

**Fourteenth Kerala Legislative Assembly**

**Bill No. 41**

**THE CRIMINAL LAWS (KERALA AMENDMENT)  
BILL, 2017**

**GIVEN NOTICE BY SHRI N. SAMSUDHEEN, M.L.A.**

THE CRIMINAL LAWS (KERALA AMENDMENT) BILL, 2017

(Given Notice by Shri N. Samsudheen, M.L.A.)

A

Bill

*Further to amend the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 in its application to the State of Kerala.*

*Preamble.*—WHEREAS, it is expedient further to amend the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 in its application to the State of Kerala for the purpose hereinafter appearing;

BE it enacted in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Criminal Laws (Kerala Amendment) Act, 2017;

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

CHAPTER II

AMENDMENT TO THE INDIAN PENAL CODE, 1860

1. *Amendment of section 160.*— In section 160 of Penal Code for the words “shall be punished with imprisonment of either description for a term which may extent to one month, or with fine which may extent to one hundred rupees, or with both”, the words “shall be punished with imprisonment of either description for a term which may extent to three months, or with fine which may extent to one thousand rupees, or with both” shall be substituted.

2. *Amendment of section 264.*—In section 264 of Penal Code for the words “shall be punished with imprisonment of either description for a term which may extent to one year, or with fine, or with both”, the words “shall be punished with imprisonment of either description for a term which may extent to four years or with fine, which may extent to ten thousand rupees or with both” shall be substituted.

3. *Amendment of section 265.*—In section 265 of Penal Code for the words “shall be punished with imprisonment of either description for a term which may extent to one year, or with fine, or with both”, the words “shall be punished with imprisonment of either description for a term which may extent to four years or with fine, which may extent to ten thousand rupees or with both” shall be substituted.

4. *Amendment of section 274.*—In section 274 of Penal Code for the words “shall be punished with imprisonment of either description for a term which may extent to six months, or with fine which may extent to one thousand rupees, or with both”, the words “shall be punished with imprisonment of either description for a term which may extent to one year or with fine, which may extent to ten thousand rupees or with both” shall be substituted.

5. *Amendment of section 279.*—In section 279 of Penal Code for the words “shall be punished with imprisonment of either description for a term which may extent to six months, or with fine which may extent to one thousand rupees, or with both”, the words “shall be punished with imprisonment of either description for a term which may extent to one year or with fine, which may extent to five thousand rupees or with both” shall be substituted.

6. *Amendment of section 338.*—In section 338 of Penal Code for the words “shall be punished with imprisonment of either description for a term which may extent to two years, or with fine which may extent to one thousand rupees, or with both”, the words “shall be punished with imprisonment of either description for a term which may extent to three years or with fine, which may extent to ten thousand rupees or with both and collected fine shall be given to the injured” shall be substituted.

7. *Amendment of section 427.*—In section 427 of Penal Code for the words “thereby causes loss or damage to the amount of fifty rupees or upwards”, the words “thereby causes loss or damage to the amount of fifty rupees to five thousand rupees” shall be substituted.

8. *Insertion of new section 427A.*— After section 427 the following section shall be inserted, namely:—“427A. Mischief causing damage to the amount of above five thousand:—Whoever commits mischief and thereby causes loss or damage to the amount of above five thousand rupees shall be punished with imprisonment of either description for a term which may extent to three years or with fine equal to the damage or loss caused or with both.”

### CHAPTER III

#### AMENDMENT TO THE CODE OF CRIMINAL PROCEDURE, 1973

9. *Amendment of section 93.*—In section 93 of the Code of Criminal Procedure after the sub-section (1) (c) the following sub-section shall be inserted namely:—“(d) when court issues a search warrant against a Police Officer it shall be issued through a Gazetted Officer or an Advocate Commissioner.”

10. *Amendment of section 116.*—In section 116 of the Code of Criminal Procedure after completion of sub section (6) the following words shall be inserted. “If the delay is caused due to the act of the respondent the above period of six months shall not attract.”

11. *Amendment of section 156.*—In section 156 of the Code of Criminal Procedure after completion of sub section (3) the following words shall be inserted. “At this stage question of sanction shall not arise.”

12. *Amendment of section 197.*—In section 197 of the Code of Criminal Procedure after completion of sub-section (1) and the explanation the following further explanation shall be inserted. “For the removal of doubts it is hereby declare that no sanction shall be required if the alleged acts had no nexus with the official duty.”

13. *Insertion of new section 226A.*—After section 226 of the Code of Criminal Procedure the following section shall be inserted, namely:—“226A. Court may dispense with personal attendance of the accused and permit him to appear by his pleader but the judge trying the case may, in his discretion, at any stage of the proceedings, direct the personal attendance of the accused, and, if necessary enforce such attendance in the manner prescribed by the code.”

14. In the First Schedule, under the heading:

“OFFENCE UNDER THE INDIAN PENAL CODE.—For the entries relating to sections 264, 265, 353, 363 the following entries shall be inserted, namely:—

<i>Section</i>	<i>Offence</i>	<i>Punishment</i>	<i>Cognizable or Non Cognizable</i>	<i>Bailable or Non Bailable</i>	<i>By what Court Triable</i>
1	2	3	4	5	6
264	Fraudulent use of false instrument for weighing	Imprisonment for four years or fine of 10000 rupees, or both	Non-Cognizable	Non-Bailable	Any Magistrate
265	Fraudulent use of false weight instrument for measure	Imprisonment for four years or fine of 10000 Rupees, or both	Non-Cognizable	Non-Bailable	Any Magistrate
353	Assault or use of criminal force to deter a public servant from discharge of his duty	Imprisonment for two years or fine or both	Cognizable	Bailable	Any Magistrate
363	Kidnapping	Imprisonment for seven years and fine	Cognizable	Non-Bailable	Magistrate of the First Class

#### STATEMENT OF OBJECTS AND REASONS

The Criminal Laws (Kerala Amendment) Bill, 2017 seeks to amend the Indian Penal Code, 1860, the Code of Criminal Procedure, 1973, so as to -

(a) enhance the punishment under Sections 160, 264, 265, 274, 279, and 338 of the Indian Penal Code, making the offence more stringent. The purpose of the enhancing the punishment is that to becoming the people more vigilant dealing the above matters;

(b) amend sections 264 and 265 is necessary for controlling the exploitation of fraudulent sellers. Amendment of section 274 of Indian Penal Code is very necessary to protect public health. Amendment of sections 279 and 338 of Indian Penal Code is necessary to protect human life from rash and negligent driving and this amendment provides compensation to victims also;

(c) amend section 427 and adding 427A as a new section for providing damages serious and less serious based on the worth of the damaged property. Now there is no division based on the value or worth. Damage of more things and lesser things are not equal. It must divide and huge damage must be considered as serious;

(d) amend sections 93,160,156 and 197 of the Code of Criminal Procedure, 1973 is necessary to protect natural justice and avoiding the procedure irregularities . The purpose of introducing a new section 226A for protecting the interest of people who seek employment abroad and to avoid loss of job opportunities in foreign countries. Otherwise a person arrayed as an accused in a criminal case, he can't move to abroad, until the case is disposed. Most of the cases, it will take long time for disposing the cases.

The Bill seeks to achieve the above objectives.

#### FINANCIAL MEMORANDUM

There will be no financial commitment, if the bill is passed.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

The state may make rules or regulations in respect of the manner in which this legislation is implemented.

N. SAMSDHEEN, M.L.A.