

As
[TO BE INTRODUCED IN THE SENATE]

A

Bill

to define rights of person arrested, detained or under custodial investigation as well as to codify the duties of the arresting, detaining and investigating officers, and providing penalties for violations thereof;

WHEREAS it is expedient to define the rights of persons under arrest or detained or otherwise in custody for the purposes of investigation and also to define, codify, and clarify the duties of the officers who are arresting, detaining or investigating persons;

AND WHEREAS the dignity of every human being, subject to law, is inviolable and it is expedient that provisions for respecting the dignity of man be enacted;

It is hereby enacted as follows:-

**PART-I
PRELIMINARY**

- 1. Short title, extent and commencement.-** (1) This Act may be called the Rights of Persons Arrested, Detained or under Custodial Investigation Act, 2019.
- (2) It shall extend to the whole of Pakistan.
- (3) It shall come into force at once.

**PART-II
INTERPRETATION**

- 2. Definitions.-** (1) For the purposes of this Act, unless there is anything repugnant in the subject or context:
- (a) "Assisting Advocate" means an advocate appointed by the respective Federal or Provincial Governments to fulfill the rights of a person under this Act.
- (b) "Concerned officer" means any public officer or employee, or anyone acting under his order or his place, who arrests, detains or investigates any person for the commission of an offence.
- (c) "Custodial Investigation" means any investigation or query conducted whilst a person is arrested, detained, confined or under custody of any law enforcement agency or authority and includes the practice of issuing an "invitation" to a person who is investigated in connection with an offence he is suspected to have committed, without prejudice to the liability of the "inviting" officer for any violation of law.

- (d) "Immediate family" means a person's spouse, parent, child, brother, sister, grandparent or grandchild, uncle or aunt, nephew or niece and guardian or ward.

**PART-III
RIGHTS, DUTIES AND PENALTIES**

3. Rights of Persons Arrested, Detained or under Custodial Investigation.- Any person arrested detained or under custodial investigation shall have the following rights:

- (a) To be informed in writing of the cause or ground of his arrest, detention or custodial investigation.
- (b) To be informed of his right, in a language known and understood by him of his right to remain silent in response to any queries made from him.
- (c) To be at all times assisted by an advocate of his choice and if he cannot afford an advocate to be provided with an assisting advocate and his immediate family.
- (d) To be allowed to confer privately with his advocate.
- (e) To be allowed visits or conferences with his immediate family.
- (f) To be allowed visits by any medical doctor or religious priest/guide chosen by him or his advocate.
- (g) To be provided with any medication prescribed to him by a doctor.
- (h) To be allowed visits by members of any national non-governmental organization duly accredited by the Commission on Human Rights.
- (i) To be allowed access to newspapers and home cooked food.

4. Duties of the Concerned officer.- The concerned officer shall be duty bound to ensure that all the rights of a person as listed under section 3 of this Act are fulfilled.

5. Penalty for contravention.- (1) Any concerned officer who fails to inform any person arrested, detained or under custodial investigation of his right to remain silent and to have competent and independent advocate preferably of his own choice, shall suffer a fine of Rs. 6,000/- (Rupees Six Thousand) or a penalty of imprisonment of not less than one month but not more than one year or both:

Provided that the same penalties shall be imposed upon an officer or employee or anyone acting upon orders of the concerned officer, who fails to provide a competent and independent advocate to a person arrested, detained or under custodial investigation for the commission of an offence if the latter cannot afford the services of his own advocate.

(2) Any person who obstructs persons or prohibits an advocate, any member of the immediate family of a person arrested, detained or under custodial investigation, or any medical doctor or religious priest / guide chosen by him or by his advocate, from visiting and conferring privately with him, or from examining and treating him, or from ministering to his religious needs, at any hour of the day or, in urgent cases, of the night shall suffer the penalty of imprisonment of not less than one month nor more than one year, and a fine of Rs. 4,000/- (Rupees Four Thousand):

Provided that the concerned officer may take such measures, as may be necessary, to ensure that persons under custodial investigation are safe and secure.

PART-IV OTHER PROVISIONS

6. Remuneration for Assisting Advocate.- The assisting advocate other than the government lawyers shall be entitled to the following fees:

- (a) An amount of Rs. 10,000/- (Rupees Ten Thousand) if the suspected person is chargeable with an offence not punishable by death or life imprisonment;
- (b) An amount of Rs. 20,000/- (Rupees Twenty Thousand) if the suspected person is chargeable with an offence punishable with death or life imprisonment;
- (c) The fee for the assisting advocate shall be paid by the respective Provincial Government or Federal Government as the case may be.
- (d) In the absence of any advocate, no custodial investigation shall be conducted.

STATEMENT OF OBJECTS AND REASONS

The present Act seeks to define the rights of persons arrested, detained or under custodial investigation as well as the duties of the persons arresting, detaining or investigating offences. It further deals with the provision of assisting advocates by the State and their remuneration (Section 8). The Act is in line with rights granted to persons arrested, detained or under custodial investigating throughout the world as well as Article 14 of the Constitution of the Islamic Republic of Pakistan, 1973. It is an attempt to herald the dawn of the human rights revolution in Pakistan.

**SENATOR FAROOQ HAMID NAEK
MEMBER-IN-CHARGE**