

The Transgender Persons (Protection of Rights) Bill, 2016: Comparison of the 2016 Bill with 2018 amendments

The Transgender Persons (Protection of Rights) Bill, 2016 was introduced in Parliament on August 2, 2016.¹ The Bill creates a third gender i.e. transgender, confers rights on them, and creates welfare schemes for them. The Standing Committee on Social Justice and Empowerment examined the Bill and submitted its report on July 21, 2017.²

Certain amendments to the 2016 Bill were introduced in Lok Sabha on December 17, 2018. The Bill, along with the amendments, was passed in Lok Sabha on December 18, 2018.³ The Table below compares the provisions of the 2016 Bill with that of the 2018 Bill.

Table 1: Comparison of the Transgender Persons (Protection of Rights) Bill, 2016 with the Bill as passed by Lok Sabha in December 2018

Transgender Persons (Protection of Rights) Bill, 2016	Bill as passed by Lok Sabha (2018 Bill)
Definition of Transgender Person	
<ul style="list-style-type: none"> ▪ The Bill defines a transgender person as one who is (i) neither wholly female or male; (ii) a combination of female and male; or (iii) neither female nor male. Such a person's sense of gender does not match the gender assigned at birth, and includes trans-men and trans-women, persons with intersex variations and gender-queers. 	<ul style="list-style-type: none"> ▪ The 2018 Bill removes the reference to a transgender person as one who is: <ul style="list-style-type: none"> a) neither wholly female or male; (ii) a combination of female and male; or (iii) neither female nor male. b) whose <u>sense</u> of gender does not match the gender assigned at birth. ▪ It now states that a transgender person is one whose gender does not match the gender assigned at birth. It includes trans-men and trans-women, persons with intersex variations, and gender-queers. The 2018 Bill also includes persons having such socio-cultural identities as kinnar, hijra, aravani, and jogta ▪ The Bill defines a person with intersex variations as a person who at birth shows variations in his or her primary sexual characteristics, external genitalia, chromosomes, or hormones from normative standard of male or female body.
Issuance of Revised Certificate of Identity	
<ul style="list-style-type: none"> ▪ A transgender person may make an application to the District Magistrate for a certificate of identity, indicating the gender as 'transgender'. If there is a change in their gender, the individual can make an application for a revised certificate. ▪ The District Magistrate issues a revised certificate on the recommendation of the District Screening Committee. 	<ul style="list-style-type: none"> ▪ After the issue of a certificate of identity, a transgender person may apply for a revised certificate only if the individual undergoes surgery to change their gender either as a male or a female. ▪ The application must be accompanied with a certificate from the Medical Superintendent or Chief Medical Officer of the institution where the individual has undergone surgery. ▪ The District Magistrate can issue the revised certificate without the recommendation of the District Committee.
Obligations of Establishments	
<ul style="list-style-type: none"> ▪ Every establishment with 100 or more persons is required to designate a person as a complaint officer to deal with the complaints under the Act. 	<ul style="list-style-type: none"> ▪ The 2018 Bill removes the threshold and states that every establishment must designate a complaint officer.
<ul style="list-style-type: none"> ▪ The Bill prohibits any person from discriminating against a transgender person, including unfair treatment or denial of service. 	<ul style="list-style-type: none"> ▪ The Bill extends this obligation to establishments as well.

Welfare Schemes

- The government will provide for coverage of medical expenses by an insurance scheme for transgender persons.
- The 2018 Bill provides that the government will cover medical expenses by an insurance scheme for sex reassignment surgery, hormonal therapy, laser therapy or any other health issues of transgender persons.

Role of National Council

- A National Council for Transgender persons will be set up to advise the central government on policies and legislation related to transgender persons.
- The National Council has been additionally empowered to redress the grievances of transgender persons.

Sources: The Transgender Persons (Protection of Rights) Bill, 2016; The Transgender Persons (Protection of Rights) Bill, 2018, as passed by Lok Sabha; PRS.

¹. The Transgender Persons (Protection of Rights) Bill, 2016,

https://www.prsindia.org/sites/default/files/bill_files/Transgender_Persons_Bill%2C_2016_1.pdf.

2. Report No. 43, Standing Committee on Social Justice and Empowerment: 'The Transgender Persons (Protection of Rights) Bill, 2016', Lok Sabha, July 21, 2017,

http://164.100.47.193/lsscommittee/Social%20Justice%20&%20Empowerment/16_Social_Justice_And_Empowerment_43.pdf.

3. The Transgender Persons (Protection of Rights) Bill, 2018,

https://www.prsindia.org/sites/default/files/bill_files/Transgender_Persons_Bill%2C_2016_1.pdf.

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