



Bar Council of Maharashtra & Goa

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Pravin Y. Ranpise B.Com., LL.B.
Secretary

Ref. No. BC/Gen/1725/2024

Date: 15/02/2024

To:

The President / Secretary,
All Bar Associations

**Sub: Draft of Maharashtra Advocate Protection Bill 2024 prepared
by Bar Council of Maharashtra & Goa**

Respected Sir,

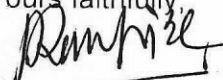
You are aware that in the recent past, various Bar Associations passed their Resolutions, requesting the Bar Council to look into the long pending issue of the Maharashtra Advocate Protection Bill. Accordingly, the Full House of the Bar Council of Maharashtra & Goa has considered the draft which is annexed alongwith this letter.

You are requested to circulate the said draft of the Bill amongst your members and invite suggestions if any. In any case, the suggestions if any should be reached to the office of Bar Council on or before 26/02/2024 on following Email Id: i.e. **bcmgapb2024@gmail.com**

Kindly note that, if there is no communication from your Bar Association, the Bar Council shall be constrained to draw inference that the draft circulated stands approved by your Bar Association. Accordingly, you are requested to treat this as urgent.

Please put up this letter on your Notice Board.

Thanking you,

Yours faithfully,

SECRETARY

Encl: Draft Advocate Protection Bill

Act	Suggestions	Reasoning
I. Short title, extent and commencement. –		
1) This Act may be called The Maharashtra Advocates Protection Act, 2024.		
2) This act extends to the whole State of Maharashtra.		
3) This act came into force on such a date as the State of Government may by notification in the Official Gazette, appoint.		
2. Definitions. –		
a) " Advocate " means an Advocate or Senior Advocate or a Legal Practitioner whose name is entered in the roll of advocates maintained under section 17 of the Advocates Act, 1961(Central Act 25 of 1961) and holding a valid certificate of practice issued by the Bar Council of Maharashtra and Goa as defined under rule 4 of the Bar Council of India Certificate and Place of Practice (Verification) Rules, 2015 and is a member of any Bar Association;		
b) " Bar Association " means a Bar Association recognized by the Maharashtra State Bar Council under the Maharashtra Advocates Welfare Fund Act, 1983 (Maharashtra Act 2 of 1985)		
c) " act of violence " means and include acts committed by any person against an advocate, with an intent to prejudice or derail the process of impartial, fair and fearless conduct of any litigation before any court, tribunal or authority in which such Advocate is engaged or acts of retribution towards the outcome of proceedings before any of the above forums and includes the following:		
i. Harassment, coercion, assault, criminal force or threat impacting the living or working conditions of such advocates and preventing him from discharging his duties;		
ii. Harm, injury, hurt, either grievous or simple, or danger to the life of such advocates, either within the premises of the Courts or otherwise;		
iii. Coercion by whatsoever means, of an Advocate to reveal or part with privileged communication or material which such Advocate is bound to hold in confidence under law;		

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iv. Coercion by whatsoever means, of an Advocate not to represent or to withdraw his Vakalath or appearance to act, plead or appear on behalf of a client before any court, tribunal or authority;		
v. Loss or damage to any property or documents or materials which such Advocate is bound to hold under law;		
vi. Usage of derogatory language during the course of the judicial and quasi-judicial proceedings.		
d) " <i>client</i> " means the person who is represented by the advocate before any court or any Tribunal;		
e) " <i>opposite client</i> " means the person against whom the advocate has represented the case of other person before any Court or any Tribunal; and		
f) " <i>property</i> " means any property, movable or immovable or equipment or machinery owned by or in possession of any advocate.		
3. Prohibit of violence. –		
No Person shall commit an Act of violence against an Advocate.		
4. Punishment for offences relating to Advocates. –		
1) Whoever commits or abets the commission of an act of violence, except grievous hurt covered by sub-section (2) hereunder, against an advocate shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and with fine up to one lakh rupees.		
2) Whoever, having already been convicted of an offence under this Act is convicted for the second or subsequent offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to ten years and fine which shall not be less than two lakh rupees.		
5. Cognizance of offence. –		

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Every offence punishable under this Act shall be cognizable.		
6. Offence to be non-bailable. –		
Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), every offence committed under this act shall be non-bailable.		
7. Non-application of Section 438 of Code of Criminal Procedure, 1973. –		
Provisions of Section 438 of Code of Criminal Procedure, 1973 shall not apply to the offences of violence as define under section 2. (c).		
8. Offences to be compoundable. –		
Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act No. 2 of 1974), every offence punishable under this Act shall be compoundable by the aggrieved person with the permission of the Court.		
9. Compensation. –		
1) In addition to the punishment provided for an offence under Section 4, the person so convicted shall also be liable to pay, by way of compensation, such amount as may be determined by the Court for causing any act of violence against any advocate.		
2) Notwithstanding the compounding of an offence under Section 8 hereunder, in case of damage to any property or loss caused, the compensation payable shall be twice the amount of fair market value of the damaged property, or the loss caused, as may be determined by the Court.		
3) Upon failure to pay the compensation awarded under sub-section (1) and (2) hereinabove, such amount shall be recovered as an arrear of land revenue under The Maharashtra Land Revenue Code, 1966.		

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<p>10. Investigation and Procedure. –</p>		
<p>Notwithstanding anything contained in the Code of Criminal Procedure 1973, any case register under this act shall be investigated by a Police Officer not below rank of Deputy Superintendent of Police; and the investigation shall be completed within a period of 30 days, from the date of registration of First Information Report and no court inferior to that of District and Session Judge shall try the offence punishable under this act and proceedings under this act shall be held as expeditiously as possible and trial shall be concluded within a period of one year.</p>		
<p>Provided that if the trial is not concluded within one year, the judge shall record reasons for not doing so and further in any case the trial shall be decided within a period of 6 months as an extended period.</p>		
<p>11. Police Protection. –</p>		
<p>1) Any Advocate who is under the threat of being a victim of act of violence shall be entitled to Police Protection for a duration which the Court deems fit, upon making an application before the Court.</p>		
<p>2) Every Court shall, before passing orders under Sec. 11 (1), scrutinise the personal antecedents of such advocate, including his criminal record and any other necessary material which it requires, in order to satisfy itself of the character and conduct of such advocate, and the bona-fides of the application filed under Sec. 11 (1).</p>		
<p>3) Wherever the Police security is provided to the Advocate, the Superintendent of Police shall, before taking a decision to withdraw, reduce or discontinue such security, refer the matter to the Registrar of the District Court or in the case of an Advocate ordinarily practicing in the High Court, the Registrar General of the High Court for their concurrence.</p>		

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4) No decision shall be taken by the Superintendent of Police to withdraw, reduce or discontinue the security provided to the Advocate, unless a notice of one week is first served on the advocate in this regard.		
12. Protection of action taken in good faith by the advocate in discharging his duties.-		
Notwithstanding anything to the contrary in any other law for the time being enforced, no suit, prosecution, or legal proceedings shall lie against an advocate for anything which is done in good faith or intended to be done in good faith by an advocate while discharging his duties.		
13. Prosecution of an advocate. –		
Notwithstanding anything contained in section 154 of Code of Criminal Procedure, 1973 (Central Act No. 2 of 1914) or any other law for the time being in force, if a report of cognizable offence is received from the client or opposite client against the advocate for the act done, during discharge of his professional duties, the same may be registered only after an inquiry by the police officer not below the rank of Deputy Superintendent of Police, which shall be completed within a maximum period of seven days and if a case is registered, a written information of the same be sent immediately to the Bar Council of Maharashtra & Goa.		
14. Act not in derogation to and other law. –		
The provisions of this Act shall be in addition to and not in derogation of the provisions of the any other law for the time being in force.		
15. Power to make Rules. –		
The State Government may make rules consistent with the provisions of this Act.		

Act	Suggestions	Reasoning
NOTE:		
<p>For the purposes of this act can we include law interns and clerk of an advocate. Under the scheme of Bar Council of India as well as various public and private university internship is mandatory for a law student. The High Court Rules and Civil Manual recognizes the Law Clerk. Therefore, under the provision of this act apart from the advocate whether they should be included is to be considered. This will be on the line of inclusion of medical and nursing students as well as paramedical worker and other staff in the Maharashtra Medical Service Persons and Medicare Service Institutions Act 2010. If yes, then name of the Act may change.</p>		