

The Identification Of Prisoners Act, 1920

UNION OF INDIA

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The Identification Of Prisoners Act, 1920

Act 33 of 1920

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1. [Repealed by THE CRIMINAL PROCEDURE (IDENTIFICATION) ACT, 2022 (Act 11 of 2022) on 18 April 2022]

The Identification Of Prisoners Act, 1920(33 of 1920)

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Statement of Objects and Reasons.-The object of this Bill is to provide legal authority for the taking of measurements, finger impressions, foot-prints and photographs of persons convicted of, or arrested in connection with, certain offences. The value of the scientific use of finger impressions and photographs as agents in the detection of crime and the identification of criminals is well known, and modern development in England and other European countries renders it unnecessary to enlarge upon the need for the proposed legislation. The existing system by which the police in India takes finger impressions, photographs, etc., of criminals and suspected criminals is void of legal sanction, except as regards registered members of criminal tribes, in whose case provision exists for the taking of finger impressions in section 9 of the Criminal Tribes Act, 1911 (3 of 1911). The need for legalising the practice has long been recognised, but it was not thought expedient to take the matter up so long as no practical difficulties arose. Instances have recently been reported to the Government of India where prisoners have refused to allow their finger prints or photographs to be taken. With a view to prevent such refusals in future it is considered necessary without further delay to place the taking of measurements, etc., which is a normal incident of police work in India as elsewhere, on a regular footing. No measurement, etc., of any person will be taken compulsorily unless that person has been arrested. An Act to authorise the taking of measurements and photographs of convicts and others. Whereas it is expedient to authorise the taking of measurements and photographs of convicts and others; It is hereby enacted as follows:

1. Short title and extent

(1) This Act may be called The Identification of Prisoners Act, 1920. (2) [It extends to the whole of India except [the territories which, immediately before the 1st November, 1956, were comprised in Part B States] [Substituted by A.O. 1950, for sub-Section (2).].]

[Andhra Pradesh]. In its application to the areas comprised in the Former Part B State of Hyderabad, (now forming part of Andhra Pradesh), for sub-S. (2), substitute the following sub-section, namely: (2) It extends to the whole of the Hyderabad area of the State of Andhra Pradesh. Hyderabad Act 27 of 1956, Section 2 and Sch. as adapted by Andhra Pradesh A.L.O., 1957. [Karnataka]. In its application to the State of Karnataka, in sub-S. (2), after the words Part B States, add other than the territories specified in clause (a) and clause (c) of sub-section (1) of section 7 of the States Reorganisation Act, 1956. Karnataka Act 29 of 1975, Section 4(1) (w.e.f. 12-8-1975) [Madhya Pradesh]. In its application to the State of Madhya Pradesh, in sub-S. (2), after the words and letter Part B States, insert other than the Madhya Bharat and Sironj regions of the State of Madhya Pradesh. Madhya Pradesh Act 40 of 1961, Section 3 and Sch. (w.e.f. 1-2-1962). [Maharashtra]. In its application to the State of Maharashtra, in sub-S. (2), after the words and letter in Part B States, insert other than the Hyderabad Area of the State of Maharashtra. Maharashtra Act 35 of 1970, Section 2 (w.r.e.f. 4-9-1956).

2. Definitions

. In this Act, unless there is anything repugnant in the subject or context, (a) measurements include finger impressions and foot-print impressions; (b) police officer means an officer in charge of a police-station, a police officer making an investigation under Chapter XIV of the [Code of Criminal Procedure, 1898 (5 of 1898)] [[Now see the Code of Criminal Procedure, 1973 (2 of

1974.

.)] or any other police officer not below the rank of Sub-Inspector; and (c) prescribed means prescribed by rules made under this Act.

[Madhya Pradesh]. In its application to the State of Madhya Pradesh, in Cl. (a) of Section 2, for the words finger impressions, substitute finger impressions, palm impressions. Madhya Pradesh Act 40 of 1961, Section 3 and Sch. (w.e.f. 1-2-1962). [Tamil Nadu]. In its application to the State of Tamil Nadu, in Cl. (b) of Section 2, after the words Sub-Inspector, insert and includes Finger Print Experts of the Finger Print Bureau, Madras and of the Single Digit Finger Print Section in the State of Tamil Nadu. Tamil Nadu Act 44 of 1981, Section 2 (w.e.f. 27-7-1981).

3. Taking of measurements, etc., of convicted persons

. Every person who has been (a) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards, or of any offence which would render him liable to enhanced punishment on a subsequent conviction; or (b) ordered to give security for his good behavior under section 118 of the [Code of Criminal Procedure, 1898 (5 of 1898)] [[Now see the Code of Criminal

Procedure,

1973. (2 of 1974).]]

shall, if so required, allow his measurements and photograph to be taken by a Police Officer in the prescribed manner.

[Gujarat].In its application to the State of Gujarat, in Cl. (b) of Section 3, add the following at the end, namely:or under section 93 of the Bombay Prohibition Act, 1949.Bombay Act 58 of 1953, Section 2, (w.e.f. 2-11-1953); and Gujarat Act 11 of 1960, Section 87.[Maharashtra].In its application to the State of Maharashtra, for Section 3, substitute the following section, namely:3. Taking of measurements, etc., of convicted persons.Every person who has been(a) convicted of any offence punishable with rigorous imprisonment for a term of one year or upwards or of any offence punishable under section 19 of the Dangerous Drugs Act, 1930, or of any offence which would render him liable to enhanced punishment on a subsequent conviction, or(b) ordered to give security for his good behaviour under section 118 of the Code of Criminal Procedure, 1898, or under section 93 of the Bombay Prohibition Act, 1949, or to give security for abstaining from commission of certain offences under section 18 of the Dangerous Drugs Act, 1930.shall, if so required, allow his measurements and photographs to be taken by a police officer in the prescribed manner.Maharashtra Act 35 of 1970, Section 4 (w.e.f. 1-3-1971).

4. Taking of measurements, etc., of non-convicted persons

.Any person who has been arrested in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards shall, if so required by a police officer, allow his measurements to be taken in the prescribed manner.

[Gujarat].In its application to the State of Gujarat, for Section 4, substitute the following section, namely:4. Taking of measurements or photographs of unconvicted persons.Any person(a) who has been arrested(i) under section 55 of the Code of Criminal Procedure, 1898, or under section 4 of the Bombay Beggars Act, 1945;(ii) in connection with an offence punishable under section 122 of the Bombay Police Act, 1951, or under section 6 or 9 of the Bombay Beggars Act, 1945, or in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards, or(b) in respect of whom a direction or order under section 55 or 56 of the Bombay Police Act, 1951, or under sub-section (1) or (2) of section 23 of the Bombay Beggars Act, 1945, or under section 2 of the Bombay Public Security Measures Act, 1947, has been made, shall, if so required by a police officer, allow his measurements or photographs to be taken in the prescribed manner.Bombay Acts 15 of 1948, Section 2 (w.e.f. 24-3-1948); 21 of 1954, Section 3 (w.e.f. 8-4-1954); and Gujarat Act 11 of 1960, Section 87.[Karnataka].In its application to the State of Karnataka, for Section 4, substitute the following section, namely:4. Taking of measurements or photographs of unconvicted persons.Any person(a) who has been arrested in connection with an offence punishable under section 96 of the Karnataka Police Act, 1963, or in connection with an offence punishable with rigorous imprisonment for a term of one year or upward or in connection with an offence for the commission of which on a second or subsequent occasion enhanced penalties have been provided

for under any law for the time being in force; or(b) in respect of whom direction or order under section 54 or 55 of the Karnataka Police Act, 1963, has been made, shall if so required by a police officer, allow his measurements or photographs to be taken in the prescribed manner. Karnataka Act 29 of 1975, Section 4 (w.e.f. 12-8-1975). [Maharashtra]. In its application to the State of Maharashtra, for Section 4, substitute the following section, namely: 4. Any person arrested (a) who has been convicted (i) in connection with an offence punishable under section 19 of the Dangerous Drugs Act, 1930; or section 66, 69 or 85 of the Bombay Prohibition Act, 1949; or section 122 of the Bombay Police Act, 1951; or section 7 of the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954; or section 8 of the Suppression of the Immoral Traffic in Women and Girls Act, 1956; or section 6 or 11 of the Bombay Prevention of Begging Act, 1959; or any other offence punishable with rigorous imprisonment for a term of one year or upwards, or (ii) under section 54, 55 or 151 of the Code of Criminal Procedure, 1898 or section 4 of the Passport (Entry into India) Act, 1920, or (b) in respect of whom a direction or order under section 5 of the Passport (Entry into India) Act, 1920, or under sections 55, 56 or 57 of the Bombay Police Act, 1951, has been made, or (c) to whom a pardon has been tendered under section 337 or 338 or who has been acquitted under section 339-A of the Code of Criminal Procedure, 1898, shall, if so required by a Police Officer, allow his measurements or photographs to be taken in the prescribed manner. Maharashtra Act 35 of 1970, Section 5 (w.e.f. 1-3-1971).

Sections 4-A and 4-B

[Gujarat and Maharashtra]. In its application to the State of Bombay, after Section 4, insert the following section, namely: 4-A. Taking of measurements, etc., of habitual offenders against whom restriction order is made. Any person against whom an order of restriction has been made under the provisions of the Bombay Habitual Offenders Act, 1959, shall, if so required, allow his measurements and photographs to be taken by a police officer in the prescribed manner. Bombay Act 58 of 1953, Section 3 (w.e.f. 2-11-1953) and Maharashtra Act 35 of 1970, Section 6 (w.e.f. 1-3-1971); Gujarat Act 11 of 1960, Section 87. [Karnataka]. In its application to the State of Karnataka, (i) after Section 4, insert the following section, namely: 4-A. Taking of measurements, etc., of habitual offenders against whom restriction order is made. Any person against whom an order of restriction has been made under the provisions of the Karnataka Habitual Offenders Act, 1961, shall, if so required by a police officer, allow his measurements or photographs to be taken in the prescribed manner. Karnataka Act 29 of 1975, Section 4 (w.e.f. 12-8-1975). (ii) after Section 4-A, insert the following section, namely: 4-B. Taking of measurements, etc., of beggars under the Karnataka Prohibition of Beggary Act, 1975. Any person who has been arrested and not released under sub-section (2) of section 11 of the Karnataka Prohibition of Beggary Act, 1975 (Karnataka Act 27 of 1975) or against whom an order of detention has been made under sub-section (1) of section 12 of the said Act, shall, if so required by an officer-in-charge of a receiving centre or relief centre, allow his measurements and photographs to be taken in the prescribed manner. Karnataka Act 1 of 1987, Section 2 (w.e.f. 16-1-1982).

5. Power of Magistrate to order a person to be measured or photographed

.If a Magistrate is satisfied that, for the purposes of any investigation or proceeding under the [Code of Criminal Procedure, 1898 (5 of 1898)] [[Now see the Code of Criminal Procedure, 1973 (2 of

1974.

)].], it is expedient to direct any person to allow his measurements or photograph to be taken, he may make an order to the effect, and in that case the person to whom the order relates shall be produced or shall attend at the time and place specified in the order and shall allow his measurements or photograph to be taken, as the case may be, by a police officer: Provided that no order shall be made directing any person to be photographed except by a Magistrate of the first class: Provided further, that no order shall be made under this section unless the person has at some time been arrested in connection with such investigation or proceeding.

[Gujarat and Maharashtra]. In its application to the States of Gujarat(a) in the first proviso, for the words except by a Magistrate of the first class, substitute except by the District Magistrate, a Sub-Divisional Magistrate, a Magistrate of the first class. Bombay Act 8 of 1954, Section 2 and Sch.; Maharashtra Act 35 of 1970; and Gujarat Act 11 of 1960, Section 87.(b) to the first proviso, add the words or a Presidency Magistrate. Now it has been replaced by the words Metropolitan Magistrate. Besides Bombay, Calcutta and Madras, Ahmedabad have such Magistrates, See Criminal Procedure Code, 1973, Sections 8 and 16. Bombay Act 11 of 1922 as amended by Act 17 of 1945, Maharashtra Act 35 of 1970, Section 3 (w.e.f. 1-3-1971); Gujarat Act 11 of 1960, Section 87. [Karnataka]. In its application to the State of Karnataka, in Section 5, for first proviso, substitute the following proviso, namely: Provided that no order shall be made directing any person to be photographed except by a District Magistrate, a Sub-Divisional Magistrate or a Magistrate of the First Class. Karnataka Act 29 of 1975, Section 4 (w.e.f. 12-8-1975).

6. Resistance to the taking of measurements, etc

(1) If any person who under this Act is required to allow his measurements or photographs to be taken resists or refuses to allow the taking of the same, it shall be lawful to use all means necessary to secure the taking thereof. (2) Resistance to or refusal to allow the taking of measurements or photograph under this Act shall be deemed to be an offence under section 186 of the Indian Penal Code (45 of 1860).

7. Destruction of photographs and records of measurements, etc., on acquittal

.Where any person who, not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards, has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any Court, all measurements and all photographs (both negatives and copies) so taken shall, unless the Court or (in a case where such person is released without trial) the District Magistrate or Sub-Divisional Officer for reasons to be recorded in writing otherwise directs, be destroyed or made over to him.

[Gujarat and Maharashtra]. In its application to the States of Gujarat and Maharashtra, in Section 7, after the words officer, insert or in any area for which a Commissioner of Police has been appointed

the Commissioner of Police. Bombay Act 11 of 1922, Section 4 (w.e.f. 14-12-1922) as amended by Acts 17 of 1945; 21 of 1954 and 56 of 1959; Maharashtra Act 35 of 1970, Section 3 (w.e.f. 1-3-1971) and Gujarat Act 11 of 1960, Section 87.[Karnataka]. In its application to the State of Karnataka, for Section 7, substitute the following section, namely: 7. Destruction of photographs and records of measurements, etc., on acquittal. Where any person who not having been previously convicted of an offence punishable with rigorous imprisonment for a term of one year or upwards has had his measurements taken or has been photographed in accordance with the provisions of this Act is released without trial or discharged or acquitted by any Court, all measurements and all photographs (both negatives and copies) so taken shall, unless the Court or in a case where a person is released without trial, the District Magistrate or the Sub-Divisional Magistrate or in any area where a Commissioner of Police has been appointed, the Commissioner of Police, for reasons to be recorded in writing otherwise directs, be destroyed or made over to him. Karnataka Act 29 of 1975, Section 4 (w.e.f. 12-8-1975).

8. Power to make rules

(1) The State Government may by notification in the Official Gazette make rules for the purpose of carrying into effect the provisions of this Act. (2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for, (a) restrictions on the taking of photographs of persons under section 5; (b) the places at which measurements and photographs may be taken; (c) the nature of the measurements that may be taken; (d) the method in which any class or classes of measurements shall be taken; (e) the dress to be worn by a person when being photographed under section 3; and (f) the preservation, safe custody, destruction and disposal of records of measurements and photographs. (3) [Every rule made under this section shall be laid, as soon as may be, after it is made, before State Legislature.] [Inserted by Act 4 of 1986, Section 2 and Sch. (w.e.f. 1.5.1986).]

[Gujarat and Maharashtra]. In its application to the States of Gujarat and Maharashtra, in Cl. (e) of sub-S. (2), for the words under section 3, substitute in accordance with the provisions of this Act. Bombay Act 58 of 1953, Section 4 (w.e.f. 1-11-1953); Maharashtra Act 35 of 1970, Section 3 (w.e.f. 1-3-1971); and Gujarat Act 11 of 1960, Section 87.[Karnataka]. In its application to the State of Karnataka, in Cl. (e) of sub-S. (2) of Section 8, for the words under section 3, substitute

9. Bar of suits

No suit or other proceeding shall lie against any person for anything done, or intended to be done, in good faith under this Act or under any rule made thereunder.