

Victims and Prisoners Bill

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 1

LORD RUSSELL OF LIVERPOOL

Clause 1, page 1, line 16, at end insert –

“(2A) A person is a victim, in this Part, whether the perpetrator is given a custodial sentence or detained under the Mental Health Act 1983.”

Member's explanatory statement

This amendment, and others in the name of Lord Russell of Liverpool, would provide parity of treatment under the Victims' Code between victims whose perpetrator is serving a custodial sentence and victims whose perpetrator is detained under the Mental Health Act 1983 in respect of Code entitlements when the perpetrator's detention is being reviewed. The sentence explains where parity of treatment is needed.

Clause 2

LORD RUSSELL OF LIVERPOOL

Clause 2, page 2, line 25, at end insert “and with all state agencies with responsibilities under the victims' code, including HM Courts and Tribunals Service and the NHS when considering leave or discharge for the perpetrator.”

Member's explanatory statement

This amendment would ensure that victims have the opportunity to make their views heard with all state agencies with responsibilities under the victims' code.

BARONESS HAMWEE

Clause 2, page 2, line 27, at end insert –

“(e) should be able to access and, where appropriate, be referred to single point of contact for information on their criminal case to assist them in delivering rights under the victims' code.”

Member's explanatory statement

This amendment introduces the concept of a "Victim Care Hub", ensuring a victim is referred to a single point of contact to assist them during the criminal justice process.

LORD RUSSELL OF LIVERPOOL

Clause 2, page 2, line 27, at end insert –

- “(3A) The information provided under subsection (3)(a) must include information from all relevant state agencies, including His Majesty’s Courts and Tribunals Service and (if applicable) the NHS.”

Member's explanatory statement

This amendment would ensure that victims would be entitled to information to help them understand the justice system from all relevant state agencies.

After Clause 11

LORD SANDHURST
BARONESS BRINTON

After Clause 11, insert the following new Clause –

“Training: support for victims

- (1) The Secretary of State must publish and implement, in consultation with the Commissioner for Victims and Witnesses, a strategy for providing mandatory training on the contents and application of the victims’ code for relevant staff of the following organisations –
 - (a) the police,
 - (b) the Crown Prosecution Service,
 - (c) probation services,
 - (d) the Foreign, Commonwealth & Development Office,
 - (e) health and social services,
 - (f) victim support services,
 - (g) maintained and independent schools and colleges of further education, and
 - (h) such other bodies as the Secretary of State deems appropriate.
- (2) The strategy under subsection (1) must be reviewed and updated every three years.”

Member's explanatory statement

This amendment seeks to make effective the victims’ code by ensuring that justice agencies responsible for giving effect to the code are properly trained and familiar with its provisions and deliver it effectively.

Clause 15

BARONESS FOX OF BUCKLEY

Clause 15, page 12, line 35, at end insert –

- “(e) allowing victims of domestic violence and sexual violence to choose the sex (as registered at birth) of such individual advisors providing support services in their case.”

Member's explanatory statement

This amendment seeks to recognise the specific trauma on victims of violence against women and girls, by ensuring that the option of female-specific support services is guaranteed where female victims choose them. Guidance must stipulate that, as independent domestic violence and sexual violence advisors are part of such services, provisions allowing single-sex and separate-sex services to meet particular need, apply in this instance.

Clause 16

BARONESS THORNTON

Clause 16, page 14, line 17, at end insert –

- “(10) This section does not apply where the offender was a domestic abuse victim of the other parent.”

Clause 24BARONESS MORGAN OF COTES
BARONESS KIDRON

Clause 24, page 23, line 25, leave out “giving notice under section 44B” and insert “seeking agreement under section 44B and giving notice under section 44CA”

BARONESS MORGAN OF COTES
BARONESS KIDRON

Clause 24, page 23, leave out lines 32 to line 12 on page 25 and insert –

“44B Making a victim information request

- (1) An authorised person may request information stored by a third party in respect of a victim if the subject of the information –
 - (a) has voluntarily provided details of the third party to an authorised person, and
 - (b) has agreed to the authorised person approaching the third party for specified information.
- (2) The power in subsection (1) may be exercised only for the purposes of preventing, detecting, investigating or prosecuting crime.

- (3) The reference in subsection (2) to crime is a reference to—
 - (a) conduct which constitutes one or more criminal offences in any part of the United Kingdom, or
 - (b) conduct which, if it took place in any part of the United Kingdom, would constitute one or more criminal offences.
- (4) An authorised person may exercise the power in subsection (1) only if—
 - (a) the authorised person reasonably believes that information stored by the third party is relevant to a reasonable line of enquiry which is being, or is to be, pursued by an authorised person, and
 - (b) the authorised person is satisfied that exercise of the power is necessary and proportionate to achieve the purpose within subsection (2) for which the person proposes to exercise the power.
- (5) Subsection (6) applies if the authorised person thinks that, in exercising the power, there is a risk of obtaining information other than information necessary for a purpose within subsection (2) for which the authorised person may exercise the power
- (6) The authorised person must, to be satisfied that the exercise of the power in subsection (1) is proportionate, be satisfied that—
 - (a) there are no other means of obtaining the information sought by the authorised person which avoid that risk, or
 - (b) there are such other means, but it is not reasonably practicable to use them.
- (7) Subsection (8) applies if the authorised person thinks that, in exercising the power in subsection (1) there is a risk of obtaining confidential information.
- (8) The authorised person must, to be satisfied that the exercise of the power is proportionate—
 - (a) have regard to the matters in subsection (9), and
 - (b) be satisfied that—
 - (i) there are no other means of obtaining the information sought by the authorised person which avoid that risk, or
 - (ii) there are such other means, but it is not reasonably practicable to use them.
- (9) The matters referred to in subsection (8)(a) are—
 - (a) the amount of confidential information likely to be stored by the third party, and
 - (b) the potential relevance of the confidential information to a purpose within subsection (2) for which the authorised person may exercise the power.
- (10) An authorised person must have regard to the code of practice for the time being in force under section 44D in exercising, or deciding whether to exercise, the power in subsection (1).

- (11) This section does not affect any power relating to the extraction or production of information, or any power to seize any item or obtain any information, conferred by an enactment or rule of law.

44BA Application of section 44B to children and adults without capacity

- (1) A child is not to be treated for the purposes of section 44B(1) as being capable of—
- (a) voluntarily providing information about third parties who hold information about them to an authorised person for those purposes, or
 - (b) agreeing for those purposes that the authorised person can approach the third party for specified information.
- (2) If a child is the subject of the information held by a third party, a person who is not the subject of the information but is listed in subsection (3) may—
- (a) voluntarily provide information about the third party to an authorised person for the purposes of section 44B(1), and
 - (b) agree for those purposes to the authorised person requesting specified information from the third party.
- (3) The persons mentioned in subsection (2) are—
- (a) a parent or guardian of the child or, if the child is in the care of a relevant authority or voluntary organisation, a person representing that authority or organisation, or
 - (b) if no person within paragraph (a) is available, any responsible person who is aged 18 or over other than a relevant authorised person.
- (4) Before exercising the power under section 44B(1) by virtue of subsection (2), an authorised person must, so far as it is reasonably practicable to do so—
- (a) ascertain the views of the child, and
 - (b) have regard to any views so ascertained, taking account of the child's age and maturity.
- (5) If an authorised person ("A") exercises the power under section 44B(1) as a result of action taken under subsection (2) by a person within subsection (3)(b), A must, unless A considers that it is not appropriate to do so, inform a person within subsection (3)(a) that A has exercised the power.
- (6) An adult without capacity is not to be treated for the purposes of section 44B(1) as being capable of—
- (a) voluntarily providing information of third parties who hold information about them to an authorised person for those purposes, or
 - (b) agreeing for those purposes that the authorised person can approach the third party for specified information.
- (7) If an adult without capacity is the subject of the information held by a third party, a person who is not the subject of the information but is listed in subsection (8) may—

- (a) voluntarily provide information about the third party to an authorised person for the purposes of section 44B(1), and
 - (b) agree for those purposes to the authorised person requesting specified information from the third party.
- (8) The persons mentioned in subsection (7) are—
- (a) a parent or guardian of the adult without capacity or, if the adult without capacity is in the care of a relevant authority or voluntary organisation, a person representing that authority or organisation,
 - (b) a registered social worker,
 - (c) a person who, under a power of attorney, may make decisions for the purposes of subsection (7)(a) and (b) on behalf of the adult without capacity,
 - (d) a deputy appointed under section 16 of the Mental Capacity Act 2005 (powers to make decisions and appoint deputies: general),
 - (e) if no person within any of paragraphs (a) to (e) is available, any responsible person who is aged 18 or over other than a relevant authorised person.
- (9) For the purposes of this Chapter a person is an adult without capacity if—
- (a) in relation to England and Wales, the person is an adult who, within the meaning of the Mental Capacity Act 2005, lacks capacity to do the things mentioned in section 44B(1)(a) and (b);
 - (b) in relation to Scotland, the person is an adult (within the meaning of this Chapter) who is incapable within the meaning of the Adults with Incapacity (Scotland) Act 2000 in relation to the matters mentioned in section 44B(1)(a) and (b);
 - (c) in relation to Northern Ireland, the person is an adult who, within the meaning of the Mental Capacity Act (Northern Ireland) 2016, lacks capacity to do the things mentioned in section 44B(1)(a) and (b).
- (11) In this Chapter—
- “local authority”—
- (a) in relation to England, means a county council, a district council for an area for which there is no county council, a London borough council or the Common Council of the City of London in its capacity as a local authority;
 - (b) in relation to Wales, means a county council or a county borough council;
 - (c) in relation to Scotland, means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (constitution of councils);
- “registered social worker” means a person registered as a social worker in a register maintained by—
- (a) Social Work England,
 - (b) Social Care Wales,
 - (c) the Scottish Social Services Council, or

(d) the Northern Ireland Social Care Council;

“relevant authorised person” in relation to the extraction of information from an electronic device for a particular purpose, means an authorised person who may extract the information from the device for that purpose;

“relevant authority” –

(a) in relation to England and Wales and Scotland, means a local authority;

(b) in relation to Northern Ireland, means an authority within the meaning of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2));

“voluntary organisation” –

(a) in relation to England and Wales, has the same meaning as in the Children Act 1989;

(b) in relation to Scotland, has the same meaning as in Part 2 of the Children (Scotland) Act 1995;

(c) in relation to Northern Ireland, has the same meaning as in the Children (Northern Ireland) Order 1995.

- (12) This section is subject to section 44BB (requirements for voluntary provision and agreement).

44BB Requirements for voluntary provision and agreement

- (1) A person (“P”) is to be treated for the purposes of section 44B or 44BA as having –

(a) voluntarily provided details of the third party to an authorised person, and

(b) agreed to the authorised person approaching the third party for specified information.

only if the requirements of this section have been met.

- (2) An authorised person must not have placed undue pressure on P to provide the details of the third party or agree to the authorised person approaching the third party for specified information.

- (3) An authorised person must have given P notice in writing –

(a) specifying or describing the information that is sought,

(b) specifying the reason why the information is sought,

(c) specifying how the information will be dealt with once it has been obtained,

(d) stating that P may refuse to provide the details of the third party or agree to the authorised person approaching the third party to obtain the information, and

(e) stating that the investigation or enquiry for the purposes of which the information is sought will not be brought to an end merely because P refuses to provide the details of the third party or agree to the approach to the third-party information holder.

- (4) Subject to subsection (5), P must have confirmed in writing that P has –
 - (a) voluntarily provided details of the third party to an authorised person, and
 - (b) agreed to the authorised person approaching the third party for specified information.
- (5) If P was unable to provide that confirmation in writing as a result of P’s physical impairment or lack of literacy skills –
 - (a) P must have given that confirmation orally, and
 - (b) an authorised person must have recorded P’s confirmation in writing.
- (6) If P’s confirmation was given in writing and in hard copy form, the authorised person must have given P a copy of that confirmation (in hard copy or electronic form).
- (7) If P’s confirmation was given orally, the authorised person must have given P a copy of the record of that confirmation (in hard copy or electronic form).”

After Clause 25

BARONESS FOX OF BUCKLEY

After Clause 25, insert the following new Clause –

“Data collection: violence against women and girls

The Secretary of State must issue guidance in respect of data collection to ensure that sex registered at birth is recorded for both victims and perpetrators of crime in respect of violence against women and girls.”

Member’s explanatory statement

This amendment aims to tackle any confusion between sex and gender in terms of statistics, data collection and reporting to support meaningful assessment of evidence of, for example, changing trends in relation to types of crimes, victim profiles etc.

After Clause 27

BARONESS CHAKRABARTI
BARONESS BRINTON

After Clause 27, insert the following new Clause –

“Proceedings under the Children Act 1989 involving victims

- (1) The Children Act 1989 is amended as follows.
- (2) In section 1 (welfare of the child), after subsection (2B) insert –
 - “(2C) Subsection (2A) does not apply in relation to a parent, where the child or other parent is a victim of domestic abuse by that parent as defined by section 1 of the Victims and Prisoners Act 2024 (meaning of “victim”).

- (2D) Evidence of domestic abuse may be provided in one or more of the forms set out in regulation 33(2) of the Civil Legal Aid (Procedure) Regulations 2012 (S.I. 2012/3098).”
- (3) In section 9 (restrictions on making section 8 orders), after subsection (7) insert –
- “(8) No court may make a section 8 order for a child victim or child of a victim as defined by section 1 of the Victims and Prisoners Act 2024 (meaning of “victim”) to spend unsupervised time with or have unsupervised contact with any person who is –
- (a) awaiting trial, under police investigation, or on bail for a domestic abuse, child abuse or sexual offence, or
 - (b) subject to ongoing criminal proceedings for a domestic abuse, child abuse or sexual offence,
- as evidenced by documents proscribed in the Civil Legal Aid (Procedure) Regulations 2012 (S.I. 2012/3098).
- (10) In subsection (8) –
- “unsupervised” means where a court approved third party is not present at all times during contact with the parent to ensure the physical safety and emotional wellbeing of the child;
- “sexual offence” has the meaning given in paragraph 39 of Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012, excluding the following offences under the Sexual Offences Act 2003 –
- (a) section 51A (soliciting); and
 - (b) section 71 (sexual activity in a public lavatory).”

Member's explanatory statement

This new clause seeks to displace the presumption that parental involvement furthers a child's welfare in domestic abuse cases and would prohibit unsupervised contact for a parent waiting trial, or on bail for a domestic abuse, sexual violence or child abuse related offence, or where there are ongoing criminal proceedings for these offences, where the child or other parent is a victim under clause 1 of the Bill.

LORD GARNIER

After Clause 27, insert the following new Clause –

“Compensation for victims of fraud and other economic crimes

- (1) The Secretary of State must, within one year of the passing of this Act, lay before Parliament a review of victims of fraud, bribery and money laundering offences.
- (2) The purpose of the review under subsection (1) is to identify how victims of such economic crimes could be better compensated without such victims needing to pursue civil action.
- (3) The Secretary of State must provide for a public consultation on the review.

- (4) In this section “victims of economic crime” includes United Kingdom and overseas victims of complex corruption cases where the harm caused by the offending is not easily quantifiable.”

Member's explanatory statement

This new Clause requires a review to explore how domestic and overseas victims of fraud, bribery and money laundering offences could be better compensated without the need for civil proceedings to recover their losses or compensation.

LORD SANDHURST
BARONESS BRINTON

After Clause 27, insert the following new Clause –

“Duty to inform victims and families of the unduly lenient sentencing scheme

After section 36 of the Criminal Justice Act 1988, insert –

“36A Duty to inform victims and families of the unduly lenient sentencing scheme

- (1) The Secretary of State must nominate a government department to inform victims and their families of their rights set out in section 36 (reviews of sentencing).
- (2) The information provided under subsection (1) must include the type of sentence and the time limit for application, and advise that applications must be made to the Attorney General.””

Member's explanatory statement

This amendment will ensure that victims are aware of the Unduly Lenient Sentencing scheme which presently has a strict 28-day timeframe in which to apply, there being no power to extend the time.

LORD SANDHURST
BARONESS BRINTON

After Clause 27, insert the following new Clause –

“Unduly lenient sentences: time limit

In paragraph 1 of Schedule 3 of the Criminal Justice Act 1988, at end insert “, subject to paragraph 1A.

- “(1A) The time limit of 28 days shall be extended in exceptional circumstances, which may include but not be limited to a failure of the relevant body to inform the victim and families of their rights under section 36 (reviews of sentencing).””

Member's explanatory statement

This amendment would allow for the 28-day timeframe to be extended in exceptional circumstances, and prompt criminal justice agencies to meet their obligation to inform of their rights and the tight time limit.

BARONESS BERTIN
LORD PONSONBY OF SHULBREDE
BARONESS THORNTON
BARONESS MORGAN OF COTES

After Clause 27, add the following new Clause—

“Non-disclosure of victims’ counselling records

- (1) Subsection (3) applies where—
 - (a) in connection with any criminal investigation, access to records of a victim’s protected confidence in a counselling setting is sought (whether pre- or post-charge), or
 - (b) in any criminal proceedings records containing a protected confidence are to be served as evidence or disclosed by the prosecution to the defendant.
- (2) In this section—

“protected confidence” means a communication made by a person in confidence to another person when the confidant was acting in a professional capacity providing counselling, psychological or mental health services;

“victim” has the same meaning as in section 1 (meaning of “victim”).
- (3) Subject to subsection (4), the court’s permission must be obtained for access to, service or disclosure of the records.
- (4) The court must direct that access should not be granted, or evidence should not be served or disclosed, if the court finds that this would disclose a protected confidence.
- (5) Subsection (4) does not apply if the court finds—
 - (a) that the information is of substantial probative value, and
 - (b) that the public interest in disclosure substantially outweighs that of non-disclosure.
- (6) In making a determination under subsection (5)(b), the court must take into account—
 - (a) the need to encourage victims of sexual offences to seek counselling,
 - (b) that the effectiveness of counselling is likely to be dependent on the maintenance of the confidentiality of the counselling relationship,
 - (c) the public interest in ensuring that victims of sexual offences receive effective counselling,

- (d) that the disclosure of the protected confidence is likely to damage or undermine the relationship between the counsellor and the counselled person,
- (e) whether disclosure of the protected confidence is sought on the basis of a discriminatory belief or bias,
- (f) that the adducing of the evidence is likely to infringe a reasonable expectation of privacy.”

BARONESS BRINTON

After Clause 27, insert the following new Clause –

“Compensation

The Secretary of State must take steps to ensure that victims of crime –

- (a) have access to financial compensation from public funds for any detriment arising from the criminal case concerned,
- (b) have restored to them any of their property or personal belongings which have been seized for use as evidence at a trial,
- (c) are given the right to approve or refuse the payment of any compensation order made by a court against a person convicted of a crime against them,
- (d) have reimbursed to them, from public funds, any expenses incurred by them in attending in court and in any related legal process, whether in the United Kingdom or overseas, and
- (e) have access to legal advice at no cost to themselves throughout the legal process.”

Member's explanatory statement

This aim of this probing amendment is to provide a opportunity to discuss the processes around court-awarded compensation and whether these are currently adequate to support the needs of victims.

After Clause 40

LORD PONSONBY OF SHULBREDE

After Clause 40, insert the following new Clause –

“Review: National Oversight Mechanism

- (1) The Secretary of State must launch a review into the merits of introducing an independent National Oversight Mechanism responsible for collating, analysing and addressing recommendations arising from the post death processes of investigations, inquests, public inquiries and official reviews following a major incident.
- (2) The review under subsection (1) must be launched within six months of the day on which this Act is passed.

- (3) The Secretary of State must publish and lay before Parliament a report summarising the findings of the review under subsection (1) within 18 months of the day on which this Act is passed.”

After Clause 48

BARONESS FOX OF BUCKLEY
LORD MOYLAN

After Clause 48, insert the following new Clause –

“Re-sentencing those serving a sentence of imprisonment for public protection

- (1) The Lord Chancellor must make arrangements for, and relating to, the re-sentencing of all prisoners serving IPP sentences within 18 months beginning on the day on which this Act is passed.
- (2) Those arrangements must include arrangements relating to the establishment of a committee to provide advice regarding the discharge of the Lord Chancellor’s duty under subsection (1).
- (3) The committee established by virtue of subsection (2) must include a judge nominated by the Lord Chief Justice.
- (4) A court that imposed an IPP sentence has the power to re-sentence the prisoner in relation to the original offence.
- (5) But the court may not impose a sentence that is a heavier penalty than the sentence that was imposed for the original offence.
- (6) In relation to the exercise of the power in subsection (4) –
 - (a) that power is to be treated as a power to re-sentence under the Sentencing Code (see section 402(1) of the Sentencing Act 2020);
 - (b) the Code applies for the purposes of this section (and, accordingly, it does not matter that a person serving an IPP sentence was convicted of an offence before 1 December 2020).
- (7) In this section –

“IPP sentence” means a sentence of imprisonment or detention in a young offender institution for public protection under section 225 of the Criminal Justice Act 2003 or a sentence of detention for public protection under section 226 of that Act (including such a sentence of imprisonment or detention passed as a result of section 219 or 221 of the Armed Forces Act 2006);

“original offence” means the offence in relation to which the IPP sentence was imposed.
- (8) This section comes into force at the end of the period of two months beginning with the day on which this Act is passed.”

Member's explanatory statement

This new clause would implement the recommendation of the Justice Committee's 2022 Report that there should be a resentencing exercise in relation to all IPP sentenced individuals, and to establish a time-limited expert committee, including a member of the judiciary, to advise on the practical implementation of such an exercise.

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