

THE PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT, 2012 (POCSO Act, 2012)

SECTIONS 1 – 6

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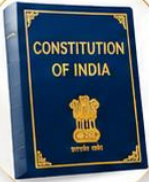
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WHY POCSO?

A Special Law for the Protection of Our Children

1 CONSTITUTIONAL BACKGROUND



Ensures the right to life and personal liberty (**Article 21**) and protection of children (**Article 15(3), 39(e) & 39(f)**).

3 NEED OF THE ACT



Increasing incidents of sexual offences against children demanded a **child-centric, gender-neutral, comprehensive law** with strict punishment and special procedure.

2 UN CONVENTION ON THE RIGHTS OF THE CHILD



India is a signatory to the **UN CRC, 1989** which recognizes the right of every child to be protected from all forms of sexual abuse and exploitation.

4 OBJECTIVES OF POCSO



- Protect children from sexual offences
- Provide for child-friendly procedure
- Ensure special courts for speedy trial
- Safeguard the rights and dignity of the child



POCSO ACT, 2012: Because **every child** deserves a childhood, **not a trauma**.

SALIENT FEATURES OF POCSO ACT, 2012

A Child-Centric, Rights-Based Legislation

01



GENDER NEUTRAL LAW

Provides protection to all children, irrespective of their gender.

02



CHILD FRIENDLY PROCEDURE

Ensures a child-friendly environment during reporting, investigation and trial.

03



SPECIAL COURTS

Establishes Special Courts for speedy trial of offences under the Act.

04



CONFIDENTIALITY

Prohibits the disclosure of identity of the child at any stage of the process.

05



REHABILITATION OF CHILD

Ensures medical care, counselling, and rehabilitation of the child.

06



MANDATORY REPORTING

Every person is required to report offences under the Act.

“ The Act focuses not only on punishment of the offender but also on the protection, **care and dignity of the child.** ”



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FULL LENGTH
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	BSA	1 TEST
	IEA AND BSA COMPARATIVE TEST	1 TEST
	CrPC	5 TESTS
	BNSS	5 TESTS
	CrPC AND BNSS COMPARATIVE TEST	1 TEST

TOTAL MAJOR SUBJECT TESTS

23 TESTS

★ MINOR SUBJECTS

	JJ Act, 2015	1 TEST
	Arms Act, 1959	1 TEST
	Sc ST Act, 1989	1 TEST
	Rajasthan Excise Act, 1950	1 TEST
	Probation of Offenders Act, 1958	1 TEST
	Protection of Children from Sexual Offences (POCSO) Act, 2012	1 TEST
	Rajasthan Public Examination Act (1992+2022)	1 TEST

TOTAL MINOR SUBJECT TESTS

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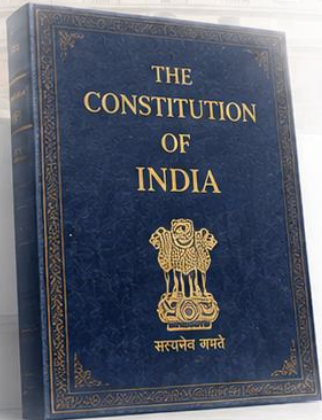


**YOUR SUCCESS
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TODAY'S ROADMAP



POCSO Act, 2012 – Sections 1 to 6



1

SECTION 1

Short title,
extent and
commencement
of the Act



2

SECTION 2

Definitions



3

SECTION 3

Penetrative
sexual
assault



4

SECTION 4

Punishment
for offence
under
Section 3



5

SECTION 5

Aggravated
penetrative
sexual
assault



6

SECTION 6

Punishment
for offence
under
Section 5



“ The Act is a comprehensive legislation to protect children from sexual offences, ensure their **rights, dignity** and **speedy justice**. ”

SECTION 1**SHORT TITLE, EXTENT AND
COMMENCEMENT OF THE ACT****Short Title**

This Act may be called the
**Protection of Children from
Sexual Offences Act, 2012.**

**Extent**

It extends to the **whole of India**

**Commencement**

14 December 2012

**KEY TAKEAWAYS**

The Act is formally titled the **Protection of Children
from Sexual Offences Act, 2012.**



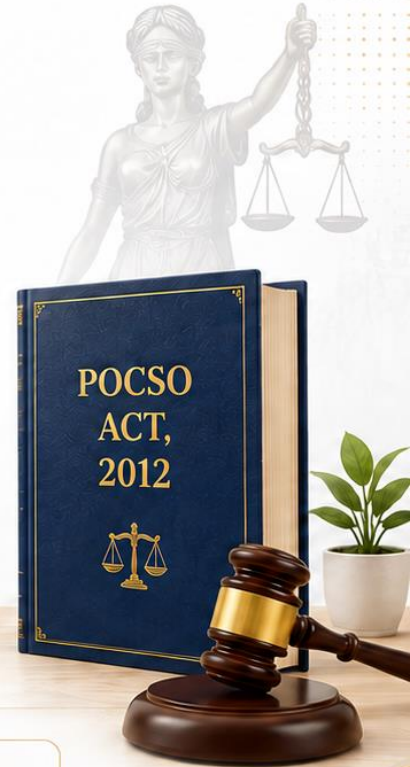
It has been enacted as a Central Act applicable
throughout India.



It comes into force on a date notified by the
Central Government in the **Official Gazette.**



“ Section 1 lays the foundation of the Act by providing its **title**,
territorial extent and the **manner of its commencement.**

”



DEFINITION OF “CHILD”

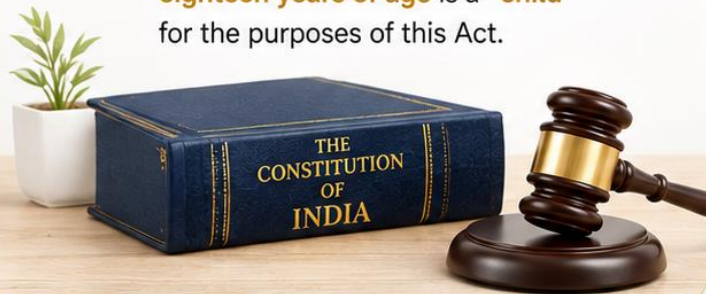
“Child” means a person **below the age of eighteen years.**

(Section 2(d), POCSO Act, 2012)



EXPLANATION

Any person who has not completed **eighteen years of age** is a “child” for the purposes of this Act.



KEY POINTS



The age limit is strictly **below 18 years.**



Age is determined as per the **date of commission** of the offence.



The Act provides protection to all persons **irrespective of gender.**



It is a **gender-neutral** definition – girl or boy, **both are “child”.**



“ The definition of “child” is the heart of the Act, ensuring protection to every individual **below 18 years of age.** ”



IMPORTANT DEFINITIONS



CHILD PORNOGRAPHY

“ Section 2(da)

“child pornography” means any visual depiction of **sexually explicit conduct** involving a **child** which include



Photograph



Video



Digital or computer generated image indistinguishable from an actual child



Image created, adapted, or modified, but appear to depict a child



SHARED HOUSEHOLD

“ Section 2(f)

“shared household” means a household where the person charged with the offence **lives or has lived** at any time in a **domestic relationship** with the child.



These definitions are crucial as they **clarify key terms** used in the POCSO Act, ensuring better understanding and **stronger protection** for children.

PENETRATIVE SEXUAL ASSAULT



DEFINITION

Section 3 defines
“Penetrative Sexual Assault”.

A person commits penetrative sexual assault if he commits any of the acts specified under clauses (a) to (d) against a child.



KEY POINT

Section 3 only **defines** the offence of Penetrative Sexual Assault. The punishment is prescribed separately under **Section 4** of the POCSO Act.



WHAT IT INCLUDES



Clause (a)

Penetrates his **penis**, to any extent, into the **vagina, mouth, urethra or anus** of a child, or makes the child do so with him or any other person.



Clause (b)

Inserts **any object or any part of the body** (other than the penis), to any extent, into the **vagina, urethra or anus** of the child, or makes the child do so with him or any other person.



Clause (c)

Manipulates any part of the child's body so as to **cause penetration** into the **vagina, urethra, anus or any part of the body** of the child, or makes the child do so with him or any other person.



Clause (d)

Applies his **mouth** to the **penis, vagina, anus or urethra** of the child, or makes the child do so to such person or any other person.



“ Section 3 provides an **exhaustive definition** of “Penetrative Sexual Assault” by covering **penile penetration**, insertion of **objects/body parts**, penetration caused through **manipulation**, and **oral sexual acts** involving a child. ”

PUNISHMENT FOR PENETRATIVE SEXUAL ASSAULT



PUNISHMENT PROVISIONS

- 1 Whoever commits penetrative sexual assault shall be punished with imprisonment of either description for a term which shall **not be less than 10 years**, but which **may extend to imprisonment for life**, and shall also be **liable to fine**.
- 2 Whoever commits penetrative sexual assault on a **child below sixteen years of age** shall be punished with imprisonment for a term which shall **not be less than 20 years**, but which **may extend to imprisonment for life**, which shall mean imprisonment for the **remainder of natural life** of that person and shall also be **liable to fine**.
- 3 The **fine** imposed under sub-section (1) shall be just and reasonable and **paid to the victim** to meet the medical expenses and rehabilitation of such victim.



KEY TAKEAWAYS



Minimum punishment is **10 years** which may extend to **life imprisonment**.



If the child is **below 16 years**, minimum punishment is **20 years** which may extend to **life (remainder of natural life)**.



Both categories of offence are also **liable to fine**.



Fine under sub-section (1) shall be just and reasonable and **paid to the victim** for **medical expenses** and **rehabilitation**.



“ Section 4 prescribes **stringent punishment** for penetrative sexual assault, with higher minimum sentence when the child is **below 16 years**, and ensures the fine is utilized for the victim's **medical expenses** and **rehabilitation**. ”



Independent Thought v. Union of India (2017)



Supreme Court of India



PRINCIPLE LAID DOWN

The Supreme Court held that **sexual intercourse by a husband** with his wife who is **below 18 years** of age constitutes **rape**, by reading down **Exception 2** to **Section 375 IPC**.



This interpretation brought the criminal law in harmony with the **POCSO Act**, which defines every person **below 18 years** as a **child**.



WHY IS THIS JUDGMENT IMPORTANT?



Eliminated the **conflict** between the IPC marital rape exception and the **POCSO Act**.



Reinforced that **marriage cannot be used as a defence** for sexual offences committed against a **child**.



Strengthened the **statutory protection** available to all children **below 18 years** of age.



“

EXAM POINT

POCSO overrides the marital relationship where the victim is **below 18 years** of age.



TAKEAWAY

The judgment ensures that **every child below 18 years** receives **equal protection** under criminal law, irrespective of marital status.

”



OVERVIEW SECTION 5

Section 5

Seven Categories



1. PERSONS IN AUTHORITY

When the offender is in a position of control, supervision or authority over the child.

1



2. INSTITUTIONAL ABUSE

When the offence is committed in an institutional setup or by staff/ persons in that institution.

2



3. NATURE OF ASSAULT

When the assault is brutal, repeated, or involves unusual means or multiple acts.

3



4. CONSEQUENCES

When the assault results in serious injury, mental trauma, STD, pregnancy or death.

4



5. VICTIM VULNERABILITY

When the child is mentally/ physically disabled or highly vulnerable in any manner.

5



6. RELATIONSHIP & TRUST

When the offence is committed by a person known to the child or having their trust.

6



7. OTHER AGGRAVATING CIRCUMSTANCES

Any other factor which makes the offence more heinous and grave.

7



“ Section 5 identifies seven key aggravating circumstances which make the offence ‘Aggravated Penetrative Sexual Assault’ and attract enhanced punishment. ”



PERSONS IN AUTHORITY



Aggravated Penetrative Sexual Assault by Persons Holding **Official Authority**



Section 5(a) **POLICE OFFICER**

A police officer commits Aggravated Penetrative Sexual Assault if the offence is committed:

- ✓ Within the limits of the **police station** or premises where posted.
- ✓ In any **station house** under his control.
- ✓ During the course of **official duty** or otherwise.
- ✓ While acting or being **identified as a police officer**.



Section 5(b) **ARMED FORCES / SECURITY FORCES**

A member of the Armed Forces or Security Forces commits Aggravated Penetrative Sexual Assault if the offence is committed:

- ✓ Within the area of **deployment**.
- ✓ In any area under the **command of the forces**.
- ✓ During **official duty** or otherwise.
- ✓ While known or **identified as a member** of such forces.



Section 5(c) **PUBLIC SERVANT**

Any **Public Servant** committing penetrative sexual Assault on a child attracts **Section 5(c)**.



No additional condition is required.



Section 5(p) **POSITION OF TRUST OR AUTHORITY**

A person in a **position of trust** or **authority** commits Aggravated Penetrative Sexual Assault when the offence is committed:



In an institution,



At the child's home,



Anywhere else while abusing such position of trust.

EXAM POINTER

“These clauses punish offenders who **misuse official position, legal authority, or fiduciary trust** to commit penetrative sexual assault on a child.



MEMORY TRICK

PAPT Rule

P

Police Officer
(Section 5(a))

A

Armed Forces /
Security Forces
(Section 5(b))

P

Public Servant
(Section 5(c))

T

Trust /
Authority
(Section 5(p))

SECTION 5



INSTITUTIONAL ABUSE



Aggravated Penetrative Sexual Assault committed by persons connected with **Institutions of Custody, Care, Health, Education or Religion.**



Section 5(d)

JAIL, REMAND HOME, PROTECTION HOME, OBSERVATION HOME OR OTHER PLACE OF CUSTODY OR CARE & PROTECTION

Whoever being on the **management or on the staff** of a jail, remand home, protection home, observation home, or other place of custody or care and protection established by or under any law for the time being in force, commits penetrative sexual assault on a child, being **inmate** of such jail, remand home, protection home, observation home, or other place of custody or care and protection.



Section 5(e)

HOSPITAL (GOVERNMENT OR PRIVATE)

Whoever being on the **management or staff** of a **hospital**, whether Government or private, commits penetrative sexual assault on a child in that **hospital**.



Section 5(f)

EDUCATIONAL OR RELIGIOUS INSTITUTION

Whoever being on the **management or staff** of an **educational institution or religious institution**, commits penetrative sexual assault on a child in that institution.



JUDICIARY EXAM POINTER

These clauses recognise that institutions meant for custody, care, protection, healing, education or religion carry a **higher standard of trust and responsibility**. Breach of such trust constitutes aggravated penetrative sexual assault.



WHY IT MATTERS

Children in such institutions are **completely dependent** on the management and staff. Abuse of that position causes **greater harm** and violates the very purpose of these institutions.

NATURE OF ASSAULT



Aggravated Penetrative Sexual Assault involving a more **serious or harmful manner** of commission.



Section 5(g)

GANG PENETRATIVE SEXUAL ASSAULT

Whoever commits **gang** penetrative sexual assault on a child.

EXPLANATION

“ When a child is subjected to sexual assault by **one or more persons of a group** in furtherance of their **common intention**, each of such persons shall be deemed to have committed gang penetrative sexual assault within the meaning of this clause and each of such person shall be **liable for that act** in the **same manner** as if it were done by him alone.



Section 5(h)

USE OF DEADLY WEAPONS, FIRE, HEATED OR CORROSIVE SUBSTANCE

Whoever commits penetrative sexual assault on a child using **deadly weapons, fire, heated substance or corrosive substance**.



Section 5(i)

CAUSING GRIEVOUS HURT OR BODILY HARM / INJURY TO SEXUAL ORGANS

Whoever commits penetrative sexual assault causing **grievous hurt** or causing **bodily harm and injury** or **injury to the sexual organs** of the child.

JUDICIARY EXAM POINTER



“ Clauses 5(g) to 5(i) enhance punishment where the manner of assault is especially **brutal, dangerous** or results in **serious physical harm**, reflecting **higher culpability** and greater impact on the child.



MEMORY TRICK

G - H - I



Gang Assault
(Sec. 5(g))



Deadly Weapons /
Fire / Heated /
Corrosive Substance
(Sec. 5(h))



Grievous Hurt / Bodily
Harm / Injury to
Sexual Organs
(Sec. 5(i))



CONSEQUENCES



Aggravated Penetrative Sexual Assault where the offence results in **serious consequences** for the child.



Section 5(j)(i)



PHYSICAL INCAPACITY / MENTAL ILLNESS

Physically incapacitates the child or causes the child to become **mentally ill** as defined under clause (l) of section 2 of the **Mental Health Act, 1987** or causes impairment of any kind so as to render the child unable to perform regular tasks, temporarily or permanently.

Section 5(j)(ii)



PREGNANCY

In the case of female child, makes the child **pregnant** as a consequence of sexual assault.

Section 5(j)(iii)



HIV OR OTHER LIFE-THREATENING DISEASE

Inflicts the child with **Human Immunodeficiency Virus** or any other **life threatening disease** or infection which may either temporarily or permanently impair the child by rendering him physically incapacitated, or mentally ill to perform regular tasks.

Section 5(j)(iv)



DEATH

Causes **death** of the child.



JUDICIARY EXAM POINTER

Section 5(j) enhances punishment where the assault leads to **grave consequences** that severely affect the **physical, mental, or life** of the child.



MEMORY TRICK

P


Pregnancy
(Sec. 5(j)(ii))

M


Mental / Physical
Incapacity
(Sec. 5(j)(i))

H


HIV / Life-threatening
Disease
(Sec. 5(j)(iii))

D


Death
(Sec. 5(j)(iv))

VICTIM VULNERABILITY



Aggravated Penetrative Sexual Assault committed by exploiting the **vulnerability of a child**.



Section 5(k)



CHILD WITH DISABILITY

Whoever, taking advantage of a **mental or physical disability** of a child, commits penetrative sexual assault on the child.

Section 5(l)



REPEATED ASSAULT

Whoever commits penetrative sexual assault on the child **more than once or repeatedly**.

Section 5(m)



BELOW 12 YEARS

Whoever commits penetrative sexual assault on a child **below twelve years**.



JUDICIARY EXAM POINTER

These clauses target offenders who exploit the vulnerability of the child due to **age, disability**, or by subjecting the child to **repeated assault**.



MEMORY TRICK



Disability
(Sec. 5(k))



Repeated Assault
(Sec. 5(l))



Below 12 Years
(Sec. 5(m))

D - R - B



RELATIONSHIP & POSITION OF TRUST



Aggravated Penetrative Sexual Assault committed by abusing a child's **relationship of trust, guardianship, or institutional authority**.

Section 5(n)



RELATIVE / GUARDIAN / SHARED HOUSEHOLD

Whoever, being—

- a **relative** through blood, adoption or marriage;
- a **guardian** or foster caregiver;
- having a **domestic relationship** with the child's parent; or
- living in the **same/shared household**, commits penetrative sexual assault on the child.

Section 5(o)



INSTITUTION PROVIDING SERVICES

Whoever, being the **owner, manager** or **staff member** of any institution providing services to the child, commits penetrative sexual assault on the child.

Section 5(p)



POSITION OF TRUST OR AUTHORITY

Whoever, being in a position of **trust** or **authority** over a child, commits penetrative sexual assault in—

- an institution,
- the child's home, or
- anywhere else.



JUDICIARY EXAM POINTER

These clauses punish offenders who exploit **relationships of trust** rather than physical vulnerability.

Remember four important categories:



Relative



Guardian /
Foster Care



Institution
Staff



Position of
Trust or Authority

MEMORY TRICK

R

—

I

—

T



Relative / Guardian /
Shared Household
(Sec. 5(n))



Institution
Providing Services
(Sec. 5(o))



Trust / Authority
(Sec. 5(p))



AGGRAVATED PENETRATIVE SEXUAL ASSAULT

OTHER AGGRAVATING CIRCUMSTANCES (Category 7)



Whoever commits penetrative sexual assault on a child in circumstances of **specific malice or public humiliation**.



AWARENESS OF PREGNANCY

Knowing the child is pregnant.

(q)



ATTEMPT TO MURDER

Attempts to murder the child.

(r)



COMMUNAL/SECTARIAN VIOLENCE

During communal, sectarian violence, natural calamity, or similar situation.

(s)



PREVIOUS CONVICTION

Previously convicted of any offense under this Act or any sexual offense.

(t)



PUBLIC STRIPPING/PARADE

Makes the child strip or parade naked in public.

(u)



JUDICIARY EXAM POINTER

Focus on the aggravating circumstances specified in these clauses, which elevate the severity of the offense. Understand the specific legal criteria for each clause.

Memory Points

- Awareness
- Attempt
- Communal
- Convicted
- Public Humiliation

MEMORY TRICK (ACRONYM)

P - A - C - C - S



Pregnant



Attempted Murder



Communal Violence



Convicted



Stripped/ Public

PUNISHMENT



20 YEARS

Rigorous imprisonment for a term which shall not be less than **twenty years**.



LIFE

Imprisonment for **life**, which shall mean imprisonment for the remainder of natural **life** of that person.



DEATH

Punishable with death.



FINE

Shall also be liable to **fine**.

- 1 Punishment for aggravated penetrative sexual assault.**—(1) Whoever commits aggravated penetrative sexual assault shall be punished with rigorous imprisonment for a term which shall not be less than **twenty years**, but which may extend to imprisonment for **life**, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to **fine**, or with **death**.
- 2** The fine imposed under sub-section (1) shall be just and reasonable and paid to the victim to meet the medical expenses and rehabilitation of such victim.