

Police, Crime, Sentencing and Courts Bill

SIXTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 13th October 2021, as follows –

Clauses 1 to 10	Clauses 102 to 128
Schedule 1	Schedule 12
Clause 11	Clause 129
Schedule 2	Schedule 13
Clauses 12 to 42	Clause 130
Schedule 3	Schedule 14
Clause 43	Clauses 131 to 135
Schedule 4	Schedule 15
Clauses 44 to 47	Clause 136
Schedule 5	Schedule 16
Clauses 48 to 51	Clauses 137 to 157
Schedule 6	Schedule 17
Clauses 52 to 54	Clauses 158 to 162
Clauses 62 to 67	Schedule 18
Schedule 7	Clauses 163 to 169
Clauses 68 to 74	Schedule 19
Schedule 8	Clause 170
Clause 75	Clauses 55 to 61
Schedule 9	Clauses 171 and 172
Clauses 76 to 98	Schedule 20
Schedule 10	Clauses 173 to 177
Clauses 99 to 101	Title.
Schedule 11	

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 63

LORD GARNIER
THE EARL OF SHREWSBURY
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

150 Page 62, line 22, at end insert –

“(11A) After section 68(3) insert –

“(3A) In proceedings for an offence under this section it is a defence for the accused to show –

- (a) that they were not trespassing on the land, or
- (b) that the activity in response to which the aggravated trespass was committed was unlawful activity.”

BARONESS BENNETT OF MANOR CASTLE
BARONESS BRINTON
BARONESS CHAKRABARTI
LORD WOOLLEY OF WOODFORD

The above-named Lords give notice of their intention to oppose the Question that Clause 63 stand part of the Bill.

Clause 64

LORD ROSSER
BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

151 Page 62, leave out lines 41 to 43 and insert –

“(5) Guidance under this section –

- (a) must be laid before Parliament, and
- (b) is subject to annulment in pursuance of a resolution of either House of Parliament.”

Member’s explanatory statement

This is based on a DPRRC recommendation. Provides that guidance issued by the Secretary of State under this section must be subject to parliamentary scrutiny, under the negative procedure.

BARONESS BENNETT OF MANOR CASTLE
BARONESS BRINTON
BARONESS CHAKRABARTI
LORD WOOLLEY OF WOODFORD

The above-named Lords give notice of their intention to oppose the Question that Clause 64 stand part of the Bill.

Clause 65

LORD BERKELEY
 BARONESS JONES OF MOULSECOOMB
 BARONESS HAYTER OF KENTISH TOWN
 LORD RUSSELL OF LIVERPOOL

152 Leave out Clause 65 and insert the following new Clause—

“Causing death or serious injury by dangerous or careless driving, or by driving when under the influence of drink or drugs

- (1) The Road Traffic Act 1988 is amended in accordance with subsections (2) to (4).
- (2) In section 2A (meaning of dangerous driving)—
 - (a) for subsection (1)(a) and (b) substitute “he commits a breach of one or more rules of the Highway Code in a way that causes inconvenience, intimidation or danger to one or more other road users that is sufficiently serious that it would result in a person being disqualified automatically if the person drove in that way during a driving test”;
 - (b) omit subsection (3).
- (3) In section 3ZA (meaning of careless or inconsiderate driving)—
 - (a) in subsection (2), for “the way he drives falls below what would be expected of a competent and careful driver”, substitute “he commits a breach of one or more rules of the Highway Code that causes inconvenience or intimidation to one or more other road users but which is not so serious as to amount to dangerous driving as defined in subsection 2A(1)”;
 - (b) omit subsection (3).
- (4) In section 3A (causing death by careless driving when under influence of drink or drugs)—
 - (a) in the heading, for “by careless” substitute “or serious injury by”;
 - (b) in subsection (1), omit “without due care and attention, or without reasonable consideration for other persons using the road or place”;
 - (c) after subsection (1) insert—

“(1A) If a person causes serious injury to another person by driving a mechanically propelled vehicle on a road or other public place, and the conditions in subsections (1)(a) to (1)(d) are also met, he is guilty of an offence.”
- (5) Part 1 of Schedule 2 of the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts) is amended in accordance with subsections (6) to (8).
- (6) In the entry relating to section 1 of the Road Traffic Act 1988 (causing death by dangerous driving), in column (4) (punishment), for “14 years” substitute “Imprisonment for life”.
- (7) For the entry relating to section 3A of the Road Traffic Act 1988, substitute—

Clause 65 - continued

“RTA section 3A(1)	Causing death by driving while under the influence of drink or drugs	On indictment	14 years or a fine or both	Obligatory	Obligatory	6-11
RTA section 3A(1A)	Causing serious injury by driving while under the influence of drink or drugs	(a) Summarily (b) On indictment	(a) on conviction in England and Wales: 12 months, or a fine or both. On conviction in Scotland: 12 months or the statutory maximum or both.(b) 5 years or a fine or both.	Obligatory	Obligatory	6-11”

(8) For subsection 34(4)(a)(iii), substitute –

“(iii) an offence under subsections 3A(1) (causing death by driving while under the influence of drink or drugs) or 3A(1A) (causing serious injury by driving while under the influence of drink or drugs) of that Act.”

(9) A provision of this section does not apply in relation to offences committed before the provision comes into force.”

Clause 66

BARONESS STOWELL OF BEESTON

153 Page 63, line 21, after “vehicle” insert “or pedicab”

154 Page 63, line 28, at end insert –

“(3) In this section “pedicab” means a pedal cycle, motor cycle or power-assisted cycle, or such a vehicle in combination with a trailer, constructed or adapted for carrying one or more passengers.”

Clause 66 - continued

LORD HOPE OF CRAIGHEAD
BARONESS RANDEKSON

155 Page 63, line 28, at end insert –

“(3) A person is to be regarded as having caused a serious injury to the other person using the road or place only if it would have been obvious to a careful and competent driver that the way the person was driving at the time of the accident was likely to cause serious injury to that other person.”

Member’s explanatory statement

This amendment would introduce a test for the words “causing serious injury”, which is needed as a conviction for this offence would attract a sentence of imprisonment.

LORD HOPE OF CRAIGHEAD
BARONESS RANDEKSON
LORD MARKS OF HENLEY-ON-THAMES
LORD PANNICK

The above-named Lords give notice of their intention to oppose the Question that Clause 66 stand part of the Bill.

Clause 68

LORD TOPE
LORD BERKELEY
LORD SANDHURST

156 Page 65, line 9, at end insert –

“(c) a local authority or traffic authority;”

After Clause 76

LORD BROOKE OF ALVERTHORPE
BARONESS FINLAY OF LLANDAFF
BARONESS RANDEKSON

157 Insert the following new Clause –

“Alcohol limits

- (1) In section 11(2) of the Road Traffic Act 1988 (interpretation of sections 4 to 10), the definition of “the prescribed limit” is amended as follows.
- (2) For paragraph (a) substitute –
 - “(a) 22 microgrammes of alcohol in 100 millilitres of breath,”.
- (3) For paragraph (b) substitute –
 - “(b) 50 milligrammes of alcohol in 100 millilitres of blood,”.
- (4) For paragraph (c) substitute –
 - “(c) 67 milligrammes of alcohol in 100 millilitres of urine,”.

After Clause 76 - continued

- (5) In section 8(2) of the Road Traffic Act 1988 (choice of specimens of breath), for “50 microgrammes of alcohol in 100 millilitres of breath” substitute “31 microgrammes of alcohol in 100 millilitres of breath.”

BARONESS RANDERSON
LORD BERKELEY
LORD RUSSELL OF LIVERPOOL

158 Insert the following new Clause—

“Definition of “exceptional hardship”

In the Road Traffic Offenders Act 1988, after subsection 35(4), insert—

- “(4A) In subsection (4)(b) above, the hardship that would be caused by an offender’s disqualification should be regarded as exceptional if and only if it is significantly greater than the hardship that would arise for a large majority of other drivers if the same disqualification were imposed on them.
- (4B) In assessing whether the hardship arising from the offender’s disqualification would be exceptional, a court may take account of—
- (a) any circumstances relating to the offender’s economic circumstances or location of residence that would make it exceptionally hard for him to access key services such as grocery shops and postal, banking and healthcare facilities,
 - (b) any hardship that would be incurred by the offender’s family or others who are disabled and who depend on the offender to provide care for them, and
 - (c) any other circumstance which it believes would make the hardship genuinely exceptional.”

Member’s explanatory statement

This new Clause provides a definition of “exceptional hardship” for the purpose of RTOA.

BARONESS RANDERSON

159 Insert the following new Clause—

“Review of road traffic offences

The Secretary of State must carry out a review of all road traffic offences and penalties.”

Member’s explanatory statement

This amendment requires the Secretary of State to carry out a review of all road traffic offences and penalties

LORD PADDICK

160 Insert the following new Clause—

“Power of police to stop vehicles

- (1) Section 163 of the Road Traffic Act 1988 is amended as follows.
- (2) In subsection (1), after “vehicle” in the second place in which it occurs, insert “, and switch off the engine.”

Member’s explanatory statement

This new Clause to the Road Traffic Act 1988 would require a person to switch off their engine after being stopped by a constable in uniform or a traffic officer, and make it an offence not to do so.

LORD PADDICK
BARONESS JONES OF MOULSECOOMB

161 Insert the following new Clause—

“Failing to stop or report accidents involving actual or potential serious or fatal injury

- (1) After section 170(4) of the Road Traffic Act 1988, insert—
 “(4A) A person who fails to comply with subsection (2) or (3) when he knew that the accident had caused serious or fatal personal injury, or where he ought reasonably to have realised that it might have done so, is guilty of an offence.”
- (2) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to an offence under RTA subsection 170(4), insert the following—

“RTA section 170(4A)	Failing to stop and give particulars after accident involving actual or potential serious or fatal injury or to report accident	On indictment	14 years	Obligatory	Obligatory	6-11”
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- (3) After section 34(3)(d) of the Road Traffic Offenders Act 1988, insert—
 “(e) section 4A (failing to stop and give particulars after accident involving actual or potential serious or fatal injury or to report accident)”.

Member’s explanatory statement

This amendment creates a new offence of failing to stop or report accidents where the driver knew that the accident had caused serious or fatal injury, or where he ought reasonably to have realised that it might have done so, with a maximum sentence of 14 years custody.

BARONESS STOWELL OF BEESTON

162 Insert the following new Clause—

“Public noise nuisance: pedicabs

In section 62 of the Control of Pollution Act 1972, after subsection (3A) insert—

After Clause 76 - continued

- “(3B) Subsection (1) is to be read in relation to pedicabs as if the prohibition on loudspeaker operation were permanent.
- (3C) The exceptions in subsection (2) do not apply to a loudspeaker fixed to a pedicab.
- (3D) In this section “pedicab” means a pedal cycle, motor cycle or power-assisted cycle, or such a vehicle in combination with a trailer, constructed or adapted for carrying one or more passengers.””

LORD TOPE
LORD BERKELEY
LORD SANDHURST

163 Insert the following new Clause—

“Additional road traffic contraventions subject to civil enforcement

- (1) In section 73(2) of the Traffic Management Act 2004 (contraventions subject to civil enforcement), after paragraph (d) insert—
- “(e) speeding contraventions (see Part 5 of the Schedule);
(f) traffic signal contraventions (see Part 6 of the Schedule).”
- (2) In Schedule 7 to the Traffic Management Act 2004 (road traffic contraventions subject to civil enforcement), after Part 4 insert—

“PART 5

SPEEDING CONTRAVENTIONS

- 11 A speeding contravention is an offence under section 89 of the Road Traffic Regulation Act 1984 (speeding offences) of driving a motor vehicle on a road at a speed exceeding a limit imposed by or under any enactment to which that section applies.

PART 6

TRAFFIC SIGNAL CONTRAVENTIONS

- 12 A traffic signal contravention is an offence under section 36(1) of the Road Traffic Act 1988 (failure to comply with a traffic sign) of failing to comply with a sign of a specified type.”
- (3) In Part 1 of Schedule 8 to the Traffic Management Act 2004 (civil enforcement areas and enforcement authorities in Greater London), after paragraph 7 insert—

“Civil enforcement of speeding contraventions

- 7A(1) The Secretary of State may, on an application by a London authority, make an order designating the whole or part of the authority’s area as a civil enforcement area for speeding contraventions.
- (2) An application may be made—
- (a) by Transport for London, to the extent that the civil enforcement area is to consist of GLA roads;
- (b) by a London local authority, to the extent that the civil enforcement area is to consist of roads other than GLA roads.

After Clause 76 - continued

- (3) Before making an order under this paragraph the Secretary of State must consult the Commissioner of Police of the Metropolis or the Commissioner of Police for the City of London or, if appropriate, both of them.
- (4) In relation to a civil enforcement area designated by order under this paragraph, references in this Part of this Schedule to the enforcement authority are to the authority on whose application the order was made or, if the application was a joint application, any of the authorities on whose application the order was made.

Civil enforcement of traffic signal contraventions

- 7B(1) The Secretary of State may, on an application by a London authority, make an order designating the whole or part of the authority's area as a civil enforcement area for traffic signal contraventions.
- (2) An application may be made –
 - (a) by Transport for London, to the extent that the civil enforcement area is to consist of GLA roads;
 - (b) by a London local authority, to the extent that the civil enforcement area is to consist of roads other than GLA roads.
 - (3) Before making an order under this paragraph the Secretary of State must consult the Commissioner of Police of the Metropolis or the Commissioner of Police for the City of London or, if appropriate, both of them.
 - (4) In relation to a civil enforcement area designated by order under this paragraph, references in this part of this Act to the enforcement authority are to the authority on whose application the order was made or, if the application was a joint application, any of the authorities on whose application the order was made.”

Member's explanatory statement

This would amend legislation to afford local authorities greater powers in managing speed enforcement on their roads.

LORD BROOKE OF ALVERTHORPE
EARL ATTLEE

164

Insert the following new Clause –

“Random breath tests

In section 6 of the Road Traffic Act 1988, after subsection (5) insert –

- “(5A) A constable may require a driver to co-operate with a preliminary breath test administered to the driver by that constable or another constable, including in instances where the constable has no reasonable cause to suspect that a traffic offence has been committed.”

After Clause 76 - continued

LORD BERKELEY
 BARONESS JONES OF MOULSECOOMB
 LORD RUSSELL OF LIVERPOOL

165 Insert the following new Clause—

“Review of road traffic offences and penalties

- (1) The Secretary of State must carry out a review of road traffic offences and penalties within two years of the day on which this Act is passed.
- (2) In conducting the review the Secretary of State must consider—
 - (a) the need to clarify the definitions of road traffic offences and the consistency of how they are applied by prosecutors and the courts;
 - (b) the need to ensure greater alignment between the penalties for offences which involve causing death and those for offences of equivalent seriousness which involve causing serious injury;
 - (c) sentencing which ensures public protection, particularly the role of driving bans, mandatory driver retraining courses, vehicle confiscation, restorative justice and other non-custodial sentences in appropriate cases;
 - (d) strengthening the penalties for offences committed by offenders who have previously been disqualified from driving;
 - (e) the role of alcohol interlocks and other technologies to prevent reoffending.”

166 Insert the following new Clause—

“Failure to stop and report collisions involving actual or potential serious or fatal injury

- (1) Section 170 of the Road Traffic Act 1988 is amended in accordance with subsections (2) to (7).
- (2) For “accident”, in each place it occurs, substitute “collision”.
- (3) In subsection (2), after “stop” insert “, report the collision to the police”.
- (4) In subsection (3), for “, he must report the accident” substitute “while at the scene of the collision, he must report the collision to a constable or at a police station as soon as is reasonably practical and, in any case, within two hours of the occurrence of the collision.”
- (5) After subsection (4) insert—

“(4A) A person who fails to comply with section 170(2) or (3) when he knew that the collision had caused serious or fatal personal injury, or where he ought reasonably to have realised that it might have done so, is guilty of an offence.”
- (6) In subsection (5), after “evidence” insert “at a police station as soon as is reasonably practical and, in any case, within 24 hours of the occurrence of the collision.”
- (7) Omit subsection (6).

After Clause 76 - continued

- (8) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts), after the entry relating to an offence under RTA subsection 170(4) insert –

“RTA section 170(4A)	Failure to stop, report and give particulars after collision involving actual or potential serious or fatal injury.	On indictment	14 years	Obligatory	Obligatory	6-11”
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- (9) After subsection 34(3)(d) of the Road Traffic Offenders Act 1988, insert –
“(e) section 4A (failure to stop, report and give particulars after collision involving actual or potential serious or fatal injury).”

167

Insert the following new Clause –

“Sentencing for offences involving dangerous, careless or inconsiderate driving

- (1) The Road Traffic Offenders Act 1988 is amended as follows.
- (2) In section 34 (disqualification for certain offences) –
- (a) at the end of subsection (3), for “three years” substitute “ten years”;
 - (b) in subsection (4) –
 - (i) in the opening words omit “two years”;
 - (ii) in paragraph (a), at the beginning insert “five years”;
 - (iii) in paragraph (b), at the beginning insert “two years”;
 - (iv) after paragraph (b) insert –
 - “(c) two years in relation to a person convicted of an offence under section 2 of the Road Traffic Act 1988 (dangerous driving)”
- (3) In part 1 of Schedule 2 (prosecution and punishment of offences: offences under the Traffic Acts), for the entries relating to offences under RTA sections 1A, 2 and 2B, substitute the following –

After Clause 76 - continued

“RTA section 1A	Causing serious injury by dangerous driving	On indictment	14 years	Obligatory	Obligatory
RTA section 2	Dangerous driving	(a) summarily (b) On indictment	(a)12 months or the statutory maximum or both. (b)5 years or a fine or both	(i) Obligatory (ii) Obligatory	Obligatory
RTA section 2B	Causing death by careless, or inconsiderate, driving	(a) summarily (b) On indictment	(a)12 months (in England and Wales) or 6 months (in Scotland) or the statutory maximum or both. (b)2 years or a fine or both	Obligatory	Obligatory

168

Insert the following new Clause—

“Penalties for driving while disqualified

- (1) The Road Traffic Offenders Act 1988 is amended as follows.
- (2) In section 34 (disqualification for certain offences)—
 - (a) after subsection (3)(c), insert—

“(e) section 103(1)(b)”;
 - (b) after subsection (3), insert—

“(3A) Where a person is convicted under section 103(1), subsection (3) also applies if he has within 10 years immediately preceding the commission of the offence been convicted of any of the offences mentioned in subsection (4) below.”
- (3) In part 1 of Schedule 2 (prosecution and punishment of offences: offences under the Traffic Acts), for the entry relating to offences under RTA section 103(1)(b), substitute the following—

“RTA section 103(1)(b)	Driving while disqualified	On indictment	3 years	Obligatory	Obligatory	6-11”
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After Clause 76 - continued

169 Insert the following new Clause –

“Opening of vehicle doors

(1) In the Road Traffic Act 1988, after section 41D insert –

“41E Breach of requirement as to opening of doors

A person who contravenes regulation 105 of the Road Vehicles (Construction and Use) Regulations 1986 (opening of doors) in a manner that results in death or serious injury is guilty of an offence.”

(2) In Part 1 of Schedule 2 of the Road Traffic Offenders Act 1988 (prosecution and punishment of offences: offences under the Traffic Acts), after the entry for an offence under the Road Traffic Act 1988 section 41D, insert –

“RTA section 41E	Breach of requirement as to opening of doors in a manner that results in death or serious injury	(a) Summarily (b) On indictment	(a) 6 months or a fine or both (b) 2 years	Obligatory	Obligatory	3-11””
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LORD BERKELEY
LORD FAULKNER OF WORCESTER
LORD BRADSHAW
BARONESS JONES OF MOULSECOOMB

169A Insert the following new Clause –

“Damage to guided transport structures

(1) A driver whose vehicle causes delays to operations of, or damage to, a guided transport structure or its systems is liable, on conviction of careless driving or a more serious offence, to at least 6 penalty points to be endorsed on the driver’s driving licence regardless of circumstances.

(2) A haulier which is responsible for commissioning the journey of the driver is liable to –

- (a) a fine of up to £50,000,
- (b) the costs of reconstruction and other costs incurred by the owner of the structure, including compensation to its customers, train operator companies and other third parties, for delays and cancellation or damage to guided transport services.

(3) In this section, “guided transport structure” means a structure which supports a guided transport system, including a railway structure.”

After Clause 76 - continued

EARL ATTLEE
LORD BERKELEY

As an amendment to Amendment 169A

169B In subsection (1), after the word “liable,” insert “provided that the conditions in subsection (4) are met,”

As an amendment to Amendment 169A

169C At end insert –

“(4) The conditions mentioned in subsection (1) are that –

- (a) road side infrastructure was in place, and shown to be working correctly, that automatically and effectively warned the driver of a vehicle, that the vehicle was over height and could not safely pass under the bridge,
- (b) the appropriate warning sign was placed in such a position that the driver of the vehicle had the opportunity to divert onto a safe route without the need to reverse the vehicle,
- (c) the owner or operator of the guided transport system had made electronic data openly available providing the safe height of the bridge in question, including where relevant, the geometry of the structure.”

Clause 77

LORD FALCONER OF THOROTON

169D Page 72, line 31, at end insert –

“(6A) Before this section (other than this subsection) may be commenced the Secretary of State must by regulations amend subsection (6) to list all excluded offences on the face of the Act.

(6B) The Secretary of State may by regulations amend the list of excluded offences.”

Member’s explanatory statement

This, along with another probing amendment to Clause 99 in the name of Lord Falconer of Thoroton, would list the excluded offences on the face of the Bill.

LORD PADDICK

170 Page 72, line 34, leave out paragraphs (a) and (b)

Member’s explanatory statement

This amendment, together with Lord Paddick’s amendment to page 72, line 37, ensures that a person may only be authorised to give a discretionary or community caution if they have been authorised by a prosecuting authority for those purposes; and requires a prosecuting authority to be satisfied that that person has received adequate training and is suitable to carry out those functions.

171 Page 72, line 37, at end insert –

“(8) A prosecuting authority may designate a person under subsection (7)(c) only if the prosecuting authority is satisfied that the person –

Clause 77 - continued

- (a) is capable of effectively carrying out the functions that are exercisable by virtue of the designation,
- (b) has received adequate training in respect of the exercise of those functions, and
- (c) is otherwise a suitable person to exercise those functions.”

Member’s explanatory statement

This amendment, together with Lord Paddick’s amendment to page 72, line 34, ensures that a person may only be authorised to give a discretionary or community caution if they have been authorised by a prosecuting authority for those purposes; and requires a prosecuting authority to be satisfied that that person has received adequate training and is suitable to carry out those functions.

Clause 79

LORD BROOKE OF ALVERTHORPE

- 172 Page 74, line 2, after “offence,” insert “and the details of any financial costs they incurred as a result of the offence,”

Member’s explanatory statement

This amendment provides the victims with the opportunity to register their financial losses and seek compensation.

- 173 Page 74, line 4, after “views” insert “and the the details of the financial costs incurred”

Member’s explanatory statement

This amendment provides the victims with the opportunity to register their financial losses and seek compensation.

Clause 80

LORD PADDICK

- 174 Page 75, line 1, leave out subsection (8)

Member’s explanatory statement

This amendment removes the subsection which allows the maximum number of hours attached to the unpaid work condition and the attendance condition to be amended by regulations.

Lord Paddick gives notice of his intention to oppose the Question that Clause 80 stand part of the Bill.

Member’s explanatory statement

This is to probe whether the Bill strikes the right balance between the investigative functions of police officers and sanctions that are normally the role of the courts.

Clause 81

LORD PADDICK

175 Page 75, line 15, at end insert “not exceeding £200,”

Member’s explanatory statement

This would specify the maximum fine on the face of the Bill.

176 Page 75, line 19, leave out subsection (3)

Member’s explanatory statement

This is consequential on Lord Paddick’s amendment to Clause 81, page 75, line 15.

LORD BROOKE OF ALVERTHORPE

177 Page 75, line 19, after “subsection (2)(a)” insert “must take into account the financial costs incurred by the victim or victims as a result of the offence, and”

Member’s explanatory statement

This amendment provides the victims with the opportunity to register their financial losses and seek compensation.

Clause 86

LORD PADDICK

178 Page 78, line 17, leave out subsection (4)

Member’s explanatory statement

This amendment is to probe the effect of subsection (4).

Clause 88

LORD BROOKE OF ALVERTHORPE

179 Page 79, line 34, after “offence,” insert “and the details of any financial costs they incurred as a result of the offence,”

Member’s explanatory statement

This amendment provides the victims with the opportunity to register their financial losses and seek compensation.

180 Page 79, line 36, after “views” insert “and the details of the financial costs incurred”

Member’s explanatory statement

This amendment provides the victims with the opportunity to register their financial losses and seek compensation.

THE LORD BISHOP OF GLOUCESTER
LORD THOMAS OF CWMGIEDD
LORD BEITH

181 Page 79, line 36, at end insert –

“(c) make reasonable efforts, or ensure that reasonable efforts are or have been made, to ensure conditions include interventions to support the offender to desist from offending.”

Clause 89

LORD PADDICK

182 Page 80, line 33, leave out subsection (8)

Member’s explanatory statement

This amendment removes the subsection which allows the maximum number of hours attached to the unpaid work condition and the attendance condition to be amended by regulations.

Lord Paddick gives notice of his intention to oppose the Question that Clause 89 stand part of the Bill.

Member’s explanatory statement

This is to probe whether the Bill strikes the right balance between the investigative functions of police officers and sanctions that are normally the role of the courts.

Clause 90

LORD PADDICK

183 Page 81, line 3, at end insert “, taking into account the offender’s ability to pay.”

Member’s explanatory statement

This requires the ability of an offender to pay a financial penalty to be taken into account when it is attached to a community caution.

184 Page 81, line 5, at end insert “not exceeding £200,”

Member’s explanatory statement

This would specify the maximum fine on the face of the Bill.

185 Page 81, line 10, leave out subsection (3)

Member’s explanatory statement

This is consequential on Lord Paddick’s amendment to Clause 90, page 81, line 5.

LORD BROOKE OF ALVERTHORPE

186 Page 81, line 10, after “subsection (2)(a)” insert “must take into account the financial costs incurred by the victim or victims as a result of the offence, and”

Member’s explanatory statement

This amendment provides the victims with the opportunity to register their financial losses and seek compensation.

Clause 95

LORD THOMAS OF CWMGIEDD

186A Page 83, line 31, at end insert –

“(2A) The Code must provide that regular inspections by HM Inspectorate of Constabulary and HM Inspectorate of the Crown Prosecution Service are undertaken as to –

- (a) compliance with the provisions in the code of practice as to the giving of discretionary and community cautions, and
- (b) the consistency of application of the Code of practice as between different police forces or Crown Prosecution Areas.”

Clause 96

LORD PADDICK

187 Page 84, leave out line 18***Member’s explanatory statement***

This is consequential on Lord Paddick’s objection to Clause 97 standing part of the Bill.

188 Page 84, line 19, leave out from “person” to “where” in line 20***Member’s explanatory statement***

This is consequential on Lord Paddick’s objection to Clause 97 standing part of the Bill.

Clause 97

LORD PADDICK

189 Page 84, line 26, at beginning insert “Except for a simple caution,”***Member’s explanatory statement***

This amendment would retain the use of the simple caution.

Lord Paddick gives notice of his intention to oppose the Question that Clause 97 stand part of the Bill.

Member’s explanatory statement

This removes the Clause that abolishes all other cautions and out-of-court disposals.

Schedule 10

LORD PADDICK

189ZA Page 231, line 15, leave out sub-paragraphs (2) and (3) and insert –

“(2) In paragraph 1(1) –

- (a) in the opening words, for “–” substitute “at the time the caution is given.”, and
- (b) omit paragraphs (a) and (b).”

Member's explanatory statement

This amendment would remove the spending period for cautions.

Clause 99

LORD FALCONER OF THOROTON

- 189A** Page 85, line 10, at end insert –
“(aa) regulations under section 77(6A) or (6B);”
- 189B** Page 85, line 11, leave out from “89(8)” to end of line 12

Member's explanatory statement

This amendment, along with the other amendments to Clause 99 in the name of Lord Falconer of Thoroton, would make it so that both increases and decreases in the maximum number of hours of unpaid work or attendance, or the maximum financial penalty, that may be attached to a diversionary caution or a community caution are subject to the affirmative resolution procedure.

- 189C** Page 85, line 13, leave out “the first”
- 189D** Page 85, line 15, leave out paragraph (d)

Clause 100

LORD PADDICK

- 190** Page 85, leave out lines 34 to 40

Member's explanatory statement

This amendment is consequential on Lord Paddick's amendments to Clause 77, page 72, lines 34 and 37.

Clause 101

BARONESS MASSEY OF DARWEN

- 191** Page 86, line 14, leave out from “committed” to “the court” on line 15 and insert –
“(i) by a person aged 16 or 17; or
(ii) by a person aged 18 or over before the day on which section 101 of the Police, Crime, Sentencing and Courts Act 2021 came into force,”

Member's explanatory statement

This amendment ensures that no children are affected by the changes to mandatory minimum sentences in Clause 101.

- 192** Page 86, line 17, after “committed” insert “by a person aged 18 or over”

Member's explanatory statement

This amendment ensures that no children are affected by the changes to mandatory minimum sentences in Clause 101.

LORD MARKS OF HENLEY-ON-THAMES
LORD PANNICK

- 192A** Page 86, line 20, leave out “there are exceptional” and insert “such a sentence would be contrary to the interests of justice having regard to”

Member’s explanatory statement

This amendment, along with Lord Marks’ amendment to page 86, line 23, would remove the requirement for the circumstances to be exceptional before a judge was empowered to decline to impose the minimum sentence (for offences of threatening with weapon or bladed article) and would entitle the judge to do so where in the circumstances the judge concluded that such a sentence would be contrary to the interests of justice.

- 192B** Page 86, line 23, leave out “doing so” and insert “imposing such a sentence”

Member’s explanatory statement

This amendment, along with Lord Marks’ amendment to page 86, line 20, would remove the requirement for the circumstances to be exceptional before a judge was empowered to decline to impose the minimum sentence (for offences of threatening with weapon or bladed article) and would entitle the judge to do so where in the circumstances the judge concluded that such a sentence would be contrary to the interests of justice.

- 192C** Page 86, line 34, leave out “there are exceptional” and insert “such a sentence would be contrary to the interests of justice having regard to”

Member’s explanatory statement

This amendment, along with Lord Marks’ amendment to page 86, line 36, would remove the requirement for the circumstances to be exceptional before a judge was empowered to decline to impose the minimum sentence (for a third Class A drug trafficking offence) and would entitle the judge to do so where in the circumstances the judge concluded that such a sentence to be contrary to the interests of justice.

- 192D** Page 86, line 36, leave out “doing so” and insert “imposing such a sentence”

Member’s explanatory statement

This amendment, along with Lord Marks’ amendment to page 86, line 34, would remove the requirement for the circumstances to be exceptional before a judge was empowered to decline to impose the minimum sentence (for a third Class A drug trafficking offence) and would entitle the judge to do so where in the circumstances the judge concluded that such a sentence to be contrary to the interests of justice.

- 192E** Page 87, line 6, leave out “there are exceptional” and insert “such a sentence would be contrary to the interests of justice having regard to”

Member’s explanatory statement

This amendment, along with Lord Marks’ amendment to page 87, line 8, would remove the requirement for the circumstances to be exceptional before a judge was empowered to decline to impose the minimum sentence (for a third domestic burglary) and would entitle the judge to do so where in the circumstances the judge concluded that such a sentence to be contrary to the interests of justice.

- 192F** Page 87, line 8, leave out “doing so” and insert “imposing such a sentence”

Member's explanatory statement

This amendment, along with Lord Marks' amendment to page 87, line 6, would remove the requirement for the circumstances to be exceptional before a judge was empowered to decline to impose the minimum sentence (for a third domestic burglary) and would entitle the judge to do so where in the circumstances the judge concluded that such a sentence to be contrary to the interests of justice.

BARONESS MASSEY OF DARWEN

- 193** Page 87, line 13, leave out from “committed” to “the court” on line 14 and insert –
 “(i) by a person aged 16 or 17; or
 (ii) by a person aged 18 or over before the day on which section 101 of the Police, Crime, Sentencing and Courts Act 2021 came into force,”
- 194** Page 87, line 16, after “committed” insert “by a person aged 18 or over”

Member's explanatory statement

This amendment ensures that no children are affected by the changes to mandatory minimum sentences in Clause 101.

LORD MARKS OF HENLEY-ON-THAMES
 LORD PANNICK

- 194A** Page 87, line 19, leave out “there are exceptional” and insert “such a sentence would be contrary to the interests of justice having regard to”

Member's explanatory statement

This amendment, along with Lord Marks' amendment to page 87, line 23, would remove the requirement for the circumstances to be exceptional before a judge was empowered to decline to impose the minimum sentence (for a repeat offence involving a weapon or bladed article) and would entitle the judge to do so where in the circumstances the judge concluded that such a sentence to be contrary to the interests of justice.

- 194B** Page 87, line 23, leave out “doing so” and insert “imposing such a sentence”

Member's explanatory statement

This amendment, along with Lord Marks' amendment to page 87, line 19, would remove the requirement for the circumstances to be exceptional before a judge was empowered to decline to impose the minimum sentence (for a repeat offence involving a weapon or bladed article) and would entitle the judge to do so where in the circumstances the judge concluded that such a sentence to be contrary to the interests of justice.

After Clause 101

LORD FALCONER OF THOROTON

- 195** Insert the following new Clause –
“Minimum sentence for an offence under section 1 of the Sexual Offences Act 2003
 (1) This section applies where –
 (a) an individual is convicted of an offence under section 1 of the Sexual Offences Act 2003, and

After Clause 101 - continued

- (b) the offence was committed after the commencement of this section and at a time when the individual was aged 18 or over.
- (2) The court shall impose an appropriate custodial sentence (or order for detention) for a term of at least the required minimum term (with or without a fine) unless the court is of the opinion that there are exceptional circumstances relating to the offence or to the offender which justify it not doing so.
- (3) In this section “appropriate custodial sentence (or order for detention)” means—
 - (a) in the case of an offender who is aged 18 or over when convicted, a sentence of imprisonment, and
 - (b) in the case of an offender who is aged under 18 at that time, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000.
- (4) In this section “the required minimum term” means seven years.”

Member’s explanatory statement

This amendment would ensure those found guilty of abduction, sexual assault, and murder would receive a Whole Life Order as a starting sentence.

196

Insert the following new Clause—

“Maximum sentence for publishing the identity of a sexual offences complainant

- (1) Section 5 of the Sexual Offences (Amendment) Act 1992 is amended as follows.
- (2) In subsection (1), leave out “and liable on summary conviction to a fine not exceeding level 5 on the standard scale”.
- (3) After subsection (1), insert the following subsection—
 - “(1A) A person guilty of an offence under this section is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine not exceeding level 5 on the standard scale, or both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding twelve months, or a fine not exceeding level 5 on the standard scale, or both.”

Member’s explanatory statement

This new Clause would give courts the power to hand down custodial sentences of up to 2 years to those convicted of naming a sexual offences complainant.

LORD FALCONER OF THOROTON
BARONESS BRINTON
BARONESS NEWLOVE

196A

Insert the following new Clause—

“Duty to inform victims and families of the Unduly Lenient Sentencing Scheme

- (1) The Criminal Justice Act 1988 is amended as follows.
- (2) After section 36, insert—

*After Clause 101 - continued***“36A Duty to inform victims and families of the Unduly Lenient Sentencing Scheme**

The Secretary of State must nominate a Government Department (“relevant body”) to inform victims and their families of their rights under the Unduly Lenient Sentencing Scheme, and such information provided must include the type of sentence and the time limit for application, and advise that applications must be made to the Attorney General.””

196B Insert the following new Clause—

“Unduly lenient sentences: time limit

- (1) The Criminal Justice Act 1988 is amended as follows.
- (2) In Schedule 3, paragraph 1, at end insert “, subject to paragraph 1A.”
“(1A) The time limit of 28 days shall be extended in exceptional circumstances, which shall include but not be limited to a failure of the relevant body to inform the victim and families of their rights under the Unduly Lenient Sentencing Scheme.””

196C Insert the following new Clause—

“Secretary of State review of the scope of Part IV of the Criminal Justice Act 1988

- (1) The Criminal Justice Act 1988 is amended as follows.
- (2) After section 35, insert the following new section—

“35A Annual review of the scope of Part IV of the Criminal Justice Act 1988

- (1) Within 12 months from the date upon which the Police, Crime, Sentencing & Courts Act 2021 is passed, and every 12 months thereafter, the Secretary of State must undertake a review of the scope of Part IV of the Criminal Justice Act 1988 (“CJA 1988”).
- (2) Following a public consultation, such review must include an assessment of new offences that may be deemed appropriate to be added by the Secretary of State to the Unduly Lenient Sentencing Scheme under Part IV of the CJA 1988.
- (3) A report setting out the findings from the first review must be laid before each House of Parliament no later than 18 months from the date upon which the Police, Crime, Sentencing & Courts Act 2021 is passed.””

196D Insert the following new Clause—

“Scope of Part IV of the Criminal Justice Act 1988

- (1) Section 35 of the Criminal Justice Act 1988 is amended as follows.
- (2) In subsection (3), at the end of sub-paragraph (ii) insert “; or (iii) for an offence tried in a youth court.””

Clause 102

LORD FALCONER OF THOROTON

- 197 Page 88, line 17, at end insert –
“(bb) the abduction, sexual assault, and murder of a person”.”

Clause 103BARONESS MASSEY OF DARWEN
THE LORD BISHOP OF DERBY

The above-named Lords give notice of their intention to oppose the Question that Clause 103 stand part of the Bill.

Member’s explanatory statement

Clause 103 would make it possible for judges to impose whole life orders on offenders aged 18 to 20 in exceptionally serious circumstances. This amendment would ensure that the minimum age for imposing a whole life order does not drop below 21.

Clause 104BARONESS MASSEY OF DARWEN
THE LORD BISHOP OF DERBY

- 198 Page 89, line 9, leave out from “column 2” to end of line 16

Member’s explanatory statement

This amendment, along with the other amendments to Clause 104 in the name of Lady Massey, removes the proposed tariff starting points for DHMP sentences that are above the current 12 years.

- 199 Page 89, line 17, leave out columns 2 and 3

Member’s explanatory statement

This amendment, along with the other amendments to Clause 104 in the name of Lady Massey, removes the proposed tariff starting points for DHMP sentences that are above the current 12 years.

- 200 Page 89, line 19, in column 4, leave out “supplied by paragraph 5 had offender been 18”

Member’s explanatory statement

This amendment, along with the other amendments to Clause 104 in the name of Lady Massey, removes the proposed tariff starting points for DHMP sentences that are above the current 12 years.

- 201 Page 89, line 24, leave out “14” and insert “12”

Member’s explanatory statement

This amendment, along with the other amendments to Clause 104 in the name of Lady Massey, removes the proposed tariff starting points for DHMP sentences that are above the current 12 years.

Clause 105

BARONESS MASSEY OF DARWEN

202 Page 90, line 7, leave out paragraph (b)

Member's explanatory statement

This amendment would ensure that those children who commit an offence resulting in a DHMP sentence while under the age of 18 still qualify for a review of their tariff at the half way point and beyond, even if they reach the age of 18 whilst awaiting sentence or in custody.

203 Page 90, line 20, leave out paragraph (b)

Member's explanatory statement

This amendment would ensure that those children who commit an offence resulting in a DHMP sentence while under the age of 18 still qualify for a review of their tariff at the half way point and beyond, even if they reach the age of 18 whilst awaiting sentence or in custody.

Clause 107BARONESS MASSEY OF DARWEN
BARONESS BENNETT OF MANOR CASTLE

204 Page 94, line 16, leave out “or (6)”

Member's explanatory statement

This amendment would prevent the release point for children sentenced to detention under section 250 of the Sentencing Act 2020 being pushed back to two thirds of the way through their sentence.

LORD WOLFSON OF TREDEGAR

205 Page 94, line 36, leave out “may be imposed” and insert “could have been imposed (in the case of an offender aged 21 or over) at the time when the actual sentence was imposed”

Member's explanatory statement

This provides that the longer period before release for sentences within new section 244ZA(4) of the Criminal Justice Act 2003 will apply only in relation to offences that were punishable with life imprisonment at the time of sentencing (not offences that are later made so punishable).

BARONESS MASSEY OF DARWEN

206 Page 95, line 2, leave out subsection (6)

Member's explanatory statement

This amendment would prevent the release point for children sentenced to detention under section 250 of the Sentencing Act 2020 being pushed back to two thirds of the way through their sentence.

LORD WOLFSON OF TREDEGAR

- 207 Page 95, line 24, leave out “may be imposed” and insert “could have been imposed (in the case of an offender aged 21 or over) at the time when the actual sentence was imposed”

Member’s explanatory statement

This provides that the longer period before release for sentences within new section 244ZA(5) and (6) of the Criminal Justice Act 2003 will apply only in relation to sexual offences that were punishable with life imprisonment at the time of sentencing (not offences that are later made so punishable).

Clause 109

LORD CARLILE OF BERRIEW
LORD GARNIER
BARONESS PRASHAR
LORD GERMAN

- 208 Leave out Clause 109 and insert the following new Clause –

“Power to refer high-risk offenders to High Court for consideration of referral to Parole Board in place of automatic release

- (1) The Criminal Justice Act 2003 is amended in accordance with subsections (2) to (10).
- (2) In section 243A (release of prisoners serving sentences of less than 12 months), after subsection (2) insert –
 - “(2A) Subsection (2) does not apply if –
 - (a) the prisoner’s case has been referred to the High Court or the Board under section 244ZB, or
 - (b) a notice given to the prisoner under subsection (4) of that section is in force.”
- (3) In section 244 (general duty to release prisoners), after subsection (1) insert –
 - “(1ZA) Subsection (1) does not apply if –
 - (a) the prisoner’s case has been referred to the High Court or the Board under section 244ZB, or
 - (b) a notice given to the prisoner under subsection (4) of that section is in force.”
- (4) After section 244 insert –

“ 244ZB Referral of high-risk offenders to High Court in place of automatic release

- (1) This section applies to a prisoner who –
 - (a) would (but for anything done under this section and ignoring any possibility of release under section 246 or 248) be, or become, entitled to be released on licence under section 243A(2), 244(1) or 244ZA(1), and
 - (b) is (or will be) aged 18 or over on the first day on which the prisoner would be so entitled.

Clause 109 - continued

- (2) For the purposes of this section, the Secretary of State is of the requisite opinion if the Secretary of State believes on reasonable grounds that the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of any of the following offences –
 - (a) murder;
 - (b) specified offences, within the meaning of section 306 of the Sentencing Code.
- (3) If the Secretary of State is of the requisite opinion, the Secretary of State may refer the prisoner's case to the High Court.
- (4) Before referring the prisoner's case to the High Court, the Secretary of State must notify the prisoner in writing of the Secretary of State's intention to do so (and the reference may be made only if the notice is in force).
- (5) A notice given under subsection (4) must take effect before the prisoner becomes entitled as mentioned in subsection (1)(a).
- (6) A notice given under subsection (4) must explain –
 - (a) the effect of the notice (including its effect under section 243A(2A), 244(1ZA) or 244ZA(3)),
 - (b) why the Secretary of State is of the requisite opinion, and
 - (c) the prisoner's right to make representations (see subsection (12)).
- (7) A notice given under subsection (4) –
 - (a) takes effect at whichever is the earlier of –
 - (i) the time when it is received by the prisoner, and
 - (ii) the time when it would ordinarily be received by the prisoner, and
 - (b) remains in force until –
 - (i) the Secretary of State refers the prisoner's case to the High Court under this section, or
 - (ii) the notice is revoked.
- (8) The Secretary of State –
 - (a) may revoke a notice given under subsection (4), and
 - (b) must do so if the Secretary of State is no longer of the requisite opinion.
- (9) If a notice given under subsection (4) is in force and the prisoner would but for the notice have become entitled as mentioned in subsection (1)(a) –
 - (a) the prisoner may apply to the High Court on the ground that the prisoner's release has been delayed by the notice for longer than is reasonably necessary in order for the Secretary of State to complete the referral of the prisoner's case to the High Court, and
 - (b) the High Court, if satisfied that that ground is made out, must by order revoke the notice.
- (10) At any time before the High Court disposes of a reference under this section, the Secretary of State –
 - (a) may rescind the reference, and

Clause 109 - continued

- (b) must do so if the Secretary of State is no longer of the requisite opinion.
- (11) If the reference is rescinded, the prisoner is no longer to be treated as one whose case has been referred to the High Court under this section (but this does not have the effect of reviving the notice under subsection (4)).
- (12) The prisoner may make representations to the Secretary of State about the referral, or proposed referral, of the prisoner's case at any time after being notified under subsection (4) and before the High Court disposes of any ensuing reference under this section.
- But the Secretary of State is not required to delay the referral of the prisoner's case in order to give an opportunity for such representations to be made.
- (13) Upon hearing a reference, the High Court must determine whether the prisoner would, if released, pose a significant risk to members of the public of serious harm occasioned by the commission of an offence under subsection (2) and either –
- (a) allow the Secretary of State's reference, or
 - (b) dismiss the Secretary of State's reference.
- (14) If the High Court allows the Secretary of State's reference, the Secretary of State must refer the prisoner's case to the Parole Board.
- (15) If the High Court dismisses the Secretary of State's reference, section 243A(2), 244(1) or 244ZA(1), as applicable, of the Criminal Justice Act 2003 applies to the prisoner.

244ZC Proceedings following reference under section 244ZB

- (1) This section applies to a prisoner whose case has been referred to the Parole Board under section 244ZB.
- (2) If, in disposing of that reference or any subsequent reference of the prisoner's case to the Board under this subsection, the Board does not direct the prisoner's release, it is the duty of the Secretary of State to refer the prisoner's case to the Board again no later than the first anniversary of the disposal.
- (3) It is the duty of the Secretary of State to release the prisoner on licence as soon as –
- (a) the prisoner has served the requisite custodial period, and
 - (b) the Board has directed the release of the prisoner under this section.
- (4) The Board must not give a direction under subsection (3) in disposing of the reference under section 244ZB unless the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.
- (5) The Board must not subsequently give a direction under subsection (3) unless –
- (a) the Secretary of State has referred the prisoner's case to the Board under subsection (2), and
 - (b) the Board is satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined.

Clause 109 - continued

- (6) For the purposes of this section, the “requisite custodial period” means the period ending with the day on which the prisoner would have become entitled as mentioned in section 244ZB(1)(a).”
- (5) In section 246(4) (exceptions from power to release early subject to curfew), after paragraph (f) insert –
- “(fa) the prisoner’s case has been referred to the Board under section 244ZB,
 - (fb) a notice given to the prisoner under subsection (4) of that section is in force.”.
- (6) In section 255A(2) (duty to consider suitability for automatic release following recall of certain prisoners) (as amended by the Counter-Terrorism and Sentencing Act 2021), for “or a serious terrorism prisoner” substitute “, a serious terrorism prisoner or a prisoner whose case was referred to the Board under section 244ZB”.
- (7) In section 255C(1) (prisoners whose release after recall is not automatic), for the words from “who” to the end substitute “–
- (a) whose suitability for automatic release does not have to be considered under section 255A(2), or
 - (b) who is not considered suitable for automatic release.”
- (8) In section 260(5) (powers and duties of Secretary of State that continue to apply to prisoner removed from prison pending deportation), after “244,” insert “244ZB,”.
- (9) In section 261(5)(b) (application of release provisions to returning deported prisoner), after “244,” insert “244ZC,”.
- (10) In section 268(1A) (meaning of “requisite custodial period” in Chapter 6 of Part 12), after paragraph (c) insert –
- “(ca) in relation to a prisoner whose case has been referred to the Parole Board under section 244ZB, the requisite custodial period for the purposes of section 244ZC;”.
- (11) In Schedule 1 to the Crime (Sentences) Act 1997 –
- (a) in paragraph 8(2)(a) (provisions relating to release continuing to apply to prisoner transferred from England and Wales to Scotland), for “, 244,” substitute “to”;
 - (b) in paragraph 9(2)(a) (provisions relating to release continuing to apply to prisoner transferred from England and Wales to Northern Ireland), for “, 244,” substitute “to”.
- (12) In section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (power to alter test for release on licence at direction of Parole Board) –
- (a) in subsection (2), after paragraph (b) insert –
 - “(bza) a prisoner whose case has been referred to the Parole Board under section 244ZB of the Criminal Justice Act 2003 (power to refer to Parole Board in place of automatic release);”;
 - (b) in subsection (3), before paragraph (ab) insert –
 - “(aaa) amend section 244ZC of the Criminal Justice Act 2003 (proceedings following reference under section 244ZB of that Act);”.

After Clause 115

LORD BLUNKETT
 LORD FALCONER OF THOROTON
 LORD WOOLF
 LORD MORRIS OF ABERAVON

208A Insert the following new Clause—

“Review of the arrangements for the resettlement and supervision of prisoners serving sentences of IPP: effectiveness

- (1) Within six months of the passing of this Act, the Secretary of State must lay a report before both Houses of Parliament on the effectiveness of the arrangements for the resettlement and supervision of prisoners serving sentences of imprisonment for public protection (“IPP”) released on licence.
- (2) The report must include, but not be limited to—
 - (a) an assessment of the factors underlying the rates of breach and recall of prisoners serving sentences of IPP released on licence, and what could be done to address them, including—
 - (i) the effectiveness of the arrangements for the preparation of prisoners serving sentences of IPP to be released on licence, including the adequacy of information and guidance for prisoners on licence provisions, breach of licence and the risk of recall;
 - (ii) the adequacy of existing probation service guidance on breach and recall;
 - (iii) whether more use could be made of alternatives to immediate recall to custody including electronic tagging;
 - (iv) the extent to which a failure to properly support and supervise prisoners serving sentences of IPP on release is contributing to the high proportion of this group breaching the terms of their licence and being recalled to prison.”

Member’s explanatory statement

This, along with another amendment after Clause 115 in the name of Lord Hunt of Kings Heath, is a probing amendment intended to require a review of the arrangements for the resettlement and supervision of prisoners serving sentences of IPP.

BARONESS BURT OF SOLIHULL
 LORD BLUNKETT
 LORD MORRIS OF ABERAVON
 LORD CLARKE OF NOTTINGHAM

208B Insert the following new Clause—

“Review of the arrangements for the sentence progression and support of prisoners serving sentences of imprisonment for public protection: effectiveness and support

- (1) Within six months of the passing of this Act, the Secretary of State must lay a report before both Houses of Parliament on the effectiveness of the arrangements for the sentence progression and support of prisoners serving sentences of imprisonment for public protection (“IPP”), with particular reference to the effectiveness of support.
- (2) The report must include, but not be limited to—

After Clause 115 - continued

- (a) an assessment of the effectiveness of the provision and support available to prisoners serving sentences of IPP to enable them to progress in their sentences, including—
 - (i) offending behaviour programmes;
 - (ii) progression regimes; and
 - (iii) other aspects of the prison regime which enable prisoners serving sentences of IPP to progress and demonstrate reduced risk;
- (b) an assessment of the welfare and mental health support available to prisoners serving sentences of IPP, including measures to reduce the risk of self-harm and self-inflicted death;
- (c) an assessment of the provision and support available to prisoners serving sentences of IPP who have been recalled to prison to enable them to progress;
- (d) an assessment of measures which could be taken to improve the sentence progression and rate of release of prisoners serving sentences of IPP, including—
 - (i) improvements in the efficiency and effectiveness of the parole system;
 - (ii) improvements in coordination and cooperation between the Parole Board and HMPPS;
 - (iii) altering the Parole Board release test under section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012; and
 - (iv) improvements in the availability and effectiveness of support in the community to enable IPP prisoners to be safely released.”

Member’s explanatory statement

This is a probing amendment to require a review of the arrangements for the sentence progression and support of IPP prisoners.

LORD HUNT OF KINGS HEATH
 LORD BLUNKETT
 LORD MORRIS OF ABERAVON
 LORD CLARKE OF NOTTINGHAM

208C

Insert the following new Clause—

“Review of the arrangements for the resettlement and supervision of prisoners serving sentences of IPP: support and resources

- (1) Within six months of the passing of this Act, the Secretary of State must lay a report before both Houses of Parliament on the effectiveness of the arrangements for the resettlement and supervision of prisoners serving sentences of imprisonment for public protection (“IPP”) released on licence, with particular reference to available support and resources.
- (2) The report must include, but not be limited to—
 - (a) an assessment of the adequacy of the resettlement support available to prisoners serving sentences of IPP released on licence for—
 - (i) housing;
 - (ii) welfare;

After Clause 115 - continued

- (iii) employment;
- (iv) physical and mental health;
- (b) an assessment of the adequacy of the training and resources available to the National Probation Service for the resettlement and supervision of prisoners serving sentences of IPP released on licence.”

Member’s explanatory statement

This, along with another amendment after Clause 115 in the name of Lord Blunkett, is a probing amendment intended to require a review of the arrangements for the resettlement and supervision of prisoners serving sentences of IPP.

LORD MOYLAN
LORD BLUNKETT
LORD WOOLF
LORD MORRIS OF ABERAVON

208D Insert the following new Clause –

“Amendments to the Crime (Sentences) Act 1997: parole

- (1) Section 31A of the Crime (Sentences) Act 1997 is amended as follows.
- (2) For subsections (3) and (4) substitute –
 - “(3) Upon –
 - (a) the prisoner’s release on licence under this Chapter, and
 - (b) the expiry of the qualifying period,
 the Secretary of State must refer the prisoner’s case to the Parole Board for consideration under subsection (4).
 - (4) Where a referral is made under subsection (3), the Parole Board must –
 - (a) if it is satisfied that it is no longer necessary for the protection of the public that the licence should remain in force, direct the Secretary of State to make an order that the licence is to cease to have effect;
 - (b) otherwise dismiss the application.”
- (3) After subsection (4) insert –
 - “(4A) Where a referral made under subsection (3) has been dismissed by the Parole Board, the Secretary of State must refer the prisoner’s case to the Board no later than 12 months from the dismissal of –
 - (a) a referral under subsection (3);
 - (b) a referral under this subsection.
 - (4B) Where a referral is made under subsection (4A), the Parole Board –
 - (a) must, if it is satisfied that it is no longer necessary for the protection of the public that the licence should remain in force, direct the Secretary of State to make an order that the licence is to cease to have effect;
 - (b) must otherwise dismiss the referral.
 - (4C) When considering a referral under subsection (4A), the Board must consider the original application and any information that –

After Clause 115 - continued

(a) the Secretary of State, or
 (b) the prisoner,
 wishes to place before the Board.”

(4) In subsection (5), for “ten” substitute “five”.”

Member’s explanatory statement

This amendment would see an automatic referral to the Parole Board at the end of the qualifying period and automatic re-referral every 12 months when unsuccessful and would reduce the period before someone can apply to the Parole Board for licence termination from 10 years to 5 years.

LORD GARNIER
 LORD BLUNKETT
 LORD WOOLF
 LORD MORRIS OF ABERAVON

208E Insert the following new Clause—

“Review of the arrangements for the sentence progression and support of prisoners serving sentences of imprisonment for public protection: opportunities

- (1) Within six months of the passing of this Act, the Secretary of State must lay a report before both Houses of Parliament on the effectiveness of the arrangements for the sentence progression and support of prisoners serving sentences of imprisonment for public protection (“IPP”), with particular reference to opportunities for prisoners.
- (2) The report must include, but not be limited to—
 - (a) an assessment of the availability of the provision and support available to prisoners serving sentences of IPP to enable them to progress in their sentences, including—
 - (i) whether there are sufficient places available for prisoners serving sentences of IPP on offending behaviour programmes;
 - (ii) whether prisoners serving sentences of IPP are able to complete offending behaviour programmes in appropriate time to aid progression milestones such as parole or recategorisation;
 - (iii) whether there are sufficient places available for prisoners serving sentences of IPP in prisons providing progression regimes; and
 - (iv) the availability of other opportunities for prisoners serving sentences of IPP to enable them to progress and demonstrate reduced risk, particular for those who have completed opportunities afforded to them by offending behaviour programmes and progression regimes.”

Member’s explanatory statement

A probing amendment to require a review of the arrangements for the sentence progression and support of IPP prisoners.

LORD BROWN OF EATON-UNDER-HEYWOOD
LORD JUDGE
LORD BLUNKETT
LORD GARNIER

208F Insert the following new Clause –

“Limit on sentences of IPP

Once a prisoner serving a sentence of imprisonment for public protection has served a period of detention –

- (a) in excess of the maximum determinate sentence provided by law for the offence or offences for which they were convicted, or
- (b) 10 years or more beyond the tariff term of their sentence,

the Secretary of State must by order pursuant to section 128 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 direct that, following the prisoner’s referral to the Parole Board, they will be released unless the Board is satisfied by the detaining authority that it remains necessary and proportionate for the protection of the public from serious harm that they should continue to be confined.”

BARONESS BURT OF SOLIHULL
LORD BLUNKETT
LORD GARNIER

208G Insert the following new Clause –

“Imprisonment or detention for public protection: termination of licences

- (1) In Chapter 6 of Part 12 of the Criminal Justice Act 2003 (release on licence), in section 239 (the Parole Board), after subsection (2) insert –

“(2A) It is the duty of the Board to determine any matter referred to it by the Secretary of State which is to do with the extension of qualifying periods for the termination of licences under section 31A of the Crime (Sentences) Act 1997.”

- (2) In Part 2 of the Crime (Sentences) Act 1997 (life sentences: release on licence) –
 - (a) in section 31 (duration and conditions of licences), omit subsection (1A);
 - (b) in section 31A (termination of licences), omit subsections (2), (3) and (4) and insert –

“(2) Where –

- (a) the prisoner has been released on licence under this Chapter; and
- (b) the qualifying period has expired; and
- (c) the prisoner has not been recalled during the qualifying period,

the licence is to cease to have effect.

- (3) Where the prisoner –

- (a) has been released on licence under this Chapter; and
- (b) has been recalled during the qualifying period; and
- (c) has been re-released on licence under this Chapter,

the qualifying period shall recommence beginning on the date of the prisoner’s release, unless the Parole Board considers that, having regard to all the circumstances, a shorter licence period is appropriate.

After Clause 115 - continued

- (4) Where—
- (a) the prisoner has been released on licence under this Chapter;
 - (b) the qualifying period or extended qualifying period has not expired; and
 - (c) the Secretary of State considers, having regard to all the circumstances, it is necessary for the protection of the public that the qualifying period be extended,
- the Secretary of State may refer the prisoner to the Parole Board.”
- (c) In section 31A (termination of licences), after subsection (4) insert—
- “(4A) Where a referral is made under subsection (4) above, the Parole Board—
- (a) shall, if it is satisfied that it is necessary for the protection of the public, direct that the Secretary of State extend a qualifying period or extended qualifying period by up to twelve months;
 - (b) shall otherwise decide that a qualifying period or extended qualifying period is not extended.”
- (4B) Where—
- (a) a referral is made under subsection (4) above; and
 - (b) the Parole Board decide that a qualifying period or extended qualifying period is not extended; and
 - (c) a qualifying period has not expired; and
 - (d) the Secretary of State considers, having regard to all the circumstances, it is necessary for the protection of the public that a qualifying period or extended qualifying period be extended,
- the Secretary of State may refer the prisoner to the Parole Board for a reconsideration of its decision.
- (4C) Where a referral is made under subsection (4) above, the Parole Board shall not reconsider its decision unless the referral is based on information which was not available at the time that its decision was taken.
- (4D) Where subsection (4C) is fulfilled, the Parole Board—
- (a) shall, if it is satisfied that it is necessary for the protection of the public, direct that the Secretary of State extend the qualifying period or extended qualifying period by up to 12 months;
 - (b) shall otherwise decide that the qualifying period or extended qualifying period is not extended.”
- (d) In section 31A (termination of licences), in subsection (5), for “ten years” substitute “two years”.
- (e) In section 31A (termination of licences), in subsection (5), at the end insert—
- ““the extended qualifying period” means any qualifying period extended following a referral by the Secretary of State pursuant to subsection (4A) or (4D) above.””

Member's explanatory statement

This new Clause would bring an end to the licence period automatically after two years have passed following release at the direction of the Parole Board, provided the person has not been recalled to prison. It also contains safeguards to protect the public by allowing the Secretary of State to apply to the Parole Board to extend the licence period for a further 12 months if they have concerns about risk.

BARONESS BURT OF SOLIHULL

208H Insert the following new Clause—

“Imprisonment or detention for public protection: release on licence

- (1) Part 2 of the Crime (Sentences) Act 1997 is amended as follows.
- (2) In section 32 (recall of life prisoners while on licence), after subsection (4) insert—
 - “(4A) Where a prisoner (“P”) serving an indeterminate sentence of detention or imprisonment for public protection is recalled under subsection (1), the Secretary of State may, at any time after P is returned to prison, release P again under this section.
 - (4B) The Secretary of State must not release P under subsection (4A) unless the Secretary of State is satisfied that it is not necessary for the protection of the public that P should remain in prison.”

Member's explanatory statement

This new Clause would create an additional power of release on top of the mandatory requirement for a recalled IPP prisoner to be considered by the Parole Board. It would enable the swift and discretionary release of an IPP recalled prisoner by the Secretary of State if satisfied the prisoner meets the test for release.

After Clause 124

BARONESS BURT OF SOLIHULL
BARONESS JONES OF MOULSECOOMB
LORD HUNT OF KINGS HEATH

209 Insert the following new Clause—

“Maternity services in prisons

- (1) The Secretary of State must provide appropriate midwifery care within the female prison estate.
- (2) “Appropriate midwifery care” means—
 - (a) midwifery care that is appropriate to a custodial setting;
 - (b) maternity services that are suitably resourced to provide—
 - (i) an appropriately qualified midwifery lead in each prison to oversee all aspects of perinatal care;
 - (ii) a maternity pathway for prisoners that includes a process for women who decline to engage with services;
 - (iii) access for prisoners to psychological and psychiatric services;
 - (iv) training for staff in trauma-informed care;
 - (v) training for staff in neonatal and child resuscitation procedures; and
 - (vi) appropriate emergency equipment for children and neonates.

After Clause 124 - continued

- (3) The Secretary of State may provide guidance on how to respond to births in prison.”

Member’s explanatory statement

This amendment builds on recommendations from the Prisons and Probation Ombudsman investigation into the death of Baby A at HMP Bronzefield to ensure there are appropriate maternity services in the female prison estate.

EARL ATTLEE

210 Insert the following new Clause—

“Determination of sentence and predicted day of release

After section 60 of the Sentencing Code insert—

“60A Determination of sentence and predicted day of release

Where a court is deciding the length of a custodial sentence to impose on an offender for an offence, having taking into consideration all other factors, the court must not set a length of sentence that is likely to result in the offender being released on a public holiday, Friday, Saturday or a Sunday except in exceptional circumstances.””

LORD HODGSON OF ASTLEY ABBOTTS

LORD BIRD

BARONESS LISTER OF BURTERSETT

BARONESS BAKEWELL OF HARDINGTON MANDEVILLE

211 Insert the following new Clause—

“Release of prisoners on Fridays or the day before Bank Holiday periods

In section 23 of the Criminal Justice Act 1961, after subsection (3), insert—

“(3A) Where a prisoner is to be discharged on a Friday or the day before a bank holiday, at the discretion of the governor of the prison they may be discharged on a day within the previous five working days that is earlier than the day on which the prisoner would otherwise fall to be discharged.””

LORD PONSONBY OF SHULBREDE

LORD GERMAN

212 Insert the following new Clause—

“Short custodial sentences

- (1) The Sentencing Code is amended as follows.
- (2) In section 230 (threshold for imposing discretionary custodial sentence), after subsection (2) insert—
 - “(2A) If the court finds that the offence is so serious that neither a fine alone or a community sentence can be justified for the offence, it must state its reasons for being satisfied that the offence is so serious (having regard to the considerations in subsection (2B)), and, in particular, why a community order with appropriate requirements could not be justified.

After Clause 124 - continued

- (2B) In this determination, the court must take account of the following principles –
- (a) passing the custody threshold does not mean that a custodial sentence should be deemed inevitable;
 - (b) custody should not be imposed where a community order could provide sufficient restriction on an offender’s liberty (by way of punishment) while addressing the rehabilitation of the offender to prevent future crime;
 - (c) sentences should not necessarily escalate from one community order range to the next at each sentencing occasion;
 - (d) the decision as to the appropriate range of community order should be based upon the seriousness of the new offence(s);
 - (e) section 65 (a relevant previous conviction to be treated as an aggravating factor) should not be interpreted so as to meet the custody threshold in respect of the sentence for one or more offences that would not themselves justify custody; and
 - (f) where the offender being sentenced is a primary carer for a child, imprisonment should not be imposed where there would be an impact on dependants which would make a custodial sentence disproportionate to achieving the aims of sentencing.”

- (3) After section 230, insert –

“230A Impact of custodial sentence on child or unborn child

- (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.””

LORD DUBS
THE LORD BISHOP OF GLOUCESTER
LORD BEITH

213

Insert the following new Clause –

“Presumption against short prison sentences

In section 230 of the Sentencing Code (threshold for imposing discretionary custodial sentence), after subsection (2) insert –

- “(2A) The court must not pass a custodial sentence if it is of the opinion that –
- (a) the offence, or

After Clause 124 - continued

- (b) the combination of the offence and one or more offences associated with it,
was not so serious that a custodial sentence of more than 6 months can be justified for the offence unless the court considers that no other sentence is appropriate.
- (2B) Where a court passes a sentence under subsection (2A), it must—
- (a) state its reasons for the opinion that no other sentence is appropriate, and
 - (b) arrange for those reasons to be entered in the record of the proceedings.”

LORD BLENCATHRA
LORD MORROW
LORD FARMER

214 Insert the following new Clause—

“Sex-specific incarceration for violent and sexual offenders

After section 20 of the Gender Recognition Act 2004 insert—

“20A Sex-specific incarceration

- (1) Where a person with a gender recognition certificate is serving a conviction for a violent or sexual offence, that person shall be treated with respect to housing on the prison estate by reference to the sex registered at their birth.
- (2) Where a person with a gender recognition certificate is remanded in custody for a suspected violent or sexual offence, that person shall be treated with respect to housing on the prison estate by reference to the sex registered at their birth.”

Member’s explanatory statement

This amends the Gender Recognition Act 2004 to ensure that prisoners with a gender recognition certificate who are suspected or convicted of violent or sexual offences are treated as their sex registered at birth with respect to housing on the prison estate.

BARONESS BRINTON
LORD PONSONBY OF SHULBREDE

214A Insert the following new Clause—

“Home detention curfews

- (1) The Home Detention Curfew policy framework is amended as follows.
- (2) In paragraph 4.3.1 at the appropriate place insert—
“Offenders who have previously breached a protective order”.
- (3) In paragraph 4.3.5 at the appropriate place insert—
“Anyone with a history of offences relating to stalking, harassment, coercive control or domestic abuse”.

Member's explanatory statement

This amendment would exclude offenders who have previously breached a protective order and those with a history of offences relating to stalking, harassment, coercive control or domestic abuse, from the Home Detention Curfew policy framework.

Schedule 13

LORD FALCONER OF THOROTON

214B Page 240, leave out line 19 and insert –

“(b) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.”

Member's explanatory statement

This amendment would make it so that regulations providing for a category of community orders or suspended sentence orders that will be subject to the review process, on an indefinite basis, are subject to the affirmative resolution procedure.

After Clause 131

THE LORD BISHOP OF GLOUCESTER

LORD FALCONER OF THOROTON

LORD DUBS

BARONESS MASSEY OF DARWEN

215 Insert the following new Clause –

“Pre-sentence report requirements

- (1) Section 30 of the Sentencing Act 2020 is amended as follows.
- (2) After subsection (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 subsection (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.

216 Insert the following new Clause –

“Duty to give reasons for the sentence

- (1) Section 52 of the Sentencing Act 2020 is amended as follows.

After Clause 131 - continued

- (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 –
 - “child” means a person under the age of 18; and
 - “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.

217 Insert the following new Clause –

“Restrictions on imposing imprisonment on a primary carer

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.

218 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.

After Clause 131 - continued

(2) In this section—

“child” means a person under the age of 18, and

“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.

BARONESS NEWLOVE

LORD POLAK

LORD PONSONBY OF SHULBREDE

LORD RUSSELL OF LIVERPOOL

219

Insert the following new Clause—

“Aggravation of offences on grounds of hostility related to sex or gender

(1) Section 66 of the Sentencing Code is amended as follows.

(2) After subsection (1)(e) insert—

“(f) hostility related to sex or gender”.

(3) After subsection (4)(a)(v) insert—

“(vi) the sex or gender (or presumed sex or gender) of the victim, or”.

(4) After subsection (4)(b)(v) insert—

“(vi) hostility towards persons who are of a particular sex or gender.””

BARONESS NOAKES

LORD HUNT OF KINGS HEATH

BARONESS GREY-THOMPSON

BARONESS LUDFORD

219A

Insert the following new Clause—

“Aggravation of offences on grounds of hostility

(1) The Secretary of State may by regulations made by statutory instrument add to the list in section 66(1) of the Sentencing Code to implement recommendations of the Law Commission in respect of hate crime laws.

(2) The regulations may make consequential provision.

(3) A statutory instrument containing regulations under this Chapter may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Member’s explanatory statement

The Law Commission is currently reviewing hate crime laws, including considering calls to make misogyny a hate crime. This amendment would give to the Secretary of State powers to implement recommendations to add to the list in section 66(1) of the Sentencing Code, which applies where a court is considering the seriousness of an offence aggravated by hostility related to race, religion, disability, sexual orientation or transgender identity.

Clause 132

LORD FALCONER OF THOROTON

219B Page 124, line 35, at end insert –

“(8) After section 102, insert –

“102A Centralised monitoring of court decisions to impose youth custodial remand

- (1) Within six months from the day on which the Police, Crime, Sentencing and Courts Act 2021 is passed, the Secretary of State must nominate a body to collect, analyse and publish data on the decision-making process of courts when sentencing a child to custodial remand.
- (2) “Decision making process” refers to the consideration and application of the required Conditions for the custodial remand of children by the court, as set out in the Legal Aid, Sentencing and Punishment of Offenders Act 2012.
- (3) A report on the findings must be laid before Parliament and published on an annual basis.
- (4) The first report must be published and laid before Parliament no later than 18 months from the day on which the Police, Crime, Sentencing and Courts Act 2021 is passed.”

Member’s explanatory statement

This amendment seeks to introduce centralised monitoring of the youth remand decision-making process.

After Clause 137

LORD DHOLAKIA
BARONESS BUTLER-SLOSS
BARONESS CHAKRABARTI

220 Insert the following new Clause –**“Age of criminal responsibility**

In section 50 of the Children and Young Persons Act 1933 (age of criminal responsibility) for “ten” substitute “12”.

Member’s explanatory statement

This amendment increases the age of criminal responsibility from 10 to 12.

BARONESS BENNETT OF MANOR CASTLE
BARONESS CHAKRABARTI

221 Insert the following new Clause –**“Review of age of criminal responsibility**

- (1) Within 12 months of the passing of this Act, the Secretary of State must complete a review of the age of criminal responsibility.
- (2) The review in subsection (1) must include the following –
 - (a) an assessment of the ages at which children and young people have the biological and cognitive functions to make decisions and be aware of consequences,

After Clause 137 - continued

- (b) an assessment of the population of children and young people in detention, including age, gender and ethnic background,
 - (c) recommendations for reform of the age of criminal responsibility.
- (3) The review must be conducted by a panel which includes –
- (a) a youth worker,
 - (b) a youth psychologist,
 - (c) a youth psychiatrist,
 - (d) a judge from the youth justice system,
 - (e) a probation officer.
- (4) The panel must consult with an advisory panel made up of young people currently and formerly in the youth justice system.”

LORD MARKS OF HENLEY-ON-THAMES
LORD GERMAN

221A Insert the following new Clause –

“Youth offending teams: pre-charge diversion

- (1) The Crime and Disorder Act 1998 is amended as follows.
- (2) After section 39(7)(a) insert –
 - “(aa) to develop a pre-charge diversion scheme for that authority’s area; and”.

Member’s explanatory statement

This amendment would place a statutory duty on Youth Offending Teams to develop a pre-charge diversion scheme for young people to divert them away from formal involvement with the criminal justice system.

BARONESS SATER

221B Insert the following new Clause –

“Review of youth sentencing

Within the period of one year beginning with the day on which this Act is passed, the Secretary of State must –

- (a) review sentencing in the youth court, and
- (b) publish a report on the review and lay it before Parliament.”

Clause 139

LORD WOLFSON OF TREDEGAR

222 Page 128, line 15, leave out “pupils” and insert “students”

Member’s explanatory statement

This amendment changes “pupils” to “students” to refer to those attending a secure 16 to 19 Academy. No difference of meaning is intended; the change is to avoid confusion arising from the fact that “pupil” is defined in the Education Acts to refer to those attending a school (and a secure 16 to 19 Academy is not a school).

223 Page 128, line 22, leave out “pupils” and insert “students”

Member’s explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 128, line 15.

LORD GERMAN
BARONESS CHAKRABARTI
LORD MARKS OF HENLEY-ON-THAMES

223A Page 128, line 22, at end insert –

“(8) A local authority may establish and maintain a secure 16 to 19 Academy.

(9) A body corporate (including any of its subsidiaries) that is carried on for profit may not be a party to an arrangement to establish and maintain a secure 16 to 19 Academy.”

Member’s explanatory statement

This amendment would enable local authorities to run secure 16 to 19 Academies, either alone or in consortia, and prevent these establishments being run for profit.

Clause 140

BARONESS MEACHER
LORD PADDICK
LORD MOYLAN

224 Page 129, line 27, leave out “on the balance of probabilities” and insert “beyond reasonable doubt”

Member’s explanatory statement

This amendment would raise the threshold for the standard of proof required to impose an SVRO, from a civil standard (the balance of probabilities) to the criminal standard (beyond reasonable doubt).

LORD PADDICK
BARONESS MEACHER

225 Page 129, line 30, leave out from “offence” to end of line 32

Member’s explanatory statement

Carrying a knife is not a criminal offence; the criminal offence is only committed when the knife is carried without reasonable excuse or lawful authority. This amendment would disallow an SVRO from being applied if a person simply had a knife with them when the offence was committed.

LORD PONSONBY OF SHULBREDE
LORD PADDICK

226 Page 129, leave out lines 33 to 41

Member’s explanatory statement

This would remove the provisions which allow an SVRO to be used where a person was in the company of another person who used or was carrying a knife.

BARONESS ARMSTRONG OF HILL TOP
LORD MARKS OF HENLEY-ON-THAMES

226A Page 129, line 37, leave out “or ought to have known”

226B Page 129, line 40, leave out “or ought to have known”

BARONESS MEACHER
LORD PADDICK
LORD MOYLAN

227 Page 130, line 1, leave out “considers it” and insert “is satisfied beyond reasonable doubt that it is”

Member’s explanatory statement

This amendment would raise the threshold of proof required to impose an SVRO, from a civil standard (the balance of probabilities) to the criminal standard (beyond reasonable doubt).

LORD PADDICK
BARONESS MEACHER
LORD MOYLAN

228 Page 130, line 15, at end insert –
“(c) concludes that the order is proportionate to one or more of the aims in subsection (5) above.”

Member’s explanatory statement

This amendment requires that an SVRO can only be imposed if the order is proportionate to one or more of the aims identified in the new inserted subsection (5).

229 Page 130, line 17, after “may” insert “only”

Member’s explanatory statement

This amendment would strengthen the evidentiary requirements prior to an SVRO being made. It is connected to the second amendment by Lord Paddick to page 130, line 17; and to his amendment to leave out lines 19 and 20 and page 130.

230 Page 130, line 17, leave out from “evidence” to end of line 18 and insert “which would have been admissible in the proceedings for the offence in subsection (1)(a).”

Member’s explanatory statement

This amendment would strengthen the evidentiary requirements prior to an SVRO being made. It is connected to the first amendment by Lord Paddick to page 130, line 17; and to his amendment to leave out lines 19 and 20 and page 130.

231 Page 130, leave out lines 19 and 20

Member’s explanatory statement

This amendment would strengthen the evidentiary requirements prior to an SVRO being made. It is connected to Lord Paddick’s two amendments to page 130, line 17.

BARONESS WILLIAMS OF TRAFFORD

232 Page 131, line 34, at end insert –

- “(9) In this section, “home address”, in relation to the offender, means –
- (a) the address of the offender’s sole or main residence, or
 - (b) if the offender has no such residence, the address or location of a place where the offender can regularly be found and, if there is more than one such place, such one of those places as the offender may select.”

Member’s explanatory statement

This amendment provides a definition of “home address” for the purposes of the notification requirements which must be included in a serious violence reduction order.

LORD PADDICK
BARONESS MEACHER
LORD MOYLAN

233 Page 133, line 17, after “order” insert “unless the offender has a reasonable excuse for so doing,”

Member’s explanatory statement

This amendment creates a defence of reasonable excuse to an offence relating to a serious violence reduction order.

234 Page 133, leave out lines 18 and 19

Member’s explanatory statement

This amendment removes an offence which already exists under section 89(2) of the Police Act 1996.

235 Page 133, leave out lines 39 and 40

Member’s explanatory statement

This amendment will limit who can apply for variation, renewal, or discharge of an SVRO.

236 Page 133, leave out lines 44 and 45

Member’s explanatory statement

This amendment will limit who can apply for variation, renewal, or discharge of an SVRO.

237 Page 134, line 21, leave out “considers” and insert “is satisfied beyond reasonable doubt”

Member’s explanatory statement

This amendment would raise the threshold for the standard of proof required to impose an SVRO, from a civil standard (the balance of probabilities) to the criminal standard (beyond reasonable doubt).

BARONESS MEACHER
LORD PADDICK
LORD MOYLAN

238 Page 134, line 36, at end insert –

“(8A) The court may renew a serious violence reduction order on no more than one occasion.”

Member’s explanatory statement

Under the current provisions, an SVRO can last for a maximum of two years, however it can potentially be renewed indefinitely. This amendment will limit the number of times an SVRO can be renewed to no more than once.

238A Page 134, line 36, at end insert –

“(8A) The court may only make an order under this section varying or renewing a serious violence reduction order if it concludes that the order is proportionate to one or more of the aims in subsection (7) above.”

Member’s explanatory statement

This require that an SVRO can only be varied or renewed if the order is proportionate to one or more of the aims identified in the new inserted subsection (7).

LORD PONSONBY OF SHULBREDE
LORD PADDICK

239 Page 136, line 2, at end insert –

“(2A) Guidance under this section may not be made unless a draft of the guidance has been laid before, and approved by a resolution of, both Houses of Parliament.”

Member’s explanatory statement

This is based on a recommendation of the DPRRC. This would require guidance issued by the Secretary of State on Serious Violence Reductions Orders to be subject to parliamentary scrutiny, subject to the affirmative procedure.

LORD PONSONBY OF SHULBREDE

Lord Ponsonby of Shulbrede gives notice of his intention to oppose the Question that Clause 140 stand part of the Bill.

Clause 141

BARONESS MEACHER
LORD PADDICK

240 Page 137, line 5, at end insert –

“(3A) Before making the report under subsection (3), the Secretary of State must obtain, record and publish all reasonably available data, which is relevant to the effect of the operation of Chapter 1A, Part 11 of the Sentencing Code under section 141(2) over a period of no less than 12 months, including –

- (a) its impact on the extent to which knives or weapons are carried;
- (b) its impact on the rate of serious violence;

Clause 141 - continued

- (c) the age, race, and sex (within the meaning of sections 5, 9 and 11 of the Equality Act 2010) of each person –
 - (i) in respect of whom an application is made under section 342A(1)(b);
 - (ii) in respect of whom a serious violence reduction order is made by a court;
 - (iii) in respect of whom action is taken pursuant to sections 342C, 342E, 342F, or 342H; and
 - (iv) who is convicted of an offence within section 342G;
 - (d) any action which was taken pursuant to section 342C, 342E, 342F or 342H, by reference to the age, race and sex of the offender;
 - (e) the nature of, and reasons recorded, for any such action;
 - (f) any complaint arising the exercise of powers under Clause 342E, the nature and outcome of that complaint, and the age, race and sex of the person who made it;
 - (g) the offence within section 342G for which any person by convicted and the sentence imposed, by reference to the age, race and sex of that person;
 - (h) for each serious violence reduction order made –
 - (i) the offence identified in section 342A(1)(a); and
 - (ii) whether the order was imposed under section 342A(3)(a), (3)(b), (4)(a) or 4(c);
 - (iii) whether that operation of Chapter 1A had a discriminatory, disproportionate and/or other adverse impact on people sharing the protected characteristic of age, race or sex.
- (3B) The report under subsection (3) must include –
- (a) an analysis of the effect described in subsection (3A), by reference the data identified in subsection (3A);
 - (b) an equality impact assessment of the operation of Chapter 1A as described in subsection (3A);
 - (c) a description of any guidance or codes of practice, to which the operation of Chapter 1A described in subsection (3A) was subject; and
 - (d) any action which was taken pursuant to sections 342C, 342E, 342F, or 342H.”

Member’s explanatory statement

This amendment strengthens the pilot provided for under Clause 141.

After Clause 163

LORD MARKS OF HENLEY-ON-THAMES

LORD GERMAN

240A Insert the following new Clause –

“Women’s Justice Board

- (1) There is to be a body corporate known as the Women’s Justice Board for England and Wales.

After Clause 163 - continued

- (2) The Board is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and the Board's property is not to be regarded as property of, or held on behalf of, the Crown.
- (3) The Board must consist of 10, 11 or 12 members appointed by the Secretary of State.
- (4) The members of the Board must include persons who appear to the Secretary of State to have extensive recent experience with women in the criminal justice system.
- (5) The Board has the following functions, namely—
 - (a) to meet the particular needs of women in the criminal justice system;
 - (b) to monitor the provision of services for women in the criminal justice system;
 - (c) to advise the Secretary of State on—
 - (i) how the aim in subsection (5)(a) might most effectively be pursued;
 - (ii) the provision of services for women in the criminal justice system;
 - (iii) the content of any national standards the Secretary of State may see fit to set with respect to the provision of such services, or the accommodation in which women are kept in custody; and
 - (iv) the steps that might be taken to prevent offending by women;
 - (d) to monitor the extent to which the aim in subsection (5)(a) is being achieved and any standards met;
 - (e) for the purposes of paragraphs (a) to (d) above, to obtain information from relevant authorities;
 - (f) to publish information so obtained;
 - (g) to identify, make known and promote good practice in—
 - (i) meeting the particular needs of women in the criminal justice system;
 - (ii) the provision of services for women in the criminal justice system;
 - (iii) the prevention of offending by women;
 - (iv) working with women who are, or are at risk of becoming, offenders;
 - (h) to commission research in connection with such practice;
 - (i) with the approval of the Secretary of State, to make grants to local authorities and other persons for the purposes of meeting the aim in subsection (5)(a) and the provision of services to women in the criminal justice system, subject to such conditions as the Board considers appropriate, including conditions as to repayment;
 - (j) to provide assistance to local authorities and other persons in connection with information technology systems and equipment used or to be used for the purposes of the aim in subsection (5)(a) and the provision of services to women in the criminal justice system;

After Clause 163 - continued

- (k) to enter into agreements for the provision of accommodation for women in the criminal justice system, but no agreement may be made under this paragraph in relation to accommodation for women in the criminal justice system unless it appears to the Board that it is expedient to enter into such an agreement for the purposes of subsection (5)(a);
 - (l) to facilitate agreements between the Secretary of State and any persons providing accommodation for women in the criminal justice system;
 - (m) at the request of the Secretary of State, to assist in carrying out the Secretary of State's functions in relation to the release of offenders detained in accommodation for women in the criminal justice system; and
 - (n) annually –
 - (i) to assess future demand for accommodation for women in the criminal justice system;
 - (ii) to prepare a plan setting out how they intend to exercise, in the following three years, the functions described in paragraphs (k) to (m) above, and any function for the time being exercisable by the Board concurrently with the Secretary of State by virtue of subsection (6)(b) below which relates to securing the provision of such accommodation, and
 - (iii) to submit the plan to the Secretary of State for approval.
- (6) The Secretary of State may by regulations made by statutory instrument –
- (a) amend subsection (5) above so as to add to, subtract from or alter any of the functions of the Board for the time being specified in that subsection; or
 - (b) provide that any function of the Secretary of State which is exercisable in relation to women in the criminal justice system is exercisable concurrently with the Board.
- (7) The power of the Secretary of State under subsection (6)(b) includes power –
- (a) to provide that, in relation to any function that is exercisable by the Secretary of State in respect of particular cases, the function is exercisable by the Board only –
 - (i) where it proposes to exercise the function in a particular manner, or
 - (ii) in respect of a class of case specified in the order, and
 - (b) to make any supplementary, incidental or consequential provision (including provision for any enactment to apply subject to modifications).
- (8) No regulations under subsection (6) may be made unless a draft has been laid before and approved by a resolution of each House of Parliament.
- (9) In carrying out their functions, the Board must comply with any directions given by the Secretary of State and act in accordance with any guidance given by the Secretary of State.
- (10) A relevant authority –
- (a) must furnish the Board with any information required for the purposes of subsection (5)(b), (c) or (d) above; and

After Clause 163 - continued

- (b) whenever so required by the Board, must submit to the Board a report on such matters connected with the discharge of their duties as may be specified in the requirement.

A requirement under paragraph (b) above may specify the form in which a report is to be given.

- (11) The Board may arrange, or require the relevant authority to arrange, for a report under subsection (10)(b) above to be published in such a manner as appears to the Board to be appropriate.
- (12) In this section “relevant authority” means a local authority, a chief officer of police, a local policing body, a local probation board, a provider of probation services, a clinical commissioning group and a local health board.
- (13) Schedule (*Women’s Justice Board: further provisions*) has effect.”

Member’s explanatory statement

This new Clause makes provision for the establishment of a “Women’s Justice Board”, along the lines of the Youth Justice Board. The drafting closely follows the form of the provisions establishing the YJB in the Crime and Disorder Act 1998.

After Clause 164

EARL ATTLEE

241 Insert the following new Clause –

“Training for offenders

- (1) The Sentencing Code is amended as follows.
- (2) After section 276, insert –

“276A Detention for Training at Her Majesty’s pleasure for offenders aged at least 18 but under 27

- (1) A sentence of Detention for Training at Her Majesty’s pleasure is available to a court dealing with an offender for an offence where –
- (a) the offender is aged at least 18 but under 27 when convicted,
 - (b) the offence is punishable by that court with imprisonment in the case of a person aged 21 or over,
 - (c) the court is not required to pass a sentence of –
 - (i) detention during Her Majesty’s pleasure (see section 259), or
 - (ii) custody for life (see sections 272 and 275), and
 - (d) the court is satisfied the offender would benefit from the training that would be provided.
- (2) The power of the court to impose such a sentence is not subject to section 230 (threshold for imposing discretionary custodial sentence).
- (3) Section 244 of the Criminal Justice Act 2003 (duty to release) is not applicable to a sentence of Detention for Training at Her Majesty’s pleasure.

276B Term of sentence of Detention for Training at Her Majesty’s pleasure

After Clause 164 - continued

- (1) The maximum full term of Detention for Training at Her Majesty's pleasure that a court may impose for an offence is the same as the maximum term of imprisonment that it may impose for the offence in the case of a person aged 21 or over.
- (2) The minimum term of a sentence of Detention for Training at Her Majesty's pleasure is 12 months.
- (3) The term of a sentence of Detention for Training at Her Majesty's pleasure must be the term (not exceeding the permitted maximum) that in the opinion of the court is commensurate with—
 - (a) the seriousness of the offence,
 - (b) providing enough time for the three stages of Detention for Training at Her Majesty's pleasure to be effective, and
 - (c) providing a sufficiently strong incentive for the offender to be motivated to meet the improvements in conduct, training, education and performance determined under section 276C in order to move onto Gradual and Safe Release under section 276I.
- (4) In forming its opinion for the purposes of subsection (3), the court must take into account all the information that is available to it about the circumstances of the offence, or of it and the associated offence or offences, including any aggravating or mitigating factors.
- (5) The pre-sentence report requirements in section 30 apply to the court in relation to forming that opinion.
- (6) See section 232 for additional requirements in the case of an offender suffering from a mental disorder.
- (7) The court may impose a sentence of Detention for Training at Her Majesty's pleasure only if it is satisfied that the offender would benefit from it.

276C Improvements in conduct, training, education and performance

- (1) When imposing a sentence of Detention for Training at Her Majesty's pleasure, subject to subsection (2), the court must determine what objectively measured improvement in conduct, training, education and performance is to be achieved by the offender before being considered for the final stage of training (gradual and safe release).
- (2) When making the determination mentioned in subsection (1) the court must set improvement requirements that—
 - (a) are demanding but achievable,
 - (b) can be objectively measured using the system mentioned in subsection (3),
 - (c) take into account the capacity of the offender to improve, given sufficient incentive,
 - (d) take into account the seriousness of the offence in question,
 - (e) take into account the needs of the offender,
 - (f) take into account the availability of training offered by the Secretary of State, and
 - (g) significantly improve the chances of the offender exclusively engaging in legitimate employment.

After Clause 164 - continued

- (3) The Secretary of State must devise and implement an objective system for measuring the offender's improvement in education, training and conduct.

276D Location and security of training and electronic communications

- (1) The Secretary of State must locate the necessary training centres in rural locations sufficiently remote to –
 - (a) sever the trainees from malign gang influences,
 - (b) eliminate trainees' access to illegal substances,
 - (c) eliminate trainees' access to mobile phone signals and illegal electronic equipment,
 - (d) provide the necessary security by means of remoteness rather than physical security, and
 - (e) minimise expenditure on physical security.
- (2) Subject to subsections (3) and (4) the Secretary of State may –
 - (a) direct telecommunication companies to take steps to have the effect of electronically isolating trainees, and
 - (b) make a drone exclusion order and emit electronic signals designed to cause any drone to crash or to come under the control of the Secretary of State.
- (3) Before making any direction under subsection (2), the Secretary of State must individually consult every adult resident directly affected by the requirements of any such direction.
- (4) The Secretary of State may offer inducements and compensation to residents adversely affected by directions made under subsection (2).
- (5) The Secretary of State may conduct the training mentioned in sections 276G and 276H in such locations as he or she sees fit.

276E Training teams

- (1) The Secretary of State may arrange for trainees to undertake their training as part of a team.
- (2) The Secretary of State may arrange for training teams to be composed with trainees from multiple regions.
- (3) The Secretary of State may arrange that the teams are competing against each other, especially in exercises.
- (4) The Secretary of State may arrange that a team can be disadvantaged in terms of privileges and conditions for the team if –
 - (a) the team does not predominate in a training exercise, or
 - (b) a member of the team commits misconduct.

276F Components of Detention for Training at Her Majesty's pleasure

- (1) There are to be three stages of Detention for Training at Her Majesty's pleasure –
 - (a) Basic Compliance Training;
 - (b) Employability Training;
 - (c) Gradual and Safe Release.
- (2) Trainees must be required to pass out on each stage of training before attempting a later stage of the training.

276G Basic Compliance Training

After Clause 164 - continued

- (1) The Secretary of State must structure Basic Compliance Training to instil –
 - (a) hope,
 - (b) pride, and
 - (c) discipline.
- (2) The components of Basic Compliance Training must include, but are not limited to –
 - (a) hope for the future,
 - (b) appearance, dress and bearing,
 - (c) teamwork,
 - (d) nutrition and cooking,
 - (e) basic literacy and numeracy,
 - (f) map reading,
 - (g) first aid training,
 - (h) personal conduct and anger management, both theory and practice, and
 - (i) field craft and camping.
- (3) The purpose of Basic Compliance Training is to allow the Secretary of State to take greater risks with the trainee and to give the trainee increased personal responsibility for his or her actions.

276H Employability Training

- (1) Employability Training must be composed of trade training, education and personal development.
- (2) The Secretary of State must structure Employability Training to minimise the probability of re-offending and maximise the offender's chances of securing permanent good quality legitimate employment.
- (3) The components of Employability Training must include, but are not limited to –
 - (a) hope for the future,
 - (b) dress and bearing,
 - (c) teamwork,
 - (d) nutrition and cooking,
 - (e) basic literacy and numeracy,
 - (f) map reading,
 - (g) first aid training for a First Aid at Work Certificate,
 - (h) personal conduct and anger management, both theory and practice,
 - (i) adventure training,
 - (j) training in basic fire fighting,
 - (k) training in safe operation of hand-held power tools,
 - (l) training in basic risk assessment,
 - (m) training to acquire a basic construction skills certificate,
 - (n) training to operate a forklift truck,
 - (o) training to erect a prefabricated aluminium access tower, and
 - (p) training exercises both long and short, to test and practise skills.

276I Gradual and Safe Release

After Clause 164 - continued

- (1) The Secretary of State must structure Gradual and Safe Release to minimise the probability of re-offending and maximise the offender's chances of securing accommodation and permanent good quality employment.
- (2) The components of Gradual and Safe Release must include, but are not limited to—
 - (a) arrangements for safe accommodation, not necessarily in the area where the offender was previously resident,
 - (b) arrangements for employment to suit the capability of the offender,
 - (c) requirements not to visit designated areas or places,
 - (d) curfew requirements,
 - (e) abstinence from substance abuse requirements, and
 - (f) tagging requirements.

276J Release on temporary licence for offenders Detained for Training at Her Majesty's pleasure

- (1) The Secretary of State may grant Release On Temporary Licence (ROTL) to any offender serving a sentence of Detention for Training at Her Majesty's pleasure subject to the conditions in subsection (3).
- (2) When granting ROTL the Secretary of State may require the offender to—
 - (a) wear an approved tag,
 - (b) adhere to geographical limits,
 - (c) adhere to sobriety requirements,
 - (d) not engage in substance abuse,
 - (e) not use an unauthorised mobile phone or other types of electronic equipment, and
 - (f) not meet or communicate with certain persons or classes of persons.
- (3) The conditions mentioned in subsection (1) are—
 - (a) an offender who has not passed out on Basic Compliance training can be granted ROTL only in exceptional circumstances,
 - (b) ROTL can be granted for weekend leave,
 - (c) ROTL can be granted to enable an offender to travel from one training location to another, and
 - (d) when the offender is on the final stage of Gradual and Safe Release, ROTL can be granted to attend work or live away from prison facilities for extended periods.

276K Effect of non-compliance or not engaging with training

- (1) Where the conditions mentioned in subsection (2) are met, the Secretary of State may apply to the court to have the remaining part of the offender's sentence converted to a sentence of imprisonment for the remaining portion of the sentence.
- (2) The conditions mentioned in subsection (1) are that the offender sentenced to be Detained for Training at Her Majesty's pleasure consistently—
 - (a) fails to make reasonable efforts to comply with the training requirements,

After Clause 164 - continued

- (b) makes little or no attempt to address areas for improvement identified by the court under section 276C, or
- (c) fails to honour the terms of ROTL under section 276J.

276L Appointment of mentor for offenders Detained for Training at Her Majesty's pleasure

- (1) The Secretary of State must appoint a mentor to each offender Detained for Training at Her Majesty's pleasure.
- (2) The role of the mentor is to provide—
 - (a) a positive male role model for the trainee,
 - (b) a lay person with the necessary skills to look after the interests of the trainee,
 - (c) a person to whom the trainee can complain about any mistreatment, perceived or real,
 - (d) a person who can skilfully deal with bureaucracy on behalf the trainee when on Gradual and Safe Release, and
 - (e) a person who can attend any passing out or other events.
- (3) The Secretary of State and prison governors must engage constructively with any mentor appointed under this section when the mentor is undertaking these duties.””

BARONESS BUTLER-SLOSS

242 Insert the following new Clause—

“Rehabilitation of offenders who are addicted to drugs or alcohol

- (1) Offenders who commit offences other than murder, manslaughter, terrorism or sexual offences, and who are addicted to drugs or alcohol, must be given a sentence with a requirement to attend a residential rehabilitation unit.
- (2) An offender who refuses to attend or fails to remain at the unit must serve the remainder of their sentence in prison.”

Clause 165

EARL ATTLEE
LORD PANNICK
LORD MARKS OF HENLEY-ON-THAMES
LORD JUDGE

Earl Attlee gives notice of his intention to oppose the Question that Clause 165 stand part of the Bill.

Clause 167

LORD WOLFSON OF TREDEGAR

243 Page 187, line 13, after “court” insert “and tribunal”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 187, line 17.

244 Page 187, line 15, leave out “the court” and insert “a court or tribunal”

Member’s explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 187, line 17.

245 Page 187, line 17, leave out from “applies” to end of line 25 and insert “(subject to subsections (10) and (11)) to proceedings in any court; and in this section “court” has the same meaning as in the Contempt of Court Act 1981 (see section 19 of that Act).”

Member’s explanatory statement

This amendment expands new section 85A of the Courts Act 2003 so as to cover all “courts” within the meaning of the Contempt of Court Act 1981 (which include tribunals and other judicial bodies).

LORD FALCONER OF THOROTON

245A Page 187, line 17, after “courts” insert “, subject to subsection (1A)”

Member’s explanatory statement

This amendment, along with other amendments to Clauses 167 and 169 in the name of Lord Falconer of Thoroton, seeks to remove children from the application of the Clause, providing that live links may not be used in cases concerning children.

245B Page 187, line 25, at end insert –

“(1A) This section does not apply where a party to the proceedings is a child under the age of 18.”

LORD WOLFSON OF TREDEGAR

246 Page 188, line 15, leave out from “regulations” to end of line 16

Member’s explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 188, line 25.

247 Page 188, line 25, at end insert –

“(8A) Before making regulations under subsection (8), the Lord Chancellor must determine whether the function of giving or withholding concurrence to the regulations would most appropriately be exercised by –

- (a) the Lord Chief Justice of England and Wales,
- (b) the Senior President of Tribunals, or
- (c) both of them.

(8B) Regulations under subsection (8) may be made only with the concurrence of the Lord Chief Justice of England and Wales, the Senior President of Tribunals, or both of them, as determined under subsection (8A).”

Member's explanatory statement

This amendment responds to the inclusion of tribunals within new section 85A of the Courts Act 2003 (see the amendment in the name of Lord Wolfson of Tredegar at page 187, line 17) by providing for the Senior President of Tribunals to consent to regulations under that section in appropriate cases.

248 Page 188, line 27, at end insert –

- “(10) This section does not apply to proceedings in the Supreme Court.
 (11) This section does not apply to proceedings if provision regulating the procedure to be followed in those proceedings could be made by –
 (a) an Act of the Scottish Parliament,
 (b) an Act of Senedd Cymru (including one passed with the consent of a Minister of the Crown within the meaning of section 158(1) of the Government of Wales Act 2006), or
 (c) an Act of the Northern Ireland Assembly passed without the consent of the Secretary of State.”

Member's explanatory statement

This amendment provides that Supreme Court proceedings and court or tribunal proceedings within devolved competence do not fall within the expanded scope of new section 85A of the Courts Act 2003 (as brought about by the amendment in the name of Lord Wolfson of Tredegar at page 187, line 17).

249 Page 188, line 28, leave out subsection (2)

Member's explanatory statement

This amendment (together with the amendment in the name of Lord Wolfson of Tredegar at page 281, line 12) removes provision that is unnecessary as a result of the amendment in the name of Lord Wolfson of Tredegar at page 187, line 17.

250 Page 188, line 36, after “court” insert “and tribunal”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 187, line 17.

251 Page 188, leave out lines 37 to 46

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 281, line 12.

252 Page 189, line 3, leave out from “under” to end of line 9 and insert “section 85A of the Courts Act 2003 (remote observation and recording of court and tribunal proceedings).”

Member's explanatory statement

This amendment is consequential on the amendments in the name of Lord Wolfson of Tredegar at page 187, line 17 and page 281, line 12.

253 Page 189, line 15, after “court” insert “and tribunal”

Member’s explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 187, line 17.

254 Page 189, leave out lines 16 to 24

Member’s explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 281, line 12.

255 Page 189, line 28, after “court” insert “and tribunal”

Member’s explanatory statement

This amendment is consequential on the amendment in the name of Lord Wolfson of Tredegar at page 187, line 17.

Clause 168

LORD WOLFSON OF TREDEGAR

256 Page 190, line 26, at end insert –

“(10A) This section does not apply to proceedings in the Supreme Court.

(10B) This section does not apply to court proceedings if provision regulating the procedure to be followed in those proceedings could be made by –

(a) an Act of the Scottish Parliament,

(b) an Act of Senedd Cymru (including one passed with the consent of a Minister of the Crown within the meaning of section 158(1) of the Government of Wales Act 2006), or

(c) an Act of the Northern Ireland Assembly passed without the consent of the Secretary of State.”

Member’s explanatory statement

This amendment provides that Supreme Court proceedings and court or tribunal proceedings within devolved competence do not fall within the expanded scope of new section 85B of the Courts Act 2003 (as brought about by the amendments in the name of Lord Wolfson of Tredegar at page 190, lines 27 and 28).

257 Page 190, line 27, at end insert –

““court” has the same meaning as in the Contempt of Court Act 1981 (see section 19 of that Act);”

Member’s explanatory statement

This amendment, and the amendment in the name of Lord Wolfson of Tredegar at page 190, line 28, expand new section 85B of the Courts Act 2003 so as to cover all “courts” within the meaning of the Contempt of Court Act 1981 (which include tribunals and other judicial bodies).

258 Page 190, line 28, leave out from “any” to end of line 37 and insert “court;”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Lord Wolfson of Tredegar at line 27 of the same page.

259 Page 190, line 45, leave out subsection (2)

Member's explanatory statement

This amendment (together with the amendment in the name of Lord Wolfson of Tredegar at page 286, line 4) removes provision that is unnecessary as a result of the amendments in the name of Lord Wolfson of Tredegar at page 190, lines 27 and 28.

Clause 169

LORD FALCONER OF THOROTON

259A Page 191, line 7, at end insert –

“subject to subsection (1A).

(1A) This section does not apply where a party to the proceedings is a child under the age of 18.”

LORD PANNICK

LORD MARKS OF HENLEY-ON-THAMES

LORD JUDGE

259B Page 191, line 8, leave out subsection (2) and insert –

“(2) Subsection (1) does not apply to a jury or to members of a jury.”

Before Schedule 19

LORD MARKS OF HENLEY-ON-THAMES

LORD GERMAN

259C Insert the following new Schedule –

“WOMEN'S JUSTICE BOARD: FURTHER PROVISIONS

Membership

- 1 The Secretary of State shall appoint one of the members of the Board to be their chair.
- 2 (1) Subject to the following provisions of this paragraph, a person shall hold and vacate office as a member of the Board, or as chair of the Board, in accordance with the terms of their appointment.
 - (2) An appointment as a member of the Board may be full-time or part-time.
 - (3) The appointment of a person as a member of the Board, or as chair of the Board, shall be for a fixed period of not longer than five years.
 - (4) Subject to sub-paragraph (5) below, a person whose term of appointment as a member of the Board, or as chair of the Board, expires shall be eligible for re-appointment.
 - (5) No person may hold office as a member of the Board for a continuous period which is longer than 10 years.

Before Schedule 19 - continued

- (6) A person may at any time resign their office as a member of the Board, or as chair of the Board, by notice in writing addressed to the Secretary of State.
- (7) The terms of appointment of a member of the Board, or the chair of the Board, may provide for their removal from office (without cause being assigned) on notice from the Secretary of State of such length as may be specified in those terms, subject (if those terms so provide) to compensation from the Secretary of State; and in any such case the Secretary of State may remove that member from office in accordance with those terms.
- (8) Where—
- (a) the terms of appointment of a member of the Board, or the chair of the Board, provide for compensation on their removal from office in pursuance of sub-paragraph (7) above; and
 - (b) the member or chair is removed from office in pursuance of that sub-paragraph,
- the Board shall pay to that person compensation of such amount, and on such terms, as the Secretary of State may with the approval of the Treasury determine.
- (9) The Secretary of State may also at any time remove a person from office as a member of the Board if satisfied—
- (a) that they have without reasonable excuse failed to discharge their functions as a member for a continuous period of three months beginning not earlier than six months before that time;
 - (b) that they have been convicted of a criminal offence;
 - (c) that a bankruptcy order has been made against them, or their estate has been sequestrated, or they have made a composition or arrangement with, or granted a trust deed for, their creditors; or
 - (d) that they are unable or unfit to discharge their functions as a member.
- (10) The Secretary of State shall remove a member of the Board, or the chair of the Board, from office in pursuance of this paragraph by declaring their office as a member of the Board to be vacant and notifying that fact in such manner as the Secretary of State thinks fit; and the office shall then become vacant.
- (11) If the chair of the Board ceases to be a member of the Board they shall also cease to be chair.

Members and employees

- 3 (1) The Board shall—
- (a) pay to members of the Board such remuneration;
 - (b) pay to or in respect of members of the Board any such allowances, fees, expenses and gratuities; and
 - (c) pay towards the provision of pensions to or in respect of members of the Board any such sums;
- as the Board are required to pay by or in accordance with directions given by the Secretary of State.

Before Schedule 19 - continued

- (2) Where a member of the Board was, immediately before becoming a member, a participant in a scheme under section 1 of the Superannuation Act 1972, the Minister for the Civil Service may determine that their term of office as a member shall be treated for the purposes of the scheme as if it were service in the employment or office by reference to which they were a participant in the scheme; and their rights under the scheme shall not be affected by sub-paragraph (1)(c) above.
- (3) Where—
- (a) a person ceases to hold office as a member of the Board otherwise than on the expiry of their term of appointment; and
 - (b) it appears to the Secretary of State that there are special circumstances which make it right for them to receive compensation,
- the Secretary of State may direct the Board to make to the person a payment of such amount as the Secretary of State may determine.
- 4 (1) The Board may appoint a chief executive and such other employees as the Board think fit, subject to the consent of the Secretary of State as to their number and terms and conditions of service.
- (2) The Board shall—
- (a) pay to employees of the Board such remuneration; and
 - (b) pay to or in respect of employees of the Board any such allowances, fees, expenses and gratuities,
- as the Board may, with the consent of the Secretary of State, determine.
- (3) Employment by the Board shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 may apply.
- 5 The Board shall pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to paragraph 3(2) or 4(3) above in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

House of Commons disqualification

- 6 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), there shall be inserted at the appropriate place the following entry—
- “The Women's Justice Board for England and Wales”.

Procedure

- 7 (1) The arrangements for the procedure of the Board (including the quorum for meetings) shall be such as the Board may determine.
- (2) The validity of any proceedings of the Board (or of any committee of the Board) shall not be affected by—
- (a) any vacancy among the members of the Board or in the office of chair of the Board; or
 - (b) any defect in the appointment of any person as a member of the Board or as chair of the Board.

Annual reports and accounts

Before Schedule 19 - continued

- 8 (1) As soon as possible after the end of each financial year of the Board, the Board shall send to the Secretary of State a report on the discharge of their functions during that year.
- (2) The Secretary of State shall lay before each House of Parliament, and cause to be published, a copy of every report sent under this paragraph.
- 9 (1) The Board shall—
- (a) keep proper accounts and proper records in relation to the accounts; and
 - (b) prepare a statement of accounts in respect of each financial year of the Board.
- (2) The statement of accounts shall contain such information and shall be in such form as the Secretary of State may, with the consent of the Treasury, direct.
- (3) The Board shall send a copy of the statement of accounts to the Secretary of State and to the Comptroller and Auditor General within such period after the end of the financial year to which the statement relates as the Secretary of State may direct.
- (4) The Comptroller and Auditor General shall—
- (a) examine, certify and report on the statement of accounts; and
 - (b) lay a copy of the statement of accounts and the report before each House of Parliament.
- 10 For the purposes of this Schedule the Board's financial year shall be the period of 12 months ending with 31 March; but the first financial year of the Board shall be the period beginning with the date of establishment of the Board and ending with the first 31 March which falls at least six months after that date.

Expenses

- 11 The Secretary of State shall out of money provided by Parliament pay to the Board such sums towards their expenses as the Secretary of State may determine.”

Member's explanatory statement

This new Schedule provides further provision for the implementation of new Clause “Women's Justice Board”. The drafting closely follows the form of the provisions in Schedule 2 to the Crime and Disorder Act 1998.

Schedule 19

LORD WOLFSON OF TREDEGAR

260 Page 281, line 12, leave out paragraphs 1 to 3

Member's explanatory statement

This amendment (together with the amendment in the name of Lord Wolfson of Tredegar at page 188, line 28) removes provision that is unnecessary as a result of the amendment in the name of Lord Wolfson of Tredegar at page 187, line 17.

261 Page 286, line 4, leave out paragraphs 4 to 6

Member's explanatory statement

This amendment (together with the amendment in the name of Lord Wolfson of Tredegar at page 190, line 45) removes provision that is unnecessary as a result of the amendments in the name of Lord Wolfson of Tredegar at page 190, lines 27 and 28.

After Clause 170

LORD WOLFSON OF TREDEGAR

262 Insert the following new Clause—

“Expedited procedure for initial regulations about remote observation of proceedings

- (1) This section applies in relation to the first regulations made under section 85A(8) of the Courts Act 2003 (as inserted by section 167(1)).
- (2) The regulations may be made without a draft of the instrument containing them having been laid before and approved by a resolution of each House of Parliament (notwithstanding section 108(3) of the Courts Act 2003).
- (3) If regulations are made in reliance on subsection (2), the statutory instrument containing them must be laid before Parliament after being made.
- (4) Regulations contained in a statutory instrument laid before Parliament under subsection (3) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (5) In calculating the period of 28 days, no account is to be taken of any whole days that fall within a period during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House of Parliament is adjourned for more than four days.
- (6) If regulations cease to have effect as a result of subsection (4), that does not—
 - (a) affect the validity of anything previously done under or by virtue of the regulations, or
 - (b) prevent the making of new regulations.”

Member's explanatory statement

This enables the first regulations made for the purposes of new section 85A of the Courts Act 2003 as inserted by Clause 167 (which, in particular, will specify types of court or tribunal proceedings in which remote observation directions will be available) to be made subject to the 'made affirmative' procedure rather than the normal affirmative procedure.

LORD COAKER

BARONESS BENNETT OF MANOR CASTLE

263 Insert the following new Clause—

“Offence of assaulting a retail worker

- (1) It is an offence for a person to assault, threaten or abuse another person—
 - (a) who is a retail worker, and
 - (b) who is engaged, at the time, in retail work.
- (2) No offence is committed under subsection (1) unless the person who assaults, threatens or abuses knows or ought to know that the other person—
 - (a) is a retail worker, and

After Clause 170 - continued

- (b) is engaged, at the time, in retail work.
- (3) A person who commits an offence under subsection (1) is liable, on summary conviction, to imprisonment for a term not exceeding 12 months, a fine, or both.
- (4) Evidence from a single source is sufficient to establish, for the purposes of this section—
 - (a) whether a person is a retail worker, and
 - (b) whether the person is engaged, at the time, in retail work.
- (5) The offence under subsection (1) of threatening or abusing a retail worker is committed by a person only if the person—
 - (a) behaves in a threatening or abusive manner towards the worker, and
 - (b) intends by the behaviour to cause the worker or any other person fear or alarm or is reckless as to whether the behaviour would cause such fear or alarm.
- (6) Subsection (5) applies to—
 - (a) behaviour of any kind including, in particular, things said or otherwise communicated as well as things done,
 - (b) behaviour consisting of—
 - (i) a single act, or
 - (ii) a course of conduct.
- (7) Subsections (8) to (10) apply where, in proceedings for an offence under subsection (1), it is—
 - (a) specified in the complaint that the offence is aggravated by reason of the retail worker’s enforcing a statutory age restriction, and,
 - (b) proved that the offence is so aggravated.
- (8) The offence is so aggravated if the behaviour constituting the offence occurred because of the enforcement of a statutory age restriction.
- (9) Evidence from a single source is sufficient to prove that the offence is so aggravated.
- (10) Where this section applies, the court must—
 - (a) state on conviction that the offence is so aggravated,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) take the aggravation into account in determining the appropriate sentence, and
 - (d) state—
 - (i) where the sentence imposed in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
 - (ii) otherwise, the reasons for there being no such difference.
- (11) In this section—
 - “enforcement”, in relation to a statutory age restriction, includes—
 - (a) seeking information as to a person’s age,

After Clause 170 - continued

- (b) considering information as to a person's age,
 - (c) refusing to sell or supply goods or services,for the purposes of complying with the restriction (and "enforcing" is to be construed accordingly),
"statutory age restriction" means a provision in an enactment making it an offence to sell or supply goods or services to a person under an age specified in that or another enactment.
- (12) In this section, "retail worker" –
 - (a) means a person –
 - (i) whose usual place of work is retail premises, or
 - (ii) whose usual place of work is not retail premises but who does retail work,
 - (b) includes, in relation to a business that owns or occupies any premises in which the person works, a person who –
 - (i) is an employee of the business,
 - (ii) is an owner of the business, or
 - (iii) works in the premises under arrangements made between the business and another person for the provision of staff,
 - (c) also includes a person who delivers goods from retail premises.
- (13) For the purposes of subsection (12), it is irrelevant whether or not the person receives payment for the work.
- (14) In proceedings for an offence under subsection (1), it is not necessary for the prosecutor to prove that the person charged with the offence knew or ought to have known any matter falling within subsection (12)(b) in relation to the person against whom the offence is alleged to have been committed.
- (15) In this section, "retail premises" means premises that are used wholly or mainly for the sale or supply of goods, on a retail basis, to members of the public.
- (16) In this section, "retail work" means –
 - (a) in the case of a person whose usual place of work is retail premises, any work in those retail premises,
 - (b) in the case of a person whose usual place of work is not retail premises, work in connection with –
 - (i) the sale or supply of goods, on a retail basis, to members of the public, or
 - (ii) the sale or supply of services (including facilities for gambling) in respect of which a statutory age restriction applies,
 - (c) subject to subsection (17), in the case of a person who delivers goods from retail premises, work in connection with the sale or supply of goods, on a retail basis, to members of the public.
- (17) A person who delivers goods from retail premises is doing retail work only during the period beginning when the person arrives at a place where delivery of goods is to be effected and ending when the person leaves that place (whether or not goods have been delivered).
- (18) In this section, references to working in premises includes working on any land forming part of the premises."

After Clause 170 - continued

BARONESS NEVILLE-ROLFE
LORD COAKER

264 Insert the following new Clause –

“Offence of assaulting etc. a person providing a retail service to the public

- (1) This section applies to an offence of common assault, battery, threatening or abusive behaviour, or intentional harassment that is committed against a person providing a retail service to the public acting in the exercise of functions as such a worker.
- (2) A person guilty of an offence to which this section applies is liable –
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both.
- (3) Subsection (2) applies only where the person who commits the offence knows or ought to know that the other person is providing a retail service to the public.
- (4) In relation to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 (increase in maximum term that may be imposed on summary conviction of offence triable either way), the reference in subsection (2)(a) to 12 months is to be read as a reference to 6 months.
- (5) In consequence of subsections (1) to (4) –
 - (a) in section 39 of the Criminal Justice Act 1988 (which provides for common assault and battery to be summary offences punishable with imprisonment for a term not exceeding 6 months), after subsection (2) insert –
 - “(3) Subsection (1) is also subject to section (*Offence of assaulting etc. a person providing a retail service to the public*) of the Police, Crime, Sentencing and Courts Act 2021 (which makes provision for increased sentencing powers for offences of common assault and battery committed against a person providing a service to the public in the exercise of functions as such a worker).”;
 - (b) in section 4 of the Public Order Act 1986 (which provides for threatening behaviour to be a summary offence punishable with imprisonment for a term not exceeding 6 months), after subsection (4) insert –
 - “(5) This section is subject to section (*Offence of assaulting etc. a person providing a retail service to the public*) of the Police, Crime, Sentencing and Courts Act 2021 (which makes provision for increased sentencing powers for the offence of threatening behaviour committed against a person providing a service to the public in the exercise of functions as such a worker).”;

After Clause 170 - continued

- (c) in section 4A of the Public Order Act 1986 (which provides for intentional harassment, alarm or distress to be a summary offence punishable with imprisonment for a term not exceeding 6 months), after subsection (5) insert—

“(6) This section is subject to section (*Offence of assaulting etc. a person providing a retail service to the public*) of the Police, Crime, Sentencing and Courts Act 2021 (which makes provision for increased sentencing powers for the offence of threatening behaviour committed against a person providing a service to the public in the exercise of functions as such a worker).”

- (6) This section applies only in relation to offences committed on or after the day it comes into force.”

Member’s explanatory statement

This amendment would increase the maximum sentence available to the courts in cases of assault, battery, threatening or abusive behaviour or intentional harassment against a person providing a retail service to the public from 6 months imprisonment to 2 years.

BARONESS MEACHER
BARONESS WHEATCROFT
LORD BLUNKETT
LORD FALCONER OF THOROTON

265 Insert the following new Clause—

“Restorative justice

The Secretary of State must, every three years—

- (a) prepare an action plan on restorative justice for the purposes of improving access, awareness and capacity of restorative justice within the criminal justice system, and collecting evidence of the use of restorative justice,
- (b) lay a copy of the action plan before Parliament, and
- (c) report on progress in implementing any previous action plan to Parliament.”

Member’s explanatory statement

The amendment aims to ensure that access to restorative justice services improves over time for the benefit of victims and to reduce crime.

LORD CASHMAN
LORD LEXDEN
LORD FALCONER OF THOROTON
BARONESS JONES OF MOULSECOOMB

266 Insert the following new Clause—

“Disregards and pardons for convictions etc. of certain offences

- (1) The Protection of Freedoms Act 2012 is amended as follows.

After Clause 170 - continued

- (2) In section 92 (power of Secretary of State to disregard convictions or cautions) –
- (a) in subsection (1)(b), omit “or”,
 - (b) in subsection (1)(c), at the end insert “or”,
 - (c) after subsection (1)(c), insert –
 - “(d) any other offence which falls within subsection (1A),”
 - (d) after subsection (1), insert –
 - “(1A) An offence falls within this subsection if the offence –
 - (a) regulated, or was used in practice to regulate, sexual activity between persons of the same sex, and
 - (b) either –
 - (i) has been repealed or, in the case of an offence at common law, abolished, or
 - (ii) has not been repealed or abolished but once covered sexual activity between persons of the same sex of a type which, or in circumstances which, would not amount to the offence on the day on which this subsection comes into force.
 - (1B) Where an offence of the type described in subsection (1A) covers or once covered activity other than sexual activity between persons of the same sex, the offence falls within subsection (1A) only to the extent that it once covered sexual activity between persons of the same sex.
 - (1C) In this section, “sexual activity between persons of the same sex” includes –
 - (a) any physical or affectionate activity between persons of the same sex which is of a type which is characteristic of persons involved in an intimate personal relationship,
 - (b) conduct intended to introduce or procure such activity.”
 - (e) in subsection (3)(a), before the words “the other person” insert “in respect of an offence mentioned in subsection (1)(a)-(c)”,
 - (f) in subsection (3)(b), substitute the full stop with “; or”,
 - (g) after subsection (3)(b), insert –
 - “(c) in respect of an offence that falls within subsection (1A) the conduct constituting the offence, if occurring in the same circumstances, would not be an offence on the day on which this subsection comes into force.””

Member’s explanatory statement

The purpose of this new Clause is to extend the current disregard and pardon schemes in England and Wales to enable individuals who were convicted of or cautioned for offences because of engaging in same-sex sexual acts, of a kind that would be lawful today, to apply to have a conviction or caution disregarded and, if successful, be pardoned.

LORD CASHMAN
LORD LEXDEN
LORD FALCONER OF THOROTON

267 Insert the following new Clause—

“Posthumous pardons for convictions etc. of certain offences

- (1) A person who has been convicted of, or cautioned for, an offence which falls within section 92(1A) of the Protection of Freedoms Act 2012 (“the 2012 Act”) and who has died before this section comes into force, or dies during the period of 6 months beginning with the day on which this section comes into force, is pardoned for the offence if the conduct constituting the offence, if occurring in the same circumstances, would not be an offence on the day on which this section comes into force.
- (2) A pardon under this section does not—
 - (a) affect any conviction, caution or sentence, or
 - (b) give rise to any right, entitlement or liability.
- (3) Nothing in this section affects the prerogative of mercy.
- (4) Subject to subsection (5), the following provisions of section 101 of the 2012 Act apply for the purposes of this section as they apply for the purposes of Chapter 4 of Part 5 of that Act—
 - (a) in subsection (1), the definitions of “caution”, “conviction”, and “sentence” (and the related definition of “service disciplinary proceedings”);
 - (b) subsections (2), (5) and (6).
- (5) The definition of “service disciplinary proceedings” in section 101(1) of the 2012 Act applies in accordance with subsection (4) with the modification that it also includes any proceedings (whether in England and Wales or elsewhere) under any enactment mentioned in section 164(8) of the Policing and Crime Act 2017.”

Member’s explanatory statement

The purpose of this new Clause is to extend the current pardon scheme in England and Wales to provide posthumous pardons to individuals who were convicted of or cautioned for offences because of engaging in same-sex sexual acts, of a kind that would be lawful today, and who have since died or die within six months of these provisions coming into force.

LORD FALCONER OF THOROTON

268 Insert the following new Clause—

“Video recorded cross-examination or re-examination of complainants in respect of sexual offences and modern slavery offences

- (1) Section 28 of the Youth Justice and Criminal Evidence Act 1999 comes into force in relation to proceedings to which subsection (2) applies on the day on which this Act is passed.
- (2) This subsection applies where a witness is eligible for assistance by virtue of section 17(4) of the Youth Justice and Criminal Evidence Act 1999 (complainants in respect of a sexual offence or modern slavery offence who are witnesses in proceedings relating to that offence, or that offence and any other offences).

After Clause 170 - continued

- (3) This section has effect notwithstanding section 68(3) of the Youth Justice and Criminal Evidence Act 1999.”

Member’s explanatory statement

This new clause would bring section 28 of the Youth Justice and Criminal Evidence Act 1999, which provides for the cross-examination of vulnerable witnesses to be recorded rather than undertaken in court, fully into force for victims of sexual offences and modern slavery offences.

LORD FALCONER OF THOROTON
BARONESS BENNETT OF MANOR CASTLE

269 Insert the following new Clause –

“Assistance for bereaved persons and core participants at inquests and public inquiries

- (1) With respect to inquests, and public inquiries relating to deaths or serious injuries, and where one or more public authority, or private entity whose relevant activity falls within subsection (2), are designated as “interested persons” (IPs) or “core participants” (CPs), bereaved IPs and CPs shall be entitled to publicly-funded legal assistance and representation at the same level or in proportion to the resources provided to the public authority or private entity, as set out in Schedule (*Assistance for bereaved persons and core participants at inquests and public inquiries: amendment of the Legal Aid, Sentencing and Punishment of Offenders Act 2012*).
- (2) Relevant activity of a private entity falls within this subsection where it –
- (a) is delegated or contracted from a public authority, or
 - (b) is one where the private entity or individual owes a health and safety responsibility to the public or a section of it, including but not limited to sporting, leisure and entertainment events and premises, public transport systems and the provision of utilities and retail facilities.”

Member’s explanatory statement

Combined with the proposed new schedule to follow Schedule 20, this amendment would ensure that bereaved persons and core participants at inquests and public inquiries received legal aid proportionate to the legal expenditure by any public authorities involved in the inquest or inquiry (so-called “equality of arms”).

LORD FALCONER OF THOROTON

270 Insert the following new Clause –

“Public advocate: establishment

- (1) The Lord Chancellor must appoint a person (“the Advocate“) to undertake the functions set out in this Part.
- (2) The Lord Chancellor must, out of money provided by Parliament, pay the expenses of the Advocate and may also pay them such allowances as the Secretary of State determines.
- (3) The Lord Chancellor must ensure that there is an efficient and effective system to support the carrying on of the business of the Advocate.”

Member's explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

271 Insert the following new Clause—

“Public advocate: role

- (1) The Advocate may undertake the functions set out in section (*Public advocate: functions*) for a particular event when—
 - (a) invited to do so by the Lord Chancellor, or
 - (b) for that event both requirements (one and two) have been met.
- (2) Requirement one is that, in the Advocate's opinion, an event has occurred which has led to large scale loss of life and involved—
 - (a) serious health and safety issues,
 - (b) a failure in regulation, or
 - (c) other events of serious concern.
- (3) In reaching an opinion under subsection (2), the Advocate must have regard to previous decisions of the Advocate.
- (4) Requirement two is that the Advocate has been asked to undertake their functions by fifty per cent plus one or more of the total of—
 - (a) representatives of those deceased due to the event, and
 - (b) any injured survivors of the event.
- (5) For the purposes of subsection (4)(a), each person who is deceased due to the event shall have one representative who will be the first qualifying person of legal age from—
 - (a) a husband, wife or civil partner from a marriage or partnership that was in existence at the time of the event;
 - (b) a child;
 - (c) a grandchild;
 - (d) a parent;
 - (e) a sibling;
 - (f) a half-sibling;
 - (g) a grandparent;
 - (h) a niece or nephew;
 - (i) a half-aunt or half-uncle;
 - (j) a cohabitant with the deceased;
 - (k) the executor of the deceased's last will and testament; or
 - (l) in the event that no qualifying person higher in this list can be traced and the deceased has died intestate, the Advocate themselves or any person with a verifiable relationship with the deceased that the Advocate may appoint on application for them to do so.
- (6) In subsection (5)—
 - (a) if there is more than one qualifying person in any of the categories in subsection (5)(a), (b), (c) or (e) then the elder person of legal age within that category will be the first qualifying person; and

After Clause 170 - continued

- (b) if a parent is the first qualifying person and is legally separated from the other parent of the deceased, both may choose jointly to represent the deceased.
- (7) The first qualifying person under subsection (5) may assign another qualifying person as their representative.
- (8) For the purposes of subsection (2), the large scale loss of life need not occur due to one single incident and the Advocate may choose to classify a series of deaths over a period of time as a large scale loss of life.
- (9) For the purposes of subsection (4)(b), an injured person is one who has been admitted to hospital as a result of the event.”

Member’s explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

272 Insert the following new Clause –

“Public advocate: functions

- (1) The functions of the Advocate are as follows.
- (2) The Advocate must report to the representatives under section 2(5) during any police or other authority’s investigation into the disaster regarding the progress of the investigation, and how the representatives can assist with it, including, if there are no lawyers representing the families, the implications of engaging lawyers at that stage.
- (3) Should any person listed in subsection (5) of section (*Public advocate: role*) request it, the Advocate must make any reports they have provided under subsection (2) to the representatives or legal representatives available to all qualifying persons listed in subsection (5) of section (*Public advocate: role*).
- (4) Following a further request to the Advocate by fifty percent plus one or more of the representatives of those deceased due to the event, the Advocate must set up a panel (the “Advocate’s Panel”) which must register as a data controller under the Data Protection Act 1998 and review all documentation relating to the event, the deceased and the representatives and report thereon.
- (5) In establishing the Advocate’s Panel under subsection (4), the Advocate must consult the representatives of those deceased due to the event about the composition of the Panel.
- (6) Subject to section 4, all relevant public authorities and other relevant organisations must provide documentation under subsection (4) to an Advocate’s Panel on request from the Panel.
- (7) An Advocate’s Panel must publish a report on its review of the documentation.
- (8) The Advocate may not chair an Advocate’s Panel but will be a member, along with further members and a person whom the Advocate deems fit to appoint to chair the panel.

After Clause 170 - continued

- (9) In this section, any reference to a representative shall mean all persons meeting the requirements of subsection (4) of section (*Public advocate: role*), including those who have not asked the Advocate to undertake these functions.”

Member’s explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

273

Insert the following new Clause—

“Public advocate: disclosure of information to an Advocate’s Panel

- (1) Nothing in this section detracts from the duty upon relevant public authorities to provide relevant information to an Advocate’s Panel on request from the Panel.
- (2) In this Part—
“relevant information” includes all information which may reasonably be considered to be related to the cause of the event, the event, and actions taken after the event due to it;
“public authority” has the same meaning as in the Freedom of Information Act 2000.
- (3) A public authority may only decline to provide information to the Advocate’s Panel if disclosure of that information to the Panel—
(a) is not possible for reasons of safeguarding national security;
(b) would, or would be likely to, prejudice the defence of the United Kingdom or of any Crown dependency or overseas territory, or the capability, effectiveness or security of the armed forces of the Crown;
(c) is prohibited by or under any enactment, is incompatible with any international obligation of the United Kingdom, or would constitute or be punishable as a contempt of court; or
(d) would, or would be likely to, prejudice a police investigation as to whether any person has failed to comply with the law.
- (4) A public authority may request that the Advocate’s Panel provide an assurance that information provided to the Panel will be secured to the same data security standard as used by that authority, and the Panel may provide such assurance and use its best endeavours to maintain that standard.
- (5) If information is withheld from the Advocate’s Panel under subsection (3), the Panel must be informed of the subject of the matter being withheld and the reason for that exemption.
- (6) Upon receiving a notification that information is being withheld, the Panel may apply to the Information Commissioner for a decision whether the public authority has assessed correctly that disclosure is not possible under subsection (3).

After Clause 170 - continued

- (7) Upon receiving an application from an Advocate’s Panel under subsection (6), the Information Commissioner must consider the application and issue a decision notice to the Panel and to the relevant public authority stating either –
 - (a) that the public authority has correctly assessed that the information should be withheld; or
 - (b) that all or some of the information should not be withheld, the steps that the public authority must take to provide the information and the period within which they must be taken.
- (8) A decision notice issued by the Information Commissioner under subsection (7) may be appealed by the Advocate’s Panel or the relevant public authority to the Tribunal.
- (9) If on an appeal under subsection (8) the Tribunal considers –
 - (a) that the notice against which the appeal is brought is not in accordance with the law, or
 - (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he or she ought to have exercised his or her discretion differently, the Tribunal shall allow the appeal or substitute such other notice as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.
- (10) On such an appeal, the Tribunal –
 - (a) may review any finding of fact on which the notice in question was based; and
 - (b) shall notify the Lord Chancellor of its decision.
- (11) An Advocate’s Panel and any office or officials supporting the work of the Advocate are not a public authority for the purpose of the Freedom of Information Act 2000.
- (12) In this section, “Tribunal” has the meaning given by section 84 of the Freedom of Information Act 2000.”

Member’s explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

274

Insert the following new Clause –

“Public advocate: report

- (1) The Advocate shall send to the Lord Chancellor a report –
 - (a) on an annual basis, summarising their work;
 - (b) at the conclusion of support relating to a particular event; and
 - (c) at any other time they identify a need so to do.
- (2) The Lord Chancellor must lay before Parliament a copy of any reports received from the Advocate within 15 days of their receipt.”

Member's explanatory statement

Combined with the four other proposed new clauses to follow Clause 170, this amendment is intended to establish a public advocate to provide advice to representatives of the deceased after major incidents.

BARONESS CHAKRABARTI
LORD ROSSER
BARONESS NEWLOVE
LORD BROWN OF EATON-UNDER-HEYWOOD

275 Insert the following new Clause—

“Duty to establish inquiry into lessons to be learned from the death of Sarah Everard

- (1) The Secretary of State must within one month of the coming into force of any provision of this Act, cause an inquiry to be held under the Inquiries Act 2005 into the matters arising from the abduction, rape and murder of Sarah Everard to identify the lessons to be learned for the professional culture, funding, vetting and organisation of policing, the prevention of violence against women and the investigation and prosecution of misogynistic crimes.
- (2) The inquiry must be undertaken by a chair who is to be a senior woman judge or retired judge, and a panel of other members of relevant experience appointed as set out under section 4 of the Inquiries Act 2005.”

LORD PADDICK
BARONESS CHAKRABARTI

276 Insert the following new Clause—

“Criminal Justice and Public Order Act 1994: repeal of section 60

Section 60 of the Criminal Justice and Public Order Act 1994 is omitted.”

Member's explanatory statement

This provision will repeal section 60 of CJPOA, which provides for suspicion-less stop and search.

BARONESS KENNEDY OF CRADLEY

277 Insert the following new Clause—

“Section 6 of the Sexual Offences Act 1956: removal of time limitation

Proceedings for the offence under section 6 of the Sexual Offences Act 1956 (intercourse with a girl between thirteen and sixteen) are not to be barred only by virtue of the passage of time since the date of the alleged offence.”

BARONESS JONES OF MOULSECOOMB
LORD HUNT OF KINGS HEATH
BARONESS HARRIS OF RICHMOND

278 Insert the following new Clause—

“Referendums on abolition of Police and Crime Commissioners

- (1) A referendum is to be held for each police area listed in Schedule 1 to the Police Act 1996.

After Clause 170 - continued

- (2) Each referendum is to be held on the same day as the next Police and Crime Commissioner election.
- (3) The question that is to appear on the ballot papers is –

“Do you think that your local police force should be overseen by an individual Police and Crime Commissioner, or by a Police Authority made up of a committee of local councillors.”
- (4) The alternative answers to that question that are to appear on the ballot papers are –

“My police force should be overseen by an individual Police and Crime Commissioner”, and

“My police force should be overseen by a Police Authority made up of a committee of local councillors”
- (5) Those entitled to vote in the referendum are the persons who, on the date of the referendum, are allowed to vote as electors in the Police and Crime Commissioner election.
- (6) Where the referendum results in a majority for a police area being overseen by a Police Authority made up of a committee of local councillors, the Secretary of State must by regulations made by statutory instrument make provision for the purposes of implementing the result within one year of the passing of this Act.”

Member’s explanatory statement

This amendment is intended to establish referendums to determine how each local police force should be governed.

BARONESS JONES OF MOULSECOOMB
BARONESS HARRIS OF RICHMOND

279 Insert the following new Clause –

“Removal of election deposit in Police and Crime Commissioner elections

No sum of money or deposit may be required for any candidate to be validly nominated in any election for a Police and Crime Commissioner.”

Member’s explanatory statement

This amendment will remove the £5,000 election deposit in Police and Crime Commissioner elections.

BARONESS COUSSINS
THE LORD BISHOP OF LEEDS
LORD PANNICK
LORD MARKS OF HENLEY-ON-THAMES

280 Insert the following new Clause –

“Spoken word interpreters: minimum standards

Spoken word interpreters appointed to a court or tribunal must –

- (a) be registered on the National Register of Public Service Interpreters (“NRPSI”),

After Clause 170 - continued

- (b) possess a Level 6 Diploma in Public Service Interpreting, or comply with NRPSI Rare Language Status protocols, and
- (c) have completed the requisite number of hours' experience of court interpreting commensurate with the category of case complexity, as agreed by the Secretary of State in conjunction with relevant professional bodies."

Member's explanatory statement

This amendment would establish minimum standards for qualifications and experience for interpreters in courts and tribunals, along the lines of the Police Approved Interpreters Scheme.

LORD ROSSER
LORD HUNT OF KINGS HEATH
BARONESS JONES OF MOULSECOOMB

281

Insert the following new Clause—

“Inquiry on police culture and violence against women and girls

- (1) Within two months of the day on which this Act is passed, the Secretary of State must establish an inquiry into the culture of policing and the prevalence of violence against women and girls.
- (2) The inquiry is to be established under the terms of the Inquiries Act 2005, subject to the following—
 - (a) the chair is to be independent of the Government and police forces in England and Wales;
 - (b) in fulfilling the duty under section 8(1)(a) of that Act (to have regard to the need to ensure that the inquiry panel has the necessary expertise to undertake the inquiry), the Minister must appoint members of the inquiry panel with experience of the prevention of violence against women and girls;
 - (c) the chair may require a person to give evidence or produce documents, and to require a person to give evidence under oath.
- (3) The inquiry must consider—
 - (a) recruitment of the police workforce;
 - (b) police vetting procedures;
 - (c) disciplinary and misconduct procedures for serving police officers accused of misconduct or an offence;
 - (d) culture and standards of behaviour in policing, including the prevalence and impact of misogyny;
 - (e) the role of police leadership in shaping the culture of policing, tackling misogyny and setting priorities for policing;
 - (f) the prevention of violence against women and girls;
 - (g) the experience of victims who report offences linked to violence against women and girls, including harassment, sexual violence and domestic abuse, to the police;
 - (h) reporting rates and conviction rates for crimes linked to violence against women and girls;

After Clause 170 - continued

- (i) steps needed to establish the prevention of violence against women and girls as a police priority.
- (5) Within one year of being established the inquiry must publish a final report and recommendations, or—
 - (a) publish an interim report and recommendations, and
 - (b) publish a statement setting out the reasons for the delay of the final report and recommendations, and a timetable for their completion.
- (6) Where a final report or interim report is published under subsection (5) a Minister of the Crown must make a statement to each House of Parliament on the contents of the report and associated recommendations.
- (7) Within six months of a final report being published under subsection (5) a Minister of the Crown must make a statement to each House of Parliament on action that has been taken in response to the recommendations made.”

Member’s explanatory statement

This would require a statutory inquiry, with the powers to compel witness and take evidence under oath, to be established into the culture of policing and the prevalence of violence against women and girls.

LORD ROSSER
LORD HUNT OF KINGS HEATH

282

Insert the following new Clause—

“Mandatory violence against women and girls training for police recruits

- (1) Each police force in England and Wales must—
 - (a) provide mandatory specialist training on the prevention of violence against women and girls to be completed on recruitment by all new officers and staff members, and
 - (b) require all serving police officers and staff members to complete mandatory specialist training on the prevention of violence against women and girls, within 12 months of the day on which this Act is passed.
- (2) Training under this section must be designed and delivered in collaboration with an organisation or organisations external to the police, with relevant expertise in the prevention of violence against women and girls.”

Member’s explanatory statement

This would require specialist VAWG (violence against women and girls) training to be provided to all new officers on their recruitment to the force, and would require specialist VAWG training to be undertaken by the entire existing force in response within 12 months of the Act being passed.

LORD ROSSER

283 Insert the following new Clause—

“Vetting procedure for an officer transferring between forces

The Secretary of State must revise the code of practice under section 39A of the Police Act 1996 that relates to vetting (following the procedure set out in that section) to secure that vetting clearance is not transferable between forces.”

Member’s explanatory statement

This would require an officer who leaves one force and is employed by another to be vetted again on joining the new force.

LORD FALCONER OF THOROTON

284 Insert the following new Clause—

“Harassment in a public place

- (1) A person must not engage in any conduct in a public place—
 - (a) which amounts to harassment of another, and
 - (b) which he or she knows or ought to know amounts to harassment of the other.
- (2) For the purposes of this section, the person whose conduct is in question ought to know that it amounts to harassment of another if a reasonable person would think the conduct amounted to harassment of the other.
- (3) For the purposes of this section—

“conduct” includes speech;

“harassment” of a person includes causing the person alarm or distress.
- (4) Subsection (1) does not apply to conduct if the person can show—
 - (a) that it was for the purpose of preventing or detecting crime,
 - (b) that it was under any enactment or rule of law or to comply with any condition or requirement imposed by any person under any enactment, or
 - (c) that in the particular circumstances it was reasonable.
- (5) A person who engages in any conduct in breach of subsection (1) is guilty of an offence.
- (6) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both.”

Member’s explanatory statement

This would create a specific offence of street harassment.

285 Insert the following new Clause—

“Kerb-crawling

- (1) It is an offence for a person, from a motor vehicle while it is in a street or public place, or in a street or public place while in the immediate vicinity of a motor vehicle that they have just got out of, to engage in conduct which amounts to harassment in such manner or in such circumstances as to be likely to cause annoyance, alarm, distress or nuisance to any other person.

After Clause 170 - continued

- (2) A person guilty of an offence under this section is liable on summary conviction to revocation of their driving licence, or a fine not exceeding level 3 on the standard scale, or both.
- (3) In this section “motor vehicle ” has the same meaning as in the Road Traffic Act 1972.
- (4) In this section “street” has the meaning given by section 1(4) of the Street Offences Act 1959.”

Member’s explanatory statement

This would create a specific offence of kerb crawling.

286

Insert the following new Clause—

“Restriction on evidence or questions about complainant’s sexual history

- (1) Section 41 of the Youth, Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) In subsection (1)—
 - (a) starting in paragraph (b) omit “in cross examination, by or on behalf of any accused at the trial,”;
 - (b) at end insert “with anyone other than the defendant”.
- (3) In subsection (2)—
 - (a) for “an accused” substitute “a party to the trial”;
 - (b) in paragraph (a) omit “or (5)”.
- (4) For subsection (3) substitute—

“(3) This subsection applies if the evidence or question relates to a relevant issue in the case and that issue is not an issue of consent.”
- (5) For subsection (5) substitute—

“(5) For the purposes of subsection (3) no evidence may be adduced or question asked unless the judge determines in accordance with the procedures in this subsection that the question or evidence has significant probative value that is not substantially outweighed by the danger of prejudice to the proper administration of justice.
- (5A) In determining that question the judge must take into account—
 - (a) the interests of justice, including the right of the accused to make a full answer and defence;
 - (b) the need to preserve the integrity of the trial process by removing from the fact-finding process any discriminatory belief or bias;
 - (c) the risk that the evidence may unduly arouse sentiments of prejudice, sympathy or hostility in the jury;
 - (d) the potential threat to the complainant’s personal dignity and right to privacy;
 - (e) the complainant’s right to personal security and to the full protection and benefit of the law;
 - (f) the provisions of the Victims Code;
 - (g) and any other factor that the judge considers relevant.”

After Clause 170 - continued

- (6) In subsection (6), for “subsections (3) and (5)” substitute “subsection (3)”.

Member’s explanatory statement

This amendment excludes the admission in evidence of any sexual behaviour of the complainant with a third party, whether by the prosecution or the defence, to show consent, whilst leaving it admissible if it is relevant to any other issue in the case. It sets out the additional requirement that to be admitted the material must be more probative than prejudicial and sets out the considerations the judge must have regard to in considering that extra requirement.

287 Insert the following new Clause—

“Definition of “issue of consent”

- (1) Section 42 of the Youth, Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) For paragraph (b) substitute—
 - “(b) “issue of consent” means any issue where the complainant in fact consented to the conduct constituting the offence with which the defendant is charged and any issue where the accused reasonably believed that the complainant so consented;”

Member’s explanatory statement

This amendment re-defines “issue of consent” for the purposes of section 41, including in the definition the defendant’s reasonable belief in consent, and thus removing it as a reason for the inclusion of a complainant’s sexual history or behaviour.

288 Insert the following new Clause—

“Admission of evidence or questions about complainant’s sexual history

- (1) The Youth, Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) After section 43 insert—

“43A Admission of evidence or questions about complainant’s sexual history

In any trial or contested hearing to which section 41 of the Youth Justice and Criminal Evidence Act 1999 applies, if no pre-trial application in accordance with Part 36 of the Criminal Procedure Rules has been made, or if such application has been made and refused in whole or in part, no further application may be made during the course of the trial or before its commencement to call such evidence or ask such question, and no judge may allow such application or admit any such questions or evidence.”

Member’s explanatory statement

This new Clause would have the effect that no section 41 evidence or questions could be admitted by a judge at trial unless there had been an application before trial in accordance with the practice directions; and the amendment would ban applications from being made immediately before or during the trial.

289 Insert the following new Clause—

“Complainant’s right of representation and appeal on an application to adduce evidence or questions on sexual conduct

- (1) The Youth, Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) After section 43 insert—

“43A Complainant’s right of representation and appeal on an application to adduce evidence or questions on sexual conduct

In any trial to which section 41 applies, where notice is given that there will be an application under Part 36 of the Criminal Procedure Rules for leave to ask questions or to adduce evidence as to any sexual behaviour of the complainant—

- (a) the complainant may not be compelled to give evidence at any hearing on the application;
- (b) the complainant is entitled to be served with the application and to be legally represented (with the assistance of legal aid if financially eligible) as “a party” within the meaning of the Criminal Procedure Rules in responding in writing to the application and in presenting their case at any hearing on the application;
- (c) if the application succeeds in whole or in part, the complainant has a right to appeal for a rehearing of the application to the Court of Appeal on notice within seven days of the judgment being delivered;
- (d) on any such appeal, the Court of Appeal must rehear the application in full and may grant or refuse it in whole or in part;
- (e) the Secretary of State may, by regulations, set out rules of procedure relating to any hearing or appeal under this section.”

Member’s explanatory statement

This new Clause would give the complainant a right of representation, with legal aid if they are financially eligible, to oppose any application to admit section 41 material about them. This new Clause would also give complainants a right of appeal to the Court of Appeal if the application is allowed in whole or in part. The new Clause also provides that the complainant is not compellable as a witness at the application.

290 Insert the following new Clause—

“Collection of and reporting to Parliament on data and information relating to proceedings involving rape and sexual assault

- (1) The Secretary of State must collect and report to Parliament annually the following data and information—
 - (a) the time taken in every case of rape or sexual assault for the case to progress from complaint to charge, from charge to pre-trial plea and management hearing, and from then until trial;
 - (b) the number of applications to ask questions or adduce evidence of any sexual behaviour of the complainant under section 41 of the Youth Justice and Criminal Evidence Act 1999 (“the 1999 Act”) made in the magistrates and crown courts of England and Wales, irrespective of whether a trial was subsequently held;

After Clause 170 - continued

- (c) the number of cases which involved questions on or evidence of any sexual behaviour of the complainant in all rape, sexual abuse and other trials or contested hearings in the magistrates and crown courts of England and Wales, irrespective of whether an application was made to admit such questions or evidence in advance of the trial or hearing;
- (d) in cases to which section 41 of the 1999 Act applies –
 - (i) whether Part 36 of the Criminal Procedure Rules was followed in each application and if it was not, how it was not;
 - (ii) the questions proposed to be asked;
 - (iii) the evidence proposed to be called;
 - (iv) whether the prosecution opposed the application and if so the content of their representations;
 - (v) whether evidence was called to support or oppose the application;
 - (vi) whether the application was allowed in whole or in part and a copy of the judgment made on the application; and
 - (vii) any other material which might assist in an assessment of the frequency, basis and nature of applications for the use of such questions or evidence and the likely impact on any parties to any trial and the trial outcome.
- (2) The data and information collected under subsection (1) must include –
 - (a) all the material from any pre-trial application;
 - (b) the questions in fact asked and the evidence in fact called about any sexual behaviour of the complainant in the trial;
 - (c) any application at the start or during the course of the trial to vary or alter any judgment given in any earlier application or any further application to admit such questions or evidence;
 - (d) whether any material not previously authorised was used in the trial;
 - (e) whether the prosecution objected; and
 - (f) any ruling made or action taken by the judge on the further conduct of the trial as a consequence of the admission of questions or evidence under section 41 of the 1999 Act.
- (3) The data and information to be collected under this section must be collected from the date of the passing of this Act.”

Member’s explanatory statement

This Clause requires the Secretary of State to collect and report to Parliament data and information on trial delay and section 41 matters.

291

Insert the following new Clause –

“Training for relevant public officials in relation to the conduct of cases of serious sexual offences

- (1) The Secretary of State must, on this Act coming into force, publish and implement a strategy to provide training on the investigation of rape and alleged rape complainants, and the admissibility of and cross-examination of complainants on their sexual history, to –
 - (a) the Crown Prosecution Service;

After Clause 170 - continued

- (b) police forces;
 - (c) the judiciary; and
 - (d) such other public bodies as the Secretary of State considers appropriate.
- (2) The Secretary of State must ensure that any judge who is asked to hear a trial where the accused is charged with rape or any other serious sexual offence has attended and completed a training programme for such trials which has been accredited by the Judicial College.”

Member’s explanatory statement

This new Clause ensures that all criminal justice agencies shall be trained and that no judge can hear a sexual offence trial of any kind unless they have attended the Judicial College serious sexual offence course.

BARONESS HAMWEE
LORD PADDICK

292 Insert the following new Clause –

“Automated decision-making: safeguards

- (1) Where data is being processed for a criminal justice purpose, section 14 of the Data Protection Act 2018 is to be read as if the amendments in subsections (2) to (7) had been made.
- (2) In subsection (1) after “solely” insert “or significantly”.
- (3) In subsection (4) after “solely” insert “or significantly”.
- (4) In subsection (4)(a) after “solely” insert “or significantly”.
- (5) In subsection (4)(b)(ii) after “solely” insert “or significantly”.
- (6) In subsection (5) after paragraph (a) insert –
 - “(aa) provide to the data subject all such information as may be reasonable regarding the operation of the automated processing and the basis of the decision,”
- (7) After subsection (5) insert –
 - “(5A) The controller’s powers and obligations under this section are not limited by commercial confidentiality claimed by the provider of equipment or programmes used”.

LORD PONSONBY OF SHULBREDE

292A Insert the following new Clause –

“Offence of requiring or accepting sexual relations as a condition of accommodation

- (1) It is an offence for a person (A) to require or accept from a person (B) sexual relations as a condition of access to or retention of accommodation or related services or transactions.
- (2) For the purposes of this section, A is –
 - (a) a provider of accommodation,
 - (b) an employee of a provider of accommodation,
 - (c) an agent of a provider of accommodation, or

After Clause 170 - continued

- (d) a contractor of a provider of accommodation.
- (3) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a maximum of 7 years.”

Member’s explanatory statement

This new Clause would create an offence of requiring or accepting sexual relations as a condition of accommodation, sometimes known as “sex for rent”. This would be punishable on indictment with a prison term of a maximum of 7 years.

292B

Insert the following new Clause –

“Offence of arranging or facilitating the requirement or acceptance of sexual relations as a condition of accommodation

- (1) It is an offence for a person, who may in particular be a publisher, to arrange or facilitate an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*).
- (2) A person commits an offence if they intend to arrange or know that their actions would facilitate an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*).
- (3) A publisher commits an offence if they –
- (a) know they are arranging or facilitating an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*),
 - (b) reasonably should know their actions would enable the arrangement of or facilitate an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*), or
 - (c) were informed that their actions had enabled the arrangement of or facilitated an offence under section (*Offence of requiring or accepting sexual relations as a condition of accommodation*), and they failed to take remedial action within a reasonable time.
- (4) A person found guilty of an offence under this section is liable on conviction on indictment to a fine of £50,000.”

Member’s explanatory statement

This new Clause is contingent on Lord Ponsonby’s proposed new Clause “Offence of requiring or accepting sexual relations as a condition of accommodation”. It creates an offence of arranging or facilitating an offence of requiring or accepting sexual relations as a condition of accommodation. This is intended to capture, for example, publishers or hosts of advertisements for such arrangements. The penalty for this offence would be a fine of £50,000.

BARONESS NEWLOVE
LORD RUSSELL OF LIVERPOOL
LORD HUNT OF KINGS HEATH

292C

Insert the following new Clause –

“Time limits for prosecutions for common assault in domestic abuse cases

- (1) The Criminal Justice Act 1988 is amended as follows.
- (2) At the end of section 39 insert –

After Clause 170 - continued

- “(3) Subject to subsection (4) below, summary proceedings for an offence of common assault or battery involving domestic abuse may be brought within a period of six months from the date on which a report of the offence was made to the police.
- (4) No such proceedings may be brought by virtue of this section more than two years after the commission of the offence.
- (5) For the purposes of this section “domestic abuse” has the same meaning as in section 1 of the Domestic Abuse Act 2021.”

Member’s explanatory statement

This new Clause seeks to extend the existing six month time limit for common assault in cases of domestic abuse.

LORD BACH
LORD HUNT OF KINGS HEATH

292D Insert the following new Clause—

“Police and Crime Commissioners: removal of disqualification for conviction

In section 66 of the Police Reform and Social Responsibility Act 2011 (disqualification from election or holding office as Police and Crime Commissioner: other grounds), omit—

- (a) subsection (3)(c), and
(b) subsection (4).”

Member’s explanatory statement

This amendment is intended to probe the position as it relates to prospective Police and Crime Commissioners who have been convicted of a crime.

BARONESS STOWELL OF BEESTON
BARONESS MASHAM OF ILTON
LORD PATTEN
BARONESS O’LOAN

292E Insert the following new Clause—

“Crime scenes: religious rituals or prayer

In securing a crime scene where a person within that crime scene is severely injured, such that there is a strong likelihood that they might die, there is a presumption that the constable in charge will allow entry to the crime scene to a minister of religion in order to perform religious rituals or prayer associated with dying.”

Member’s explanatory statement

This amendment is intended to probe expectations of police procedure.

LORD MCCOLL OF DULWICH

292F Insert the following new Clause—

“Modern slavery through control of another's property

In Section 1 of the Modern Slavery Act 2015 (Slavery, servitude and forced or compulsory labour) after subsection (1)(b) insert—

“or

- (c) the person occupies or exercises some substantial control over another’s home in connection with the commission of another criminal offence and the person knows or ought to know that the other person—
 - (i) has not given consent,
 - (ii) is unable to give free and informed consent, or
 - (iii) has withdrawn consent.”

Member’s explanatory statement

This new Clause would make exploitation through exercise of control over another person’s property without their consent an offence under Section 1 of the Modern Slavery Act.

LORD WASSERMAN
BARONESS MORRIS OF YARDLEY
BARONESS GREY-THOMPSON
BARONESS LUDFORD

292G Insert the following new Clause—

“Recording the sex and acquired gender of alleged victims and perpetrators of crime

After section 44 of the Police Act 1996 insert—

“44A Recording sex registered at birth and acquired gender

- (1) Police forces in England and Wales must keep a record of the sex registered at birth of each person who is—
 - (a) the alleged victim of a crime reported to that police force, or
 - (b) arrested for a crime by a member of that police force.
- (2) Police forces in England and Wales must keep a record of the acquired gender of each person with a gender recognition certificate who is—
 - (a) the alleged victim of a crime reported to a member of that police force, or
 - (b) arrested for a crime by a member of that police force.
- (3) Provision by a police force to the Secretary of State of any protected information recorded under subsection (2) above does not constitute an offence under section 22 of the Gender Recognition Act 2004.”

Member’s explanatory statement

This amends the Police Act 1996 to ensure that the sex registered at birth and acquired gender, if appropriate, of anyone who is the alleged victim of a crime or who is arrested for a crime will be recorded by police.

BARONESS BLAKE OF LEEDS

292H Insert the following new Clause—

“Offences under the Protection from Eviction Act 1977

- (1) Where a local authority is investigating an offence under the Protection from Eviction Act 1977, the police must cooperate with the relevant local authority and provide relevant information to it.
- (2) Local authorities must review such information that they have received every year.”

Member’s explanatory statement

This amendment would support procedure for dealing with illegal evictions.

LORD HUNT OF KINGS HEATH
BARONESS ARMSTRONG OF HILL TOP

292J Insert the following new Clause—

“Duties to collaborate and plan to provide support to children affected by domestic violence or at high risk of criminal exploitation

- (1) The specified authorities for a local government area must collaborate with each other to provide support to children affected by domestic violence or at high risk of criminal exploitation.
- (2) The duty imposed on the specified authorities for a local government area by subsection (1) includes a duty to plan together to exercise their functions so as to provide support to children affected by domestic violence or at high risk of criminal exploitation.
- (3) In particular, the specified authorities for a local government area must prepare and implement a strategy for exercising their functions to provide support to children affected by domestic violence or at high risk of criminal exploitation.
- (4) In preparing a strategy under this section for a local government area, the specified authorities for the area must ensure that the following are consulted—
 - (a) each educational authority for the area;
 - (b) each prison authority for the area;
 - (c) each youth custody authority for the area.
- (5) A strategy under this section for a local government area may specify an action to be carried out by—
 - (a) an educational authority for the area,
 - (b) a prison authority for the area, or
 - (c) a youth custody authority for the area.
- (6) In preparing a strategy under this section for a local government area, the specified authorities for the area may invite participation from a person of a description for the time being prescribed by order of the Secretary of State under section 5(3) of the Crime and Disorder Act 1998.
- (7) Once a strategy has been prepared under this section for a local government area, the specified authorities for the area must—
 - (a) keep the strategy under review, and

After Clause 170 - continued

- (b) from time to time prepare and implement a revised strategy.
- (8) A strategy under this section may cover an area that is wider than a local government area.
- (9) The Secretary of State may by regulations make provision for or in connection with the publication and dissemination of a strategy under this section.
- (10) References in subsections (4) to (9) to a strategy under this section include a revised strategy.
- (11) This section does not affect any power of a specified authority to collaborate or plan apart from this section.
- (12) In this section “specified authority” means a person listed as follows—
- a district council;
 - a county council;
 - a London Borough Council;
 - the Common Council of the City of London in its capacity as a local authority;
 - the Council of the Isles of Scilly;
 - a provider of probation services within the meaning given by section 3(6) of the Offender Management Act 2007;
 - a youth offending team established under section 39 of the Crime and Disorder Act 1998;
 - a clinical commissioning group established under section 14D of the National Health Service Act 2006;
 - a chief officer of police for a police area in England and Wales.”

Member’s explanatory statement

The aim of the amendment is to introduce a statutory duty on local authorities, the NHS and the police to collaborate to ensure that early help is provided to children living in families with domestic violence concerns or those who are at risk of criminal exploitation.

BARONESS BRINTON

292K

Insert the following new Clause—

“Desecration of a corpse

- (1) A person (‘D’) is guilty of an offence if—
- (a) D acts with severe disrespect to a corpse, and
 - (b) D knows that, or is reckless to whether, their acts are one of severe disrespect.
- (2) In subsection (1)(a), disrespect to a corpse includes but is not limited to—
- (a) dismembering a corpse, including—
 - (i) removing or attempting to remove identifiable body parts such as teeth, or fingers;
 - (ii) decapitation or attempted decapitation;
 - (b) destroying or attempting to destroy a corpse by means or burning or the use of chemicals.

After Clause 170 - continued

- (3) For the purposes of subsection (1)(a), whether an act is one of severe disrespect is to be judged according to the standard of the reasonable person.
- (4) A person is not guilty of an offence under this section if—
 - (a) the act would otherwise be criminal under section 1 of the Human Tissue Act 2004,
 - (b) the act is also a criminal offence under section 70 of the Sexual Offences Act 2003 (sexual penetration of a corpse), or
 - (c) the act is a lawful cremation under the Cremation (England and Wales) Regulations 2008.
- (5) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years.”

Member’s explanatory statement

The current common law offence of preventing a lawful and decent burial is rarely used. This amendment therefore creates a specific criminal offence of desecration of a corpse to address intentional acts of disrespect towards a deceased person’s remains.

292L Insert the following new Clause—

“Concealment of a body

- (1) A person (‘D’) is guilty of an offence if—
 - (a) D conceals or attempts to conceal the deceased body of another person, and
 - (b) D intends to obstruct a coronial investigation, or
 D conceals a death to facilitate another criminal offence.
- (2) In subsection (1) concealment of the deceased includes but is not limited to—
 - (a) burying a corpse;
 - (b) submerging a corpse in water; or
 - (c) otherwise preventing an official burial or cremation by the deceased’s family.
- (3) For the purposes of subsection (1)(b), the circumstances in which a coronial investigation is required are set out in section 1 of the Coroners and Justice Act 2009.
- (4) For the purposes of subsection (1)(b), concealment of a homicide will be conclusive evidence of an intent to obstruct a coronial investigation.
- (5) A person guilty of an offence under this section is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 3 years.”

Member's explanatory statement

The common law offence of obstructing the coroner is rarely used. This amendment therefore creates a specific criminal offence of concealment of a body to address circumstances where an offender refuses to co-operate in the recovery of their victims' remains.

Before Clause 55

LORD DUBS
BARONESS JONES OF MOULSECOOMB
LORD PADDICK
LORD HAIN

293

Insert the following new Clause –

“The right to protest

- (1) The Public Order Act 1986 Part II (Processions and Assemblies) is amended as follows.
- (2) Before section 11 insert –
 - “10A The right to protest**
 - (1) Everyone has the right to engage in peaceful protest, both alone and with others.
 - (2) Public authorities have a duty to –
 - (a) respect the right to protest;
 - (b) protect the right to protest; and
 - (c) facilitate the right to protest.
 - (3) A public authority may only interfere with the right to protest, including by placing restrictions upon its exercise, when it is necessary and proportionate to do so –
 - (a) protect national security or public safety,
 - (b) prevent disorder or crime, or
 - (c) protect public health, or the rights and freedoms of others.
 - (4) For the purposes of this section “public authority” has the same meaning as in section 6 of the Human Rights Act 1998 (acts of public authorities).”

Member's explanatory statement

This amendment would introduce an express statutory right to protest, imposing both negative and positive obligations on public authorities while recognising that the right to protest may need to be limited to protect other legitimate public interests.

Clause 55

LORD ROSSER
LORD DUBS
LORD OATES
LORD HAIN

294

Page 47, line 1, leave out subsections (2) and (3)

Member's explanatory statement

This is based on a JCHR recommendation. This amendment would remove the proposed new trigger for imposing conditions on public processions based on noise in England and Wales.

LORD DUBS
 BARONESS JONES OF MOULSECOOMB
 BARONESS LUDFORD
 LORD HAIN

295 Page 47, line 1, leave out subsections (2) to (4) and insert—

“(2) After subsection (11) insert—

“(12) The Secretary of State may by regulations make provision about the meaning for the purposes of this section of ‘serious disruption to the life of the community’.

(13) Regulations under subsection (12) may, in particular—

(a) define any aspect of ‘serious disruption to the life of the community’ for the purposes of this section;

(b) give examples of cases in which a public procession is or is not to be treated as resulting in serious disruption to the life of the community.

(14) Regulations under subsection (12)—

(a) are to be made by statutory instrument;

(b) may apply only in relation to public processions in England and Wales;

(c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.

(15) A statutory instrument containing regulations under subsection (12) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Member’s explanatory statement

This amendment would remove the proposed new trigger for imposing conditions on public processions based on noise in England and Wales. The Secretary of State’s power to make regulations would be amended accordingly.

LORD PADDICK
 BARONESS JONES OF MOULSECOOMB
 LORD HAIN

296 Page 47, line 14, at end insert—

“(c) after “directions” insert “approved on application to the High Court”.”

Member’s explanatory statement

This amendment would require the police to apply to the courts in order to impose conditions on public processions.

LORD BEITH

297 Page 47, line 22, leave out “unease,”

Member’s explanatory statement

This amendment is intended to probe the meaning of “unease” in the context of protests.

LORD BEITH
 LORD JUDGE
 LORD HAIN

298 Page 47, line 33, leave out subsection (4)

Member's explanatory statement

This is based on a DPRRC recommendation. It removes the ability of the Secretary of State to make regulations defining "serious disruption to the activities of an organisation" and "serious disruption to the life of the community", thereby requiring these terms to be defined on the face of the Bill.

LORD PADDICK
LORD ROSSER
LORD HAIN

The above-named Lords give notice of their intention to oppose the Question that Clause 55 stand part of the Bill.

Clause 56

LORD ROSSER
LORD DUBS
LORD OATES
LORD HAIN

299 Page 48, line 12, leave out subsection (2)

Member's explanatory statement

This is part of a group of amendments based on JCHR recommendations. This and other amendments to this Clause would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

LORD DUBS
BARONESS JONES OF MOULSECOOMB
BARONESS D'SOUZA
BARONESS LUDFORD

300 Page 48, line 14, leave out paragraph (b)

Member's explanatory statement

This amendment would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

LORD PADDICK
LORD HAIN

301 Page 48, line 27, after "directions" insert "approved on application to the High Court"

Member's explanatory statement

This amendment would require the police to apply to the courts in order to impose conditions on public assemblies.

LORD DUBS
BARONESS JONES OF MOULSECOOMB
BARONESS LUDFORD
LORD HAIN

302 Page 48, line 30, after "conditions" insert "as to the place at which the assembly may be (or continue to be) held, the time at which it is to start and conclude, its maximum duration, or the maximum number of persons who may constitute it,"

Member's explanatory statement

This amendment removes the proposed ability to impose any necessary conditions on public assemblies in England and Wales and replace it with the existing available conditions plus conditions concerning the time at which the public assembly must start and finish.

LORD ROSSER
LORD DUBS
BARONESS JONES OF MOULSECOOMB
LORD OATES

303 Page 48, line 31, leave out “, impact”

Member's explanatory statement

This is part of a group of amendments based on JCHR recommendations. This and other amendments to this Clause would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

LORD HENDY
LORD HAIN

304 Page 48, line 38, at end insert –

“(1B) Subsections (1)(aa) and (1)(ab) do not apply to an assembly rendered lawful by section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992.”

LORD ROSSER
LORD DUBS
BARONESS D'SOUZA
LORD OATES

305 Page 48, line 40, leave out subsection (5)

Member's explanatory statement

This is part of a group of amendments based on JCHR recommendations. This and other amendments to this Clause would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

LORD DUBS
BARONESS JONES OF MOULSECOOMB
BARONESS LUDFORD
LORD HAIN

306 Page 48, line 40, leave out subsections (5) and (6) and insert –

“(5) After subsection (10A) (as inserted by section 57(11)) insert –

“(11) The Secretary of State may by regulations make provision about the meaning for the purposes of this section of ‘serious disruption to the life of the community’.

(12) Regulations under subsection (11) may, in particular –

(a) define any aspect of ‘serious disruption to the life of the community’ for the purposes of this section;

(b) give examples of cases in which a public assembly is or is not to be treated as resulting in serious disruption to the life of the community.

(13) Regulations under subsection (11)–

Clause 56 - continued

- (a) are to be made by statutory instrument;
 - (b) may apply only in relation to public processions in England and Wales;
 - (c) may make incidental, supplementary, consequential, transitional, transitory or saving provision.
- (14) A statutory instrument containing regulations under subsection (11) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”

Member’s explanatory statement

This amendment would remove the proposed new trigger for imposing conditions on public assemblies based on noise in England and Wales.

LORD BEITH

307 Page 49, line 1, leave out “unease”

Member’s explanatory statement

This amendment is intended to probe the meaning of “unease” in the context of protests.

LORD JUDGE

LORD BEITH

LORD HAIN

LORD HOPE OF CRAIGHEAD

308 Page 49, line 12, leave out subsection (6)

Member’s explanatory statement

Deleting this provision would leave “serious disruption” to carry its natural meaning, or to be defined on the face of the Bill.

LORD ROSSER

LORD PADDICK

The above-named Lords give notice of their intention to oppose the Question that Clause 56 stand part of the Bill.

Clause 57

LORD DUBS

BARONESS JONES OF MOULSECOOMB

BARONESS D'SOUZA

BARONESS LUDFORD

309 Page 50, leave out lines 3 to 5 and insert –

- “(a) in the case of a public procession in England and Wales, at the time the person fails to comply with the condition the person –
- (i) knows that the condition has been imposed or has deliberately or recklessly avoided gaining knowledge that the condition has been imposed; and
 - (ii) knows or ought to know that their action or inaction amounts to a failure to comply with the condition;”

Member's explanatory statement

This amendment prevents a person who fails to comply with a condition on a public procession in England and Wales avoiding criminal liability by deliberately or recklessly avoiding knowledge of the relevant condition, without extending the criminal offence to cover persons who breach conditions accidentally. The law in Scotland would remain as it is now.

LORD ROSSER
LORD DUBS
BARONESS LUDFORD

310 Page 50, leave out line 5 and insert –

- “(i) knows that the condition has been imposed or has deliberately or recklessly avoided gaining knowledge that the condition has been imposed; and
- (ii) knows or ought to know that their action or inaction amounts to a failure to comply with the condition;”

Member's explanatory statement

This is based on a JCHR recommendation. It would provide that a person who breaches a condition after deliberately or recklessly avoiding knowledge of the relevant condition can face criminal liability, without extending the criminal offence to cover persons who breach conditions accidentally.

LORD DUBS
BARONESS JONES OF MOULSECOOMB
BARONESS D'SOUZA
BARONESS LUDFORD

311 Page 50, line 8, leave out subsection (6)

Member's explanatory statement

This amendment removes increases in sentences for non-violent offences by those who organise and attend public processions.

312 Page 51, leave out lines 1 to 3 and insert –

- “(a) in the case of a public assembly in England and Wales, at the time the person fails to comply with the condition the person –
 - (i) knows that the condition has been imposed or has deliberately or recklessly avoided gaining knowledge that the condition has been imposed; and
 - (ii) knows or ought to know that their action or inaction amounts to a failure to comply with the condition;”

Member's explanatory statement

This amendment prevents a person who fails to comply with a condition on a public assembly in England and Wales avoiding criminal liability by deliberately or recklessly avoiding knowledge of the relevant condition, without extending the criminal offence to cover persons who breach conditions accidentally. The law in Scotland would remain as it is now.

313 Page 51, line 6, leave out subsections (11) and (12)

Member's explanatory statement

This amendment removes increases in sentences for non-violent offences by those who organise and attend public assemblies.

LORD ROSSER
LORD PADDICK
LORD HAIN

The above-named Lords give notice of their intention to oppose the Question that Clause 57 stand part of the Bill.

Clause 58

LORD ROSSER
LORD PADDICK
LORD HAIN

The above-named Lords give notice of their intention to oppose the Question that Clause 58 stand part of the Bill.

Clause 59

LORD ROSSER
LORD PADDICK
LORD HAIN

The above-named Lords give notice of their intention to oppose the Question that Clause 59 stand part of the Bill.

Clause 60

LORD PADDICK
LORD HAIN

314 Page 53, line 34, leave out from “public” to “and” in line 37

Member's explanatory statement

This amendment is intended to narrow the offence of intentionally or recklessly causing public nuisance.

LORD DUBS
BARONESS JONES OF MOULSECOOMB
BARONESS LUDFORD
LORD HAIN

315 Page 53, line 41, leave out subsection (2) and insert –

“(2) For the purposes of subsection (1) “serious harm” means –

- (a) death, personal injury or disease,
- (b) loss of, or damage to, property,
- (c) serious distress, serious annoyance, serious inconvenience or serious loss of amenity, or
- (d) being put at serious risk of suffering anything mentioned in paragraphs (a) to (c).”

Member's explanatory statement

This amendment removes the reference to the experience of a 'person' when defining what serious harm means in the context of 'serious harm to the public or a section of the public'. It also requires the public to be put at significant risk of harm before criminal liability arises, to avoid the offence being excessively broad in its reach.

BARONESS MORRISSEY
BARONESS JONES OF MOULSECOOMB

315A Page 53, line 43, leave out “personal injury or disease” and insert “or personal injury”

Member's explanatory statement

This amendment would remove reference to "disease" from the newly proposed public nuisance offence.

LORD DUBS
BARONESS JONES OF MOULSECOOMB
BARONESS LUDFORD
LORD HAIN

316 Page 54, line 4, at end insert –

“(3A) In determining whether a person has a reasonable excuse for the purposes of subsection (3), a court must have particular regard to the importance of the right to protest, including the right to freedom of expression under Article 10 and the right to freedom of association under Article 11 of Part 1 of Schedule 1 to the Human Rights Act 1998.”

Member's explanatory statement

This amendment ensures that the right to protest is given particular regard when a court considers whether a person has a reasonable excuse defence to a charge of public nuisance.

LORD ETHERTON

317 Page 54, line 14, at end insert “but, for the avoidance of doubt, this is without prejudice to the continuation of the common law civil cause of action for public nuisance”

Member's explanatory statement

This is a probing amendment highlighting that the effect of the Bill is that there will arise differences between what constitutes a criminal offence under Part 3 of the Bill and the common law cause of action for public nuisance. These differences will likely make it easier to claim damages for the common law cause of action for public nuisance than to prosecute the commission of an offence under Part 3.

LORD PADDICK
LORD ROSSER
LORD HAIN

The above-named Lords give notice of their intention to oppose the Question that Clause 60 stand part of the Bill.

Clause 61

LORD PADDICK

- 318** Page 55, line 18, leave out from “protest” to “and” in line 19 and insert “a police officer present at the scene of the rank of inspector or higher”

Member’s explanatory statement

This would define “senior police officer” as an officer of the rank of inspector or higher.

LORD BEITH

- 319** Page 56, leave out lines 15 to 32

Member’s explanatory statement

This is based on a DPRRC recommendation. It removes the ability of the Secretary of State to make regulations defining “serious disruption to the activities of an organisation”, thereby requiring this term to be defined on the face of the Bill.

LORD PADDICK

LORD ROSSER

LORD DUBS

LORD HAIN

The above-named Lords give notice of their intention to oppose the Question that Clause 61 stand part of the Bill.

After Clause 61

LORD BEST

BARONESS THORNHILL

LORD FALCONER OF THOROTON

BARONESS BENNETT OF MANOR CASTLE

- 320** Insert the following new Clause—

“Repeal of Vagrancy Act 1824

- (1) The Vagrancy Act 1824 is repealed.

- (2) In this section—

“the 2014 Act” means the Anti-social Behaviour, Crime and Policing Act 2014;

“begging” means asking for gifts on streets or in other public places (for which purpose it is immaterial whether gifts are of money or in kind, whether they are expressed as gifts or as loans, and whether a person asks expressly or impliedly, by displaying receptacles for donations or otherwise; but “begging” does not include soliciting donations to a registered-charity with the express written authority of that charity);

“registered charity” means a charity registered under section 30 of the Charities Act 2011, or exempted or excepted from registration under or by virtue of that section; and

“sleeping rough” means sleeping (or making preparations to sleep, or possessing bedding or other equipment for the purpose of sleeping) on streets or in other public places, or in places or structures not designed for human habitation.

After Clause 61 - continued

- (3) The following principles are to be applied in the exercise of powers under the 2014 Act—
 - (a) begging or sleeping rough does not in itself amount to action causing alarm or distress (in the absence of other factors);
 - (b) policing and other enforcement action should balance protection of the community with sensitivity to the problems that cause people to engage in begging or sleeping rough; and
 - (c) powers under the 2014 Act should not in general be used in relation to people sleeping rough, and should be used in relation to people begging only where no other approach is reasonably available.
- (4) A constable or other person exercising functions under the 2014 Act, or considering whether to exercise functions under that Act, in connection with a person who has been, or may have been, involved in begging or sleeping rough, must consider whether the person could be referred to public authorities, or charitable or other persons, for help in addressing the problems that cause them to be involved in begging or sleeping rough.
- (5) The Secretary of State must issue guidance to local authorities and police forces about the implementation of subsections (3) and (4).
- (6) Local authorities and police forces must—
 - (a) have regard to the guidance; and
 - (b) take reasonable steps to provide education and training designed to ensure consistent and effective implementation of subsections (3) and (4).
- (7) Before issuing (or revising) the guidance the Secretary of State must consult—
 - (a) representatives of police forces;
 - (b) representatives of local authorities; and
 - (c) persons representing the interests of homeless persons.
- (8) The following enactments are repealed (in consequence of subsection (1))—
 - (a) the Vagrancy Act 1898;
 - (b) the Vagrancy Act 1935;
 - (c) sections 20(1)(g) and 24(1)(f) of the Sentencing Act 2020;
 - (d) section 55(2)(b) of the Violent Crime Reduction Act 2006;
 - (e) paragraph 18 of Schedule 8 to the Serious Organised Crime and Police Act 2005;
 - (f) paragraphs 3(3)(b) and 7(3) of Schedule 3C to the Police Reform Act 2002;
 - (g) paragraph 2(3)(aa) of Schedule 5 to that Act;
 - (h) paragraph 4 of Schedule 6 to the Criminal Justice and Court Services Act 2000;
 - (i) section 43(5) of the Mental Health Act 1983;
 - (j) section 70 of the Criminal Justice Act 1982;
 - (k) section 20 of the Criminal Justice Act 1967;
 - (l) in section 48(2) of the Forestry Act 1967, the words “or against the Vagrancy Act 1824”;

After Clause 61 - continued

- (m) in section 20(4) of the New Towns Act (Northern Ireland) 1965, the words “or against section 4 of the Vagrancy Act 1824”;
 - (n) section 2(3)(c) of the House to House Collections Act 1939; and
 - (o) in section 81 of the Public Health Acts Amendment Act 1907, the words “shall for the purpose of the Vagrancy Act 1824 and of any Act for the time being in force altering or amending the same, be deemed to be an open and public place, and”.
- (9) This section extends to England and Wales only, but applies only in relation to acts done in England.
- (10) This section comes into force at the end of the period of two months beginning with the date of Royal Assent.”

Member’s explanatory statement

This new Clause would repeal the Vagrancy Act 1824 and establish that begging or sleeping rough is not itself criminal; it would require police officers to balance protection of the community with sensitivity to the problems that cause people to engage in begging or sleeping rough and ensure that general public order enforcement powers should not in general be used in relation to people sleeping rough, and should be used in relation to people begging only where no other approach is reasonably available.

Schedule 20

LORD WOLFSON OF TREDEGAR

321

Page 297, line 6, at end insert –

- “2A In the table in section 122(1) (standard scale of fines for summary offences) –
- (a) in the heading of the second column, for “1 October 1992” substitute “1 May 1984”;
 - (b) between the second and third columns, insert –

*“Offence committed on or after 1
May 1984 and before 1 October 1992*

£50
£100
£400
£1,000
£2,000”

Member’s explanatory statement

This amendment makes a minor amendment to the Sentencing Act 2020 to correct an omission from that Act in relation to the standard scale of fines for historical summary offences.

322

Page 297, line 29, at end insert –

- “(2A) In paragraph 34, in the opening words, for “omit” substitute “in”.”

Member's explanatory statement

This amendment corrects an error in paragraph 34 of Schedule 22 to the Sentencing Act 2020, which refers to the omission of subsection (4) of section 257 of that Act rather than providing for the amendment of that subsection.

After Schedule 20

LORD FALCONER OF THOROTON

323 Insert the following new Schedule –

“ASSISTANCE FOR BEREAVED PERSONS AND CORE PARTICIPANTS AT INQUESTS AND PUBLIC INQUIRIES: AMENDMENT OF THE LEGAL AID, SENTENCING AND PUNISHMENT OF OFFENDERS ACT 2012

1 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.

2 After section 9 insert –

“9A Inquest and public inquiry into an incident or failure leading to death or serious injury

- (1) Where an inquest is opened or a public inquiry announced into any incident or failure leading to the death or serious injury of a person or persons, and where one or more public authority, or private entity whose relevant activity falls within subsection (2) of section (*Assistance for bereaved persons and core participants at inquests and public inquiries*) of the Police, Crime, Sentencing and Courts Act 2021, are designated as “interested persons” (IPs) pursuant to section 47 of the Coroners and Justice Act 2009, or “core participants” (CPs) pursuant to Rule 5 of the Inquiry Rules 2006, the bereaved or injured IPs and CPs shall be entitled to publicly-funded legal advice and representation.
- (2) The provision shall be at rates previously applied to CPs under section 40(4) of the Inquiries Act 2005, to be reviewed from time to time.
- (3) In cases falling within this section, public authority rates shall be capped at the rates referred to in subsection (2).
- (4) The number, grades and seniority of legal advisers and advocates, and the number of remunerated hours allowed shall be the same or in proportion to provision made for the relevant public authority.
- (5) Where such provision is not the same, it may be more or less than that provided for the public authority, dependent upon the respective roles and burden of work and where provision is not the same the Director must provide a formal written determination setting out the basis for the disparity and certifying that in his or her view the level of funding is proportionate.
- (6) As soon as practicable after instruction by a bereaved IP or CP where subsection (1) applies, the solicitor shall notify the Director of an intention to apply for funding and within four weeks of such notification the solicitor shall make a provisional application for funding based upon instructions and disclosures made at that date.
- (7) Within seven days of receipt of a notification under subsection (6), the Director shall notify any relevant public authority that it must provide the funding information detailed in subsection (8) within four weeks.

After Schedule 20 - continued

- (8) On receipt of a notification under subsection (7) the public authority shall, within four weeks, furnish the Director with a funding plan setting out the provision it is to make for the said proceedings, to include—
 - (a) the number,
 - (b) grades,
 - (c) seniority of legal advisers, advocates and support staff (to include investigators and administrators), and
 - (d) the estimated number of remunerated hours that will be expended by each relevant person in the proper and reasonable preparation and representation of the case.
- (9) The funding plan at subsection (8) shall—
 - (a) make clear where provision for legal advice and representation has been made by the public authority in connected proceedings, and the details of such provision, and
 - (b) be certified as being complete and that it includes all proper and reasonable provision made by the Chief Officer or Chief Executive of the public authority in relation to the case.
- (10) In a case of complexity the solicitor for the bereaved applicant or the solicitor for the public authority may agree with the Director that funding plans can be provided periodically or in stages and any such agreement shall be at the discretion of the Director and as directed by him or her.
- (11) Where any funding plan is amended or finalized the Director must be notified and provided with the amended plan within seven days.
- (12) Where a bereaved IP or CP is entitled to public funding under subsection (1), but there is no public authority IP or CP, then the Director shall have regard to the funding plan of the solicitor for the bereaved applicant and the general circumstances of the case, including the level of representation by other IPs or CPs, in assessing the relevant provision under this section.
- (13) Where a bereaved IP or CP is entitled to public funding under subsection (1), it shall not be means-tested.

9B Application of section 9A in the interests of justice

The Director may apply the provisions in section 9A to other inquiries and investigations insofar as is in the interests of justice.””

Member’s explanatory statement

Combined with the proposed new clause to follow Clause 170, this amendment would ensure that bereaved persons and core participants at inquests and public inquiries received legal aid proportionate to the legal expenditure by any public authorities involved in the inquest or inquiry (so-called “equality of arms”).

Clause 175

LORD WOLFSON OF TREDEGAR

324 Page 194, line 14, at end insert –

“(ca) section (*Expedited procedure for initial regulations about remote observation of proceedings*);”

Member’s explanatory statement

This amendment provides for the new Clause after Clause 170 in the name of Lord Wolfson of Tredegar to extend to England and Wales, Scotland and Northern Ireland.

325 Page 194, line 29, at end insert –

“(6A) Sections 167 and 168 extend to England and Wales, Scotland and Northern Ireland.”

Member’s explanatory statement

This amendment provides for Clauses 167 and 168 to extend to England and Wales, Scotland and Northern Ireland (in consequence of their expanded scope as brought about by the amendments in the name of Lord Wolfson of Tredegar at page 187, line 17 and page 190, lines 27 and 28).

Clause 176

LORD MOYLAN

LORD PANNICK

LORD MACDONALD OF RIVER GLAVEN

LORD SANDHURST

326 Page 195, line 8, leave out “and (5)” and insert “, (5) and (5A)”.

EARL ATTLEE

327 Page 195, line 10, at end insert “which must be no later than the end of the period of two years beginning with the day on which this Act is passed.

(1A) The Secretary of State may by regulations made by statutory instrument extend the period under subsection (1) by six months.

(1B) A statutory instrument containing regulations under subsection (1A) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(1C) The Secretary of State may only make the regulations under subsection (1A) twice and may not lay a second instrument before Parliament under that subsection within one month of the first instrument being made.”

Member’s explanatory statement

The amendment is intended to prevent the Government from allowing any provisions of the bill not to come into force within two years. With two successive affirmative orders that period can be extended by 12 months.

LORD BEST
BARONESS THORNHILL
LORD YOUNG OF COOKHAM
LORD SANDHURST

328 Page 195, line 13, after “33” insert “(Repeal of the Vagrancy Act 1824),”

Member’s explanatory statement

This amendment is consequential to the new Clause tabled in Lord Best’s name.

LORD WOLFSON OF TREDEGAR

329 Page 195, line 39, leave out paragraph (u) and insert –

“(u) sections 167 and 168;

(ua) section (*Expedited procedure for initial regulations about remote observation of proceedings*);”

Member’s explanatory statement

This provides for Clauses 167 and 168, and the new Clause after Clause 170 in the name of Lord Wolfson of Tredegar, to come into force on Royal Assent.

LORD MOYLAN
LORD PANNICK
LORD MACDONALD OF RIVER GLAVEN
LORD SANDHURST

330 Page 196, line 21, at end insert –

“(5A) Section (*Retention by the police of personal data relating to non-criminal conduct perceived to be motivated by hostility*) comes into force at the end of the period of six months beginning with the day on which this Act is passed.”

Police, Crime, Sentencing and Courts Bill

SIXTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

4 November 2021
