

A

BILL

further to amend the Transgender Persons (Protection of Rights) Act, 2018

WHEREAS it is expedient further to amend the Transgender Persons (Protection of Rights) Act, 2018 for the purposes herein after appearing;

It is hereby enacted as follows:-

1. Short title and commencement.--(1) This Act may be called the Transgender Persons (Protection of Rights) (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 3, Transgender Persons (Protection of Rights) Act, 2018. -

In the Transgender Persons (Protection of Rights) Act, 2018, hereinafter referred to as the Act, in section 3, following amendments shall be made namely

- i. In subsection (1) for the expression "have a right to be recognized as per his or her self-perceived gender identity" the expression "as determined by the Medical Certificate issued by the concerned Medical Board" shall be substituted.
- ii. In subsection (2) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
- iii. In subsection (3) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
- iv. In subsection (4) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.

3. Insertion of Section 4A after section 4 of the Act. - In the Act after section 4 a new section 4A shall be added namely,

"Prohibition against disowning of transgender baby. - No parent shall be allowed to disown the transgender baby born to him/her.

4. **Insertion of Section 5A after section 5 of the Act.** - In the Act after section 5 a new section 5A shall be added namely,
"Prohibition against adopting of transgender baby by Gurus. - No Guru shall be allowed to adopt or carry the transgender baby, forcefully or by consent, born to any parent."
5. **Amendment of section 7 of the Act.** - In the Act, in section 7, in subsection (3) following amendments shall be made namely
- i. In clause (a) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
 - ii. In clause (b) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
 - iii. In clause (c) for the phrase "self-perceived", the expression, "Medical Certificate" shall be substituted.
6. **Amendment of section 17 of the Act.** - In the Act, in section 17, after subsection (1) following new subsection (2) shall be added namely,
"Whoever contravenes the provisions of section 4A and 5A shall be punishable with imprisonment which may extend to one year or with fine of five lac rupees or with both."

STATEMENT OF OBJECTS AND REASONS

The law was enacted by parliament in 2018 to provide legal recognition to transgender persons. It enshrines transgender persons' equal rights to education, basic health facilities, the right to affirm their transgender identity on ID cards and passports, as well as the right to vote in and contest elections.

The main concept was that the transgender persons are also human beings, and the legislation was meant to protect their rights, including inheritance, education, employment, health and purchase of property.

The act has a chance of weakness or misuse of it as the complaints started coming after two years on a provision that there was a possibility that sections 3 and 4 could be misused. According to the aforementioned sections, after reaching the age of 18 years, transgender persons could declare their genders on their identity cards. It should be suitably amended and made subject to the decision of the Medical Board.

Furthermore, the Act is devoid of one more compressing issue i.e. disowning of transgender child and adoption of same by khwaja sira community. Verily one is shocked to know that most of the parents do not accept their transgender-children and are in utter disregard of their instinctive urge and the deep rooted parental love and attachment. A young trans child, when turned out from a parents' home, their family and nearly all the relatives show no sympathy toward the child who has to suffer for it. In these circumstances transgender-children are forced to join the khwaja sira community, which, in such a critical situation is the only resort for the banished child. The community provides such children with the basic necessities of life. They, in turn, adopt the profession of dancing and entertainment etc. Actually, lack of education and awareness is also a factor responsible for this state of affairs. Educated and civilized parents do not let others know about their child's gender identity. On the other hand, if such a child is disowned by all his/her dear-ones, then they have no option but to join the khwaja sira community which is the only door open to them for earning their livelihood.

The situation clamors to introduce the said bill.

The Bill has been designed to achieve the above said purpose.

SENATOR SYED MUHAMMAD SABIR SHAH
MEMBER-IN-CHARGE

