

# 130<sup>TH</sup> CONSTITUTION AMENDMENT BILL: POLITY

The 130th Constitution Amendment Bill proposes to remove any minister jailed for 30 consecutive days for a serious offence, even before conviction. Facing criticism that it undermines the 'innocent until proven guilty' principle and could be politically misused, the bill has been referred to a JPC.

## The Constitution (130th Amendment) Bill, 2025: An Overview

The Constitution (130th Amendment) Bill, 2025, has been introduced in the Lok Sabha, sparking intense debate and protests from the opposition. The Bill aims to amend Articles 75, 164, and 239AA of the Constitution, which pertain to the Council of Ministers at the Union and State levels, as well as the special provisions for Delhi. Due to its contentious nature, the Bill has been referred to a Joint Parliamentary Committee (JPC) for detailed

## What Does the 130th Amendment Bill Propose?

The core objective of the Bill is to introduce a specific mechanism for the removal of ministers who are incarcerated for serious criminal offenses, arguing that their continuation in office compromises constitutional morality, good governance, and public trust.

### Mechanism for Removal

The Bill targets ministers who are arrested and held in custody for 30 consecutive days or more. This provision applies only if the alleged offense is punishable with imprisonment of five years or more.

### Process of Removal

Upon a minister completing 30 days in custody, the President (for Union Ministers) or the Governor (for State Ministers), acting on the advice of the Prime Minister or Chief Minister respectively, must remove the minister from their post by the 31st day. If the Prime Minister or Chief Minister fails to provide such advice, the minister automatically ceases to hold office on the 31st day.

### Provision for Reappointment

Crucially, the Bill allows for the reappointment of the same individual as a minister once they are released from custody.

## Related Concerns and Legal Challenges

The Bill has been met with significant criticism, with opponents highlighting several potential issues.

### Undermining the Presumption of Innocence

The most significant concern is that the Bill allows for a minister's removal based on detention, not conviction. This directly contradicts the fundamental legal principle of 'innocent until proven guilty'. Critics argue that this could violate Article 14 (Right to Equality) by creating a separate class of citizens (ministers) who face severe consequences before a judicial verdict, and Article 21 (Right to Life and Personal Liberty).

### Scope for Political Misuse

Opposition parties argue that the provision could be weaponized by the ruling government at the Centre. Investigative agencies like the CBI and ED, which are under the Union government's purview, could potentially be used to arrest and detain ministers from opposition-ruled states to force their removal from office.

### Threat to Federalism

By creating a mechanism that can be potentially influenced by the central government to remove state ministers, the Bill is seen as an attempt to centralize power and weaken the autonomy of state governments.

### Judicial Challenges

The Bill, if passed, is expected to face legal scrutiny. It may be challenged under the Basic Structure Doctrine, particularly on the grounds that it infringes upon the independence of the executive and the separation of powers.

## **Ethical Governance vs. Democratic Safeguards**

Proponents argue that the Bill is a necessary step to promote integrity in public life and aligns with the spirit of Supreme Court observations in landmark cases like *Lily Thomas v. Union of India* and *Manoj Narula v. Union of India*, which dealt with criminality in politics. Opponents counter that while ethical governance is important, this Bill erodes essential democratic safeguards by allowing executive removal without a judicial verdict, setting a dangerous precedent.

## **Existing Framework and Its Limitations**

The Bill seeks to fill a perceived gap in the current legal framework regarding the disqualification of lawmakers.

### **Section 8 of the Representation of the People Act (RPA), 1951**

This law states that legislators (MPs and MLAs) are disqualified only upon conviction and a sentence of at least two years of imprisonment.

### **Law Commission's 170th Report**

This report went a step further and recommended that disqualification should apply from the stage of framing of charges by a court for offenses punishable with five years or more.

### **The Limitation (The Gap)**

Neither the RPA nor the Law Commission's recommendation addresses the specific situation of a minister remaining in office while being held in pre-conviction custody. The current law allows a minister to continue holding their position and even run their ministry from jail, which the new Bill aims to prevent.

## **Explaining the Parliamentary Processes**

To understand the context better, it's important to know about the tools being used.

### **What Is a Constitution Amendment Bill?**

It is a legislative proposal introduced in Parliament under Article 368 of the Constitution to modify its provisions. This can include changes to governmental structures, electoral processes, or even Fundamental Rights.

### **Special Majority Required**

To pass, it must be supported by a majority of the total membership of each House and by a majority of not less than two-thirds of the members of that House present and voting.

### **Ratification by States**

Some amendments that affect federal provisions (like the distribution of powers between the Centre and States) also require ratification by the legislatures of at least half of the states.

### **What Is a Joint Parliamentary Committee (JPC)?**

A JPC is an ad hoc (temporary) body set up for a specific purpose, usually to investigate a particular issue or scrutinize a complex or controversial bill. It is dissolved after submitting its report.

### **Composition**

It consists of members from both the Lok Sabha and the Rajya Sabha. The typical composition is 31 members (21 from Lok Sabha, 10 from Rajya Sabha), though the size can vary.

### **Function**

It is tasked with conducting a detailed, clause-by-clause examination of a bill, gathering evidence from experts and stakeholders, and submitting a comprehensive report with recommendations to Parliament.

### **Power of Recommendations**

While the recommendations of a JPC are given significant weight and are highly influential, they are not binding on the government.

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