

Ordinance Summary

The Criminal Law (Amendment) Ordinance, 2018

- The Criminal Law (Amendment) Ordinance, 2018 was promulgated on April 21, 2018. It amends certain laws related to rape of minors. The amendments are as follows:

Amendments to Indian Penal Code (IPC), 1860:

- Enhanced punishment for rape:** Under IPC, 1860, the offence of rape is punishable with a rigorous imprisonment of at least seven years up to life imprisonment, along with fine. The minimum imprisonment has been increased from seven years to ten years.
- New offences:** The Ordinance introduces three new offences relate to rape of minors, and increases the penalty for one:

Table 1: New offences under the IPC, 1860

Age Group	Offence	Punishment
Below 12 years	Rape	Rigorous imprisonment of at least 20 years extendable to life imprisonment, along with fine to meet medical expenses and rehabilitation cost of the victim, or, death.
	Gang Rape	Life imprisonment, along with fine, to meet medical expenses and rehabilitation cost of the victim, or, death.
Below 16 years	Rape	Previously, the punishment for rape was imprisonment of ten years extendable to life imprisonment, along with fine. This has been enhanced to a minimum rigorous imprisonment of at least 20 years, extendable to life imprisonment, along with fine, to meet medical expenses and rehabilitation cost of victim.
	Gang Rape	Life imprisonment, along with fine, to meet medical expenses and rehabilitation cost of victim.

Sources: Indian Penal Code, 1860; The Criminal Law (Amendment) Ordinance, 2018; PRS.

- Amendments to Protection of Children from Sexual Offences Act (POCSO), 2012:** Under the POCSO, 2012, for rape of minors (below 18 years), the punishment is at least seven years or life imprisonment, along with a fine. For rape of minors below the age of 12 years or for gang rape of minors, the punishment is

rigorous imprisonment of at least ten years or life imprisonment, along with fine. The Ordinance amends the POCSO, 2012 to state that for all such offences, the punishment which is higher between the POCSO, 2012 and IPC, 1860, will apply.

Amendments to Code of Criminal Procedure (CrPC), 1973:

- Time-bound investigation:** The CrPC, 1973 states that an investigation into rape of a child must be completed within three months. The Ordinance reduces the time for completion of investigation from three months to two months. Further, the Ordinance extends this timeline to all offences of rape (including rape, gang rape, and rape of minors under the age of 12 years and 16 years).
- Appeal:** The Ordinance states that any appeal against a sentence related to rape cases must be disposed of within six months.
- Anticipatory Bail:** The CrPC, 1973 lists conditions for grant of anticipatory bail. The Ordinance makes the provision of anticipatory bail not applicable to rape and gang rape of minor girls below 12 years of age and below 16 years of age.
- Compensation:** The CrPC, 1973 provides that all rape victims will be given free medical treatment and compensation by state government. This provision has been extended to cover rape and gang rape of minor girls below 12 years and below 16 years of age.
- Prior sanction:** The CrPC, 1973 states that prior sanction is required for prosecution of all public servants, except for certain offences, like rape. This provision has been extended to cover rape and gang rape of minor girls below 12 years and below 16 years of age.
- Amendments to Indian Evidence Act, 1872:** Under the Evidence Act, in determining whether the act was consensual or not, the past sexual experience or character of the victim is disregarded. This provision has been extended to the rape and gang rape of minor girls below 12 years of age and below 16 years of age.

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or redistribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of PRS Legislative Research ("PRS"). The opinions expressed herein are entirely those of the author(s). PRS makes every effort to use reliable and comprehensive information, but PRS does not represent that the contents of the report are accurate or complete. PRS is an independent, not-for-profit group. This document has been prepared without regard to the objectives or opinions of those who may receive it.