# Transgender Persons (Protection of Rights) Bill

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## Why in news?

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The Lok Sabha passed the Transgender Persons (Protection of Rights) Bill, 2016 recently after certain amendments.

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## What are the highlights of the original bill?

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- The bill creates a statutory obligation on public and private sectors to provide them with employment and recognises their right to “self-perceived gender identity”.
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- A transgender person must obtain a certificate of identity as proof of recognition of identity as a transgender person and to invoke rights under the Bill.
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- It also provides for a grievance redressal mechanism in establishments.
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- It has provisions to establish a National Council for Transgenders.
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- It makes the government responsible for preparing welfare schemes and programmes which are “transgender sensitive, non-stigmatising and non-discriminatory”.
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- It holds that it is a crime to push transgender persons into begging or bonded or forced labour.
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- The Bill recognises the rights of transgender persons to live with their families without exclusion and use the facilities of those households in a non-discriminatory manner.

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## What are the concerns with the recent amendments?

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- **Identification** - It defines a transgender as a person whose gender does not match with the gender assigned to that person at birth.
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- It also includes trans-man or trans-woman, person with intersex variations, gender- queer and person having such socio-cultural identities as kinner, hijra, aravani and jogta.
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- However, the bill envisions a district screening committee which will be invested the power to certify people as trans or not.
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- A person who wishes to transition from one gender identity to another will be certified as male/female only after a gender reassignment surgery.
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- This requirement goes against the principle of self-identification as laid down by the supreme court.
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- It also goes against the Nalsa judgment that had specifically laid out that any insistence on surgery for declaring one's gender is immoral and illegal.
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- **Employment** - The Bill criminalises begging and prescribes a jail term for 6 months to 2 years for anyone who compels or entices a transgender person to indulge in the act of begging.
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- This may harm the community, since in the absence of employment, transgender persons engage in begging as a means of livelihood.
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- **Reservation** - The Bill states that the State will ensure the "rescue, protection and rehabilitation" of transgender persons.
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- However, it fails to grant backward class reservation to trans people in education and public employment.
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- Also recognition of civil rights in marriage, divorce and adoption among transgender persons have not been addressed.
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- **Rehabilitation** - The bill bars forcible separation of transgender persons (including transgender children) from their families, except through court

orders.
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- They should either live with their natal “family” (blood or adoptive relations) or sent to rehabilitation centres.
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- However, the bill failed to noted that it was within the family that many transgender persons faced harassment and abuse, and often felt driven to flee their homes.
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- Also, when a parent or immediate family member is unable to take care of a transgender, they should be sent to a rehabilitation centre.
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- This controls the right to liberty of a cisgender people (people who identify with the same gender identity they were assigned at birth) and make them subjects of “care” which they do not want or need.
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**Source: The Hindu, Business Standard**

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