

Sentencing Bill

Prison Reform Trust briefing for the second reading in the House of Commons on 16 September 2025

The Prison Reform Trust (PRT) is an independent UK charity working to create a just, humane and effective penal system. This briefing on the Sentencing Bill provides a brief overview of its background and context and highlights key measures PRT broadly supports, areas we have concerns about and what is missing from the bill.

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Introduction

With the prison population approaching a new all-time high and capacity running critically low, legislation to bring our use of imprisonment down to a more proportionate and sustainable level is essential. As the government states in the Sentencing Bill's accompanying factsheet: "Although we are building prisons at an exceptional rate, we cannot simply build our way out of this crisis. Without significant reform, demand for places will outstrip supply by 9,500 in early 2028".¹ England and Wales already has one of the highest imprisonment rates in western Europe, second only to Scotland.² The belief that ever-longer prison sentences are the key to tackling crime has brought us to this point: dangerously overcrowded prisons and a justice system close to breaking down.³ These conditions fail victims, who face unacceptable delays in seeking justice, and they fail those we want to stop from reoffending.

It was against this background that the government commissioned an Independent Sentencing Review to "ensure that the country is never again in a position where it has more prisoners than prison places". The Sentencing Bill takes forward a number of recommendations from the sentencing review, as well as some additional measures. The bill is detailed and complex and will require careful scrutiny by Parliamentarians to mitigate the risk of unintended consequences. Its most welcome

¹ Ministry of Justice. (2025d, September 3). *Sentencing Bill: overarching factsheet*. GOV.UK. <https://www.gov.uk/government/publications/sentencing-bill-2025/sentencing-bill-overarching-factsheet>

² Institute for Crime & Justice Policy Research. (n.d.). *Highest to lowest - prison population rate*. World Prison Brief. Retrieved September 8, 2025, from https://www.prisonstudies.org/highest-to-lowest/prison_population_rate?field_region_taxonomy_tid=14

³ Committee of Public Accounts. (2025). *Prison estate capacity* (HC 366). House of Commons. <https://publications.parliament.uk/pa/cm5901/cmselect/cmpubacc/366/report.html>

measures are those that seek to expand the use of effective alternatives to custody, while reserving prison for more serious offences. Short prison sentences have a poor track record at reducing reoffending. Limiting their use will lead to better outcomes as well as reducing pressure on prisons. For these reforms to succeed, probation and community services must be properly staffed and resourced to help people rebuild their lives, reduce reoffending and create safer communities. Some measures within this bill require careful scrutiny. Earned release must not replicate existing inequalities, particularly for young adults and minority ethnic groups; electronic tagging should only be used where evidence shows it is effective; and executive sign-off of Sentencing Council guidelines risks undermining judicial independence.

The combined provisions in the bill may be sufficient to avert the immediate prison capacity challenge. However, on their own, they will not be enough to avoid them from occurring again in the medium to long term. The government estimates that the Sentencing Bill will reduce demand for prison places by **7,500 places by 2028**. This reduction is achieved through a combination of reforms, including changes to sentencing, release points, recall processes, and remand measures. Despite this, **the prison population is still projected to increase by 2,000 people by 2029**.⁴ This bill alone will not solve the crisis, but with the right investment and political will, it could be the start of building a justice system that works better for victims, prisoners, and society alike.

PRT is broadly supportive of the following measures:

- **Presumption to suspend short custodial sentences:** PRT has consistently highlighted the damage caused by short prison sentences and welcome this new provision. It has long been recognised that short prison sentences do more harm than good⁵ and that suspended sentences and community orders are more effective at reducing reoffending.⁶ For women in particular, it will be important to get clarity on whether rehabilitative community orders will still be available to the court in “threshold of custody” cases as an alternative to a suspended prison sentence.
- **Bail:** The strengthening of the “no real prospect test” so that fewer exceptions to bail apply in cases where there is no real prospect of an immediate custodial sentence is very welcome and recognises the significant impact that a period of imprisonment can have on undermining any stability in the community. Furthermore, the addition of new “relevant factors”, including pregnancy, being a primary caregiver, or a victim of domestic abuse are designed to ensure courts consider specific circumstances when deciding whether exceptions to bail apply.
- **Extension to the deferment of sentence:** An increase of the maximum period of deferment from 6 months to 12 months should enable greater flexibility for sentencers and may be particularly useful for people experiencing serious illness or pregnancy. It will provide an extended period

⁴ Ministry of Justice. (2025). *Sentencing Bill: Impact assessment* (MoJ030/2025). House of Commons. <https://bills.parliament.uk/bills/4012/publications>

⁵ Gormley, J., Hamilton, M., & Belton, I. (2022). *The Effectiveness of Sentencing Options on Reoffending*. Sentencing Council of England and Wales. <https://www.sentencingcouncil.org.uk/wp-content/uploads/Effectiveness-of-Sentencing-Options-Review-FINAL.pdf>

⁶ Eaton, G., & Mews, A. (2019). *The impact of short custodial sentences, community orders and suspended sentence orders on reoffending*. Ministry of Justice. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814177/impact-short-custodial-sentences.pdf

to engage with social services, secure housing, and demonstrate compliance, as well as mitigating the impact of custody on both mother and child.⁷

- **Regularisation of prison release points:** The measures aim to regularise release points following the introduction of emergency measures to ease the pressure on prison places. The current array of automatic release arrangements is far too complex to be sustained, causing confusion for victims, prisoners and staff.
- **Removal of post-sentence supervision period:** HM Inspectorate of Probation found "no tangible reduction in reoffending" following Post Sentence Supervision. We agree with the government's assessment that resources should be focused on interventions that have proven rehabilitative benefits, and in the current context of operational challenges facing probation, the ongoing use of post sentence supervision cannot be justified.
- **Community orders:** We support measures to simplify community orders and give probation staff greater flexibility in their delivery. We also support measures to encourage compliance with an Unpaid Work Requirement through the completion of a qualifying period and the demonstration of sustained compliance. However, when people miss appointments there should be sufficient inquiry into why, as they are often for reasons that are aligned to why they are in the criminal justice system in the first place.

PRT has concerns about the following measures:

- **Earned release:** Although provision for earned release is not included in the bill, the government has confirmed that it intends to route it through the existing prison adjudication system and by doubling the number of maximum additional days that can be imposed to 84. Any resulting policy for earned release should be preceded by a thorough review and consultation. This would ensure it does not replicate some of the weaknesses of the existing adjudications system⁸, whilst building on some of its safeguards — including entitlement to legal aid and a judicial process.
- **Recall:** The bill amends recall provision for standard determinate sentenced prisoners to lengthen the fixed term recall period to 56 days. A couple of additional weeks in prison may give probation staff slightly more time to manage risks and set licence conditions, but it is unlikely to significantly impact outcomes. We believe that a more fundamental change to the recall process is necessary, removing fixed-term recall entirely, allowing for greater scrutiny and oversight in the recall process at an earlier stage, to reduce the reliance on recall for non-offending related breaches.
- **Licence conditions:** The bill introduces a set of new punitive licence conditions which can be imposed on release including the expansion of drug testing requirements, prohibition on driving, public events bans and restriction zones. Any additional licence conditions imposed should be necessary and proportionate to manage the risk presented by the individual on release and should not undermine resettlement goals. If used inappropriately, they could

⁷ Beresford, S. (2022). *What about me?: The impact on children when mothers are involved in the criminal justice system*. Prison Reform Trust.

<https://prisonreformtrust.org.uk/publication/what-about-me-the-impact-on-children-when-mothers-are-involved-in-the-criminal-justice-system/>

⁸ Howard League for Penal Reform. (2018). *The rising tide: Additional days for rule-breaking in prison*. <https://howardleague.org/publications/the-rising-tide-additional-days-for-rule-breaking-in-prison/>

increase the numbers being breached and recalled to custody whilst also placing an additional burden of supervision and monitoring on probation staff.

- **Income reduction orders:** While justified as a policy tool to enhance the punitive nature of community sentences, there is a complete absence of supportive evidence in any of the accompanying documentation. Furthermore, it will be important to ensure that any orders do not lead to unnecessary hardship or destitution.
- **Purposes of sentencing:** We welcome reference to victims in the purposes of sentencing. However, this provision falls short of the recommendation of the sentencing review for a wider review of the purposes of sentencing which also references the importance of reducing crime.
- **Sentencing Council:** We are deeply concerned about the introduction of these measures to curtail the independence of the Sentencing Council. Following the introduction of emergency legislation in April, this bill introduces powers which go far beyond what is proportionate or necessary, curtailing the work of an independent judicial body, and raising serious questions about the separation of powers.
- **Children:** The provisions of the bill are applicable to adults only. While the youth justice system is rightly separate to the adult system, we are concerned that excluding children from some of the provisions will lead to unfairness, with some children potentially spending longer in prison than an adult when convicted of an equivalent offence.

What is missing?

- **Any attempt to tackle sentence inflation:** The Independent Sentencing Review provided a clear narrative of the problems that brought our justice system to the brink, as well as the opportunity to make the necessary reforms to prevent us from being in this situation in future. It is regrettable that the government has ignored the recommendations of the review to tackling the significant growth in sentence inflation through legislation.
- **IPP sentence reform:** Further legislative measures to address the “stain” of the IPP sentence are absent from the bill. The Howard League has recently published a briefing including recommendations for additional provisions which could be introduced.⁹ We urge the government to carefully consider these recommendations.
- **An external advisory body on sentencing policy:** The Independent Sentencing Review recommended the creation of an external advisory body to facilitate greater scrutiny of the impacts of policy and legislation on prison and probation resources, helping to encourage a more sustainable criminal justice system in the long term.
- **Annual statement to parliament on prison capacity:** The former Lord Chancellor committed to legislating to make laying an annual statement on prison capacity before Parliament a statutory requirement “when parliamentary time allows”.¹⁰ This would appear to be such an opportunity.

⁹ Howard League for Penal Reform. (2025). *Ending the detention of people on IPP sentences*. <https://howardleague.org/publications/ending-the-detention-of-people-on-ipp-sentences/>

¹⁰ Ministry of Justice. (2024a). *Annual statement on prison capacity: 2024* (CP 1220). <https://www.gov.uk/government/publications/annual-statement-on-prison-capacity-2024>