

Police, Crime, Sentencing and Courts Bill

AMENDMENTS TO BE MOVED IN COMMITTEE OF THE WHOLE HOUSE

Clause 36

LORD PADDICK

Page 30, line 6, at end insert –

“(9A) No liability to third parties shall attach to the owner of a device or the owner of information stored on it as a result of the exercise of the power by an authorised person, whether or not an owner has consented to the extraction.”

Member’s explanatory statement

This amendment is intended to probe any liability (such as copyright) that may be attached to the owner of a device, or owner of information stored on it, if information is extracted from the device by an authorised person

Clause 38

LORD PADDICK

Page 33, line 22, at end insert –

“(4A) An authorised person must –

- (a) have the authority of an officer of the rank of inspector or higher
- (b) not take part or have taken part in any investigation into the death of or risk to the user of the device.”

Member’s explanatory statement

This amendment adds a safeguard to the extraction of information from a device where the user has died or is at risk.

Clause 39

LORD PADDICK

Page 33, line 44, at end insert –

“(c) the authorised person –

- (i) has the authority of an officer of the rank of inspector or higher
- (ii) does not take part and has not taken part in any investigation into the death of the user.”

Member's explanatory statement

This amendment adds a safeguard to the extraction of information from a device where the user has died or is at risk.

Clause 40

LORD PADDICK

Page 34, line 32, at end insert “and shall lay the revised code before Parliament and publish it,”

Member's explanatory statement

This amendment ensures that there can be parliamentary scrutiny of any revised code of practice about the extraction of information.

After Clause 43

LORD FALCONER OF THOROTON
LORD DUBS

Insert the following new Clause—

“Bail and primary carers

- (1) Section 4 of the Bail Act 1976 is amended as follows.
- (2) After sub-section (9), insert—
 - “(10) Where a court determines whether to grant bail in criminal proceedings to a person to whom this section applies who is a primary carer for a child or pregnant, the court must—
 - (a) consider the impact of not granting bail on the child or unborn child; and
 - (b) presume (subject to victim impact or other relevant considerations) that it is in the best interests of the child or unborn child for bail to be granted.
 - (11) In this section—
 - (a) ‘child’ means a person under the age of 18, and
 - (b) ‘primary carer’ means a person who has primary or substantial care responsibilities for a child.”

Member's explanatory statement

This Clause reflects the requirement for judge to consider the impact of not granting bail on a child when determining, in criminal proceedings, whether to grant bail to a primary carer of a dependent child.

Clause 46

LORD PADDICK

Page 38, line 33, leave out from beginning to end of line 39

Member's explanatory statement

This amendment is intended to probe the proportionality of the inserted subsection in comparison to other offences.

Page 38, line 40, leave out “and (11B)”

Member’s explanatory statement

This amendment is consequential on Lord Paddick's amendment to page 38, line 33.

Lord Paddick gives notice of his intention to oppose the Question that Clause 46 stand part of the Bill.

Member’s explanatory statement

This amendment is to probe whether there are currently sufficient means for the courts to deal effectively with criminal damage to memorials.

After Clause 46

LORD FALCONER OF THOROTON

Insert the following new Clause—

“Offence of destroying or damaging life-saving equipment

- (1) The Criminal Damage Act 1971 is amended as follows.
- (2) In section 1(2), at end of paragraph (b), insert “or —
 - (c) intending to destroy or damage any property which is considered life-saving equipment, including life-belts, life jackets, or defibrillators.””

Member’s explanatory statement

This new clause would create a specific offence for the damage or destruction of essential life-saving equipment.

Clause 48

LORD PADDICK

Page 39, line 21, leave out “(1F) or (1H)” and insert “or (1F)”

Member’s explanatory statement

This amendment is consequential on Lord Paddick's amendment to page 40, line 14.

Page 40, line 14, leave out from beginning to end of line 33

Member’s explanatory statement

This amendment is to probe whether the provisions of new subsection (1H) and (1I) are necessary and proportionate.

Page 40, line 34, leave out “or (1H)”

Member’s explanatory statement

This amendment is consequential on Lord Paddick's amendment to page 40, line 14.

Page 40, line 40, leave out “, (1G) and (1I)” and insert “and (1G)”

Member’s explanatory statement

This amendment is consequential on Lord Paddick's amendment to page 40, line 14.

Page 41, line 1, leave out “(1I)”

Member’s explanatory statement

This amendment is consequential on Lord Paddick’s amendment to page 40, line 14.

Page 42, line 22, leave out from beginning to end of line 23

Member’s explanatory statement

This amendment is consequential on Lord Paddick’s amendment to page 40, line 14.

After Clause 131

LORD FALCONER OF THOROTON
LORD DUBS

Insert the following new Clause—

“Pre-sentence report requirements

- (1) Section 30 of the Sentencing Act 2020 is amended as follows.
- (2) After sub-section (3), insert—
 - “(3A) A court must make inquiries to establish whether the offender is a primary carer for a child.
 - (3B) If the court establishes that the offender is a primary carer for a child, unless there are exceptional circumstances before sentencing the offender the court must obtain a pre-sentence report containing information to enable the court to make an assessment of the impact of a custodial sentence on the child.”
- (3) After sub-section (4) insert—
 - “(5) In this section—
 - (a) ‘child’ means a person under the age of 18; and
 - (b) ‘primary carer’ means a person who has primary or substantial care responsibilities for a child.”

Member’s explanatory statement

This Clause amends section 30 of the Sentencing Act 2020 to make clear the requirement for a sentencing judge to have a copy of a pre-sentence report, considering the impact of a custodial sentence on the dependent child, when sentencing a primary carer of a child.

Insert the following new Clause—

“Duty to give reasons for the sentence

- (1) Section 52 of the Sentencing Act 2020 is amended as follows.
- (2) After subsection (9), insert—
 - “(10) A court sentencing a primary carer for a child must state how the best interests of the child were considered in determining the sentence (including, if appropriate, consideration of the views of the child).
 - (11) A court sentencing a pregnant woman must state how the best interests of the baby were considered in determining the sentence.
 - (12) In this section—
 - (a) ‘child’ means a person under the age of 18; and

After Clause 131 - continued

- (b) ‘primary carer’ means a person who has primary or substantial care responsibilities for a child.””

Member’s explanatory statement

This Clause amends section 52 of the Sentencing Act 2020 to require a sentencing judge to state how the best interests of a child were considered when sentencing a primary carer of a dependent child.

Insert the following new Clause—

“Restrictions on imposing imprisonment on a primary carer

- (1) After section 227 of the Sentencing Act 2020, insert—

“227A Restrictions on imposing imprisonment on a primary carer

- (1) This section applies where a court is considering imposing a custodial sentence on—
- (a) a primary carer for a child, or
 - (b) a pregnant woman.
- (2) The sentencing court must—
- (a) consider the impact of a custodial sentence on the child or unborn child, and
 - (b) presume (subject to victim impact and any other sentencing considerations) that a non-custodial sentence is in the best interests of the child or unborn child.
- (3) In this section—
- (a) ‘child’ means a person under the age of 18, and
 - (b) ‘primary carer’ means a person who has primary or substantial care responsibilities for a child.””

Member’s explanatory statement

This Clause reflects the requirement for sentencing judge to consider the impact of a custodial sentence on a child when sentencing a primary carer of a dependent child.

Insert the following new Clause—

“Data collection in relation to primary carers

- (1) The Secretary of State must collect and publish annual data identifying—
- (a) how many prisoners are the primary carers of a child,
 - (b) how many children have a primary carer in custody, and
 - (c) the ages of those children.
- (2) In this section—
- (a) ‘child’ means a person under the age of 18, and
 - (b) ‘primary carer’ means a person who has primary or substantial care responsibilities for a child.”

Member’s explanatory statement

This imposes a requirement on the Secretary of State to collect and publish data on the number of prisoners who are the primary carers of a child and the number of children who have a primary carer in custody.

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21 September 2021
