

The Bharatiya Sakshya (Second) Bill, 2023

The Bharatiya Sakshya Bill, 2023 (BSB) was introduced in Lok Sabha on August 11, 2023. It seeks to replace the IEA. The Standing Committee on Home Affairs examined the Bill. The Bharatiya Sakshya (Second) Bill, 2023 (BSB2) was introduced on December 12, 2023 after the earlier Bill was withdrawn. The BSB2 has largely retained the provisions of the BSB.

The BSB has incorporated most of the recommendations made by the Standing Committee on Home Affairs. Several drafting errors highlighted in the earlier Brief (published on December 4, 2023) have been addressed. These are errors noted in Clauses 58, 39, 108, 124, 37, 26 (only second error) and the Certificate. Please also note that the illustration in Clause 26 has replaced ‘ravished’ with ‘raped’ but has not clarified the gender of A.

Act: Sections 64 to 65B The Standing Committee on Home Affairs (2023) identified a drafting error (mentioned in the last paragraph on the issue on ‘the admissibility of electronic records as evidence’). The Committee noted that electronic records must be proven by primary evidence (certificate not required), while also retaining the section on the admissibility of electronic records by certificate authentication. It had recommended proving electronic records by certificate authentication. The BSB2 has incorporated the recommendation.

Act: Section 65 Additionally, the BSB added that secondary evidence may be required if the genuineness of the document itself is in question. The BSB2 removes this addition.

Bill: Clause 60

Please refer to the new Brief [here](#).

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