

Sentencing Bill

Prison Reform Trust briefing for the Committee Stage in the House of Lords on 26 November 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 addresses key amendments and new clauses tabled at the House of Lords committee stage:

- Amendment 15 – Discretion for courts to impose a community sentence in cusp of custody cases
- Amendments 81, 82, 83 – Sentencing Council
- New clause 88 – Annual report on prison capacity
- New clauses 90, 91, 92 – Independent Advisory Panel on Sentencing and Reducing Reoffending
- New clause 95 – Extending earned release to all Standard Determinate Sentenced (SDS) Prisoners
- Amendment 101 – Entitlement for offenders to make representations about licence conditions
- Amendment 101A – Parole Board oversight of restriction zones
- New clause 109 – Entitlement for IPP prisoners to apply for an annual licence review
- Standpart clause 35
- New clause 128 – Extending earned release to Extended Determinate Sentenced (EDS) Prisoners
- New clause 129 – Provision for the Parole Board to direct release of an IPP prisoner at a specified future date
- New clause 140 – Removal of the power to remand in custody for a person's own protection or welfare

A copy of the Marshalled List for a full list of the amendments and new clauses to be moved in the House of Lords Committee is available at

<https://bills.parliament.uk/publications/63646/documents/7384>

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Clause 1

Amendment 15 – Discretion for courts to impose a community sentence in cusp of custody cases

Clause 1 of the Sentencing Bill seriously risks increasing the imprisonment of women, if it is enacted as it currently stands. This proposed amendment is a potential solution to addressing this problem.

Whilst we welcome the presumption against custodial sentences of 12 months or less, there is concern that magistrates will see suspending a custodial sentence of less than 12 months as the only or prescribed alternative to an immediate sentence of imprisonment, of that length. Furthermore, if women receive suspended sentences without the necessary support there is a risk that they will breach those orders, leading to the activation of the original custodial sentence, and longer immediate imprisonment following any subsequent conviction.

The effect of clause 1 on existing ‘cusp of custody’ provisions at sections 230 and 77 of the Sentencing Act 2020 needs to be clarified, to ensure sentencers understand they are still expected to follow those provisions and make a community order where appropriate, rather than thinking they are now expected to impose a SSO.

We urge peers to support amendment 15

Clause 19

Amendments 81, 82, 83 – Sentencing Council

These amendments seek to remove the proposed veto of either the Lord Chancellor or Lord Chief Justice acting alone of the publication of new or amended guidelines, and enable the Sentencing Council to publish guidelines unless both do not consent. We welcome these amendments which go some way to mitigating the impact of clause 19 on the independence of the Council, preventing unnecessary and unconstitutional interference in its work by the executive.

We urge peers to support amendments 81, 82 and 83

New clause 88 – Annual report on prison capacity

This new clause would require the Lord Chancellor to publish an annual report on prison capacity, in line with the commitment in its Annual Statement on Prison Capacity: 2024 for a statutory annual statement. In line with the 2024 statement, it also requires the publication of information on probation service staffing and caseloads, given the importance of probation service capacity in managing people serving community orders, suspended sentences and on licence. Despite the government’s commitment to legislate, the current bill makes no reference to the annual statement—or any mechanism to hold governments to account.

We urge peers to support new clause 88

New clauses 90, 91, 92 – Independent Advisory Panel on Sentencing and Reducing Reoffending

This set of new clauses would implement recommendation 9.1 of the Independent Sentencing Review by establishing an Independent Advisory Panel on Sentencing and Reducing Reoffending. The Review's Part 2 report recommended the establishment of an independent advisory body to help ensure that its recommendations are "not lost and that successive governments remain focused on maintaining a sustainable approach to custody".¹ A similar recommendation was made by the Justice Committee in its inquiry on public opinion and understanding of sentencing. The body would act as an authority on what works to reduce reoffending; provide ministers with independent advice on policy and legislative proposals; and 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.

We urge peers to support new clauses 90, 91, 92

After Clause 22

New clause 95 – Extending earned release to all Standard Determinate Sentenced (SDS) Prisoners

This new clause gives effect to the recommendation of the Independent Sentencing Review that a progression model should apply to *all* prisoners serving a Standard Determinate Sentence (SDS). For people serving a sentence for certain serious violent and sexual offences, the bill retains an automatic release point of 66% without an opportunity for earned release. This new clause brings this cohort into the scope of earned release. To reflect the serious nature of the offences committed by this cohort, the secretary of state would be empowered to exercise their discretion at the 50% point in the sentence to refer the case to the Parole Board for consideration of release. Release would be automatic at the 66% point unless additional days had been imposed.

We urge peers to support new clause 95

Clause 24

Amendment 101 – Entitlement for offenders to make representations about licence conditions

This amendment introduces a right for those being made subject to licence conditions to make representations about their necessity and proportionality. While the bill seeks to reduce the overuse of prison and avoid our prisons reaching full capacity, it also seeks to toughen up measures for supervision and restrictions in the community for people released from prison on licence.

This amendment makes provision for procedural safeguards to ensure licence conditions are necessary and proportionate and prevent unnecessary recalls to prison by giving people subject licence conditions an opportunity to make representations. Victims should already, and properly, be consulted by the probation

¹ <https://www.gov.uk/government/publications/independent-sentencing-review-final-report>

service prior to the imposition of conditions. This modest amendment extends that right to people on licence too.

We urge peers to support amendment 101.

Amendment 101A – Parole Board oversight of restriction zones²

Clause 24 introduces a provision to restrict people to a certain geographical area when released on licence, without a requirement for judicial oversight or due process. This amendment introduces a requirement for the Parole Board to have oversight of new restriction zones for people on licence. Such oversight will guard against unintended consequences and provide due process for both victims and offenders. It will afford them an opportunity to make representations to an independent judicial body both before it is imposed and should changes in circumstances arise. For example, a victim may want to live or enter the restricted area and seek a variation to enable them to do that without fear.

We urge peers to support amendment 101A

After Clause 25

New clause 109 – Entitlement for IPP prisoners to apply for an annual licence review

This simple and modest amendment would enhance the process for IPP licence terminations. IPP terminations have been the single most effective measure in permanently reducing the “stain” of the IPP sentence since it was abolished in 2012. 28% of IPP sentences have been terminated by the Parole Board, ending the shadow of the sentence by cancelling it and removing the risk of recall for those who have been deemed safe by the Parole Board or complied with their licences for two years. The amendment would build on the success of this process by reintroducing the right to apply for annual review that was removed by the Victims and Prisoners Act.

We urge peers to support new clause 109

Clause 35

Clause 35 provides probation practitioners with new powers to publish the names and photos of people delivering unpaid work requirements as part of a Community Sentence. This provision to “name and shame” people on Community Payback schemes will increase the stigma faced by people with criminal convictions and could do severe and long-lasting damage to families and children with parents in the criminal justice system. Over 20 organisations and individuals have come together to express deep concern about the clause in a joint letter sent to the justice and education secretaries. They point out that the proposal would do little to foster rehabilitation or reduce reoffending, making it harder for people to find employment or accommodation.

We urge peers to standpart clause 35

² This amendment was published on 26 November and is supplementary to the Marshalled List

After clause 38

New clause 128 – Extending earned release to Extended Determinate Sentenced (EDS) Prisoners

This new clause would create a power for the Secretary of State to refer a prisoner serving an Extended Determinate Sentence (EDS) to the Parole Board if the Secretary of State was of the view that “there was a reasonable prospect that the Board would direct release”. It would enable EDS prisoners to have the opportunity of earning earlier release in line with recommendation 4.2 of the Independent Sentencing Review.³ As the review affirmed, this measure would improve incentives for rehabilitation and enhance the effectiveness of measures to address the overcrowding crisis, without in any way changing the public protection mechanisms that currently apply to EDS prisoners. There would be no change to the process, other than empowering the Secretary of State to refer a prisoner who has a reasonable prospect of success at the half way point rather than at the two-thirds point.

We urge peers to support new clause 128.

After clause 40

New clause 129 – Provision for the Parole Board to direct release of an IPP prisoner at a specified future date

This amendment creates a viable and safe alternative to “resentencing” by utilising the skills and expertise of the Parole Board and properly balancing the interests of justice, the protection of the public and the responsibility of the state for the effects of this misguided sentence.

The amendment would require the Parole Board to fix a future release date for post tariff IPPs who cannot be released immediately, following the successful completion of directions designed to ensure the public will be adequately protected upon release. This amendment implements the key recommendation of the expert group commissioned by the Howard League for Penal Reform to end the detention of those on IPP sentences.⁴

We urge peers to support new clause 129

After clause 41

New clause 140 – Removal of the power to remand in custody for a person’s own protection or welfare

This amendment would repeal the powers of the courts to remand a person in custody for their own protection or, if they are a child, for their own welfare.

³ https://assets.publishing.service.gov.uk/media/682d8d995ba51be7c0f45371/independent-sentencing-review-report-part_2.pdf

⁴ Howard League for Penal Reform (2025). *Ending the detention of people on IPP sentences*, <https://howardleague.org/wp-content/uploads/2025/06/Ending-the-detention-of-people-on-IPP-sentences.pdf>

Remanding people in custody for their own protection stems from the mistaken belief that prisons are suitable places for individuals at risk of harm. This misguided power is available even when the defendant is facing a criminal charge that would not attract a custodial sentence. Although no official data is collected, evidence from practitioners and research show that this power is often used to detain some of the most vulnerable people in the criminal justice system. There is evidence that this practice disproportionately affects women and girls.⁵

We urge peers to support new clause 140

⁵https://assets.publishing.service.gov.uk/media/67c6acc516dc9038974dbdf3/Girls_Placement_Review_Report_FINAL_002.pdf