

## Minimum Age of Consent under the POCSO Act

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### Minimum Age of Consent under the POCSO Act

The **22nd Law Commission** has recently provided suggestions to the government about the **Protection of Children from Sexual Offences (POCSO) Act**.



[Ref – The Hindu]

### **Key highlights of the 22<sup>nd</sup> Law Commission Report:**

#### **Age of consent:**

- The Law Commission has advised **against lowering** the “**age of consent**” from the existing **18 years**.
  - Reducing the age of consent would have a **direct** and **negative bearing** on the fight against **child marriage** and **child trafficking**.

#### **Tacit approval:**

- It suggested **amendments** in the **POCSO** to introduce “**guided judicial discretion**” for sentencing in cases involving “**tacit approval**” of children aged **16-18 years**.
  - **Tacit approval:** Agreeing to something or approving it without actually saying so, often because of unwillingness to admit to doing so.
- Such cases should **not** be dealt with the **same severity** under POCSO and courts shall tread with caution in deciding such cases.
- It had advised the courts to deal with cases related to “**adolescent love**”, with caution, where **criminal intention** may be **missing**.

#### **Guided judicial discretion:**

- The cases where there is **tacit approval** do **not** have the same **severity** as the cases tried under the POCSO Act.
- It suggested to introduce **guided judicial discretion** in the matter of sentencing in such cases.
- This will ensure that the **law** is **balanced**, thus safeguarding the best interests of the child.

#### **Reporting crime in real-time:**

- In another report, it was recommended to **amend Section 154** of the Criminal Procedure Code, 1973.
- It suggested to roll out the **registration** of **e-FIRs** in a phased manner, beginning with offences that attract a **jail term** of up to **three years**.
- **e-FIRs** will tackle the persisting issue of **delays** in the **registration** of FIRs and will allow the citizens to report crimes in real-time.

### **Section 154 of CrPC, 1973:**

- It refers to **oral information** on the conduct of a **cognizable offence** that is provided to the police at the **earliest possible moment**.
  - That **official** is required to reduce it in **writing**.
- The informant should then **read it over** and **sign** it thereafter.
- The information obtained in this way must be entered in a **book** called the “**book of records**”, approved by the **state administration**.
- The **informant** must receive a **free copy** of the **information** that was recorded.
- An FIR does **not** need to be fully **detailed**, rather, it is intended to **initiate** the **criminal justice**