

PARLIAMENTARY DEBATES

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GENERAL COMMITTEES

Public Bill Committee

COMMUNITY AND SUSPENDED SENTENCES (NOTIFICATION OF DETAILS) BILL

Wednesday 15 May 2024

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CLAUSES 1 AND 2 agreed to.
Bill to be reported, without amendment.

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The Committee consisted of the following Members:

Chair: ANDREW ROSINDELL

† Ansell, Caroline (*Eastbourne*) (Con)
Antoniazzi, Tonia (*Gower*) (Lab)
† Argar, Edward (*Minister of State, Ministry of Justice*)
† Bruce, Fiona (*Congleton*) (Con)
Cairns, Alun (*Vale of Glamorgan*) (Con)
† Champion, Sarah (*Rotherham*) (Lab)
Farron, Tim (*Westmorland and Lonsdale*) (LD)
† Jenkinson, Mark (*Workington*) (Con)
† Jones, Ruth (*Newport West*) (Lab)
† Lake, Ben (*Ceredigion*) (PC)

Longhi, Marco (*Dudley North*) (Con)
† Millar, Robin (*Aberconwy*) (Con)
Simmonds, David (*Ruislip, Northwood and Pinner*) (Con)
† Streeter, Sir Gary (*South West Devon*) (Con)
† West, Catherine (*Hornsey and Wood Green*) (Lab)
† Wheeler, Mrs Heather (*South Derbyshire*) (Con)
Winter, Beth (*Cynon Valley*) (Lab)

Chris Watson, *Committee Clerk*

† **attended the Committee**

Public Bill Committee

Wednesday 15 May 2024

[ANDREW ROSINDELL *in the Chair*]

Community and Suspended Sentences (Notification of Details) Bill

10 am

The Chair: Before we begin, I have a few preliminary reminders for members of the Committee. First, please switch off or silence any electronic devices. No food or drink is permitted during this Committee, except for the water provided. *Hansard* colleagues would be grateful if Members could email their speaking notes to the relevant email address. My selection and grouping list for today's sitting is available online and in the room. No amendments have been tabled. We will have a single debate on both clauses in the Bill.

Clause 1

DUTY OF OFFENDER TO NOTIFY DETAILS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider clause 2 stand part.

Ruth Jones (Newport West) (Lab): I am grateful for the opportunity to move my very first private Member's Bill through the House—although it may well be my last! It is a pleasure to serve under your chairmanship, Mr Rosindell, as we debate this important Bill. It is good to see the Minister in his place—and the shadow Minister, my hon. Friend the Member for Hornsey and Wood Green. I thank the Minister for the proactive approach that he took to ensure that we could be here today.

I am grateful to my hon. Friends the Members for Hornsey and Wood Green, for Luton South (Rachel Hopkins), for Neath (Christina Rees), for Rotherham, for Gower, and for Cynon Valley for their support. I also acknowledge the hon. Members for Westmorland and Lonsdale and for Ceredigion for their support. I thank my colleagues on the Government Benches, too: the hon. Members for Eastbourne, for Bassetlaw (Brendan Clarke-Smith), for Dudley North, for Congleton, for South Derbyshire—who I am delighted to see in her place—as well as my very good friend the hon. Member for South West Devon, and other fellow Welsh Members, the hon. Members for Aberconwy and the right hon. Member for Vale of Glamorgan.

This is an important Bill with cross-party support, and I am very pleased to be able to bring it back to the House today. Indeed, there is no greater responsibility on us, as Members of Parliament, than to keep our people and communities safe. That goes for Newport West and for our colleagues right across the country. This Bill will do a great deal to make that objective of keeping our people safe more likely and more durable.

The Bill will amend the Sentencing Act 2020 to create a duty on offenders to notify the responsible officer of any change of name or contact details if they are sentenced to a community order, suspended sentence order, youth rehabilitation order or referral order. It will place a new duty on offenders serving a sentence in the community who are being supervised by probation or a youth offending team. The change of name or contact details could be for any reason, and the Bill captures not just formal legal changes of name, but, for example, the use of an online alias. Offenders will need to notify their responsible officer of any change as soon as practicable.

With that in mind, I now turn to the clauses themselves. Clause 1 sets out that the Sentencing Act 2020 sentencing code will be amended to create a new duty on offenders serving a sentence in the community and who are supervised by probation or a youth offending team, requiring them to inform the responsible officer if they change their name, use a different name—for example, an alias—or change their contact information. That will improve the ability of probation and youth offending teams to monitor offenders in the community.

At the end of December 2023, there were 64,800 offenders under probation supervision on a community order and 44,300 on a suspended sentence order. In the year to June 2023, 2,100 children were sentenced to youth rehabilitation orders and 6,200 were sentenced to referral orders. The Bill will ensure that the public are protected so that, while this significant number of offenders are serving sentences in the community, the responsible officers have the information they need to keep tabs on those individuals, including if they change their name or contact information.

The provisions in the Bill are robust. While the name or contact details change could be for any reason, any difference from what is kept on file must be reported by the offender. It captures not just formal legal changes of name by deed poll but also, for instance, the use of an online alias. Although we have a separate youth justice system, it is of equal importance that services can keep tabs on children and have the right information about them in order to do their job. This policy therefore applies equally to offenders of all ages and will create consistency across offenders on licence and offenders serving sentences in the community overseen by probation services or youth offending teams.

Clause 1 establishes that the requirement will apply to offenders under the age of 18 where a referral order has been made by inserting proposed new section 97A, which provides that the section applies to offenders who have been sentenced to a referral order and where a youth offender contract has not been revoked or discharged. It establishes the requirement for youth offenders sentenced to a referral order to notify, as soon as is practically possible, the relevant member of the youth offender panel if they begin using a name or contact detail that is not specified in the referral order while the terms of the contract are active. It also establishes that the duty of an offender to notify details is to be treated as a term of the youth offender contract in order to ensure that enforcement of the measure is effective.

Proposed new section 97A also establishes the relevant member of the youth offender panel that the offender should notify of any change of name and contact details, and it states that this should be done in writing.

The requirement to notify the responsible officer of any change of name will also apply to offenders under the age of 18 who are sentenced to youth rehabilitation orders. As regards those sentenced to a referral order, clause 1(3) creates the duty for the offender to comply with the duty as soon as reasonably practicable and states that any offender who breaches the obligation will be dealt with by the court, in the same way as someone who breaches a youth rehabilitation order.

The Bill applies to both adult offenders and offenders under the age of 18 equally. Subsections (4) and (5) of clause 1 provide that the duty on adult offenders to notify their responsible officer if they change their name or contact details as soon as practicable applies to those sentenced to suspended sentence orders or community orders. Probation and youth offending teams will have discretion as to whether an offender is returned to court if they fail to comply with the requirements set out in the Bill. It is right that the Bill's enforcement provisions are robust and reflect the seriousness of non-compliance, and it is right that probation officers and youth offending teams have the same powers to deal with non-compliance with this duty as they do in any other case of non-compliance with a sentence requirement.

Clause 2 addresses the territorial extent of the Bill, commencement and short title. Subsection (1) states that the territorial extent of the Bill is England and Wales only, as colleagues will have read in the explanatory notes. Subsection (2) sets out that the Bill will come into force at the end of the period of two months following Royal Assent. Subsection (3) provides that short title may be the Community and Suspended Sentences (Notification of Details) Act 2024. It is important for all of us, irrespective of party or background, that the Bill comes to fruition. I urge colleagues to give it their full support.

Sarah Champion (Rotherham) (Lab): It is always a pleasure to serve under your guidance, Mr Rosindell. Huge congratulations to my hon. Friend the Member for Newport West on bringing forward this much-needed piece of legislation. I am not rising to block its passage in any way, but I am hoping to get the Minister and those in the other place to consider some of the flaws of the Bill as it stands.

This Committee, especially the Minister, is aware that I am obsessed—that is the only word I can use—with sex offenders changing their name to avoid detection. The reason I went for sex offenders was because they are a very defined cohort of people that I could prove were using the loophole of changing their names and breaching the conditions of their existing orders to do so. However, the same principle applies to all offenders, so I rather assumed that the same conditions applied to offenders in this category and was quite shocked to realise that they did not.

I am really grateful to my hon. Friend the Member for Newport West for trying to close that loophole. The problem is this: at the moment, both this legislation and the current legislation for sex offenders rely on the offender notifying. That is my problem with this Bill as it stands. By their very nature, the people who come under the Bill will be people who have committed violence, fraud, deception, coercive control, cuckooing—all the things that involve someone presenting a false representation to vulnerable people. And presenting

themselves with a different name is a very good way to do that, because now most people, when they meet someone new, will go on Google and put the name in, see who it is and make a decision based on that. That is just where we are in the world at the moment; if a different name—one that is clean—comes up, we would not have any worries. We would invite that person into our home. We would go on a date with that person. Therefore I am concerned that, under the Bill, it is still the offender who is required to report a name change. It is still reliant on an offender doing the right thing when it would actually benefit them, if they wanted to continue their criminal activity, not to do the right thing.

One of the problems if offenders change their name—other than the ones that I have outlined—is that they can disappear. I discovered that when I spoke to my local police chief about it many years ago, when I first became aware of the problem. He said, “To be quite honest, Sarah, if they change their name, they literally drop off the radar. How am I meant to find someone if I don't know who they are?” That is my concern with this Bill as well.

The next issue is that the offender has to report to their responsible officer or their youth offending team. That is great, but they are incredibly hard-pressed, and the explanatory notes say that they will be meeting the offender perhaps once a month, so I am very concerned about the other 29-ish days when the offender is not reporting and when that eye is not on them, and about what they are getting up to at that point. I am also concerned about this issue: if they are referring just to the probationary team, who do an incredibly good job but in very stressed circumstances, how does that information get to the police? How does it actually feed into systems? That becomes very important. If there is a breach, how do we enforce against that?

Under this legislation, an offender “could” be taken back to court. When an order is returned to court, the court “could” make a requirement of the order more onerous, impose a fine or even sentence the offender to custody. “Could” is not good enough; it needs to be stronger than that. If an offender is breaching their terms, there needs to be a sanction; otherwise, where is the deterrent? I urge the Minister, during the passage of the Bill—to which I hope he gives safe passage—to look at actually enforcing against that.

Let me give an example, because this isn't just Sarah being obsessed. Well, it is, but I can actually back it up with data. Between 2015 and 2020—this data is from my written parliamentary questions to the Government—16,000 offenders were charged for failing to tell the authorities details such as a name change and address change. They are only the ones who got caught—the ones we found out about. There were 16,000 in five years. The Safeguarding Alliance, which I am very proud to have worked with for many years, found that more than 11,500 registered sex offenders were then prosecuted for failing to notify changes of information between 2019 and 2022. That is only the registered sex offenders who were found out and then prosecuted, so this is a big problem and something that the Minister needs to take seriously.

Let me end on the example that is Clare's law. Probably many of us have encouraged our friends to use Clare's law, whereby someone who has a new partner and wants to check that they do not have a background of

[Sarah Champion]

domestic violence can call up the police and they will check the name against the register. Of course, if the person has changed their name, it will not show up on that register. It is also required that the police know that they have changed their name, and at the moment, there is no statutory requirement for the responsible officer or the youth offending team to refer that to the police, so there is a big gaping hole within this system.

The Bill is a fantastic first step. It has highlighted to me another area of concern, and I am grateful that the Government are recognising that. But let us get it right, because at the moment it is not right. There will be time to make amendments in the other place, or for the Minister to tighten the Bill up. With those caveats, I will be pleased to give the Bill safe passage, but I do hope that it is worked on as it progresses.

10.15 am

The Chair: Does the shadow Minister wish to make any remarks?

Catherine West (Hornsey and Wood Green) (Lab): No. I am very happy for the Bill to go through.

The Chair: In that case, I call the Minister, Ed Argar.

The Minister of State, Ministry of Justice (Edward Argar): It is a pleasure to see you in the Chair, Mr Rosindell. I will endeavour not to detain the Committee too long, but I want to add my wholehearted support for this Bill introduced by the hon. Member for Newport West. I will turn to some of the points that the hon. Member for Rotherham made in a moment, although I am conscious that, while I can answer some of them, others may be for the hon. Member for Newport West to respond to. However, I will of course continue working closely and collaboratively with the hon. Member for Rotherham as the Bill continues its progress.

As has been set out, the Bill will place a new duty on offenders who are serving a sentence in the community and being supervised by a probation or youth offending team. It will require them to inform the responsible officer if they begin using a different name or change their contact information, including their telephone number or email address. The name change could be for any reason; the Bill captures not just formal legal changes of name by deed poll but, for example, the use of an online alias.

Rigorous community offender management is important in building confidence in community orders and delivering effective rehabilitation while keeping the public safe. With that in mind, we have increased funding for the probation service by an additional £155 million a year to recruit record levels of staff—around 4,000 are currently in training at different stages—so that we can bring down case loads and deliver better and more consistent supervision of offenders in the community.

Let me turn to a few points linked to that that the hon. Member for Rotherham raised. I think that the implication of one of the things she mentioned is almost daily monitoring, which would be impractical given the sheer volume of people on probation in this country,

but the police and probation work closely and collaboratively where any breach or potential breach is identified.

The hon. Lady raised concerns about the use of the word “could”. That word is used because probation officers have to employ a degree of professional judgment, rather than being instructed that a particular outcome must follow, because each case is separate. Similarly, because we cannot instruct a sentencer in the courts what penalty to impose, the Bill specifies that the court “could” impose particular penalties for breach, including recall, but that would be at the discretion of the court. The reason that word is used is to highlight that, but without straying into the territory of judicial discretion in the sentences or penalties that sentencers choose to impose.

Sarah Champion: My problem with the word “could” is that it becomes subjective. Is there anything that the Minister thinks could be included in guidance alongside the Bill when it passes—as I hope it does—to give examples of when it should be enforced or applied?

Edward Argar: I think there are two points there. There is an opportunity to work with probation to give clarity, but I would hesitate to stray into the territory of “should” for a sentencer, be that a judge or a magistrate, because ultimately the courts have discretion to apply the most appropriate penalty on the facts before them. There is a slight distinction there.

As announced in the spring Budget, we are also improving our digital capability so that information on individuals’ risks will be better shared across prisons and probation, to inform key decisions and better protect the public. The effectiveness of community sentences relies on probation and youth offending teams having the ability to manage offenders in the community successfully, and that means having the right information about an offender. The Bill will help to ensure that responsible officers are given the necessary tools to keep tabs on offenders in the community so they are better able to manage them effectively.

The Criminal Justice (Sentencing) (Licence Conditions) (Amendment) (No. 2) Order 2022 requires offenders on licence to inform their responsible officer if they change their name and/or contact details. The Government welcome the Bill, which will build on the 2022 order by ensuring that the same duty applies to offenders serving sentences in the community. The hon. Member for Rotherham will recall that we debated a number of these issues in the Victims and Prisoners Bill Committee, possibly even in this room, recognising the challenges in the nature of individuals who commit various crimes and the question of whether they will be compliant and notify, versus the practical challenges of creating another mechanism by which they could be monitored. I am very conscious of the points that she made then—she made them forcefully and eloquently, and I suspect she will return to the issue until it is resolved to her satisfaction. I reassure her that I am conscious of those discussions and I will continue to look at that.

It is also right that swift and clear action can be taken when an offender does not comply. The enforcement provisions for the Bill are tough and reflect the seriousness of non-compliance by giving responsible officers the

same powers they have in respect of any failure to comply with the requirement of a court order. If an offender fails to comply with the duty, that will constitute a breach of the order and, as we have discussed, this could result in the order being returned to court. The court could impose additional penalties, but, as I have set out, a degree of discretion is needed.

It is likely that probation would be notified about non-compliance by an external agency, such as the police, in the event the offender was arrested again. To answer the point made by the hon. Member for Rotherham, if that were the case, the default approach would be to treat the failure to notify as a breach. Practitioners will then use their professional judgment and the Probation Service enforcement policy framework to decide how best to approach that, including whether they are going to hand it to the court. As I have set out, the court would then have discretion over what penalty to impose for the breach.

In closing, I thank the hon. Member for Newport West for introducing this important Bill and I confirm the Government's full and continuing support for it.

Ruth Jones: I am grateful to my colleagues across the House who have supported the Bill and joined us for this important stage of its journey. I thank my hon. Friend the Member for Rotherham, who has been a doughty and tenacious campaigner on behalf of victims and survivors. Her wisdom and experience is very much appreciated, and she has raised some important practical points that I am sure we will seek to take forward as the Bill moves to the other place. I will seek to speak to her and others who want to make the Bill as robust as possible, because at the end of the day we do not want loopholes in legislation.

I am grateful to the Government for their support and would like to pay tribute to the Minister for putting his money where his mouth is. He helped to secure support for the Bill from some of his Back-Bench colleagues. To share what that support looked like, I will tell the Committee that the Minister spent some time walking around Portcullis House with Adam Jodge from my team, seeking gently to persuade people. The fearsome twosome made for a few raised eyebrows from people from all parties, considering that Adam Jodge is

the Labour candidate in Newcastle-under-Lyme at the next general election. Luckily, there was no talk of defection either way, so that is good.

Mrs Heather Wheeler (South Derbyshire) (Con): Coming or going?

Ruth Jones: I am saying nothing.

To be serious for a moment, I am grateful to the officials in the Ministry of Justice for their work in supporting us to this stage. They were enormously helpful to me and my team. I know that they will be watching proceedings this morning and I want them all to know that I am very grateful indeed.

Thanks go to my team, too. This is my first private Member's Bill, as I have already said. Taking it through the House since my election has been a brilliant learning experience, although I am not sure that I would want to repeat it. By supporting the Bill today, the Committee has an opportunity to improve the ability of probation and youth offending teams to monitor offenders in the community effectively and to better protect the public. This is a good policy. It should have been done long ago and I urge colleagues to give the Bill their full support today.

Question put and agreed to.

Clause 1 accordingly ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Question proposed, That the Chair do report the Bill to the House.

Edward Argar: I thank the hon. Member for Newport West and hon. and right hon. Members on both sides of the Committee. I thank you, Mr Rosindell, for chairing proceedings today, the officials in my Department who have worked on the Bill, Adam from the hon. Lady's office, and the Clerks and other officials of the House who have assisted in the passage of the Bill to this point.

Question put and agreed to.

Bill accordingly to be reported, without amendment.

10.25 am

Committee rose.

