

Bill No. 319 of 2016

THE ORPHAN CHILD (PROVISION OF SOCIAL SECURITY)
BILL, 2016

By

SHRI VINOD KUMAR BOIANAPALLI, M.P.

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BILL

to provide for social security and welfare measures to orphan children and for matters connected therewith.

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

1. (1) This Act may be called the Orphan Child (Provision of Social Security) Act, 2016.
- (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title and commencement.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "child" means a child who has not completed the age of eighteen years;

(c) "foster care home" means foster care home established under section 8; and 5

(d) "orphan child" means a child who has been abandoned or has lost both parents or whose parents' identity is not known and includes a child who is not part of a family either natural or foster;

(e) "prescribed" means prescribed by rules made under this Act.

Central Government to conduct survey of orphan children.

3. (1) The Central Government shall, in consultation with State Governments, conduct and publish the survey of orphan children after every ten years alongwith census. 10

(2) The survey conducted under sub-section (1) shall include—

(a) socio-economic status of orphan children;

(b) data on the cause and effect of becoming orphans;

(c) Demographic profile of orphan children; and 15

(d) performance appraisal of existing orphan children welfare schemes and programmes.

National policy for welfare of orphan children.

4. (1) The Central Government shall, within one year of the publication of the survey under section 3, formulate a National Policy for the welfare of orphan children.

(2) Without prejudice to the generality of the foregoing provisions, the National Policy referred to in sub-section (1) may provide for— 20

(a) placing orphan children in a family setting either through reunion with their natural parents or relatives or through adoption by foster ones;

(b) establishment of a robust system of institutional care for orphan children who are unable to be reintegrated in a family setting; 25

(c) evolution of a preventive approach to the phenomenon of children becoming orphans;

(d) development of a tracking system for identification of families of abandoned children to facilitate reunification;

(e) development of psychological and other support system to prevent abandoning of children by parents due to poverty, deprivation and other such factors; 30

(f) universalising the Cradle Baby Reception Centre scheme and its mandatory inclusion in every public health centre in the country;

(g) counselling facilities at the Cradle Baby Reception Centres to link parents to relevant welfare schemes; 35

(h) simplification and reform of the adoption system by foster parents;

(i) conducting awareness campaigns in high risk districts informing the parents about the Governmental assistance;

(j) training and capacity building to health workers to cater to the complex psychosocial needs of orphan children; 40

(k) specialised attention to orphan children suffering from vulnerable diseases like HIV and other communicable diseases and to orphan children living in militancy and naxal affected areas;

(l) post-institutional support to ensure education, skill training and livelihood to orphan children;

(m) grants-in-aid to foster care homes and Non-Governmental Organisations working for the orphan children;

5 (n) stringent monitoring of foster care institutions to prevent any kind of emotional, physical or sexual abuse of orphan children;

(o) Strict and Swift punishment to child abusers in foster care institutions;

(p) issuance of single and multi-purpose 'orphan certificate' containing therein, if available, such information as date of birth, nativity, parental status and family
10 surname to ensure enjoyment of legal rights, entitlements and benefits;

(q) linkage of all orphan-related agencies such as cradle baby centres, adoption centres and foster care homes with authorities that issue orphan certificates;

(r) promoting awareness about legal rights and entitlements of orphan children; and

15 (s) such other provisions as may be deemed necessary and expedient for carrying out the purposes of this Act.

5. It shall be the duty of the appropriate Government to implement the National Policy for welfare of orphan children formulated under section 4.

Appropriate Government to implement the National policy.

6. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, constitute a Fund to be known as the Orphan Children Welfare Fund for the purposes of this Act with an initial corpus of rupees two thousand crores, to be provided by the Central Government, after due appropriation made by Parliament by law in this behalf.

Constitution of an Orphan Children Welfare Fund.

(2) The Fund shall also include,—

25 (a) contributions made by the Central Government and State Governments in such ratio, as may be prescribed;

(b) money received by way of donations, contributions, assistance or otherwise from individuals, body corporates, domestic and foreign financial institutions.

30 (3) The contributions to the Fund by the private institutions shall be exempted from income tax and such institutions shall be provided such fiscal incentives by the Central Government, as may be prescribed.

(4) The Fund shall be utilised for rehabilitation and welfare of orphan children in such manner as may be prescribed.

7. There shall be three *per cent.* reservation in educational institutions and in posts and services under the Central Government for orphan children.

Reservation in Educational Institutions and in posts and services.

35 **8. (1) The appropriate Government shall establish such number of foster care homes as may be necessary for the purposes of this Act.**

Establishment of foster care homes.

(2) The foster care homes established under sub-section (1) shall provide free of cost boarding and lodging and such other facilities to the orphan children as may be prescribed.

40 **9. (1)** The appropriate Government shall designate a nodal officer in every district to ensure effective implementation of all the schemes and policies meant for welfare of orphan children;

Nodal officer to ensure welfare schemes in every district.

(2) Every nodal officer shall submit to the appropriate Government an annual report containing such details, as may be prescribed, of welfare measures provided to orphan children in the district.

(3) The appropriate Government shall, if satisfied that schemes and policies are not being implemented properly, remove from the office, the nodal officer for dereliction of duty:

Provided that no criminal proceedings shall be initiated against the nodal officer who is removed from office.

Central Government to provide funds.

10. The Central Government shall, after due appropriation made by Parliament, by law in this behalf, provide adequate funds to the State Governments for carrying out the purposes of this Act. 5

Overriding effect of the Act.

11. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force. 10

Act not in derogation of any other law.

12. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session, or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree 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. 15 20

STATEMENT OF OBJECTS AND REASONS

At present there is no comprehensive legislation or policy that addresses the issues faced by orphan children in India. As a result of this they face several difficulties. The foremost difficulty in this regard is lack of identity. This causes many problems in daily civic life and acts as a barrier to access public services and benefits of Government schemes and entitlements.

The lack of identity proof touches upon a more fundamental issue regarding orphan children. The present Bill seeks to provide for formulation of a comprehensive legislation covering the needs of orphans, in general, but focuses primarily upon the needs of the orphan children who are at high risk of abuse, exploitation and neglect. Moreover, being a welfare State, it is obligatory upon the State to provide care, shelter and succor to this tender and helpless category of society.

Hence this Bill.

NEW DELHI;
August 7, 2015.

VINOD KUMAR BOIANAPALLI

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117(1) AND 117(3) OF THE CONSTITUTION OF INDIA

[Copy of letter No. 31/117/2015-CW-I dated 31 October, 2016 from Shrimati Maneka Sanjay Gandhi, Minister of Women and Child Development to the Secretary General, Lok Sabha].

The President, having been informed of the subject matter of Orphan Child (Provision of Social Security) Bill, 2016 by Shri Vinod Kumar Boianapalli, Member of Parliament, recommends to the House the introduction and the consideration of the Bill under articles 117(1) and 117(3) of the Constitution, respectively.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for survey of orphan children. Clause 4 provides for formulation of a national policy for the welfare of orphan children. Clause 6 provides for constitution of an Orphan Children Welfare Fund. Clause 8 provides for establishment of foster care homes to provide free food, lodging and other requisite amenities to orphans. Clause 10 provides that the Central Government shall provide adequate funds to the State Governments for carrying out the purposes of the Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees two thousand crore would be involved as recurring expenditure per annum.

A non-recurring expenditure of about rupees twenty thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.

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(Shri Vinod Kumar Boianapalli, M.P.)