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BILL

to provide for the protection of witnesses and other persons connected with criminal proceeding of sensitive nature.

WHEREAS it is expedient to provide for the protection of witnesses and other persons connected with the criminal proceedings of sensitive nature, connected in relation to investigation, prosecution and trial of criminal proceedings, offence of terrorism or a heinous offence and to provide for matters ancillary thereto and connected therewith;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

1. Short title, extent, application and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Witness Protection Act, 2021.

(2) It shall extend to whole of the Province of the Khyber Pakhtunkhwa.

(3) It shall apply to the witnesses and all other persons, connected in relation to an investigation, prosecution and trial of criminal proceedings of heinous offence and offence of terrorism.

(4) It shall come into force at once.

2. Definitions.---In this Act, unless the same is defined in any other law for the time being in force, the following terms shall have the meanings as assigned to them,-

- (a) "Board" means the Witness Protection Board, established under section 3 of this Act;
- (b) "close protection service" means the provision of bodyguards or police assistance for purposes of protection from any assault, assassination or kidnapping or abduction of a witness, related to heinous offence;
- (c) "Court" means the Court, seized of a case to which this Act applies;
- (d) "criminal proceeding" means an investigation, inquiry or trial under the Code of Criminal Procedure, 1898 (V of 1898) or Anti-Terrorism Act, 1997 (Act No. XXVII of 1997), relating to an offence of terrorism or any other heinous offence;
- (e) "Government" means the Government of the Khyber Pakhtunkhwa;
- (f) "heinous offence" means an offence, punishable with death or imprisonment for life or for a term exceeding seven years and includes a sexual offence but does not include an offence of terrorism;
- (g) "high risk accused" means a person under investigation, charged with, or tried for, the commission of an offence of terrorism or a heinous offence and is considered to be a high risk for the persons connected with the criminal proceedings;

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- (h) "Law Enforcement Agency" means and includes a body or agency, responsible for law enforcement, in relation to the prevention, detection and investigation of an offence;
- (i) "offence of terrorism" means an act defined as such in section 6 of the Anti-Terrorism Act, 1997 (XXVII of 1997) and includes such other offences under the said Act, as Government may, by notification in official Gazette, determine;
- (j) "prescribed" means prescribed by rules;
- (k) "protected person" means any person, who is extended protection under section 6 of this Act;
- (l) "protection" means a protection of a person (witness) which includes relocation or change of identity of, or provision of assistance or close protection services provided to such person under this Act;
- (m) "rules" mean the rules made under this Act;
- (n) "sexual offence" means an offence under sections 366-A, 367-A, 376 or 377 of the Pakistan Penal Code, 1860 (XLV of 1860), or under the West Pakistan Suppression of Prostitution Ordinance, 1961 (II of 1961);
- (o) "terrorism case" means a criminal case, pending in a Court, pertaining to offence of terrorism;
- (p) "Unit" means the Witness Protection Unit, established under section 5 of this Act; and
- (q) "witness" means a person who may testify under Article 3 of the Qanun-e-Shahadat Order, 1984 (P.O. No. X of 1984) and includes victim and such other person, connected in relation to an investigation, prosecution and trial of criminal proceedings, as specified in this Act, except accused.

3. **Witness Protection Board.**---Government shall establish a Board to be known as the Khyber Pakhtunkhwa Witness Protection Board, consisting of the following:

- (a) Secretary to Government of Khyber Pakhtunkhwa Home and Tribal Affairs Department; Chairman
- (b) Secretary to Government of Khyber Pakhtunkhwa Finance Department; Member
- (c) Provincial Police Officer, Khyber Pakhtunkhwa; Member
- (d) Director General Prosecution, Khyber Pakhtunkhwa; Member

- (e) Additional Inspector General of Special Branch, Khyber Pakhtunkhwa; Member
- (f) Deputy Inspector General, Counter Terrorism Department, Khyber Pakhtunkhwa; and Member
- (g) Deputy Secretary (Judicial), Home and Tribal Affairs Department. Member-cum-Secretary.

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4. Functions of the Board.---The Board shall-

- (a) frame policy guidelines for purposes of this Act;
- (b) submit policy guidelines to Government for approval;
- (c) oversee and monitor the implementation of the policy guidelines under this Act;
- (d) spearhead and supervise the performance of the functions of the Units;
- (e) implement any other direction of Government in connection with this Act; and
- (f) perform such other functions as may be necessary to achieve the objectives of this Act.

5. Witness Protection Unit.---(1) Government shall establish the following Witness Protection Units:

- (a) Unit-I relating to the offences of terrorism; and
- (b) Unit-II relating to heinous offences.

(2) Government, on the recommendations of the Board, shall appoint the head of each Unit and such other members in the Unit, as Government may determine or in the manner as may be prescribed.

(3) A Unit shall work under the general supervision and control of the Board in the performance and discharge of its functions effectively and meaningfully and to achieve the objectives of this Act.

6. Protected person.---(1) Subject to sub-section (2), a witness or any other person connected with the criminal proceedings and person closely related to the aforesaid person, may apply for the protection under this Act.

(2) The Provincial Police Officer, the Director General, Prosecution or the Court trying an offence of terrorism or a heinous offence may, through Home and Tribal Affairs Department of Government, direct a concerned Unit for assessing the risk or continued risk to any person concerned directly or indirectly with such criminal proceedings.

