

Police, Crime, Sentencing and Courts Bill

AMENDMENTS

TO BE MOVED

ON REPORT

[Supplementary to the Marshalled List]

Amendment
No.

After Clause 35

LORD PONSONBY OF SHULBREDE

42A★

Insert the following new Clause –

“Domestic homicide reviews

- (1) Section 9 of the Domestic Violence, Crime and Victims Act 2004 is amended as follows.
- (2) For subsection (2) substitute –
 - “(2) The Secretary of State must in all cases which meet the circumstances set out in subsection (1) direct a specified person or body within subsection (4) to establish, or to participate in, a domestic homicide review.”
- (3) After subsection (3) insert –
 - “(3ZA) The Secretary of State must by regulations set out –
 - (a) the type of data relating to domestic homicide reviews which must be recorded, including –
 - (i) the number of domestic homicide reviews taking place across England and Wales annually; and
 - (ii) the time taken to complete each individual domestic homicide review;
 - (b) that the data must be recorded centrally in a Home Office database; and
 - (c) that the data must be published annually.”

After Clause 40

LORD ROSSER

52A★

Insert the following new Clause –

“Requests for third-party material

- (1) Subject to Conditions A to D below, insofar as applicable, an authorised person may request information in the possession of a third party if the subject of the data has agreed to the request being made.

After Clause 40 - continued

- (2) Agreement under subsection (1) means that the data subject has confirmed explicitly and unequivocally in writing that they agree to the disclosure of specific information.
- (3) Explicit written confirmation from the data subject constitutes agreement for these purposes only if the data subject has—
 - (a) been provided with appropriate information and guidance about why the request is considered necessary (including, where relevant, the identification of the reasonable line of inquiry relied upon);
 - (b) been provided with appropriate information as to—
 - (i) how the data will or will not be used in accordance with the authorised person’s legal obligations, and
 - (ii) any potential consequences arising from their decision;
 - (c) has confirmed their agreement in the absence of any inappropriate pressure or coercion; and
 - (d) has been provided with and signed the legal notice issued by the College of Policing for use by authorised persons seeking such material.
- (4) Condition A for the exercise of the power in subsection (1) is that it is exercised only for the purposes of preventing, detecting, investigating or prosecuting an offence.
- (5) Condition B for the exercise of the power in subsection (1) is that—
 - (a) the authorised person reasonably believes that the information is relevant for the purpose in subsection (4) for which the information is sought, and
 - (b) the authorised person is satisfied that exercise of the power is strictly necessary and proportionate to achieve that purpose.
- (6) Information is relevant for the purposes within subsection (4) in circumstances where the information is relevant to a reasonable line of inquiry and is likely to meet the relevance test for disclosure in criminal proceedings.
- (7) Condition C applies if the authorised person thinks that, in exercising the power, there is a risk of obtaining information other than information necessary for a purpose within subsection (4).
- (8) Condition C is that the authorised person is satisfied that there are no other less intrusive means available of obtaining the information sought by the authorised person which avoid that risk.
- (9) Condition D is that the data subject was offered free independent legal advice on issues relating to their rights before giving agreement under subsection (2).
- (10) In this section—

“third party” means any organisation, agency, body, individual or authority which holds information about the data subject;

“data subject” includes victims of crime, witnesses to crime, and others coming into contact with authorised persons;

“information” includes moving or still images and sounds such as documentary footage;

“offence” means an offence under the law of any part of the United Kingdom.”

Member's explanatory statement

This would provide protections for extraction of victims' information from a third party, and not only a personal device.

Clause 63

BARONESS BENNETT OF MANOR CASTLE

55A★ Leave out Clause 63

Clause 64

BARONESS BENNETT OF MANOR CASTLE

55B★ Leave out Clause 64

Clause 65

BARONESS BENNETT OF MANOR CASTLE

56A★ Leave out Clause 65

After Clause 102

LORD PONSONBY OF SHULBREDE

78A★ 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
 - (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 must 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 “the required minimum term” means seven years.”

78B★ 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

After Clause 102 - continued

- (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.””

78C★ 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 –

“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.””

78D★ 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 must be extended in exceptional circumstances, which must 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.””

Clause 103

LORD PONSONBY OF SHULBREDE

78E★ Page 90, line 17, at end insert –

“(bb) the abduction, sexual assault, and murder of a person,”.”

After Clause 125

LORD PONSONBY OF SHULBREDE

82A★ 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 imposes a custodial sentence of six months or less, it must state its reasons for being satisfied that the offence is so serious that neither a fine alone nor a community sentence can be justified for the offence (having regard to the considerations in subsection (2B)), and, in particular, that a community order could not be justified.

After Clause 125 - 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 or offences; and
 - (e) previous convictions are only relevant to the extent they affect the seriousness of the offence at issue.”

Clause 133

LORD PONSONBY OF SHULBREDE

88A★ Page 126, 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.”

Clause 168

LORD PONSONBY OF SHULBREDE

97A★ Page 189, line 36, after “in any court” insert “subject to subsection (1A)”**97B★** Page 189, line 37, at end insert –

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

Clause 170

LORD PONSONBY OF SHULBREDE

97C★ Page 193, line 15, 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.”

97D★ Page 194, line 14, at end insert “and in making such an assessment, the court has been provided with a physical and mental health screening of the person to whom the direction relates with a recommendation as to whether or not proceeding via a live audio link or live video link will impede their ability to understand or effectively participate in proceedings,”**After Clause 172**

LORD ROSSER

104A★ Insert the following new Clause –**“Child criminal exploitation**

In section 3 of the Modern Slavery Act 2015 (meaning of exploitation), at the end insert –

“*Child criminal exploitation*

(7) Another person manipulates, deceives, coerces or controls the person to undertake activity which constitutes a criminal offence and the person is under the age of 18.””

Member’s explanatory statement*This new Clause would introduce a statutory definition of child criminal exploitation.*

LORD PONSONBY OF SHULBREDE

104B★ 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).
- (3) This section has effect notwithstanding section 68(3) of the Youth Justice and Criminal Evidence Act 1999.”

104C★ Insert the following new Clause –**“Complainant’s right of representation and appeal on an application to adduce evidence or questions on sexual conduct**

After Clause 172 - continued

(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.”

104D★ Insert the following new Clause —

“Offence of destroying or damaging life-saving equipment

(1) The Criminal Damage Act 1971 is amended as follows.

(2) In section 1(2), at the end of paragraph (b), insert “or

- (c) intending to destroy or damage any property which is considered life-saving equipment, including life-belts, life jackets and defibrillators.”

104E★ 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
- (d) a contractor of a provider of accommodation.

After Clause 172 - continued

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

104F★ 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 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.”

After Clause 50**LORD ROOKER**

109A★ Insert the following new Clause—

“Application of Police and Criminal Evidence Act 1984 to National Food Crime Unit of Food Standards Agency

In the Police and Criminal Evidence Act 1984, after section 114B, insert—

“114C Application to National Food Crime Unit of Food Standards Agency

The Secretary of State may by regulations apply any provisions of this Act to investigation of offences conducted by officers of the National Food Crime Unit in respect of search and seizure.””

Member’s explanatory statement

This amendment is intended to avoid the police having to obtain these powers from a court on behalf of NFCU. The officers dealing with offences could present the case.

After Clause 55

LORD PONSONBY OF SHULBREDE

114A★ Insert the following new Clause—**“Urgent review of offences under section 61 of the Sexual Offences Act 2003**

- (1) The Secretary of State must establish a review into the prevalence of, and the response of the criminal justice system to, the offence of administering a substance with intent under section 61 of the Sexual Offences Act 2003, within one month of the day on which this Act is passed.
- (2) A review under this section must consider—
 - (a) incidence rates and rates of reporting by victims;
 - (b) charging and prosecution rates for the offence;
 - (c) the adequacy of sentencing guidelines for the offence;
 - (d) the adequacy of police investigations into reports of the offence;
 - (e) reoffending rates, and rates of offenders who commit one or more other sexual offences following a charge or sentence for administering a substance with intent;
 - (f) the impact of the offence on victims.
- (3) A report on the findings of the review under this section, and any associated recommendations, must be published within six months of the day on which this Act is passed.
- (4) Where a report is published under subsection (3) a Minister of the Crown must make a statement to each House of Parliament on the contents of the report and associated recommendations.
- (5) Within three months of a report being published under subsection (3) a Minister of the Crown must make a statement to each House of Parliament on action that has been taken in response to recommendations made.”

114B★ Insert the following new Clause—**“Review of offences under section 66 of the Sexual Offences Act 2003**

- (1) The Secretary of State must establish a review of the offence of exposure, under section 66 of the Sexual Offences Act 2003, within two months of the day on which this Act is passed.
- (2) A review under this section must consider—
 - (a) the adequacy of sentencing guidelines for exposure,
 - (b) incidence rates and rates of reporting by victims of exposure,
 - (c) charging rates and prosecution rates for exposure,
 - (d) the adequacy of police investigations into reports of exposure,
 - (e) the use and effectiveness of custodial and non-custodial sentences handed down for the offence,
 - (f) reoffending rates for the offence,
 - (g) rates of offenders who commit one or more other sexual offences following a charge or sentence for exposure, and the category of those offences, and

After Clause 55 - continued

- (h) the impact of the offence on victims.
- (3) A report on the findings of the review under this section, and any associated recommendations, must be published within one year of the day on which this Act is passed.
- (4) Where a report is published under subsection (3) a Minister of the Crown must make a statement to each House of Parliament on the contents of the report and associated recommendations.
- (5) Within six months of a report being published under subsection (3) a Minister of the Crown must make a statement to each House of Parliament on action that has been taken in response to any recommendations made."

Clause 61

BARONESS JONES OF MOULSECOOMB

137A★ Page 55, line 42, 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.

Police, Crime, Sentencing and Courts Bill

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7 December 2021
