

Sentencing Guidelines (Pre-sentence Reports) Bill

MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

BARONESS CHAKRABARTI

- 1 Clause 1, page 1, leave out lines 5 to 7 and insert—
- “(4A) But sentencing guidelines may not require or prohibit the provision of a pre-sentence report by reference to an offender’s protected characteristics alone.”

Member’s explanatory statement

This and other amendments in the name of Baroness Chakrabarti replace the reference in clause 1 to “different personal characteristics of an offender” with the tighter definition of “protected characteristics” in the Equality Act. It further restores some discretion to the Sentencing Council as long as guidelines do not require or prohibit pre-sentence reports on the basis of such characteristics alone.

BARONESS HAMWEE

- 2 Clause 1, page 1, leave out lines 5 to 15 and insert—
- “(4A) But sentencing guidelines about pre-sentence reports must include provision framed by reference to the factors considered in the case of each offender (“O”) most likely to reduce offending by O.”

Member’s explanatory statement

This amendment would ensure that pre-sentence reports include information relating to reducing offending.

BARONESS HAMWEE

3 Clause 1, page 1, leave out lines 5 to 15 and insert –

- “(4A) But sentencing guidelines about pre-sentence reports must include provision framed by reference to personal characteristics of an offender (“O”) if these are considered to be related to O’s personal circumstances.”

Member's explanatory statement

This amendment seeks to explore the interaction between a person’s “personal characteristics” and “personal circumstances”.

LORD MARKS OF HENLEY-ON-THAMES

4 Clause 1, page 1, line 5, after “not” insert “without good cause”

Member's explanatory statement

This amendment, together with Lord Marks’ amendment to page 1, line 7, would allow the Sentencing Council more discretion in preparing sentencing guidelines about pre-sentence reports in order to avoid inequality of sentencing outcomes.

BARONESS CHAKRABARTI

5 Clause 1, page 1, line 7, at end insert –

- “(4B) Sentencing guidelines may recommend that sentencers consider requesting pre-sentence reports for one of the following reasons in particular –
- (a) where the sentencer believes that their own life experience is particularly far removed from that of the offender;
 - (b) where the sentencer believes that an offender is a member of social group that appears to be over-represented in the prison population;
 - (c) where the sentencer believes that an offender or their dependents may be particularly badly effected by the imposition of a community or custodial sentence;
 - (d) where the sentencer is considering an offender for their first community or custodial sentence.”

Member's explanatory statement

This amendment introduces positive reasons why sentencing guidelines may suggest the request of pre-sentence reports to enhance a sentencer’s understanding of an offender.

LORD MARKS OF HENLEY-ON-THAMES

6 Clause 1, page 1, line 7, at end insert –

- “(4B) For the purposes of subsection (4A) the Sentencing Council shall be taken to have “good cause” if it has reason to believe that leaving such personal

characteristics out of an account would be likely to lead to an inequality of outcomes in sentencing.”

Member's explanatory statement

This amendment, together with Lord Marks' amendment to page 1, line 5, would allow the Sentencing Council more discretion in preparing sentencing guidelines about pre-sentence reports in order to avoid inequality of sentencing outcomes.

LORD MARKS OF HENLEY-ON-THAMES

7 Clause 1, page 1, line 7, at end insert —

“(4B) Sentencing guidelines about pre-sentence reports must promote greater use of such reports as part of sentencing.”

Member's explanatory statement

This amendment is intended to probe the current use of pre-sentence reports and how to increase their use.

BARONESS HAMWEE

8★ Clause 1, page 1, line 7, at end insert —

“(4B) Nothing in any sentencing guidelines about pre-sentence reports may restrict —
(a) the content of a pre-sentence report, or
(b) any order made by the court.”

Member's explanatory statement

This amendment seeks to clarify the scope of the Sentencing Council's guidelines in the context of this Bill

LORD SANDHURST
LORD WOLFSON OF TREDEGAR

9★ Clause 1, page 1, line 7, at end insert —

“(4B) Sentencing guidelines about pre-sentence reports must be submitted to the Secretary of State by the Council and the Secretary of State must give effect to those guidelines by regulations.”

LORD SANDHURST
LORD WOLFSON OF TREDEGAR

10★ Clause 1, page 1, line 7, at end insert —

“(2A) At the beginning of subsection (7), insert “Subject to subsection (4B),”.

(2B) At the beginning of subsection (8), insert “Subject to subsection (4B),”.

BARONESS CHAKRABARTI
LORD BEITH

- 11 Clause 1, page 1, leave out lines 10 to 13

Member's explanatory statement

This and other amendments in the name of Baroness Chakrabarti replace the reference in clause 1 to “different personal characteristics of an offender” with the tighter definition of “protected characteristics” in the Equality Act.

BARONESS HAMWEE

- 12 Clause 1, page 1, leave out line 13

Member's explanatory statement

This amendment is intended to probe the meaning of “cultural background”

BARONESS CHAKRABARTI

- 13 Clause 1, page 1, line 15, at end insert —

““protected characteristics” are as defined by sections 4 to 12 of the Equality Act 2010.”

Member's explanatory statement

This and other amendments in the name of Baroness Chakrabarti replace the reference in clause 1 to “different personal characteristics of an offender” with the tighter definition of “protected characteristics” in the Equality Act.

LORD BEITH

- 14 Clause 1, page 1, line 15, at end insert —

“(13) Nothing in this section shall prevent the Council from issuing guidance about pre-sentence reports that reflects existing case law.”

Member's explanatory statement

This amendment is intended to probe the impact of this Bill on the application of existing case law. It reflects a concern expressed by the Constitution Committee that both pregnancy status and age would be deemed as “personal characteristics” and the Sentencing Council would not be able to issue guidance regarding the use of presenting reports in those circumstances where case law applies.

LORD MARKS OF HENLEY-ON-THAMES

15 Clause 1, page 1, line 15, at end insert –

“(13) Nothing in this section shall require the Council to issue guidance about pre-sentence reports that is not consistent with its duties under section 149 of the Equality Act 2010.”

Member's explanatory statement

This amendment is intended to probe the impact of this Act on any of the Sentencing Council's duties under the public sector equality duty.

THE LORD BISHOP OF GLOUCESTER
LORD DHOLAKIA

16★ Clause 1, page 1, line 15, at end insert –

“(13) For the purposes of this section, “personal characteristics” do not include pregnancy or maternity.”

Member's explanatory statement

This amendment seeks to avoid unintended consequences arising from the use of the words ‘personal characteristics’, namely that existing and future Sentencing Council guidelines, which direct sentencers to obtain a pre-sentence report because a woman is pregnant or a primary carer of a dependent child, are likely to become unlawful.

LORD SANDHURST
LORD WOLFSON OF TREDEGAR

17★ Clause 1, page 1, line 15, at end insert –

“(4) In section 176 of the Coroners and Justice Act 2009 (orders, regulations and rules), after subsection (5)(c), insert –

“(ca) regulations under section 120(4B),””

After Clause 1

LORD MARKS OF HENLEY-ON-THAMES

18★ After Clause 1, Insert the following new Clause –

“Independent review

- (1) The Secretary of State must arrange for an independent review to be carried out of –
 - (a) the effects of the changes made to section 120 of the Coroners and Justice Act 2009 by section 1, and
 - (b) sentencing guidelines about pre-sentence reports.

- (2) The Secretary of State must, after consultation with the Sentencing Council, appoint a person the Secretary of State deems to have appropriate professional experience relating to pre-sentence reports to conduct the review.
- (3) The review must be completed within two years of the day on which this Act is passed.
- (4) As soon as practicable after a person has carried out the review, the person must —
 - (a) produce a report of the outcome of the review, and
 - (b) send copy of the report to the Secretary of State.
- (5) The Secretary of State must lay before Parliament a copy of the report sent under subsection (4)(b) within one month of receiving the report.”

Member's explanatory statement

This amendment requires the Secretary of State to review the impact of the Act within two years.

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