

Police, Crime, Sentencing and Courts Bill

THIRD MARSHALLED LIST OF AMENDMENTS TO BE MOVED ON REPORT

The amendments have been marshalled in accordance with the Order of 30th November 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
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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 96

LORD THOMAS OF CWMGIEDD

- 66B** Page 85, line 31, at end insert –
- “(2A) The code must provide for reviews to be made or other measures taken by the Secretary of State on a regular basis to ensure –
- (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.”

Member’s explanatory statement

The purpose of the amendment is to make provision for regular reviews or other measures to ensure compliance with the Code and consistency of practice across England and Wales.

Clause 98

LORD PADDICK

- 66C** Page 86, line 26, at beginning insert “Except for a simple caution,”

Member’s explanatory statement

This amendment would retain the use of the simple caution.

- 66D** Page 86, line 29, leave out subsection (3)

Member’s explanatory statement

This amendment would retain on-the-spot penalties for disorderly behaviour.

Clause 100

LORD WOLFSON OF TREDEGAR

- 67** Page 87, line 11, leave out from “90(8)” to end of line 12

Member’s explanatory statement

This amendment provides for regulations under Clauses 81(8) and 90(8) to be subject to the affirmative procedure whether they increase or decrease the maximum number of hours a person may be required to work or attend at a place pursuant to a caution.

- 68** Page 87, line 15, after “increase” insert “or decrease”

Member’s explanatory statement

This amendment provides for regulations under Clauses 82(3) and 91(3) to be subject to the affirmative procedure if they increase or decrease the maximum amount of a financial penalty pursuant to a caution by more than is necessary to reflect changes in the value of money.

Before Clause 102

LORD WOLFSON OF TREDEGAR

69 Insert the following new Clause—

“Penalty for cruelty to children

- (1) In section 1 of the Children and Young Persons Act 1933 (cruelty to persons under 16), in subsection (1)(a) (penalty on conviction on indictment), for “ten” substitute “14”.
- (2) Subsection (1) applies only in relation to offences committed on or after the day on which this section comes into force.”

Member’s explanatory statement

This amendment increases the penalty under section 1(1)(a) of the Children and Young Persons Act 1933 to 14 years.

70 Insert the following new Clause—

“Penalty for causing or allowing a child or vulnerable adult to die or suffer serious physical harm

- (1) Section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing a child or vulnerable adult to die or suffer serious harm) is amended in accordance with subsections (2) and (3).
- (2) In subsection (7) (penalty in the case of a person’s death), for the words “liable on conviction on indictment” substitute “liable—
 - (a) on conviction on indictment in England and Wales, to imprisonment for life or to a fine, or to both;
 - (b) on conviction on indictment in Northern Ireland,”.
- (3) In subsection (8) (penalty in the case of serious physical harm), for the words “liable on conviction on indictment” substitute “liable—
 - (a) on conviction on indictment in England and Wales, to imprisonment for a term not exceeding 14 years or to a fine, or to both;
 - (b) on conviction on indictment in Northern Ireland,”.
- (4) Subsections (2) and (3) apply only in relation to offences where the unlawful act to which the offence relates is an act that occurs, or so much of such an act as occurs, on or after the day on which this section comes into force.
- (5) In Schedule 19 to the Sentencing Code (list of certain specified offences carrying maximum sentence on indictment of imprisonment for life), after paragraph 20 insert—

“Domestic Violence, Crime and Victims Act 2004

20A(1) An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 that meets the conditions in sub-paragraph (2).

(2) The conditions are that—

Before Clause 102 - continued

- (a) the unlawful act to which the offence relates was an act that occurred, or so much of an act as occurred, on or after the day on which section (*Penalty for causing or allowing a child or vulnerable adult to die or suffer serious physical harm*) of the Police, Crime, Sentencing and Courts Act 2021 came into force, and
- (b) the offender is liable on conviction on indictment to imprisonment for life.””

Member’s explanatory statement

This amendment increases, for England and Wales, the penalties under section 5(7) and (8) of the Domestic Violence, Crime and Victims Act 2004 to life (if a person dies) or 14 years (if a person suffers serious physical harm). The amendment includes a consequential amendment of Schedule 19 to the Sentencing Code, which lists offences where the penalty may be imprisonment for life.

Clause 102

LORD MARKS OF HENLEY-ON-THAMES

LORD PANNICK

- 71 Page 88, 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 88, 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.

- 72 Page 88, 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 88, 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.

- 73 Page 88, 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 88, 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.

- 74 Page 88, 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 88, 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.

- 75 Page 89, 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 89, 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.

- 76 Page 89, 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 89, 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.

- 77 Page 89, 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 89, 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.

- 78 Page 89, 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 89, 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 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—

After Clause 102 - continued

- (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
 - (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.”

LORD PONSONBY OF SHULBREDE
BARONESS BRINTON

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.

After Clause 102 - continued

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.””

BARONESS NOAKES

78DA★ Insert the following new Clause –

“Maximum sentence for an offence under section 70 of the Sexual Offences Act 2003

In section 70 of the Sexual Offences Act 2003 (sexual penetration of a corpse), in subsection (2)(b) (penalty on conviction on indictment), for “2” substitute “10”.

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 116

LORD BLUNKETT

BARONESS BURT OF SOLIHULL

LORD HUNT OF KINGS HEATH

LORD PONSONBY OF SHULBREDE

79 Insert the following new Clause –

“Independent commission to consider proposals for reform of the IPP sentence

- (1) Within three months of the passing of this Act, the Secretary of State must establish an independent commission to consider proposals for reform of the imprisonment for public protection (“IPP”) sentence.
- (2) The remit of the commission must include, but is not limited to, the consideration of proposals that –
 - (a) would allow for existing IPP sentences to be terminated and for their replacement by arrangements appropriate to the circumstances of the individuals concerned; and
 - (b) have regard to the interests of both public protection and meeting but not exceeding the original punitive intention of the sentence imposed.”

LORD BROWN OF EATON-UNDER-HEYWOOD

LORD JUDGE

LORD BEITH

LORD BLUNKETT

80 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 –

After Clause 116 - continued

- (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."

LORD MOYLAN

LORD GARNIER

LORD BLUNKETT

BARONESS BURT OF SOLIHULL

81 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) Where the prisoner has been released on licence under this Chapter—
 - (a) upon the expiry of the qualifying period, or
 - (b) within the period of 12 months beginning with the day on which the Parole Board has dismissed a previous referral under this subsection in relation to the prisoner,
 the Secretary of State shall 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—
 - (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."
- (3) After subsection (4) insert—
 - "(4A) When considering a referral under subsection (3), the Board must consider any previous referral and any information that—
 - (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 will automate the process of licence review for offenders with an indeterminate sentence for public protection who are living in the community on licence and reduce the qualifying period from 10 to five years.

Clause 125

LORD HODGSON OF ASTLEY ABBOTTS
LORD GERMAN
BARONESS LISTER OF BURTERSETT
LORD RAMSBOTHAM

82★ Insert the following new Clause—

“Discretionary early discharge of prisoners

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

- “(3ZA) A Minister of the Crown may by regulations establish pilot schemes under which, where a prisoner is to be discharged on a Friday or the day before a bank holiday, they may at the discretion of the governor of the prison be discharged up to two working days earlier than the day on which the prisoner would otherwise be discharged, provided that—
- (a) it would be helpful for the prisoner’s reintegration into society, and
 - (b) the prisoner has served a custodial sentence of more than 30 days.
- (3ZB) The power to make regulations under subsection (3ZA) expires after the period of two years beginning with the day on which this Act is passed, and any pilot scheme must have concluded within that period.”

Member’s explanatory statement

This amendment would enable trials of schemes for early discharge from prison which would reduce the bunching of releases on Fridays to take place during a two-year trial period.

After Clause 125

LORD PONSONBY OF SHULBREDE
LORD GERMAN

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.
- (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;

After Clause 125 - continued

- (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.”

BARONESS BRINTON

82B★ 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 WOLFSON OF TREDEGAR

83 Page 243, line 36, leave out from “State” to end of line 37 and insert –

- “(6) Regulations under this section are subject to –
 - (a) the negative resolution procedure, where under subsection (1)(b) the regulations specify a period, and
 - (b) the affirmative resolution procedure, in any other case.”

Member’s explanatory statement

This amendment requires regulations under new section 395A of the Sentencing Code to be subject to the affirmative resolution procedure if they apply indefinitely.

After Clause 132

BARONESS WILLIAMS OF TRAFFORD

84 Insert the following new Clause –

“CHAPTER 3**ASSAULTS ON THOSE PROVIDING A PUBLIC SERVICE ETC****Assaults on those providing a public service etc**

In the Sentencing Act 2020, after section 68 insert –

“68A Assaults on those providing a public service etc

After Clause 132 - continued

- (1) This section applies where—
 - (a) a court is considering the seriousness of an offence listed in subsection (3), and
 - (b) the offence is not aggravated under section 67(2).
- (2) If the offence was committed against a person providing a public service, performing a public duty or providing services to the public, the court—
 - (a) must treat that fact as an aggravating factor, and
 - (b) must state in open court that the offence is so aggravated.
- (3) The offences referred to in subsection (1) are—
 - (a) an offence of common assault or battery, except where section 1 of the Assaults on Emergency Workers (Offences) Act 2018 applies;
 - (b) an offence under any of the following provisions of the Offences against the Person Act 1861—
 - (i) section 16 (threats to kill);
 - (ii) section 18 (wounding with intent to cause grievous bodily harm);
 - (iii) section 20 (malicious wounding);
 - (iv) section 47 (assault occasioning actual bodily harm);
 - (c) an inchoate offence in relation to any of the preceding offences.
- (4) In this section—
 - (a) a reference to providing services to the public includes a reference to providing goods or facilities to the public;
 - (b) a reference to the public includes a reference to a section of the public.
- (5) Nothing in this section prevents a court from treating the fact that an offence was committed against a person providing a public service, performing a public duty or providing services to the public as an aggravating factor in relation to offences not listed in subsection (3).
- (6) This section has effect in relation to a person who is convicted of the offence on or after the date on which section (Assaults on those providing a public service etc) of the Police, Crime, Sentencing and Courts Act 2021 comes into force.”

Member’s explanatory statement

This amendment would add three new aggravating factors to the consolidated sentencing code, where the person attacked is (i) providing a public service, (ii) performing a public duty, or (iii) providing services, goods or facilities to the public or a section of the public.

THE LORD BISHOP OF GLOUCESTER
LORD GERMAN
LORD PONSONBY OF SHULBREDE

85

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—

After Clause 132 - continued

- “(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.

86

Insert the following new Clause —

“Duty to give reasons for the sentence

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

Member’s explanatory statement

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

87

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.

After Clause 132 - continued

- (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 a sentencing judge to consider the impact of a custodial sentence on a child when sentencing a primary carer of a dependent child.

88

Insert the following new Clause—

“Duty to collect and publish data on the sentencing of offenders who are parents of children aged under 18 or who are pregnant

- (1) The Lord Chancellor must take reasonable steps to ensure the following data are centrally collected and published at least annually—
 - (a) the number of offenders who at the time of sentencing—
 - (i) have parental responsibility for a child or children aged under 18, or
 - (ii) are pregnant, and
 - (b) the number of such children and unborn children.
- (2) “Parental responsibility” has the meaning given by section 3 of the Children Act 1989.
- (3) The data collected under subsection (1) must include whether the offender is the primary carer of any such children.
- (4) For the purposes of subsection (3), “primary carer” means someone who has substantial care of a person under the age of 18; and, where care is equally shared, all carers of that child are a “primary carer”.
- (5) The data collected under subsections (1) and (3) must—
 - (a) only be gathered with the offender’s consent, and
 - (b) be disaggregated according to the following criteria—
 - (i) the gender of the offender to whom they relate;
 - (ii) the ethnicity of the offender;
 - (iii) the sentence received by the offender;
 - (iv) the offence type for which the offender is sentenced.
- (6) The data and information to be collected under this section must be collected from the day on which this Act is passed.”

Member's explanatory statement

The provision will place a duty on the Lord Chancellor to ensure data is collected and regularly published on the number of offenders who have parental responsibility for children or are pregnant at the time of sentencing. This includes data on the number of children and unborn children affected and whether the offender is the primary carer of any such children. The provision requires this data is disaggregated according to the offender's gender and ethnicity, the sentence received and the offence type for which they are sentenced.

Clause 133

LORD PONSONBY OF SHULBREDE
LORD GERMAN

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.””

After Clause 138

BARONESS BUTLER-SLOSS
BARONESS CHAKRABARTI
LORD DHOLAKIA

89 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”.

BARONESS BENNETT OF MANOR CASTLE

90 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 138 - 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.”

Clause 141**BARONESS WILLIAMS OF TRAFFORD****91**

Page 132, line 20, at end insert –

- “(8A) The court may adjourn any proceedings on an application for a serious violence reduction order even after sentencing the offender.
- (8B) If the offender does not appear for any adjourned proceedings the court may –
 - (a) further adjourn the proceedings,
 - (b) issue a warrant for the offender’s arrest, or
 - (c) hear the proceedings in the offender’s absence.
- (8C) The court may not act under subsection (8B)(b) unless it is satisfied that the offender has had adequate notice of the time and place of the adjourned proceedings.
- (8D) The court may not act under subsection (8B)(c) unless it is satisfied that the offender –
 - (a) has had adequate notice of the time and place of the adjourned proceedings, and
 - (b) has been informed that if the offender does not appear for those proceedings the court may hear the proceedings in the offender’s absence.”

Member’s explanatory statement

This amendment makes it explicit that, if an application for a serious violence reduction order is made, the court may adjourn proceedings on the application after sentencing the offender.

92

Page 138, leave out line 6 and insert “in relation to serious violence reduction orders.”

Member’s explanatory statement

This amendment widens the power to issue guidance in new section 342J of the Sentencing Code so that guidance may be issued on any matter relating to serious violence reduction orders.

93 Page 138, line 6, at end insert –

“(1A) The guidance may in particular include –

- (a) guidance about the exercise by constables, chief officers of police and the chief constable of the British Transport Police Force of their functions under this Chapter,
- (b) guidance about identifying offenders in respect of whom it may be appropriate for applications for serious violence reduction orders to be made, and
- (c) guidance about providing assistance to prosecutors in connection with applications for serious violence reduction orders.”

Member’s explanatory statement

This amendment provides a non-exhaustive list of the matters that may be covered by guidance issued under new section 342J of the Sentencing Code.

94 Page 138, line 13, leave out from “section” to end

Member’s explanatory statement

This amendment is consequential on Baroness Williams of Trafford’s second amendment to Clause 141.

95 Page 138, line 13, at end insert –

“342JA Guidance: Parliamentary procedure

- (1) Before issuing guidance under section 342J, the Secretary of State must lay a draft of the guidance before Parliament.
- (2) If, within the 40-day period, either House of Parliament resolves not to approve the draft guidance, the guidance may not be issued.
- (3) If no such resolution is made within that period, the Secretary of State may issue the guidance.
- (4) In this section “the 40-day period”, in relation to draft guidance, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).
- (5) In calculating the 40-day period, no account is to be taken of any period during which –
 - (a) Parliament is dissolved or prorogued, or
 - (b) both Houses are adjourned for more than 4 days.”

Member’s explanatory statement

This amendment applies a negative resolution procedure to the power to issue guidance under new section 342J of the Sentencing Code.

After Clause 142

BARONESS WILLIAMS OF TRAFFORD

96 Insert the following new Clause –

“CHAPTER 1A

KNIFE CRIME PREVENTION ORDERS

After Clause 142 - continued**Knife crime prevention order on conviction: adjournment of proceedings**

- (1) In section 19 of the Offensive Weapons Act 2019 (knife crime prevention orders made on conviction), after subsection (9) insert –
 - “(9A) The court may adjourn any proceedings on an application for a knife crime prevention order even after sentencing the defendant.
 - (9B) If the defendant does not appear for any adjourned proceedings the court may –
 - (a) further adjourn the proceedings,
 - (b) issue a warrant for the defendant’s arrest, or
 - (c) hear the proceedings in the defendant’s absence.
 - (9C) The court may not act under subsection (9B)(b) unless it is satisfied that the defendant has had adequate notice of the time and place of the adjourned proceedings.
 - (9D) The court may not act under subsection (9B)(c) unless it is satisfied that the defendant –
 - (a) has had adequate notice of the time and place of the adjourned proceedings, and
 - (b) has been informed that if the defendant does not appear for those proceedings the court may hear the proceedings in the defendant’s absence.”
- (2) Regulations under section 178(1) which bring subsection (1) into force only for a specified purpose or in relation to a specified area may –
 - (a) provide for that provision to be in force for that purpose or in relation to that area for a specified period;
 - (b) make transitional or saving provision in relation to that provision ceasing to be in force at the end of the specified period.
- (3) Regulations containing provision by virtue of subsection (2)(a) may be amended by subsequent regulations under section 178(1) so as to continue subsection (1) in force for the specified purpose or in relation to the specified area for a further specified period.
- (4) In this section “specified” means specified in regulations under section 178(1).”

Member’s explanatory statement

This amendment makes it explicit that, if an application for a knife crime prevention order is made following a defendant’s conviction of an offence, the court may adjourn proceedings on the application after sentencing the defendant.

After Clause 164

LORD MARKS OF HENLEY-ON-THAMES
 BARONESS BENNETT OF MANOR CASTLE
 LORD RAMSBOTHAM

97

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 164 - 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 164 - 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 164 - 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.

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.”

LORD PANNICK

LORD JUDGE

97CA★ Page 193, leave out lines 16 to 18 and insert –

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

Member’s explanatory statement

This amendment would prevent a criminal trial proceeding with the jury (or members of the jury) in a different physical location to the judge, witnesses or counsel.

LORD PONSONBY OF SHULBREDE

- 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,”

Before Schedule 19

LORD MARKS OF HENLEY-ON-THAMES
BARONESS BENNETT OF MANOR CASTLE
LORD RAMSBOTHAM

- 98** 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.
 - (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.

Before Schedule 19 - continued

- (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.
- (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—

Before Schedule 19 - continued

- (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

- 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

Before Schedule 19 - continued

- (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.

After Clause 172

EARL ATTLEE
LORD PADDICK
LORD PONSONBY OF SHULBREDE

99 Insert the following new Clause—

"Facilitation of potting

- (1) A person commits an offence of facilitation of potting if the person—
 - (a) is in custody and causes or permits their own urine or excrement to be intercepted without lawful reason or excuse, or
 - (b) is in custody and causes or permits their own ejaculate to be intercepted without lawful reason or excuse.
- (2) For the purposes of subsection (1)(a), only in exceptional circumstances may the court accept a defence of "lawful reason or excuse" in the absence of evidence of a prior direction by a clinically qualified person.
- (3) 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;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years."

Member's explanatory statement

This amendment aims to establish a specific offence of "facilitating potting", potting being the practice of throwing urine, excrement or ejaculate at prison staff.

LORD COAKER
BARONESS NEVILLE-ROLFE

100 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
 - (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

After Clause 172 - continued

- (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,
 - (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,

After Clause 172 - continued

- (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.”

LORD PADDICK

101 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 CHAKRABARTI

LORD ROSSER

LORD CARLILE OF BERRIEW

BARONESS NEWLOVE

102 Insert the following new Clause –

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

- (1) The inquiry into matters arising from the death of Sarah Everard, announced by the Secretary of State for the Home Department on 22 November 2021, is to be held as an inquiry under the Inquiries Act 2005.
- (2) The Secretary of State must ensure that the terms of reference of the inquiry include the wider 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.
- (3) If on the commencement of any provision of this Act, the inquiry does not have a panel of members which includes at least one member with experience in the area of violence against women, the Secretary of State must ensure that such a member is appointed.”

Member’s explanatory statement

This amendment converts the existing Home Office inquiry into the matters arising from the death of Sarah Everard into a statutory inquiry under the Inquiries Act 2005. It also ensures that the Inquiry panel includes at least one member with experience in the area of violence against women and girls.

BARONESS MEACHER
LORD PADDICK

103 Insert the following new Clause –

“Restorative justice

The Secretary of State must, every five years –

- (a) prepare an action plan on restorative justice for the purpose of improving access, awareness and capacity of restorative justice within the criminal justice system,
- (b) publish a copy of the action plan, and
- (c) publish a report on progress in implementing the previous action plan.”

LORD MARKS OF HENLEY-ON-THAMES

104 Insert the following new Clause –

“Royal Commission on criminal sentencing

- (1) Within six months of the passing of this Act, the Secretary of State must establish a Royal Commission to carry out a full review of criminal sentencing.
- (2) In particular the Commission must make recommendations on –
 - (a) how to reduce the prison population;
 - (b) how to reduce violence and overcrowding in prisons;
 - (c) addressing the particular needs of young people in custody;
 - (d) addressing the particular needs of women in custody;
 - (e) how to ensure that sentencing for offences is focussed upon reform and rehabilitation of offenders and reducing reoffending;
 - (f) how to reduce the over-representation of people from Black, Asian and minority ethnic backgrounds in prison;
 - (g) the imposition and management of non-custodial sentences; and
 - (h) the abolition of some mandatory or minimum prison sentences.”

Member’s explanatory statement

This amendment would establish a Royal Commission to review criminal sentencing.

LORD ROSSER
LORD PADDICK
THE LORD BISHOP OF DERBY

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.”

LORD PONSONBY OF SHULBREDE
BARONESS JONES OF MOULSECOOMB

104C 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.”

After Clause 172 - continued

LORD PONSONBY OF SHULBREDE

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.
- (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.

After Clause 172 - continued

- (4) A person found guilty of an offence under this section is liable on conviction on indictment to a fine of £50,000.”

LORD BACH

104FA★ Insert the following new Clause—

“Police and crime commissioners: limit on age of disqualification for conviction

In section 66(3)(c) of the Police Reform and Social Responsibility Act 2011, after the first “offence” insert “committed after the age of 21”.

BARONESS NEVILLE-ROLFE

104FB★ Insert the following new Clause—

“Duty to conduct a review of resources for the purposes of assaults on retail workers

Within 12 months of the day on which this Act is passed, the Secretary of State must conduct a review of, and report on, the adequacy of resources that police forces have available for the purposes of preventing or investigating assaults on retail workers.”

Clause 44

LORD BLENCATHRA

LORD JUDGE

104G Page 38, line 43, at end insert—

- “(4) Part 6 of Schedule 4 does not have effect unless the College of Policing is re-established under an Act of Parliament.”

After Clause 44

THE LORD BISHOP OF GLOUCESTER

LORD GERMAN

LORD PONSONBY OF SHULBREDE

105 Insert the following new Clause—

“Bail and primary carers

- (1) Section 4 of the Bail Act 1976 is amended as follows.

- (2) After subsection (9) insert—

“(10) Where a court determines whether to grant bail in criminal proceedings to a person to whom this section applies who is a primary carer for a child or pregnant, the court must—

- (a) consider the impact of not granting bail on the child or unborn child; and
- (b) presume (subject to victim impact or other relevant considerations) that it is in the best interests of the child or unborn child for bail to be granted.

- (11) In this section—

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

After Clause 44 - continued

- (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 a judge to consider the impact of not granting bail on a child when determining, in criminal proceedings, whether to grant bail to a primary carer of a dependent child.

Clause 46

LORD BEITH

- 106 Page 39, line 17, after “sport” insert “, dance, drama, music”

Member’s explanatory statement

This is intended to address a potential gap in the law related to other teaching or supervisory positions of trust.

- 107 Page 39, line 19, at end insert “, or in dance, drama or music.”

Member’s explanatory statement

This is intended to address a potential gap in the law related to other teaching or supervisory positions of trust.

After Clause 50

BARONESS CHAKRABARTI
LORD CARLILE OF BERRIEW
LORD GARNIER
LORD PADDICK

- 108 Insert the following new Clause—

“Arrest without warrants: safeguarding

In section 24 of the Police and Criminal Evidence Act 1984 (arrest without warrants: constables), after subsection (4) insert—

“(4A) A constable exercising the power conferred by subsection (1), (2) or (3) may not require or ask the person under arrest to enter a vehicle or premises other than a police station unless at least one other constable is present in the vehicle or when entering the premises, as applicable.””

Member’s explanatory statement

This amendment ensures the attendance of at least two police constables if an arrested person is to be taken into a vehicle or premises other than a police station.

BARONESS CHAKRABARTI
LORD CARLILE OF BERRIEW
LORD GARNIER

109 Insert the following new Clause—

“Statutory transportation of suspects code

In section 66 of the Police and Criminal Evidence Act 1984 (Codes of practice), in subsection (1)(b) before “detention” insert “transportation,”.

Member’s explanatory statement

This amendment adds the transportation of arrested people to the matters about which the Secretary of State must issue codes of practice under the Police and Criminal Evidence Act 1984.

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

THE LORD BISHOP OF ST ALBANS
BARONESS MCINTOSH OF PICKERING
LORD CARRINGTON
BARONESS JONES OF MOULSECOOMB

110 Insert the following new Clause—

“Poaching of game

- (1) The Game Laws (Amendment) Act 1960 is amended as follows.
- (2) In section 2(1), after “committing” insert “, has committed, or is about to commit”.
- (3) In section 4—
 - (a) in subsection (1)—
 - (i) after “section thirty” insert “or section thirty-two”, and
 - (ii) at the end insert “or any animal, vehicle, or other article belonging to him, or in his possession or under his control at the relevant time.”;
 - (b) in subsection (2), after “gun”, in both places it occurs, insert “, animal,”;
 - (c) at the end insert—

After Clause 55 - continued

- “(6) Where a person is convicted of an offence under the Night Poaching Act 1828 or the Game Act 1831, the court may order the offender to reimburse any expenses incurred by the police in connection with the keeping of any animal seized in connection with the offence.”
- (4) In section 4A(1), for “section thirty of the Game Act 1831 as one of five or more persons liable under that section” substitute “section 1 or 9 of the Night Poaching Act 1828, or section 30 or 32 of the Game Act 1831”.
- (5) After section 4A insert –

“4B Disqualification Orders

- (1) Where a person is convicted of an offence under either the Night Poaching Act 1828 or the Game Act 1831, the court may, instead of or in addition to dealing with the person in any other way, make an order disqualifying the person from having custody of a dog for such period as the court thinks fit.
- (2) A person who is disqualified from having custody of a dog by virtue of an order made under subsection (1) may, at any time after the end of the period of one year beginning with the day on which the order was made, apply to the court that made it for a direction terminating the disqualification.
- (3) On an application under subsection (2) the court may –
- (a) having regard to the applicant’s character, conduct since the disqualification was imposed, and any other circumstances of the case, grant or refuse the application, and
 - (b) order the applicant to pay all or any part of the costs of the application,
- and where an application in respect of an order is refused no further application in respect of that order may be made before the end of the period of one year beginning with the day on which the application was rejected.
- (4) Where a court decides not to make an order under subsection (1) in relation to an offender, it must –
- (a) give reasons for the decision in open court, and
 - (b) if it is a magistrates’ court, cause the reasons to be entered in the register of proceedings.
- (5) Any person who has custody of a dog in contravention of an order under subsection (1), is guilty of an offence.
- (6) Disqualification from having custody of a dog under this section includes disqualifying a person –
- (a) from owning dogs;
 - (b) from keeping dogs;
 - (c) from participating in the keeping of dogs;
 - (d) from being party to an arrangement under which they are entitled to control or influence the way in which dogs are kept;
 - (e) from dealing in dogs;
 - (f) from transporting dogs;
 - (g) from arranging for the transport of dogs.”

Member's explanatory statement

This new Clause is intended to broaden the powers available to the police and the courts for dealing with illegal hare coursers. Measures include providing for forfeiture of animals on conviction and permitting the recovery of expenses incurred by the police in housing a seized animal.

111 Insert the following new Clause—

“Trespassing in pursuit of game

- (1) The Game Act 1831 is amended as follows.
- (2) In section 30 (trespassing in search or pursuit of game)—
 - (a) for “level 3” substitute “level 5 on the standard scale or imprisonment up to six months, or both”;
 - (b) omit “and if any persons to the number of five or more together shall commit any trespass, by entering or being in the daytime upon any land in search or pursuit of game, or woodcocks, snipes, or conies, each of such persons shall, on conviction thereof before a justice of the peace, forfeit and pay such sum of money, not exceeding level 4 on the standard scale as to the said justice shall seem meet.”
- (3) In section 32 (penalty on persons found armed using violence), omit “, to the number of five or more together.”
- (4) In section 41 (time for proceedings etc), for “three” substitute “six”.

Member's explanatory statement

This new Clause is intended to broaden the powers available to the police and the courts for dealing with illegal hare coursers. Measures include increasing the maximum fine and reducing the threshold to allow for individual convictions.

BARONESS HAYMAN
 BARONESS BRINTON
 LORD PANNICK
 BARONESS BENNETT OF MANOR CASTLE

112 Insert the following new Clause—

“Voyeurism: breastfeeding

- (1) Section 67A of the Sexual Offences Act 2003 (voyeurism: additional offences) is amended in accordance with subsections (2) and (3).
- (2) After subsection (2), insert—

“(2A) A person (A) commits an offence if—

 - (a) A records an image of another person (B) while B is breastfeeding;
 - (b) A does so with the intention that A or another person (C) will look at the image for a purpose mentioned in subsection (3), and
 - (c) A does so—
 - (i) without B’s consent, and
 - (ii) without reasonably believing that B consents.”
- (3) In subsection (3), for “subsections (1) and (2)” substitute “subsections (1), (2) and (2A)”.

Member's explanatory statement

This amendment would extend the definition of voyeurism in the Sexual Offences Act 2003 to make it an offence to take a photograph or video of a person breastfeeding without that person's consent.

LORD MOYLAN
LORD PANNICK
LORD MACDONALD OF RIVER GLAVEN

113 Insert the following new Clause—

“Retention by the police of personal data relating to non-criminal conduct perceived to be motivated by hostility

- (1) The processing of relevant data by a police authority in accordance with Article 6(1) of the GDPR and section 35 of the Data Protection Act 2018 is not lawful unless it is undertaken in accordance with regulations made by statutory instrument under this section.
- (2) In this section, “relevant data” means personal data relating to a data subject which is based in whole or in part on the perception by another person that the conduct of the data subject was motivated wholly or partially by hostility or prejudice towards any group of people sharing a characteristic and where the conduct in question is unlikely to constitute a criminal offence.
- (3) In this section, “a police authority” means—
 - (a) a person specified or described in paragraphs 5 to 20 of Schedule 7 to the Data Protection Act 2018;
 - (b) a person acting under the authority of such a person.
- (4) Subsection (1) does not apply in respect of the processing of information—
 - (a) pursuant to an ongoing criminal investigation;
 - (b) for the purposes of the internal administrative functions of the police authority.
- (5) Regulations under this section must—
 - (a) identify different categories of personal data and processing of the personal data in question;
 - (b) include provisions by reference to each of the various categories of processing and personal data as to—
 - (i) the person or persons whose authority is required for the processing of the personal data;
 - (ii) the notifying of the data subject of the processing of the personal data;
 - (iii) the period for which the personal data can be retained (including provision for the granting of authority for extending that period);
 - (iv) the disclosure of the personal data to third parties;
 - (c) have particular regard to the importance of the right to freedom of expression and the extent to which that right is adversely affected by the processing of relevant data by any police authority.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.

After Clause 55 - continued

- (7) In section 113B of the Police Act 1997, after subsection (3) insert—
- “(3A) An enhanced criminal record certificate must not give the details of a relevant matter to the extent that doing so would result in the disclosure of relevant data as defined at subsection (2) of section *(Retention by the police of personal data relating to non-criminal conduct perceived to be motivated by hostility)* of the Police, Crime, Sentencing and Courts Act 2021.”
- (8) In this section—
- (a) the terms “personal data”, “data subject”, “processing” and “the GDPR” have the same meanings as under section 3 of the Data Protection Act 2018;
 - (b) the term “characteristic” includes but is not limited to any protected characteristics under section 4 of the Equality Act 2010.”

LORD DHOLAKIA
BARONESS HARRIS OF RICHMOND

114 Insert the following new Clause—

“Low-value shoplifting

- (1) The Anti-social Behaviour, Crime and Policing Act 2014 is amended as follows.
- (2) Omit section 176 (low-value shoplifting).”

Member’s explanatory statement

This new Clause repeals section 176 of the Anti-social Behaviour, Crime and Policing Act 2014, relating to low value shoplifting.

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.

After Clause 55 - continued

- (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
 - (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 56

LORD ROSSER
LORD DUBS

115 Page 48, line 29, leave out subsections (2) and (3)

Clause 56 - continued**BARONESS WILLIAMS OF TRAFFORD**

116 Page 49, line 3, at end insert –

“(2ZA) For the purposes of subsection (1)(a), the cases in which a public procession in England and Wales may result in serious disruption to the life of the community include, in particular, where –

- (a) it may result in a significant delay to the delivery of a time-sensitive product to consumers of that product, or
- (b) it may result in a prolonged disruption of access to any essential goods or any essential service, including, in particular, access to –
 - (i) the supply of money, food, water, energy or fuel,
 - (ii) a system of communication,
 - (iii) a place of worship,
 - (iv) a transport facility,
 - (v) an educational institution, or
 - (vi) a service relating to health.

(2ZB) In subsection (2ZA)(a) “time-sensitive product” means a product whose value or use to its consumers may be significantly reduced by a delay in the supply of the product to them.

(2ZC) For the purposes of subsection (1)(aa), the cases in which the noise generated by persons taking part in a public procession may result in serious disruption to the activities of an organisation which are carried on in the vicinity of the procession include, in particular, where it may result in persons connected with the organisation not being reasonably able, for a prolonged period of time, to carry on in that vicinity the activities or any one of them.”

Member’s explanatory statement

This amendment replaces the power for the Secretary of State to make regulations about the meaning of serious disruption for the purposes of section 12 of the Public Order Act 1986 with provisions on the face of the Bill, subject to a power to amend these provisions.

117 Page 49, line 22, leave out “make” and insert “amend any of subsections (2ZA) to (2ZC) for the purposes of making”

Member’s explanatory statement

This amendment and the amendments in the name of Baroness Williams of Trafford at page 49, line 27, page 49, line 28, page 49, line 30 and page 49, line 40 confer power on the Secretary of State to amend new subsections (2ZA) to (2ZC) of section 12 of the Public Order Act 1986 in the amendment in the name of Baroness Williams of Trafford at page 49, line 3 and make consequential amendments to Part 2 of that Act.

118 Page 49, line 27, after “particular” insert “, amend any of those subsections for the purposes of”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 49, line 22.

- 119 Page 49, line 28, leave out “define” and insert “defining”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 49, line 22.

- 120 Page 49, line 30, leave out “give” and insert “giving”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 49, line 22.

- 121 Page 49, line 40, at end insert “, including provision which makes consequential amendments to this Part.”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 49, line 22.

LORD PADDICK
LORD HAIN
LORD HENDY

- 122 Leave out Clause 56

Clause 57

LORD ROSSER
LORD DUBS

- 123 Page 50, line 4, leave out subsection (2)

- 124 Page 50, line 23, leave out “, impact”

- 125 Page 50, line 32, leave out subsection (5)

BARONESS WILLIAMS OF TRAFFORD

- 126 Page 50, line 32, at end insert –

“(2ZA) For the purposes of subsection (1)(a), the cases in which a public assembly in England and Wales may result in serious disruption to the life of the community include, in particular, where –

- (a) it may result in a significant delay to the supply of a time-sensitive product to consumers of that product, or
- (b) it may result in a prolonged disruption of access to any essential goods or any essential service, including, in particular, access to –
 - (i) the supply of money, food, water, energy or fuel,
 - (ii) a system of communication,
 - (iii) a place of worship,
 - (iv) a transport facility,
 - (v) an educational institution, or
 - (vi) a service relating to health.

Clause 57 - continued

(2ZB) In subsection (2ZA)(a) “time-sensitive product” means a product whose value or use to its consumers may be significantly reduced by a delay in the supply of the product to them.

(2ZC) For the purposes of subsection (1)(aa), the cases in which the noise generated by persons taking part in a public assembly may result in serious disruption to the activities of an organisation which are carried on in the vicinity of the assembly include, in particular, where it may result in persons connected with the organisation not being reasonably able, for a prolonged period of time, to carry on in that vicinity the activities or any one of them.”

Member’s explanatory statement

This amendment replaces the power for the Secretary of State to make regulations about the meaning of serious disruption for the purposes of section 14 of the Public Order Act 1986 with provisions on the face of the Bill, subject to a power to amend these provisions.

- 127** Page 51, line 3, leave out “make” and insert “amend any of subsections (2ZA) to (2ZC) for the purposes of making”

Member’s explanatory statement

This amendment and the amendments in the name of Baroness Williams of Trafford at page 51, line 8, page 51, line 9, page 51, line 11 and page 51, line 21 confer power on the Secretary of State to amend new subsections (2ZA) to (2ZC) of section 14 of the Public Order Act 1986 in the amendment in the name of Baroness Williams of Trafford at page 50, line 32 and make consequential amendments to Part 2 of that Act.

- 128** Page 51, line 8, after “particular” insert “, amend any of those subsections for the purposes of”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 51, line 3.

- 129** Page 51, line 9, leave out “define” and insert “defining”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 51, line 3.

- 130** Page 51, line 11, leave out “give” and insert “giving”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 51, line 3.

- 131** Page 51, line 21, at end insert “, including provision which makes consequential amendments to this Part.”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 51, line 3.

LORD PADDICK
LORD HAIN
LORD HENDY

132 Leave out Clause 57

Clause 58

LORD PADDICK
LORD HAIN
LORD HENDY

133 Leave out Clause 58

Clause 59

LORD PADDICK
LORD HAIN
LORD HENDY

134 Leave out Clause 59

Clause 60

LORD PADDICK
LORD HAIN
LORD HENDY

135 Leave out Clause 60

Clause 61

BARONESS WILLIAMS OF TRAFFORD

136 Page 55, line 33, leave out “causes” and insert “creates a risk of, or causes,”

Member's explanatory statement

This amendment and the amendment in the name of Baroness Williams of Trafford at page 53, line 40 make it clear that one element of the new offence of public nuisance requires a person's act or omission to create a risk of, or to cause, serious harm as defined in clause 60(2) to the public or a section of the public.

137 Page 55, line 40, leave out subsection (2) and insert —

“(2) In subsection (1)(b)(i) “serious harm” means —

- (a) death, personal injury or disease,
- (b) loss of, or damage to, property, or
- (c) serious distress, serious annoyance, serious inconvenience or serious loss of amenity.”

Member's explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 55, line 33.

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.

BARONESS WILLIAMS OF TRAFFORD

- 138** Page 56, line 23, leave out “any act or omission within subsection (1)” and insert “the tort of public nuisance”

Member's explanatory statement

This amendment amends Clause 60 to clarify that the Clause does not affect the civil liability of any person for the tort of public nuisance. The tort currently tracks the common law offence and this amendment makes it clear that the replacement of the offence does not affect the tort.

- 139** Page 56, line 26, leave out “such act or omission” and insert “act or omission within subsection (1)”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Baroness Williams of Trafford at page 56, line 23.

LORD PADDICK

LORD HAIN

LORD HENDY

- 140** Leave out Clause 61

Clause 62

BARONESS WILLIAMS OF TRAFFORD

- 141** Page 57, line 22, at end insert –

“(5A) For the purposes of subsection (1)(a), the cases in which the noise generated by a person taking part in a one-person protest may result in serious disruption to the activities of an organisation which are carried on in the vicinity of the protest include, in particular, where it may result in persons connected with the organisation not being reasonably able, for a prolonged period of time, to carry on in that vicinity the activities or any one of them.”

Member's explanatory statement

This amendment replaces the power for the Secretary of State to make regulations about the meaning of serious disruption for the purposes of section 14ZA of the Public Order Act 1986 with provisions on the face of the Bill, subject to a power to amend these provisions.

- 142** Page 58, line 15, leave out “make” and insert “amend subsection (5A) for the purposes of making”

Member’s explanatory statement

This amendment and the amendments in the name of Baroness Williams of Trafford at page 58, line 19, page 58, line 20, page 58, line 22 and page 58, line 29 confer power on the Secretary of State to amend subsection (5A) of new section 14ZA of the Public Order Act 1986 in the amendment in the name of Baroness Williams of Trafford at page 57, line 22 and make consequential amendments to Part 2 of that Act.

- 143** Page 58, line 19, after “particular” insert “, amend that subsection for the purposes of”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 58, line 15.

- 144** Page 58, line 20, leave out “define” and insert “defining”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 58, line 15.

- 145** Page 58, line 22, leave out “give” and insert “giving”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 58, line 15.

- 146** Page 58, line 29, at end insert “, including provision which makes consequential amendments to this Part.”

Member’s explanatory statement

See the explanatory statement for the amendment in the name of Baroness Williams of Trafford at page 58, line 15.

LORD PADDICK

LORD HAIN

LORD HENDY

- 147** Leave out Clause 62

After Clause 62

BARONESS WILLIAMS OF TRAFFORD

- 148** Insert the following new Clause—

“Offence of locking on

(1) A person commits an offence if—

(a) they intentionally—

(i) attach themselves to another person, to an object or to land,

(ii) attach a person to another person, to an object or to land, or

After Clause 62 - continued

- (iii) attach an object to another object or to land,
 - (b) that act causes, or is capable of causing, serious disruption to—
 - (i) two or more individuals, or
 - (ii) an organisation,
 in a place other than in a dwelling, and
 - (c) they intend that act to have a consequence mentioned in paragraph (b) or are reckless as to whether it will have such a consequence.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that they had a reasonable excuse for the act mentioned in paragraph (a) of that subsection.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine or to both.
- (4) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (3) to 51 weeks is to be read as a reference to 6 months.
- (5) In this section “dwelling” means—
 - (a) a building or structure which is used as a dwelling, or
 - (b) a part of a building or structure, if the part is used as a dwelling,
 and includes any yard, garden, grounds, garage or outhouse belonging to and used with a dwelling.”

Member’s explanatory statement

This amendment creates a new offence of “locking on”, involving the attachment of an individual to another individual, to an object or to land, or an object to another object or to land. It is a requirement of the offence that the act causes or is capable of causing serious disruption to two or more individuals or an organisation and that the accused intends that to occur or is reckless as to whether it will occur.

149

Insert the following new Clause—

“Offence of being equipped for locking on

- (1) A person commits an offence if they have an object with them in a place other than a dwelling with the intention that it will be used in the course of or in connection with the commission by any person of an offence under section (*Offence of locking on*) (1) (offence of locking on).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to a fine.
- (3) In this section “dwelling” has the same meaning as in section (*Offence of locking on*).”

Member’s explanatory statement

This amendment creates a new offence where a person has an object with them in a place other than a dwelling with the intention that it will be used in the course of or in connection with the commission by any person of an offence under the new clause in the name of Baroness Williams of Trafford to be inserted after Clause 62 and relating to “locking on”.

150 Insert the following new Clause –

“Wilful obstruction of highway

- (1) Section 137 of the Highways Act 1980 (penalty for wilful obstruction) is amended as follows.
- (2) In subsection (1) –
 - (a) after “liable to” insert “imprisonment for a term not exceeding 51 weeks or”;
 - (b) for “not exceeding level 3 on the standard scale” substitute “or both”.
- (3) After subsection (1) insert –
 - “(1A) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (1) to 51 weeks is to be read as a reference to 6 months.
 - (1B) For the purposes of this section it does not matter whether free passage along the highway in question has already been temporarily restricted or temporarily prohibited (whether by a constable, a traffic authority or otherwise).
 - (1C) In subsection (1B), “traffic authority” has the same meaning as in the Road Traffic Regulation Act 1984 (see section 121A of that Act).”

Member’s explanatory statement

This amendment increases the penalty for the offence of wilfully obstructing a highway. It also clarifies that for the purposes of the offence it does not matter whether free passage along the highway in question has already been temporarily restricted or prohibited.

151 Insert the following new Clause –

“Obstruction etc of major transport works

- (1) A person commits an offence if the person –
 - (a) obstructs the undertaker or a person acting under the authority of the undertaker –
 - (i) in setting out the lines of any major transport works,
 - (ii) in constructing or maintaining any major transport works, or
 - (iii) in taking any steps that are reasonably necessary for the purposes of facilitating, or in connection with, the construction or maintenance of any major transport works, or
 - (b) interferes with, moves or removes any apparatus which –
 - (i) relates to the construction or maintenance of any major transport works, and
 - (ii) belongs to the undertaker, to a person acting under the authority of the undertaker, to a statutory undertaker or to a person acting under the authority of a statutory undertaker.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that –
 - (a) they had a reasonable excuse for the act mentioned in paragraph (a) or (b) of that subsection, or
 - (b) the act mentioned in paragraph (a) or (b) of that subsection was done wholly or mainly in contemplation or furtherance of a trade dispute.

After Clause 62 - continued

- (3) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine or to both.
- (4) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (3) to 51 weeks is to be read as a reference to 6 months.
- (5) In this section “major transport works” means—
 - (a) works in England and Wales—
 - (i) relating to transport infrastructure, and
 - (ii) the construction of which is authorised directly by an Act of Parliament, or
 - (b) works the construction of which comprises development within subsection (6) that has been granted development consent by an order under section 114 of the Planning Act 2008.
- (6) Development is within this subsection if—
 - (a) it is or forms part of a nationally significant infrastructure project within any of paragraphs (h) to (l) of section 14(1) of the Planning Act 2008,
 - (b) it is or forms part of a project (or proposed project) in the field of transport in relation to which a direction has been given under section 35(1) of that Act (directions in relation to projects of national significance) by the Secretary of State, or
 - (c) it is associated development in relation to development within paragraph (a) or (b).
- (7) In this section “undertaker”—
 - (a) in relation to major transport works within subsection (5)(a), means a person who is authorised by or under the Act (whether as a result of being appointed the nominated undertaker for the purposes of the Act or otherwise) to construct or maintain any of the works;
 - (b) in relation to major transport works within subsection (5)(b), means a person who is constructing or maintaining any of the works (whether as a result of being the undertaker for the purposes of the order granting development consent or otherwise).
- (8) In this section—
 - “associated development” has the same meaning as in the Planning Act 2008 (see section 115 of that Act);
 - “development” has the same meaning as in the Planning Act 2008 (see section 32 of that Act);
 - “development consent” has the same meaning as in the Planning Act 2008 (see section 31 of that Act);
 - “England” includes the English inshore region within the meaning of the Marine and Coastal Access Act 2009 (see section 322 of that Act);
 - “maintain” includes inspect, repair, adjust, alter, remove, reconstruct and replace, and “maintenance” is to be construed accordingly;

After Clause 62 - continued

“nationally significant infrastructure project” has the same meaning as in the Planning Act 2008 (see section 14(1) of that Act);

“statutory undertaker” means a person who is, or who is deemed to be, a statutory undertaker for the purposes of any provision of Part 11 of the Town and Country Planning Act 1990;

“trade dispute” has the same meaning as in Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992, except that section 218 of that Act is to be read as if—

- (a) it made provision corresponding to section 244(4) of that Act, and
- (b) in subsection (5), the definition of worker included any person falling within paragraph (b) of the definition of worker in section 244(5) of that Act;

“Wales” includes the Welsh inshore region within the meaning of the Marine and Coastal Access Act 2009 (see section 322 of that Act).

- (9) In section 14 of the Planning Act 2008 (nationally significant infrastructure projects), after subsection (3) insert—

“(3A) An order under subsection (3)(a) may also amend section (*Obstruction etc of major transport works*) (6)(a) of the Police, Crime, Sentencing and Courts Act 2021 (*obstruction etc of major transport works*).”

Member’s explanatory statement

This amendment contains a new offence of obstructing the construction or maintenance of major transport works. These are transport works that are authorised directly by an Act of Parliament or by certain development consent orders under the Planning Act 2008.

152

Insert the following new Clause—

“Interference with use or operation of key national infrastructure

- (1) A person commits an offence if—
 - (a) they do an act which interferes with the use or operation of any key national infrastructure in England and Wales, and
 - (b) they intend that act to interfere with the use or operation of such infrastructure or are reckless as to whether it will do so.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that—
 - (a) they had a reasonable excuse for the act mentioned in paragraph (a) of that subsection, or
 - (b) the act mentioned in paragraph (a) of that subsection was done wholly or mainly in contemplation or furtherance of a trade dispute.
- (3) A person guilty of an offence under subsection (1) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 12 months, to a fine, or to both.

After Clause 62 - continued

- (4) In relation to an offence committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020, the reference in subsection (3)(a) to 12 months is to be read as a reference to 6 months.
- (5) For the purposes of subsection (1) a person's act interferes with the use or operation of key national infrastructure if it prevents the infrastructure from being used or operated to any extent for any of its intended purposes.
- (6) The cases in which infrastructure is prevented from being used or operated for any of its intended purposes include where its use or operation for any of those purposes is significantly delayed.
- (7) In this section "key national infrastructure" means –
 - (a) road transport infrastructure,
 - (b) rail infrastructure,
 - (c) air transport infrastructure,
 - (d) harbour infrastructure,
 - (e) downstream oil infrastructure, or
 - (f) newspaper printing infrastructure.

Section (*Key national infrastructure*) makes further provision about these kinds of infrastructure.

- (8) The Secretary of State may by regulations made by statutory instrument –
 - (a) amend subsection (7) to add a new kind of infrastructure or to vary or remove an existing kind of infrastructure;
 - (b) amend section (*Key national infrastructure*) to add, amend or remove provision about a kind of infrastructure which is in, or is to be added to, subsection (7) or is to be removed from that subsection.
- (9) Regulations under subsection (8) –
 - (a) may make different provision for different purposes;
 - (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (10) A statutory instrument containing regulations under subsection (8) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (11) In this section –
 - "England" includes the English inshore region within the meaning of the Marine and Coastal Access Act 2009 (see section 322 of that Act);
 - "trade dispute" has the same meaning as in Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992, except that section 218 of that Act is to be read as if –
 - (a) it made provision corresponding to section 244(4) of that Act, and
 - (b) in subsection (5), the definition of worker included any person falling within paragraph (b) of the definition of worker in section 244(5) of that Act;
 - "Wales" includes the Welsh inshore region within the meaning of the Marine and Coastal Access Act 2009 (see section 322 of that Act)."

Member's explanatory statement

This amendment makes it an offence for a person to do an act which interferes with the use or operation of key national infrastructure where the person intends the act to have that effect or is reckless as to whether it will do so. This is subject to a defence of reasonable excuse and a defence applying to industrial action.

153

Insert the following new Clause—

“Key national infrastructure

- (1) This section has effect for the purposes of section (*Interference with use or operation of key national infrastructure*).
- (2) “Road transport infrastructure” means—
 - (a) a special road within the meaning of the Highways Act 1980 (see section 329(1) of that Act), or
 - (b) a road which, under the system for assigning identification numbers to roads administered by the Secretary of State or the Welsh Ministers, has for the time being been assigned a number prefixed by A or B.
- (3) “Rail infrastructure” means infrastructure used for the purposes of railway services within the meaning of Part 1 of the Railways Act 1993 (see section 82 of that Act).
- (4) In the application of section 82 of the Railways Act 1993 for the purposes of subsection (3) “railway” has the wider meaning given in section 81(2) of that Act.
- (5) “Air transport infrastructure” means—
 - (a) an airport within the meaning of the Airports Act 1986 (see section 82(1) of that Act), or
 - (b) any infrastructure which—
 - (i) does not form part of an airport within the meaning of that Act, and
 - (ii) is used for the provision of air traffic services within the meaning of Part 1 of the Transport Act 2000 (see section 98 of that Act).
- (6) “Harbour infrastructure” means a harbour within the meaning of the Harbours Act 1964 (see section 57(1) of that Act) which provides facilities for or in connection with—
 - (a) the embarking or disembarking of passengers who are carried in the course of a business, or
 - (b) the loading or unloading of cargo which is carried in the course of a business.
- (7) “Downstream oil infrastructure” means infrastructure used for or in connection with any of the following activities—
 - (a) the refinement or other processing of crude oil or oil feedstocks;
 - (b) the storage of crude oil or crude oil-based fuel for onward distribution, other than storage by a person who supplies crude oil-based fuel to the public where the storage is for the purposes of such supply;
 - (c) the loading or unloading of crude oil or crude oil-based fuel for onward distribution, other than unloading to a person who supplies crude oil-based fuel to the public where the unloading is for the purposes of such supply;

After Clause 62 - continued

- (d) the carriage, by road, rail, sea or inland waterway, of crude oil or crude oil-based fuel for the purposes of onward distribution;
- (e) the conveyance of crude oil or crude oil-based fuel by means of a pipeline within the meaning of the Pipe-lines Act 1962 (see section 65 of that Act).
- (8) “Newspaper printing infrastructure” means infrastructure the primary purpose of which is the printing of one or more national or local newspapers.
- (9) In this section—
 - “local newspaper” means a newspaper which is published at least fortnightly and is in circulation in a part of England and Wales;
 - “national newspaper” means a newspaper which is published at least fortnightly and is in circulation in England, in Wales or in both;
 - “newspaper” includes a periodical or magazine.”

Member’s explanatory statement

This amendment defines the different types of key national infrastructure for the purposes of the new Clause in the name of Baroness Williams of Trafford to be inserted after Clause 62 and creating the offence of interfering with the use or operation of such infrastructure.

154

Insert the following new Clause—

“Powers to stop and search on suspicion

In section 1(8) of the Police and Criminal Evidence Act 1984 (offences in relation to which stop and search power applies)—

- (a) omit the “and” at the end of paragraph (d), and
- (b) after paragraph (e) insert—
 - “(f) an offence under section 137 of the Highways Act 1980 (wilful obstruction) involving activity which causes or is capable of causing serious disruption to two or more individuals or to an organisation;
 - (g) an offence under section 61 of the Police, Crime, Sentencing and Courts Act 2021 (intentionally or recklessly causing public nuisance);
 - (h) an offence under section (*Offence of locking on*) of that Act (offence of locking on);
 - (i) an offence under section (*Obstruction etc of major transport works*) of that Act (obstruction etc of major transport works); and
 - (j) an offence under section (*Interference with use or operation of key national infrastructure*) of that Act (interference with use or operation of key national infrastructure).”

Member’s explanatory statement

This amendment amends section 1 of the Police and Criminal Evidence Act 1984 to allow a constable to stop and search a person or vehicle if they have reasonable grounds for suspecting that they will find an article made, adapted or intended for use in the course of or in connection with an offence listed in the amendment.

155

Insert the following new Clause—

“Powers to stop and search without suspicion

- (1) This section applies if a police officer of or above the rank of inspector reasonably believes—
 - (a) that any of the following offences may be committed in any locality within the officer’s police area—
 - (i) an offence under section 137 of the Highways Act 1980 (wilful obstruction) involving activity which causes or is capable of causing serious disruption to two or more individuals or to an organisation;
 - (ii) an offence under section 61 (intentionally or recklessly causing public nuisance);
 - (iii) an offence under section (*Offence of locking on*) (offence of locking on);
 - (iv) an offence under section (*Obstruction etc of major transport works*) (obstruction etc of major transport works);
 - (v) an offence under section (*Interference with use or operation of key national infrastructure*) (interference with use or operation of key national infrastructure), or
 - (b) that persons are carrying prohibited objects in any locality within the officer’s police area.
- (2) In this section “prohibited object” means an object which—
 - (a) is made or adapted for use in the course of or in connection with an offence within subsection (1)(a), or
 - (b) is intended by the person having it with them for such use by them or by some other person,

and for the purposes of this section a person carries a prohibited object if they have it in their possession.
- (3) If the further condition in subsection (4) is met, the police officer may give an authorisation that the powers conferred by this section are to be exercisable—
 - (a) anywhere within a specified locality within the officer’s police area, and
 - (b) for a specified period not exceeding 24 hours.
- (4) The further condition is that the police officer reasonably believes that—
 - (a) the authorisation is necessary to prevent the commission of offences within subsection (1)(a) or the carrying of prohibited objects (as the case may be),
 - (b) the specified locality is no greater than is necessary to prevent such activity, and
 - (c) the specified period is no longer than is necessary to prevent such activity.
- (5) If it appears to a police officer of or above the rank of superintendent that it is necessary to do so to prevent the commission of offences within subsection (1)(a) or the carrying of prohibited objects, the officer may direct that the authorisation is to continue in force for a further period not exceeding 24 hours.
- (6) This section confers on any constable in uniform power—

After Clause 62 - continued

- (a) to stop any person and search them or anything carried by them for a prohibited object;
 - (b) to stop any vehicle and search the vehicle, its driver and any passenger for a prohibited object.
- (7) A constable may, in the exercise of the powers conferred by subsection (6), stop any person or vehicle and make any search the constable thinks fit whether or not the constable has any grounds for suspecting that the person or vehicle is carrying a prohibited object.
- (8) If in the course of a search under this section a constable discovers an object which the constable has reasonable grounds for suspecting to be a prohibited object, the constable may seize it.
- (9) This section and sections (*Further provisions about authorisations and directions under section (Powers to stop and search without suspicion)*) (further provisions about authorisations and directions under this section), (*Further provisions about searches under section (Powers to stop and search without suspicion)*) (further provisions about searches under this section) and (*Offence relating to section (Powers to stop and search without suspicion)*) (offence relating to this section) apply (with the necessary modifications) to ships, aircraft and hovercraft as they apply to vehicles.
- (10) In this section and the sections mentioned in subsection (9) —
 - “specified” means specified in an authorisation under this section;
 - “vehicle” includes a caravan as defined in section 29(1) of the Caravan Sites and Control of Development Act 1960.
- (11) The powers conferred by this section and the sections mentioned in subsection (9) do not affect any power conferred otherwise than by this section or those sections.”

Member’s explanatory statement

This amendment makes provision for a senior police officer to give an authorisation applying to a specified locality for a specified period and allowing a constable to stop and search a person or vehicle for an object made, adapted or intended for use in the course of or in connection with an offence listed in the amendment. While the authorisation is in force the constable may exercise the power whether or not they have any grounds for suspecting the person or vehicle is carrying such an object.

156

Insert the following new Clause —

“Further provisions about authorisations and directions under section (*Powers to stop and search without suspicion*)

- (1) If an inspector gives an authorisation under section (*Powers to stop and search without suspicion*), the inspector must, as soon as it is practicable to do so, cause an officer of or above the rank of superintendent to be informed.
- (2) An authorisation under section (*Powers to stop and search without suspicion*) must —
 - (a) be given in writing signed by the officer giving it,
 - (b) specify the grounds on which it is given, and

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- (c) specify the locality in which and the period during which the powers conferred by that section are exercisable.
- (3) A direction under section (*Powers to stop and search without suspicion*) (5) must—
 - (a) be given in writing, or
 - (b) where it is not practicable to comply with paragraph (a), be recorded in writing as soon as it is practicable to do so.
- (4) References (however expressed) in section (*Powers to stop and search without suspicion*) or this section to a police officer of or above a particular rank include references to a member of the British Transport Police Force of or above that rank.
- (5) In the application of section (*Powers to stop and search without suspicion*) to a member of the British Transport Police Force by virtue of subsection (4), references to a locality within the officer's police area are to be read as references to a place in England and Wales of a kind mentioned in section 31(1)(a) to (f) of the Railways and Transport Safety Act 2003."

Member's explanatory statement

This amendment makes further provision in relation to the new clause in the name of Baroness Williams of Trafford to be inserted after Clause 62 and relating to powers to stop and search in the absence of suspicion.

157

Insert the following new Clause—

“Further provisions about searches under section (*Powers to stop and search without suspicion*)

- (1) A person who is searched by a constable under section (*Powers to stop and search without suspicion*) is entitled to obtain a written statement that the person was searched under the powers conferred by that section.
- (2) Subsection (1) applies only if the person applies for the statement within the period of 12 months beginning with the day on which the person was searched.
- (3) Where a vehicle is stopped by a constable under section (*Powers to stop and search without suspicion*), the driver is entitled to obtain a written statement that the vehicle was stopped under the powers conferred by that section.
- (4) Subsection (3) applies only if the driver applies for the statement within the period of 12 months beginning with the day on which the vehicle was stopped.
- (5) Any object seized by a constable under section (*Powers to stop and search without suspicion*) may be retained in accordance with regulations made by the Secretary of State.
- (6) The Secretary of State may make regulations regulating the retention and safe keeping, and the disposal or destruction in circumstances prescribed in the regulations, of such an object.
- (7) Regulations under this section are to be made by statutory instrument.
- (8) Regulations under this section—
 - (a) may make different provision for different purposes;

After Clause 62 - continued

- (b) may make consequential, supplementary, incidental, transitional, transitory or saving provision.
- (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

Member’s explanatory statement

This amendment makes further provision in relation to the new Clause in the name of Baroness Williams of Trafford to be inserted after Clause 62 and relating to powers to stop and search in the absence of suspicion.

158 Insert the following new Clause –

“Offence relating to section (*Powers to stop and search without suspicion*)

- (1) A person commits an offence if the person intentionally obstructs a constable in the exercise of the constable’s powers under section (*Powers to stop and search without suspicion*).
- (2) A person guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 3 on the standard scale or to both.
- (3) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (2) to 51 weeks is to be read as a reference to 1 month.”

Member’s explanatory statement

This amendment makes further provision in relation to the new Clause in the name of Baroness Williams of Trafford to be inserted after Clause 62 and relating to powers to stop and search in the absence of suspicion.

159 Insert the following new Clause –

“Serious disruption prevention orders

- (1) In Part 11 of the Sentencing Code (behaviour orders), after Chapter 1A (as inserted by section 141) insert –

“CHAPTER 1B**SERIOUS DISRUPTION PREVENTION ORDERS***Serious disruption prevention orders made on conviction***342L Serious disruption prevention order made on conviction**

- (1) This section applies where –
 - (a) a person aged 18 or over (“P”) is convicted of an offence (“the current offence”) which was committed on or after the day on which this section comes into force, and
 - (b) the prosecution applies for a serious disruption prevention order to be made in respect of P.
- (2) The court dealing with P in respect of the current offence may make a serious disruption prevention order in respect of P if –

After Clause 62 - continued

- (a) the court is satisfied on the balance of probabilities that the current offence is a protest-related offence,
 - (b) the earlier offence condition is met, and
 - (c) the court considers it necessary to make the order for a purpose mentioned in subsection (5).
- (3) The earlier offence condition is that—
 - (a) within the relevant period, P has been convicted of an offence (“the earlier offence”),
 - (b) the court is satisfied on the balance of probabilities that the earlier offence was a protest-related offence, and
 - (c) the current offence and the earlier offence—
 - (i) relate to different protests, or
 - (ii) were committed on different days.
- (4) In subsection (3) “the relevant period” means the period of 5 years ending with the day on which P is convicted of the current offence; but an offence may be taken into account for the purposes of this section only if it was committed—
 - (a) on or after the day on which this section comes into force, and
 - (b) when P was aged 16 or over.
- (5) The purposes are—
 - (a) to prevent P from committing a protest-related offence or a protest-related breach of an injunction;
 - (b) to prevent P from carrying out activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales;
 - (c) to prevent P from causing or contributing to—
 - (i) the commission by any other person of a protest-related offence or a protest-related breach of an injunction, or
 - (ii) the carrying out by any other person of activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales;
 - (d) to protect two or more individuals, or an organisation, in England and Wales from the risk of serious disruption arising from—
 - (i) a protest-related offence,
 - (ii) a protest-related breach of an injunction, or
 - (iii) activities related to a protest.
- (6) A serious disruption prevention order under this section is an order which, for a purpose mentioned in subsection (5)—
 - (a) requires P to do anything described in the order;
 - (b) prohibits P from doing anything described in the order.
- (7) The court may make a serious disruption prevention order in respect of P only if it is made in addition to—
 - (a) a sentence imposed in respect of the current offence, or
 - (b) an order discharging P conditionally.
- (8) For the purpose of deciding whether to make a serious disruption prevention order the court may consider evidence led by the prosecution or P.

After Clause 62 - continued

- (9) It does not matter whether the evidence would have been admissible in the proceedings for the current offence.
- (10) The court may adjourn any proceedings on an application for a serious disruption prevention order even after sentencing P.
- (11) If P does not appear for any adjourned proceedings the court may –
 - (a) further adjourn the proceedings,
 - (b) issue a warrant for P's arrest, or
 - (c) hear the proceedings in P's absence.
- (12) The court may not act under subsection (11)(b) unless it is satisfied that P has had adequate notice of the time and place of the adjourned proceedings.
- (13) The court may not act under subsection (11)(c) unless it is satisfied that P –
 - (a) has had adequate notice of the time and place of the adjourned proceedings, and
 - (b) has been informed that if P does not appear for those proceedings the court may hear the proceedings in P's absence.
- (14) On making a serious disruption prevention order the court must in ordinary language explain to P the effects of the order.
- (15) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of this section to have been committed on the last of those days.

*Serious disruption prevention orders made otherwise than on conviction***342M Serious disruption prevention order made otherwise than on conviction**

- (1) A magistrates' court may make a serious disruption prevention order in respect of a person ("P") where –
 - (a) a person within subsection (7) applies by complaint to the court for a serious disruption prevention order to be made in respect of P,
 - (b) P is aged 18 or over when the application is made,
 - (c) the condition in subsection (2) is met, and
 - (d) the court considers it necessary to make the order for a purpose mentioned in subsection (4).
- (2) This condition in this subsection is that the court is satisfied on the balance of probabilities that –
 - (a) on at least two occasions in the relevant period, P has –
 - (i) been convicted of a protest-related offence,
 - (ii) been found in contempt of court for a protest-related breach of an injunction,
 - (iii) carried out activities related to a protest that resulted in, or were likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales,
 - (iv) caused or contributed to the commission by any other person of a protest-related offence or a protest-related breach of an injunction, or

After Clause 62 - continued

- (v) caused or contributed to the carrying out by any other person of activities related to a protest that resulted in, or were likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales, and
 - (b) each event mentioned in paragraph (a) –
 - (i) relates to a different protest, or
 - (ii) took place on a different day.
- (3) In subsection (2) “the relevant period” means the period of 5 years ending with the day on which the order is made; but an event may be taken into account for the purposes of this section only if it occurred –
 - (a) on or after the day on which this section comes into force, and
 - (b) when P was aged 16 or over.
- (4) The purposes are –
 - (a) to prevent P from committing a protest-related offence or a protest-related breach of an injunction;
 - (b) to prevent P from carrying out activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales;
 - (c) to prevent P from causing or contributing to –
 - (i) the commission by any other person of a protest-related offence or a protest-related breach of an injunction, or
 - (ii) the carrying out by any other person of activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales;
 - (d) to protect two or more individuals, or an organisation, in England and Wales from the risk of serious disruption arising from –
 - (i) a protest-related offence,
 - (ii) a protest-related breach of an injunction, or
 - (iii) activities related to a protest.
- (5) A serious disruption prevention order under this section is an order which, for a purpose mentioned in subsection (4) –
 - (a) requires P to do anything described in the order;
 - (b) prohibits P from doing anything described in the order.
- (6) On making a serious disruption prevention order the court must in ordinary language explain to P the effects of the order.
- (7) The following persons are within this subsection –
 - (a) a relevant chief officer of police;
 - (b) the chief constable of the British Transport Police Force;
 - (c) the chief constable of the Civil Nuclear Constabulary;
 - (d) the chief constable of the Ministry of Defence Police.
- (8) For the purposes of subsection (7)(a) a chief officer of police is a relevant chief officer of police in relation to an application for a serious disruption prevention order in respect of P if –
 - (a) P lives in the chief officer’s police area, or
 - (b) the chief officer believes that P is in, or is intending to come to, the chief officer’s police area.

After Clause 62 - continued

- (9) An application for a serious disruption prevention order made by a chief officer of police for a police area may be made only to a court acting for a local justice area that includes any part of that police area.
- (10) Where an offence is found to have been committed over a period of 2 or more days, or at some time during a period of 2 or more days, it must be taken for the purposes of this section to have been committed on the last of those days.
- (11) Section 127 of the Magistrates' Courts Act 1980 (time limits) does not apply to a complaint under this section.

*Provisions of serious disruption prevention orders***342N Provisions of serious disruption prevention order**

- (1) The requirements imposed on a person ("P") by a serious disruption prevention order may, in particular, have the effect of requiring P to present themselves to a particular person at a particular place at, or between, particular times on particular days.
- (2) Sections 342O and 342P make further provision about the inclusion of requirements (including notification requirements) in a serious disruption prevention order.
- (3) The prohibitions imposed on a person ("P") by a serious disruption prevention order may, in particular, have the effect of prohibiting P from—
 - (a) being at a particular place;
 - (b) being at a particular place between particular times on particular days;
 - (c) being at a particular place between particular times on any day;
 - (d) being with particular persons;
 - (e) participating in particular activities;
 - (f) having particular articles with them;
 - (g) using the internet to facilitate or encourage persons to—
 - (i) commit a protest-related offence or a protest-related breach of an injunction, or
 - (ii) carry out activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales.
- (4) References in this section to a particular place or particular persons, activities or articles include a place, persons, activities or articles of a particular description.
- (5) A serious disruption prevention order which imposes prohibitions on a person may include exceptions from those prohibitions.
- (6) Nothing in this section affects the generality of sections 342L(6) and 342M(5).
- (7) The requirements or prohibitions which are imposed on a person by a serious disruption prevention order must, so far as practicable, be such as to avoid—
 - (a) any conflict with the person's religious beliefs, and
 - (b) any interference with the times, if any, at which the person normally works or attends any educational establishment.

*After Clause 62 - continued***342O Requirements in serious disruption prevention order**

- (1) A serious disruption prevention order which imposes on a person (“P”) a requirement, other than a notification requirement under section 342P, must specify a person who is to be responsible for supervising compliance with the requirement.
- (2) That person may be an individual or an organisation.
- (3) Before including such a requirement, the court must receive evidence about its suitability and enforceability from –
 - (a) the individual to be specified under subsection (1), if an individual is to be specified;
 - (b) an individual representing the organisation to be specified under subsection (1), if an organisation is to be specified.
- (4) Before including two or more such requirements, the court must consider their compatibility with each other.
- (5) It is the duty of a person specified under subsection (1) –
 - (a) to make any necessary arrangements in connection with the requirements for which the person has responsibility (the “relevant requirements”);
 - (b) to promote P’s compliance with the relevant requirements;
 - (c) if the person considers that P –
 - (i) has complied with all of the relevant requirements, or
 - (ii) has failed to comply with a relevant requirement, to inform the appropriate chief officer of police.
- (6) In subsection (5)(c) “the appropriate chief officer of police” means –
 - (a) the chief officer of police for the police area in which it appears to the person specified under subsection (1) that P lives, or
 - (b) if it appears to that person that P lives in more than one police area, whichever of the chief officers of police of those areas the person thinks it is most appropriate to inform.
- (7) Where P is subject to a requirement in a serious disruption prevention order, other than a notification requirement under section 342P, P must –
 - (a) keep in touch with the person specified under subsection (1) in relation to that requirement, in accordance with any instructions given by that person from time to time, and
 - (b) notify that person of any change of P’s home address.
- (8) The obligations mentioned in subsection (7) have effect as if they were requirements imposed on P by the order.

342P Notification requirements in serious disruption prevention order

- (1) A serious disruption prevention order made in respect of a person (“P”) must impose on P the notification requirements in subsections (2) and (4).
- (2) P must be required to notify the information in subsection (3) to the police within the period of 3 days beginning with the day on which the order takes effect.
- (3) That information is –

After Clause 62 - continued

- (a) P's name on the day that the notification is given and, where P uses one or more other names on that day, each of those names,
 - (b) P's home address on that day, and
 - (c) the address of any other premises at which, on that day, P regularly resides or stays.
- (4) P must be required to notify the information mentioned in subsection (5) to the police within the period of 3 days beginning with the day on which P –
 - (a) uses a name which has not been previously notified to the police in accordance with the order,
 - (b) changes their home address, or
 - (c) decides to live for a period of one month or more at any premises the address of which has not been previously notified to the police in accordance with the order.
- (5) That information is –
 - (a) in a case within subsection (4)(a), the name which has not previously been notified,
 - (b) in a case within subsection (4)(b), the new home address, and
 - (c) in a case within subsection (4)(c), the address of the premises at which P has decided to live.
- (6) A serious disruption prevention order must provide that P gives a notification of the kind mentioned in subsection (2) or (4) by –
 - (a) attending at a police station in a police area in which P lives, and
 - (b) giving an oral notification to a police officer, or to any person authorised for the purpose by the officer in charge of the station.

342Q Duration of serious disruption prevention order

- (1) A serious disruption prevention order takes effect on the day it is made, subject to subsections (3) and (4).
- (2) A serious disruption prevention order must specify the period for which it has effect, which must be a fixed period of not less than 1 week and not more than 2 years.
- (3) Subsection (4) applies in relation to a serious disruption prevention order made in respect of a person ("P") if –
 - (a) P has been remanded in or committed to custody by an order of a court,
 - (b) a custodial sentence has been imposed on P or P is serving or otherwise subject to a such a sentence, or
 - (c) P is on licence for part of the term of a custodial sentence.
- (4) The order may provide that it does not take effect until –
 - (a) P is released from custody,
 - (b) P ceases to be subject to a custodial sentence, or
 - (c) P ceases to be on licence.
- (5) A serious disruption prevention order may specify periods for which particular requirements or prohibitions have effect.
- (6) Where a court makes a serious disruption prevention order in respect of a person and the person is already subject to such an order, the earlier order ceases to have effect.

After Clause 62 - continued

- (7) In this section “custodial sentence” includes a pre-Code custodial sentence (see section 222(4)).

342R Other information to be included in serious disruption prevention order

A serious disruption prevention order made in respect of a person must specify –

- (a) the reasons for making the order, and
- (b) the penalties which may be imposed on the person for breaching the order.

*Offences***342S Offences relating to a serious disruption prevention order**

- (1) Where a serious disruption prevention order has effect in respect of a person (“P”), P commits an offence if P –
 - (a) fails without reasonable excuse to do anything P is required to do by the order,
 - (b) without reasonable excuse does anything P is prohibited from doing by the order, or
 - (c) notifies to the police, in purported compliance with the order, any information which P knows to be false.
- (2) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or a fine or both.
- (3) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales), the reference in subsection (2) to 51 weeks is to be read as a reference to 6 months.

*Variation, renewal or discharge of serious disruption prevention order***342T Variation, renewal or discharge of serious disruption prevention order**

- (1) Where a serious disruption prevention order has been made in respect of a person (“P”), a person within subsection (2) may apply to the appropriate court for an order varying, renewing or discharging the order.
- (2) Those persons are –
 - (a) P;
 - (b) the chief officer of police for the police area in which P lives;
 - (c) a chief officer of police who believes that P is in, or is intending to come to, the chief officer’s police area;
 - (d) if the application for the order was made by a chief officer of police other than one within paragraph (b) or (c), the chief officer by whom the application was made;
 - (e) the chief officer of police for a police area in which P committed an offence on the basis of which the order was made;
 - (f) where the order was made following an application by a constable within subsection (3), that constable.
- (3) Those constables are –
 - (a) the chief constable of the British Transport Police Force;
 - (b) the chief constable of the Civil Nuclear Constabulary;

After Clause 62 - continued

- (c) the chief constable of the Ministry of Defence Police.
- (4) An application under this section must be made –
 - (a) where the appropriate court is a magistrates' court, by complaint;
 - (b) in any other case, in accordance with rules of court.
- (5) Before making a decision on an application under this section, the court must hear –
 - (a) the person making the application, and
 - (b) any other person within subsection (2) who wishes to be heard.
- (6) Subject to subsection (7), on an application under this section the court may make such order varying, renewing or discharging the serious disruption prevention order as it thinks appropriate.
- (7) The court may renew a serious disruption prevention order, or vary such an order so as to lengthen its duration or to impose an additional prohibition or requirement on P, only if it considers that to do so is necessary –
 - (a) to prevent P from committing a protest-related offence or a protest-related breach of an injunction,
 - (b) to prevent P from carrying out activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales,
 - (c) to prevent P from causing or contributing to –
 - (i) the commission by any other person of a protest-related offence or a protest-related breach of an injunction, or
 - (ii) the carrying out by any other person of activities related to a protest that result in, or are likely to result in, serious disruption to two or more individuals, or to an organisation, in England and Wales, or
 - (d) to protect two or more individuals, or an organisation, in England and Wales from the risk of serious disruption arising from –
 - (i) a protest-related offence,
 - (ii) a protest-related breach of an injunction, or
 - (iii) activities related to a protest.
- (8) Sections 342N, 342O, 342P (other than subsections (2) and (3)), 342Q and 342R have effect in relation to the renewal of a serious disruption prevention order, or the variation of such an order so as to lengthen its duration or to impose a new requirement or prohibition, as they have effect in relation to the making of such an order.
- (9) On making an order under this section varying or renewing a serious disruption prevention order, the court must in ordinary language explain to P the effects of the serious disruption prevention order (as varied or renewed).
- (10) Section 127 of the Magistrates' Courts Act 1980 does not apply to a complaint under this section.
- (11) In this section "the appropriate court" means –
 - (a) where the Crown Court or the Court of Appeal made the order, the Crown Court;

After Clause 62 - continued

- (b) where a magistrates' court made the order and the application is made by P or a constable within subsection (3) –
 - (i) that magistrates' court, or
 - (ii) a magistrates' court for the area in which P lives;
- (c) where a magistrates' court made the order and the application is made by a chief officer of police –
 - (i) that magistrates' court,
 - (ii) a magistrates' court for the area in which P lives, or
 - (iii) a magistrates' court acting for a local justice area that includes any part of the chief officer's police area.

*Appeals***342U Appeal against serious disruption prevention order**

- (1) Where a serious disruption prevention order is made under section 342L (order on conviction) in respect of a person ("P"), P may appeal against the making of the order as if the order were a sentence passed on P for the offence.
- (2) Where a serious disruption prevention order is made under section 342M (order otherwise than on conviction) in respect of a person ("P"), P may appeal to the appropriate court against the making of the order.
- (3) A person who applied under section 342M (order otherwise than on conviction) for a serious disruption prevention order to be imposed in respect of a person may appeal to the appropriate court against a refusal to make the order.
- (4) Where an application is made under section 342T for an order varying, renewing or discharging a serious disruption prevention order made in respect of a person ("P") –
 - (a) the person who made the application may appeal to the appropriate court against a refusal to make an order under that section;
 - (b) P may appeal to the appropriate court against the making of an order under that section which was made on the application of a person other than P;
 - (c) a person within subsection (2) of that section (other than P) may appeal to the appropriate court against the making of an order under that section which was made on the application of P.
- (5) In this section "the appropriate court" means –
 - (a) in relation to an appeal under subsection (2), the Crown Court;
 - (b) in relation to an appeal under subsection (3) or (4) –
 - (i) where the application in question was made to a magistrates' court, the Crown Court;
 - (ii) where the application in question was made to the Crown Court, the Court of Appeal.
- (6) On an appeal under this section to the Crown Court, the court may make –
 - (a) such orders as may be necessary to give effect to its determination of the appeal, and
 - (b) such incidental and consequential orders as appear to it to be appropriate.

After Clause 62 - continued*General***342V Guidance**

- (1) The Secretary of State may issue guidance to —
 - (a) chief officers of police,
 - (b) the chief constable of the British Transport Police Force,
 - (c) the chief constable of the Civil Nuclear Constabulary, and
 - (d) the chief constable of the Ministry of Defence Police,in relation to serious disruption prevention orders.
- (2) The guidance may in particular include —
 - (a) guidance about the exercise by chief officers of police and the chief constables mentioned in subsection (1) of their functions under this Chapter,
 - (b) guidance about identifying persons in respect of whom it may be appropriate for applications for serious disruption prevention orders to be made, and
 - (c) guidance about providing assistance to prosecutors in connection with applications for serious disruption prevention orders.
- (3) The Secretary of State may revise any guidance issued under this section.
- (4) The Secretary of State must arrange for any guidance issued under this section to be published.
- (5) A chief officer of police or a chief constable mentioned in subsection (1) must have regard to any guidance issued under this section.

342W Guidance: Parliamentary procedure

- (1) Before issuing guidance under section 342V, the Secretary of State must lay a draft of the guidance before Parliament.
- (2) If, within the 40-day period, either House of Parliament resolves not to approve the draft guidance, the guidance may not be issued.
- (3) If no such resolution is made within that period, the Secretary of State may issue the guidance.
- (4) In this section “the 40-day period”, in relation to draft guidance, means the period of 40 days beginning with the day on which the draft is laid before Parliament (or, if it is not laid before each House on the same day, the later of the days on which it is laid).
- (5) In calculating the 40-day period, no account is to be taken of any period during which —
 - (a) Parliament is dissolved or prorogued, or
 - (b) both Houses are adjourned for more than 4 days.

342X Interpretation of Chapter

In this Chapter —

- “home address”, in relation to a person (“P”), means —
- (a) the address of P’s sole or main residence, or

After Clause 62 - continued

- (b) if P has no such residence, the address or location of a place where P can regularly be found and, if there is more than one such place, such one of those places as P may select;

“injunction” means an injunction granted by the High Court, the county court or a youth court;

“protest-related breach”, in relation to an injunction, means a breach which is directly related to a protest;

“protest-related offence” means an offence which is directly related to a protest.”

- (2) In section 3(2) of the Prosecution of Offences Act 1985 (functions of the Director of Public Prosecutions), before paragraph (g) insert –

“(fi) to have the conduct of applications for orders under section 342L(1)(b) of the Sentencing Code (serious disruption prevention orders on conviction);”.

Member’s explanatory statement

This amendment contains provisions about serious disruption prevention orders. These are orders which can be imposed on a person who has committed two protest-related offences or who has, on at least two occasions, committed protest-related breaches of injunctions or caused or contributed to the commission of such offences or breaches or to activity related to a protest that resulted in serious disruption to two or more individuals or to an organisation.

LORD BEST
LORD YOUNG OF COOKHAM
BARONESS THORNHILL
BARONESS CHAKRABARTI

160 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 62 - 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 62 - 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.
- (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**

- 161** Page 293, line 13, at end insert —
 “10A In Schedule 24, omit paragraph 154(f).”

Member’s explanatory statement

This amendment repeals an amendment of section 38(4)(j) of the Crime and Disorder Act 1998, which has been repealed.

- 162** Page 293, line 22, at end insert —
 “Counter-Terrorism and Sentencing Act 2021 (c. 11)
 12 In Schedule 13 to the Counter-Terrorism and Sentencing Act 2021, omit paragraph 44.”

Member’s explanatory statement

This amendment repeals an amendment in the Counter-Terrorism and Sentencing Act 2021 of section 106A of the Powers of Criminal Courts (Sentencing) Act 2000, which was repealed by the Sentencing Act 2020.

Clause 177**BARONESS WILLIAMS OF TRAFFORD**

- 163** Page 197, line 8, at end insert —
 “(za) section (Serious disruption prevention orders);”

Member's explanatory statement

This amendment is consequential on the new Clause in the name of Baroness Williams of Trafford to be inserted after Clause 62 and relating to "serious disruption prevention orders".

Clause 178

LORD MOYLAN
LORD PANNICK

164 Page 197, line 40, leave out "and (5)" and insert ", (5) and (5A)"

LORD BEST
BARONESS CHAKRABARTI
BARONESS THORNHILL
LORD FALCONER OF THOROTON

165 Page 198, line 3, after "33" insert ", (Repeal of Vagrancy Act 1824)"

Member's explanatory statement

This amendment is consequential to the Amendment tabled in Lord Best's name to After Clause 62.

BARONESS WILLIAMS OF TRAFFORD

166 Page 198, line 27, at end insert —

"(sa) section (Knife crime prevention order on conviction: adjournment of proceedings) (2) to (4);"

Member's explanatory statement

This amendment is consequential on the new Clause in the name of Baroness Williams of Trafford to be inserted after Clause 142 and relating to adjournment of proceedings on an application for a knife crime prevention order.

LORD WOLFSON OF TREDEGAR

167 Page 198, line 34, at end insert —

"(aa) section (Required life sentence for manslaughter of emergency worker);"

Member's explanatory statement

This amendment is consequential on the new Clause in the name of Lord Wolfson of Tredegar to be inserted after Clause 2 and relating to a required life sentence for the manslaughter of an emergency worker.

168 Page 198, line 40, at end insert —

"(ga) sections (Penalty for cruelty to children) and (Penalty for causing or allowing a child or vulnerable adult to die or suffer serious physical harm);"

Member's explanatory statement

This amendment is consequential upon the amendments in the name of Lord Wolfson of Tredegar to add clauses relating to offences against children before Clause 102.

LORD MOYLAN
LORD PANNICK

169

Page 199, line 10, 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

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

13 December 2021
