Surrogacy (Regulation) Bill, 2016

Why in news?

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Lok Sabha recently passed the Surrogacy (Regulation) Bill, 2016.

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What is the need?

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- Surrogacy is the practice where a woman agrees to give birth to a baby (usually by artificial insemination or surgical implantation) on behalf of another couple.
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- Annually, surrogacy is a $2.3 billion industry across India, fed by lack of regulation and poverty.
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- Around 2,000-odd babies were born per year through commercial surrogacy (on payment).
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- There have been several reports about the exploitation of surrogate mothers.
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- They were kept confined in hostels during pregnancy and not allowed to meet their families.
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- Some women were doing it repeatedly for a paltry amount thus putting their own bodies at risk.
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- The 228th report of the Law Commission had recommended prohibition of commercial surrogacy - allowed only in Russia, Ukraine and California.
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What are the provisions in the new Bill?

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- The Bill seeks to put an end to commercial surrogacy - payment to a surrogate mother is punishable by up to 5 years imprisonment.
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- The Bill allows only altruistic surrogacy (by relatives) for married couples.
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- It allows surrogacy to intending infertile Indian married couples between the ages of 23-50 (female) and 26-55 (male).
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- It limits the option to only legally married childless couples who have been trying for a child for at least 5 years.
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- The commissioning couple cannot have a surviving child, either biological or adopted.
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- But this is except when they have a child who is mentally or physically challenged or suffers from a life-threatening disorder with no permanent cure.
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- The Bill also has safeguards built in against sex selection of the baby.
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- The Bill requires all surrogacy clinics to be registered.
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- Clinics can charge for these services but the surrogate mother cannot be paid.
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- The national and state surrogacy boards will be the regulating authorities.
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What are the changes made?

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- The Surrogacy Bill was cleared by the Cabinet in 2016.
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- It was subsequently referred to a Parliamentary Standing Committee (Health & Family Welfare) before its passage.
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- There are changes in the presently-passed Bill from the earlier version.
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- The earlier version provided for a minimum jail term of 10 years for some offences; the present one sets a maximum of 10 years.
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- The present Bill -

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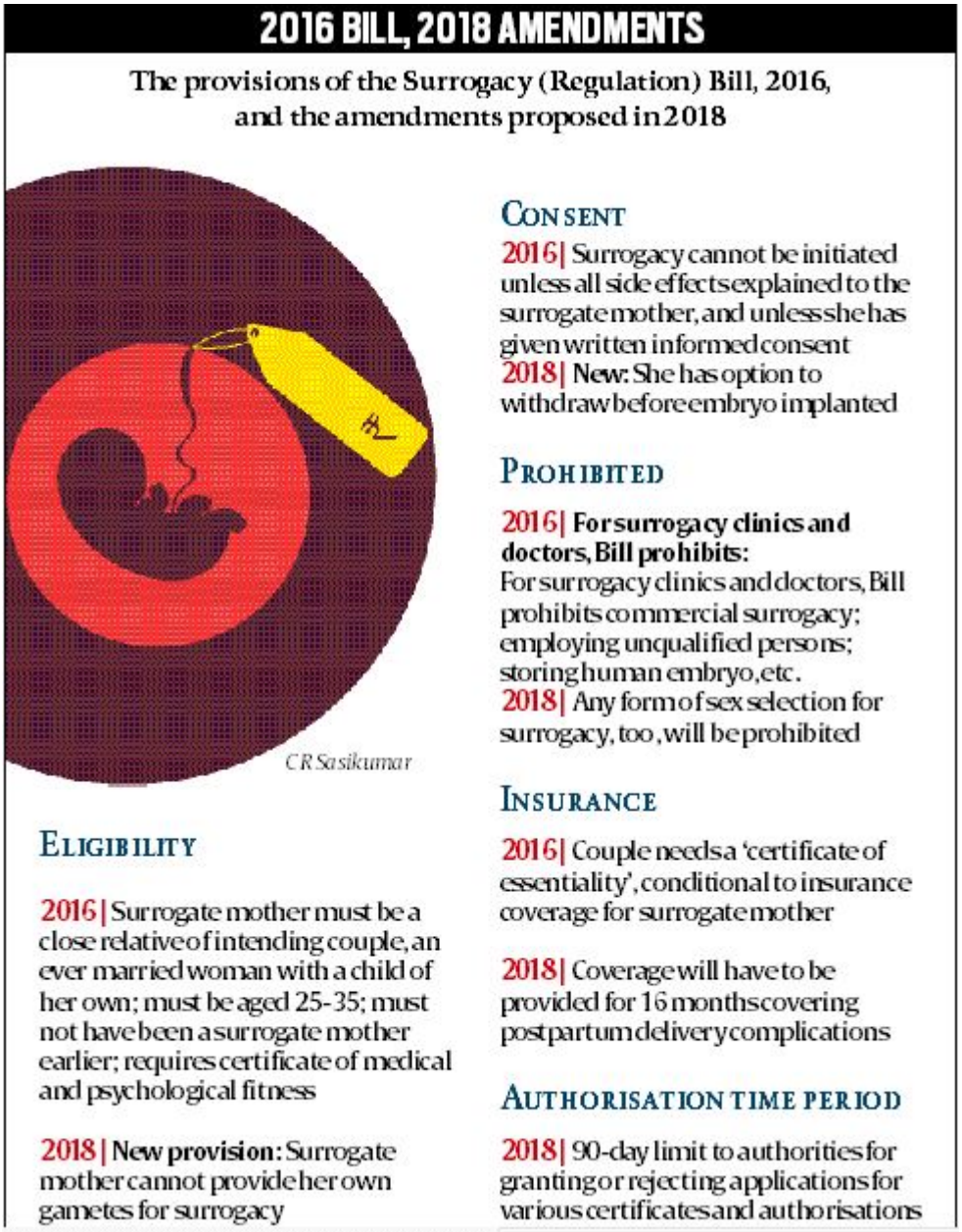
i. forbids the surrogate mother to use her own gametes (eggs)
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ii. gives her the option to withdraw before the embryo is implanted
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iii. puts a condition for obtaining a “certificate of essentiality” by the intending couple
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- The couple must also provide a 16-month insurance coverage for the surrogate mother including postpartum complications.
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- The Bill did not make several changes sought by the Standing Committee.
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What are the rejected recommendations?

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- The Supreme Court had recognised live-in relationships.
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- Citing this, the Committee had recommended that the government broadbase the eligibility criteria for surrogacy.
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- It called for widening the ambit of persons who can avail surrogacy services by including live-in couples, divorced women/widows.
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- It had also countered the “altruistic surrogacy for married couples” argument.

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- It thus recommended that compensation be the norm and the word altruistic should be replaced with compensated.
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Source: Indian Express

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