Bankers’ Books Evidence Bill 2026: Digital Evidence, Data Privacy and Legal Safeguards

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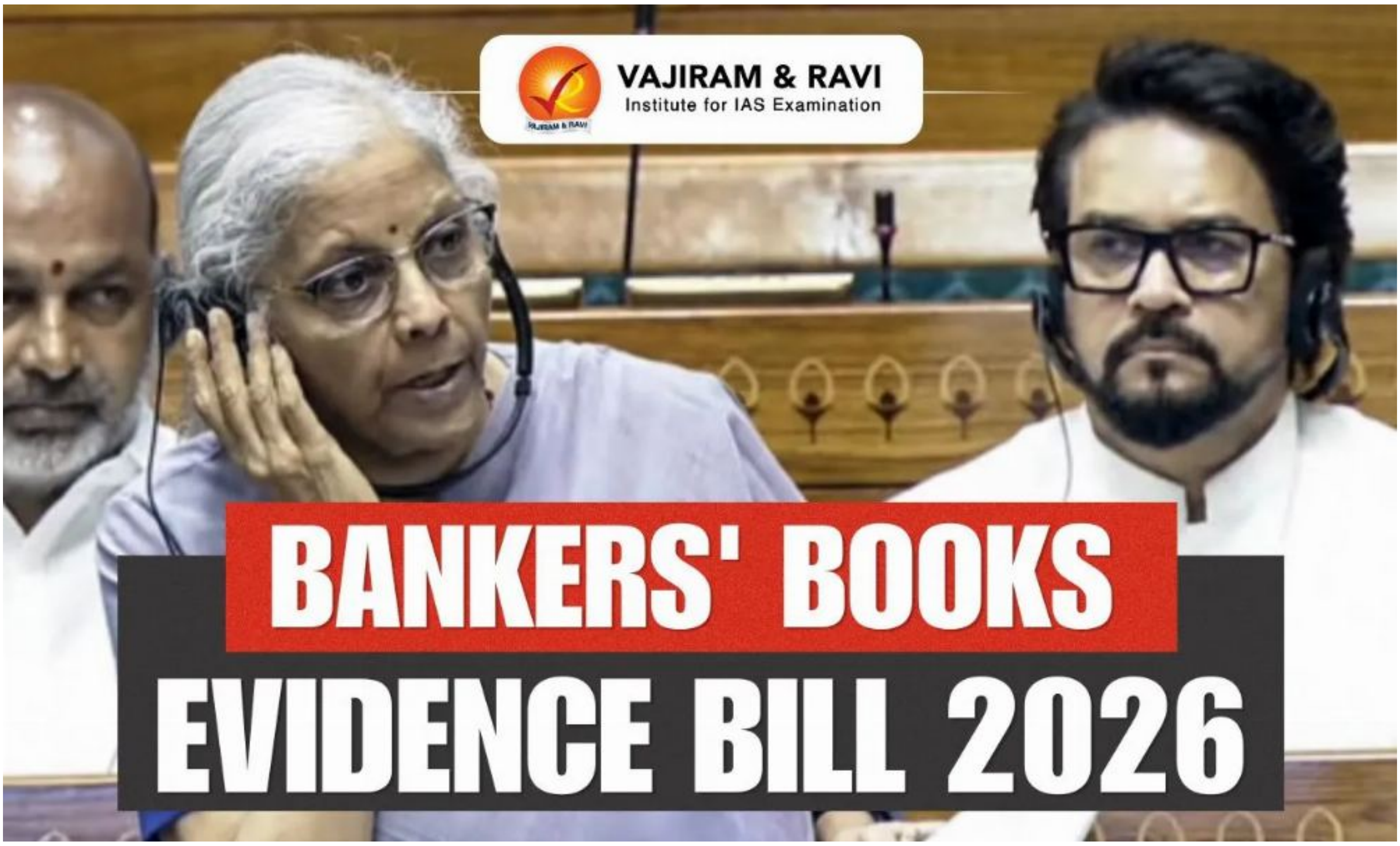

Bankers’ Books Evidence Bill 2026 Latest News

- Recently, the Lok Sabha passed the ***Bankers’ Books Evidence Bill, 2026***, aiming to overhaul the colonial-era **Bankers’ Books Evidence Act, 1891**.
- While legal experts have welcomed this technological update, they have flagged concerns over data privacy and the absence of robust digital safeguards.

Why the Old Law Needed Replacement

- The 135-year-old Act allowed **certified copies of bank records** to be used as evidence in court, sparing bank officials the burden of physically producing original ledgers each time.
- However, the law was framed when banking records were predominantly maintained in physical form.
- With the growth of digital banking, bank records today are increasingly created, stored, and maintained using modern technology — necessitating a modernised legal framework.

Key Change: Expanded Definition of “Bankers’ Books”

- **Old law:** Defined bankers’ books narrowly as records “kept in written form or stored in a micro film, magnetic tape or in any other form of mechanical or electronic data retrieval mechanism.”
- **2026 Bill:** Recognises records stored in **electronic or digital form**, whether onsite, offsite, or in virtual/cloud locations — bringing the law in line with contemporary banking practices.

Standardising Digital Evidence

- To ensure courts can trust digital records, the Bill introduces specific certificate formats and conditions for presenting such evidence.
- Experts compared this to the **Section 63 certificate** required for electronic evidence under the **Bharatiya Sakshya Adhiniyam**, calling it a major improvement — it provides a defined format and undertakings so courts can be satisfied of a copy’s genuineness.

Clarifying “Special Cause”

- Under the 1891 Act, bank officers could not be compelled to produce records or appear as witnesses in cases where the bank wasn’t a party — unless a court ordered it for “**special cause**,” a term the old Act **never defined**.
- The 2026 Bill defines “special cause” as situations where:
    - The accuracy of the record is doubtful;
    - Regular record-keeping has been interrupted;
    - The bank disobeys an inspection order.
- Analysts noted this will streamline commercial litigation, such as cheque bounce cases, since bank officials won’t be dragged into court unnecessarily, and electronic records can be directly admitted as evidence — reducing case lifespans.

Concern Over Police Powers

- **Section 11** of the Bill allows court orders compelling production of bank records for investigations to be treated as orders from an officer not below the rank of Superintendent of Police (SP).
- This is not a new power — Section 8 of the 1891 Act contained an identical provision. Expertscalled concerns over this a “red herring.”
- However, others pointed out that since records are now electronic, they can be obtained and shared far more easily (even via phone), raising the risk of data leaks and privacy breaches — unlike physical books, which were harder to copy or share.
- They suggested such access should require court authorisation.

Missed Opportunities: Data Protection Gaps

- **No safeguards like hash values**: The Bill should have incorporated **hash values** — a unique digital fingerprint verifying that an electronic file hasn’t been tampered with — to preserve evidence integrity, since lawyers and judges currently struggle to prove or disprove digital documents.

- **No data protection framework**: Experts questioned whether Indian banks are prepared for data leaks and manipulation, noting the Bill doesn't address data protection at all.
- **Unrealistic certification burden**: Analsts criticised the Bill's requirement that a branch head certify that the bank's network and devices are secure from cyber threats.
    - In a centralised banking environment, branch managers typically lack knowledge of the data centre or cloud provider's cybersecurity status.
    - Hence, experts suggested a **modular certification system** with designated technical officers instead.
- **Section 4 concerns**: This provision lets the Union government extend the law's provisions to **any financial entity via notification**. Critics warned that loosely regulated digital lenders or fintech platforms shouldn't automatically receive the same reliability presumption as scheduled commercial banks without Parliamentary approval.
- **Litigation risk from wholesale replacement**: Replacing the Act entirely could cause **interpretation issues**, as parties dispute whether new definitions apply to ongoing trials — with pending cases likely to be the "first casualty."

Conclusion

- The Bill rightly modernises a 135-year-old law to reflect India's digital banking reality, easing litigation and standardising electronic evidence.
- Yet, without robust safeguards like tamper-proof verification and clear data protection provisions, this legal upgrade risks creating new vulnerabilities even as it resolves old ones.

Source: IE
