

[AS INTRODUCED IN THE NATIONAL ASSEMBLY]

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BILL

*to make provisions for raising alert, response and recovery of missing
and abducted children*

WHEREAS the Constitution of the Islamic Republic of Pakistan recognizes the inviolability of life, liberty and dignity of a person as fundamental rights;

AND WHEREAS, in recognition of the Constitution's fundamental rights, it is necessary to make provisions for the protection of missing and abducted children under the age of eighteen years, that includes raising alert, responding and recovering of missing and abducted children;

AND WHEREAS it is obligatory on the Government of Pakistan to make provisions for ensuring the right to life and protection from violence, abuse, neglect, abduction or exploitation of children under the age of eighteen years, as envisaged under various national and international laws, conventions, covenants and instruments, relating to the rights of children;

AND WHEREAS it is a matter of national concern that children under the age of eighteen years, who are abducted, are at high risk of violence, exploitation, abuse, trafficking, rape or death. It is thus essential to legislate providing for an institutional response at the level of such areas in the Federation as are not included in any Province, complementing the work of the Child Protection Institute established pursuant to the Islamabad Capital Territory Child Protection Act, 2018(XXI of 2018);

AND WHEREAS it is urgent and necessary to introduce systems with respect to raising alerts, as well as the response and recovery of missing and abducted children, so that incidents such as that of a seven-year old Zainab, resident of district Kasur, who was abducted, raped and murdered in January, 2018, do not occur again in future;

AND WHEREAS it is in the interest of efficacy and avoidance of duplication of efforts that the ZARRA established pursuant to this Act will work supporting and complementing the mandate of the Child Protection Institute established pursuant to the said Act XXI of 2018, following receipt of complaints through the helpline, operating under the mandate of the Division concerned or such other designated helpline in this regard.

It is hereby enacted as follows: -

PART I

1. Short title, extent and commencement (1) This Act may be called the Zainab Alert, Response and Recovery Act, 2019.

(2) It extends to the Islamabad Capital Territory

(3) It shall come into force at once.

2. Definitions.-In this Act, unless there is anything repugnant in the subject or context,-

(a) "Act" means the Zainab Alert, Response and Recovery Act 2018;

(b) "alert system" means an alert system established under this Act,

(c) "abduction" means,

(i) whoever by will or force, threat, violence, coercion or by any deceitful means induces any child under eighteen years of age to move from one place to another. It also includes kidnapping; or

(ii) whoever has un-lawful custody of a minor or removing a child from the jurisdiction of his parents or lawful guardianship.

(d) "abductor" means a person, a group of persons or an organization who kidnaps, traffics or abducts a child.

(e) "child" means anyone who has not attained the age of eighteen years at the time of commission of an offence or when reported to be missing or abducted;

(f) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898);

(g) "Government" means the Federal Government of the Islamic Republic of Pakistan

- (h) "missing child"; means any child who is reported to the police or any ZARRA office or any other relevant authority assigned under this Act as missing because his whereabouts are not known to his parents or legal guardians or is a runaway child regardless of circumstances and causes of disappearance or time elapsed since the child went missing;
- (i) "organization" means any group, combination or body of persons acting under a distinctive name;
- (j) "recovery" means all those required actions that may include, but not limited to search, investigation, forensics, coordination and dispatch of specially trained teams to rescue, recover, to provide psycho-social support and bring the missing or abducted child to safety;
- (k) "response" means all those actions that must be taken by the ZARRA office, police, local government, telecommunication companies, state and privately-owned media channels, airports, railway stations, highway authorities, missing child response and recovery teams or any other organization or individual that is assigned a task under this Act; and
- (l) "ZARRA" means Zainab Alert, Response and Recovery Agency of Missing and Abducted Children established under this Act;

PART II

3. Establishment of Zainab Alert, Response and Recovery Agency.-(1) The Government shall, by notification in the official Gazette, establish Zainab Alert, Response and Recovery Agency of Missing and Abducted Children (ZARRA).

(2) The ZARRA shall consist of a Director General to be appointed by the Prime Minister or a person authorized by him in this behalf.

(3) The management staff of ZARRA shall be suitably equipped with skills of managing databases, conducting planning and monitoring of programs, analyzing data, preparing reports and coordinating with all other offices. The qualification and experience of staff shall be prescribed by rules.

(4) Standard operating procedures (SOPs) shall be devised to ensure the safety and protection in the hands of authorities of the recovered missing or abducted child.

(5) The ZARRA shall work closely with the helpline or such other helpline, operating under the mandate of the Division concerned. In this regard, the helpline shall forward complaints relevant

to the mandate of ZARRA, which shall be acted upon in partnership between the ZARRA and the National Commission on the Rights of the Child.

4. Superintendence and administration of ZARRA.-(1) The superintendence of the ZARRA shall vest with the National Commission on Rights of the Child.

(2) The administration of the Agency shall vest in the Director General.

(3) The Director General shall exercise such powers and perform such functions as may be prescribed.

5. Powers and functions of ZARRA;-The following shall be powers and functions of ZARRA, namely:-

- (a) to activate Zainab Alerts, when there is a missing or abducted child, at the Federal Capital level, which will include information on the physical characteristics of the missing or abducted child as well as any other data that would help in the child's identification, so as to inform the public at large and all concerned agencies to whom these alerts will be issued;
- (b) to coordinate with Pakistan Telecommunication Authority (PTA) for issuance of Zainab Alert SMSs, MMSs, with Pakistan Electronic Media Regulatory Authority (PEMRA) for tickers on television channels and announcements on radio stations and alerts on social media as well as postings on relevant websites or any other available medium;
- (c) to define procedures for how, when, with what frequency and in which geographical territory the missing or abducted child alert will be raised.
- (d) to provide nation-wide telephonic toll free hotline number 1099 or such other number where any person may report a missing or abducted child and such number may be used by any member of public who has any information relating to the missing or abducted child;
- (e) to maintain online data base both in the National Commission on the Rights of the Child (NCRC) and Division concerned of every reported incident of a missing or abducted child, the actions taken, the current status of the case and its final outcome. This database shall be monitored for accuracy and shall be kept updated at all times. The

database shall cover all territories of ICT and will be accessible to public on ZARRA website in English and in Urdu;

- (f) to define procedures for who, how and when an incident of missing or abducted child shall be brought on to the ZARRA database. NCRC and Division concerned shall have the responsibility to maintain the database. To maintain proper record for each case, coordinate any information on missing children with local law enforcement agencies, detect criminal patterns in a geographical area, issue monthly public reports on missing and abducted children on its website, introduce procedures and key performance indicators that will improve and measure the effectiveness of Zainab Alert, Response and Recovery ;
- (g) to ensure that the concerned stakeholders perform their duties in accordance with the prescribed rules;
- (h) to introduce a user friendly cellular mobile application linked with the main database for reporting of any missing child and for updated information of any child abducted or recovered;
- (i) to initiate, refer or take action for proceeding against any non-cooperation or non-compliance by any organization or stakeholder in accordance with the rules prescribed by Ministry of Human Rights ;
- (j) to ensure that full real-time information is being received in ZARRA office..
- (k) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of any such child;
- (l) to facilitate the provision of legal aid or advice, where circumstances so requires;
- (m) to coordinate and cooperate, in case of missing or abducted child who has been wrongfully removed to, or retained in Pakistan, with the concerned authorities of the country where the child was habitually residing; and
- (n) to do any other task necessary to perform the functions of ZAARA.

6. Powers and Functions of the Division concerned.- Without prejudice to the business attached to the Division concerned in the Rules of Business, 1973, the following shall be powers and functions of Division concerned, namely:-

- (a) to analyze the performance of ZARRA, to evaluate the effectiveness of ZARRA functions and to take actions to continually improve the performance of ZARRA;
- (b) to provide governance and oversight to ensure all actions relating to ZARRA that are initiated and all functions from registration of FIR, to safe recovery of child and may refer for rehabilitation of a recovered child are performed efficiently.

7. Establishment of missing child response and recovery teams.-(1) The Director General in consultation with National Commission on the Rights of the Child and Division concerned shall establish missing child response and recovery teams (MCRRTs) at level of the Federal Capital and equip them with individuals, conceptually and technologically, highly trained in functions such as investigation, forensics, rapid response, search, rescue and recovery operations. Every MCRRT shall be headed by a senior police officer of not less than the rank of superintendent of police and shall also include a child protection officer as defined in the said XXI Act of 2018.

(2) the police station where a case of missing or abducted child is reported shall immediately and not later than 2 hours after the complaint is lodged, inform the ZARRA, of the missing child incident and keep providing latest status of the case and all available details. The missing or abducted child database shall be shared on online database, maintained by the ZARRA office.

(3) the police officer simultaneously through any available means of communication shall call, fax, electronic email or ZARRA mobile application shall inform the MCRRT of the missing child event and provide all possible information and support to the MCRRT team in accordance with the prescribed rules.

(4) The MCRRT shall take an immediate action and launch, with the help of local police, the investigation, search, rescue, recovery and rehabilitation operations;

(5) in case ZARRA office receives a direct complaint of a missing or abducted child, it shall coordinate immediately with the local police station, NCRC, other ZARRA offices and the MCRRTs to ensure all actions relating to ZARRA are initiated. This includes registering of a complaint at the concerned police station on behalf of the complainant.

PART III

8. Punishments under this Act.-(1) Any police officer who does not comply with the provisions of section 154 of the Code in case of missing or abducted child or any other public officer who

willfully delays or hinders in providing or processing the information in accordance with the rules made under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

(2) Whoever intentionally issues or cause to be issued a false or fake alert of any child on the alert system or misuses it which may result to desensitization in the public shall be punished with imprisonment for a term upto six months and a fine of one hundred thousand Rupees.

PART IV

9. Power to make rules.-The Federal Government may, by notification in the official Gazette, make rules within six months of the commencement of this Act to carry out the purposes thereof.

10. Power to amend Schedule A to this Act.- The Federal Government may amend the Schedule A to this Act so as to add thereto or omit therefrom or amend therein any entry.

11. Financing of ZAARA(1) The remuneration payable to the Director General, other employees, staff and administrative expenses of the ZAARA shall be made from funds allocated by Federal government.

(2) The Director General shall be the Principal Accounting Officer of the ZAARA.

12. Director General, offices and employees deemed to be public servants.-The Director General, officers and employees of ZAARA shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code 1860(Act XLV of 1860)and shall be subject to all the relevant provisions of sections 161 to 169 of the said Act XLV of 1860.

PART V

13. Amendment of section 364 A, Act XLV of 1860 In the Pakistan Penal Code, 1860 (Act XLV of 1860), hereinafter referred to as the PPC, for section 364 A the following shall be substituted , namely:-

“364 A. Kidnapping or abducting a person under the age of eighteen years.-

Whoever kidnaps or abducts any person under the age of eighteen years in

order that such person may be murdered or subjected to grievous hurt, or slavery, rape, or to the lust of any person or may be so disposed of as to be put in danger of being murdered or subjected to grievous hurt, or slavery, rape or to the lust of any person shall be punished with death or with imprisonment for life or with rigorous imprisonment for a term which may extend to fourteen years and shall not be less than seven years and with fine which shall not be less than ten million Rupees and which may extend to twenty million Rupees."

14. Amendment of section 369, Act XLV of 1860.- In the PPC , for section 369 the following shall be substituted , namely:-

"369. Kidnapping or abducting child under eighteen years with intent to take immovable property steal from its persons.- Whoever kidnaps or abducts any child under the age of eighteen years with the intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and with fine of one million Rupees."

15. Amendment of section 154, Act V of 1898In the Code, in section 154, in the second proviso for full stop at the end, a colon shall be substituted and thereafter the following third proviso shall be added, namely:-

"Provided also that if the information relates to the commission of abduction or missing child an officer incharge of a police station shall compulsory reduce to writing by him or under his direction, and be read over to the informant and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it and the substance thereof shall be entered in a book to be kept by such officer and also er sure that the required information in Schedule A to the Response and Recovery Act, 2019 is made part of the complaint".

16. Amendment of Schedule II, Act V of 1898 In the Code, in Schedule II, (a) for the entries relating to section 364A, the following shall be substituted namely:-

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364A	Kidnapping or abducting a person under the age of eighteen years	Ditto	Ditto	Ditto	Ditto	Death or with imprisonment for life or with rigorous imprisonment for a term which may extend to fourteen years and shall not be less than seven years and with fine which shall not be less than ten million Rupees and may extend to twenty million Rupees.	Ditto
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and

(b) for the entries relating to section 369, the following shall be substituted , namely:-

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369	Kidnapping or abducting child under eighteen years with intent to steal from its persons	Ditto	Ditto	Ditto	Ditto	Imprisonment of either description for fourteen years, and fine of one million Rupees.	Ditto
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Schedule A**(a) Basic information about the missing child:-**

- i. Full name
- ii. Date of birth
- iii. Birthplace
- iv. Nicknames, if any
- v. Current and previous addresses. Who else lived there?
- vi. Current and former employers.

(b) Physical description of the missing child:-

- i. Height
- ii. Weight
- iii. Age
- iv. Build
- v. Hair Color/Length of Hair
- vi. Eye color?
- vii. Any Distinguishing Marks – such as tattoos, birthmarks, scars, etc.
- viii. Beard/Mustache/Sideburns
- ix. Most recent photo of the missing Child

(c) Habits and personality of missing child:-

- i. Does the Child have any personal or emotional problems?
- ii. Any addiction Drug/Smoking
- iii. What level of education or training does the Child have?
- iv. Does the Child frequent any particular areas or places of interest?

(d) Clothing that the missing child was wearing the last time seen:-

- i. Style and color of wearing cloths
- ii. Style and color of jacket or outerwear
- iii. If applicable, type of headwear
- iv. Type of glasses
- v. Type of gloves
- vi. Type and color of footwear

(e) Trip Plans of the missing child the day they went missing:-

- i. What were the missing Child's plans and/or activities on the day they went missing?
- ii. Where was he/she going?
- iii. Why was he/she going there?

- iv. If the individual was traveling by car, can you provide the make and model number, license plate number, as well as registration (if possible).
- v. Provide information about any other vehicles or mode of travel the missing Child may have access too.

(f) Information about the last time the missing child was seen:-

- i. The time and location of where he/she was last seen
- ii. The name of the individual who last saw the missing Child
- iii. The name of the individual who last talked at length with the missing Child
- iv. The direction the missing Child was traveling the last time seen.
- v. The attitude of the missing Child the last time seen
- vi. Was the missing Child complaining of or concerned about anything before he/she went missing?

(g) Overall health and condition of the missing child:-

- i. Physical condition.
- ii. Any known medical problems or disease.
- iii. Any handicaps or disabilities.
- iv. Any psychological problems.
- v. Any medications that the child is taking.
- vi. Any addictions that the child has.
- vii. Provide the name of the missing child's family physician and their health card number, if possible.
- viii. Provide the name of the missing child's main dentist, if possible.
- ix. Potential people that the child may have contacted last time
- x. List all of the child's friends and acquaintances who the missing child may try to contact. Try to include addresses and telephone numbers.

(h) Belongings of the kidnapped or abducted child:-

- i. Items such as a hairbrush, a toothbrush, or undergarments in the event that investigators may need to undertake DNA analysis.
- ii. Any electronic equipment such as a cell phone or computer. What is the maker of phone and the cell phone provider.
- iii. As well, do you know if they were active on a chat line or other social on-line/media network such as facebook?

STATEMENT OF OBJECTS AND REASONS

Zainab Alert Response and Recovery Bill 2019 will raise the required alerts and initiate the responses required for recovery of missing, abducted, abused or kidnapped children in Islamabad Capital Territory (ICT). The magnitude of violence against children are on an alarming stage. The current laws and procedures required to be strengthened to effectively monitor, trace or recover missing and abducted children. In view of that, there is an urgent and pressing need to: (i) enact special laws to provide a speedy system of alerts, responses, recoveries, investigations, trials and rehabilitation to prevent and curb criminal activities against the children in ICT; and (ii) to ensure harmonization and cohesion in the workings of the new agencies and institutions established for the protection of children and already existing mechanisms within this field.

2. The Bill is drafted to achieve the aforesaid object.

Dr. Shireen M. Mazari
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