[AS INTRODUCED IN THE SENATE]

A

BILL

further to amend the Provincial Motor Vehicles Ordinance, 1965

WHEREAS it is expedient further to amend the Provincial Motor Vehicles Ordinance, 1965 (W.P. Ordinance XIX of 1965) in its application to the Islamabad Capital Territory for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Provincial Motor Vehicles (Amendment) Act, 2021.
- (2) It shall come into force at once.

2. **Substitution of section 100, Ordinance. XIX of 1965.**— In the Provincial Motor Vehicles Ordinance, 1965 (W.P. Ordinance XIX of 1965), as in force in the Islamabad Capital Territory, for section 100, the following shall be substituted, namely:—

“100. Driving while under the influence of alcohol or drugs.— (1) Any person, when driving or attempting to drive, or when in charge of, a motor vehicle on a road or other public place is under the influence of alcohol or a drug to such an extent as to be incapable of having proper control of the vehicle, shall be punishable with fine which may extend to twenty-five thousand rupees, or with imprisonment of one month which may extend to six months, or with both, and in the case of a second or subsequent conviction either with

fine which may extend to fifty thousand rupees or with imprisonment of six months which may extend to two years, or with both.

(2) No person shall be convicted of an offence punishable under subsection (1) unless the extent of the influence is determined by a medical practitioner authorized by the Government.”

STATEMENT OF OBJECTS AND REASONS

it has been observed in the recent past that the persons driving motor cars especially public transport are found under the influence of alcohol or drugs which seriously affects motor skills such as eye, hand and foot coordination. Without crucial coordination skills, a person may be unable to avoid an impending harmful situation. Therefore, it is proposed to increase the penalty and also make the conviction transparent by determining the offence subject to an examination of a medical practitioner. The bill seeks to achieve the above said purposes.

SENATOR
MOHSIN AZIZ,
Member-in-Charge.

REPORT 19 OF 2021

SENATE SECRETARIAT

Report of Senate Standing Committee on “The Pakistan Penal Code (Amendment) Bills 2021” moved by Senator Saadia Abbasi in the Senate sitting held on 12th July, 2021.

I, Chairman of Senate Standing Committee on Interior, have the Honour to present report on “The Pakistan Penal Code(Amendment) Bill, 2021” moved by Senator SaadiaAbbasi in the Senate sitting held on 12th July, 2021.

2. The Bill, upon introduction in the Senate, was referred to the Standing Committee for consideration and report back to the House under Rule-98 of the Rules of Procedure and Conduct of Business in the Senate, 2012.

3. The composition of the Standing Committee on Interior is as under:—

- | | |
|---|-----------------|
| 1. Senator Mohsin Aziz | Chairman |
| 2. Senator Syed Yousaf Raza Gillani
(Leader of the Opposition) | Member |
| 3. Senator Samina Mumtaz Zehri | Member |
| 4. Senator Azam Nazeer Tarar | Member |
| 5. Senator Moula Bux Chandio | Member |

6.	Senator Saifullah Abro	<i>Member</i>
7.	Senator Rana Maqbool Ahmad	<i>Member</i>
8.	Senator Faisal Saleem Rahman	<i>Member</i>
9.	Senator Shahadat Awan	<i>Member</i>
10.	Senator Muhammad Talha Mahxood	<i>Member</i>
11.	Senator Fawzia Arshad	<i>Member</i>
12.	Senator Syed Faisal Ali Subzwari	<i>Member</i>
13.	Senator Sarfraz Ahmed Bugti	<i>Member</i>
14.	Senator Dilawar Khan	<i>Member</i>
15.	Minister for Interior	Ex-Officio <i>Member</i>

4. The Committee considered and discussed the Bill in its meetings held on 18th August, 2021, 08th September, 2021, 30th September, 2021 and 09th December, 2021. The last meeting was attended by the following Members:—

1.	Senator Mohsin Aziz	Chairman
2.	Senator Moula Bux Chandio	<i>Member</i>
3.	Senator Saifullah Abro	<i>Member</i>
4.	Senator Samina Mumtaz Zehri	<i>Member</i>
5.	Senator Shahadat Awan	<i>Member</i>
6.	Senator Fawzia Arshad	<i>Member</i>
7.	Senator Syed Faisal Ali Subzwari	<i>Member</i>
8.	Senator Saadia Abbasi	<i>Mover</i>

5. Senator Saadia Abbasi, Mover, briefed the Committee that “Custodial torture and deaths” is a world-wide phenomenon inflicted upon individuals irrespective of gender, religion, financial status, or health conditions. The type of violation of human rights is alarming in Pakistan where brutal atrocities are perpetuated by police and other law enforcement agencies. Pakistan needs to make torture and custodial deaths criminal offenses as an important step in stemming widespread abuse and exploitation. The existing provisions of Pakistan Penal code (PPC) stipulate penalties for certain acts of torture under related offences such as “causing hurt to extort confession or to compel restoration of property”, “wrongful confinement to extort confession or compel restoration of property”, or provisions governing “criminal force and assault”. However, these provisions are either vague or not comprehensive enough to be used for criminalizing torture, or custodial deaths. This amendment in the PPC provides definition for “Torture”, “Custody”, and “Custodial Deaths” inflicted by any person, police, or law enforcement agency. Moreover, the custodial deaths are proposed to be dealt under the offence of Qatl-i-amd (Section 300 of PPC).

6. Chairman Committee stated that the Committee has already discussed various aspects of the Bill in its meetings held on 08-09-2021 and 30-11-2021.

7. Chairman Committee informed that the District Administration ICT, Islamabad is of the view that the existing Section 300 of PPC, 1860 (Qatl-i-Amd) is appropriate and requires no amendment. A death May

naturally occur during custody or accidentally or any other circumstances, every death during custody cannot indiscriminately be declared as custodial death. The Punjab Law & Parliamentary Affairs Department states that the proposed amendment is highly contradictory in nature. The amendment is against the very spirit of CCRP, 1898, PPC, 1860 and Anti-Terrorism Act, 1997. Section 176 CRPC provides a Magistrate is empowered to conduct inquiry into the cause of death of any person who dies in the custody of the police. The Ministry of Interior has also informed that a government Bill titled as “Torture and Custodial Death (Prevention and Punishment) Bill, 2021 has been presented in the National Assembly and referred to the Committee which has forwarded the same to the Ministry of Law & Justice for comments. So, we may not endorse the Bill on the same subject already sent to the Law Division.

8. The Committee discussed all aspects of the Bill. However in the light of discussion made in the Committee Senator Saadia Abbasi also expressed her willingness to withdraw the bill.

RECOMMENDATIONS:—

The Committee recommended that the Senate may not pass “The Pakistan Penal Code (Amendment) Bill, 2021” moved by Senator Saadia Abbasi in the Senate sitting held on 12th July, 2021 in its present form.

9. In view of the above, the Committee recommends that the Senate may not pass “**The Pakistan Penal Code (Amendments) Bill, 2021**” in its present form. (Copy of the Bill is enclosed).

TANVIR AHMED,
D. G./ Secretary Committee.
Interior.

SENATOR
MOHSIN AZIZ,
Chairman Standing Committee on

Islamabad, the
09th December, 2021

[TO-BE INTRODUCED IN THE SENATE]

A

BILL

further to amend the Pakistan Penal Code, 1860

WHEREAS, Pakistan has in 2008 signed, and ratified in 2010, the United Nations Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishments 1984;

AND WHEREAS Article 2 (1) and Article 4 of the Convention requires the State party acceding to It to enact domestic legislation to establish an act of torture, cruel, inhuman and degrading punishment and treatment as a crime in the country;

AND FURTHER WHEREAS, Article 14(2) of the Constitution of the Islamic Republic of Pakistan provides for and guarantees the dignity of man and precludes a person from being subjected to torture for the purpose of extracting evidence;

AND WHEREAS, It is expedient further to amend the Pakistan Penal Code 1860, (XLV of 1860) in order to prevent the torture, and, custodial killings, in Pakistan which victimize and claim the lives of hundreds of persons every year;

It is hereby enacted as follows:—

1. Short title and commencement.— (1) This Act may be called the Pakistan Penal Code (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Amendment of section 6, XLV of 1860.— In the Pakistan Penal Code, 1860 (XLV of 1860), hereinafter referred to as the Penal Code, in section

(i) after clause 52A; the following new clauses shall be inserted, namely:—

“52B. **“Custody”** includes all situations where a person is detained by the way of judicial custody or for search and proceedings of seizure and deprived of his liberty by any person including a public servant, irrespective of legality, nature and place of such detention;

52C. **“Custodial death”** means death of a person occurring during or directly or indirectly caused by and substantially inflicted upon the deceased while in custody. It includes death occurring in police stations, private medical premises, in a public place, in a police station, in any vehicle, in jail or in detention centre of any kind. It also includes death occurring while a person is being arrested, or taken into detention, or being questioned;

52D. **“Torture”** means an act committed, by any person, including a public servant, at the instigation of, or with the acquiescence of any other person, with specific intent to inflict physical or mental pain or suffering, not incidental to lawful sanctions, upon another person within his custody, for the purpose of;

(i) confession or obtaining information from that person; or

- (ii) punishing that person for an act he or his partner or a third person have committed or suspected to have committed; or
- (iii) intimidating or coercing that person or a third person; or
- (iv) for any other reason based on discrimination of any kind; or
- (v) harassing, molesting or causing harm whether- physical or mental for any of the above purposes.”

3. Amendment of section 300, Act XLV of 1860.— In the Penal Code, In section 300,—

- (i) after the phrases “by doing an act” , and “ or with the knowledge that his act”, the phrase “or torture”, shall be inserted; and
- (ii) “ for the full stop at the end, a colon “:” shall be substituted and thereafter the following proviso shall be inserted, namely:

“Provided that any injury or punishment or torture leading to custodial death shall be Included In the definition of qatl- e - amd.”

STATEMENT OE OBJECTS AND REASON

“Custodial torture and deaths” is a world-wide phenomenon inflicted upon individuals irrespective of gender, religion, financial status, or health conditions. This type of violation of human rights is alarming in Pakistan where brutal atrocities are perpetuated by police and other law enforcement agencies. Pakistan needs to make torture and custodial deaths criminal offenses as an important step in stemming widespread abuse and exploitation. The existing provisions of Pakistan Penal Code (PPC) stipulate penalties for certain acts of torture under related offences such as “**causing hurt to extort confession or to compel restoration of property**”, “**wrongful confinement to extort confession or compel restoration of property**”, or provisions governing “criminal force and assault.” However, these provisions are either vague or not comprehensive enough to be used for criminalizing torture, or custodial deaths. This amendment in the PPC provides definition for “Torture”, “Custody”, and “Custodial Deaths” Inflicted by any person, police, or law enforcement agency. Moreover, the custodial deaths are proposed to be dealt under the offence of Qatl e amd (Section 300 of PPC).

SENATOR
SAADIA ABBASI,
Member-in-Charge.

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MUHAMMAD QASIM SAMAD KHAN,
Secretary.