

AS INTRODUCED IN THE RAJYA SABHA

BILL No. XXXVII OF 1999

THE MARRIAGE LAWS (AMENDMENT) BILL, 1999

A

BILL

further to amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

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|-------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| 1. This Act may be called the Marriage Laws (Amendment) Act, 1999. | Short title. |
| 2. In section 5 of the Hindu Marriage Act, 1955, in clause (ii), in sub-clause (c), the words "or epilepsy" shall be omitted. | Amendment of section 5 of Act i of 1955. |

Amendment of
section 4 of Act
43 of 1954.

3. In section 4 of the Special Marriage Act, 1954, in clause (b), in sub-clause (iii), the words "or epilepsy" shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Based on the recommendations of the Law Commission of India as contained in their Fifty-ninth Report on "Hindu Marriage Act, 1955 and Special Marriage Act, 1954", section 5 of the Hindu Marriage Act, 1955 and section 4 of the Special Marriage Act, 1954 were amended *vide* the Marriage Laws (Amendment) Act, 1976 so as to remove the doubts about the degrees of lunacy. Ever since the aforesaid amendment came into force, the Central Government have been receiving representations from eminent medical experts, jurists and Members of Parliament for omission of references to "epilepsy" contained in the aforesaid Acts of 1955 and 1954 on the ground that medical experts have found that epilepsy is fairly well controllable in a majority of cases and the patients can lead a normal life and, therefore, equating "epilepsy" to "insanity" would do great injustice to patients suffering from epilepsy in matrimonial matters. The grounds for annulling a marriage by a decree of nullity as contained in section 12 of the Hindu Marriage Act, 1955 refers to section 5(ii) thereof. Similarly, the grounds for declaring a marriage as null and void by a decree of nullity as contained in section 24 of the Special Marriage Act, 1954 refers to section 4(b) thereof. Hence, the removal of references to "epilepsy" in section 5(ii) of the Hindu Marriage Act, 1955 and section 4 (b) (iii) of the Special Marriage Act, 1954 has the effect of non-availability of the ground of epilepsy for getting a decree of nullity of the marriage as well. In order to mitigate the hardships of the persons suffering from epilepsy on account of the aforesaid provisions, necessary amendments to remove references to "epilepsy" in the 1955 and 1954 Acts are proposed.

2. The Bill seeks to achieve the above objects.

NEW DELHI;
The 26th November, 1999.

RAM JETHMALANI.

ANNEXURE

EXTRACT FROM THE HINDU MARRIAGE ACT, 1955

(25 OF 1955)

Conditions for
a Hindu
Marriage.

* * * * *

5. A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:—

* * * * *

(ii) at the time of the marriage, neither party—

* * * * *

(c) has been subject to recurrent attacks of insanity or epilepsy;

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EXTRACT FROM THE SPECIAL MARRIAGE ACT, 1954

(43 OF 1954)

Conditions
relating to
solemnization
of special
marriages.

* * * * *

4. Notwithstanding anything contained in any other law for the time being in force relating to the solemnization of marriages, a marriage between any two persons may be solemnized under this Act, if at the time of the marriage the following conditions are fulfilled, namely:—

* * * * *

(b) neither party—

* * * * *

(iii) has been subject to recurrent attacks of insanity or epilepsy;

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RAJYA SABHA

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further to amend the Hindu Marriage Act, 1955 and the Special Marriage Act, 1954.

(Shri Ram Jethmalani, Minister of Law, Justice and Company Affairs)