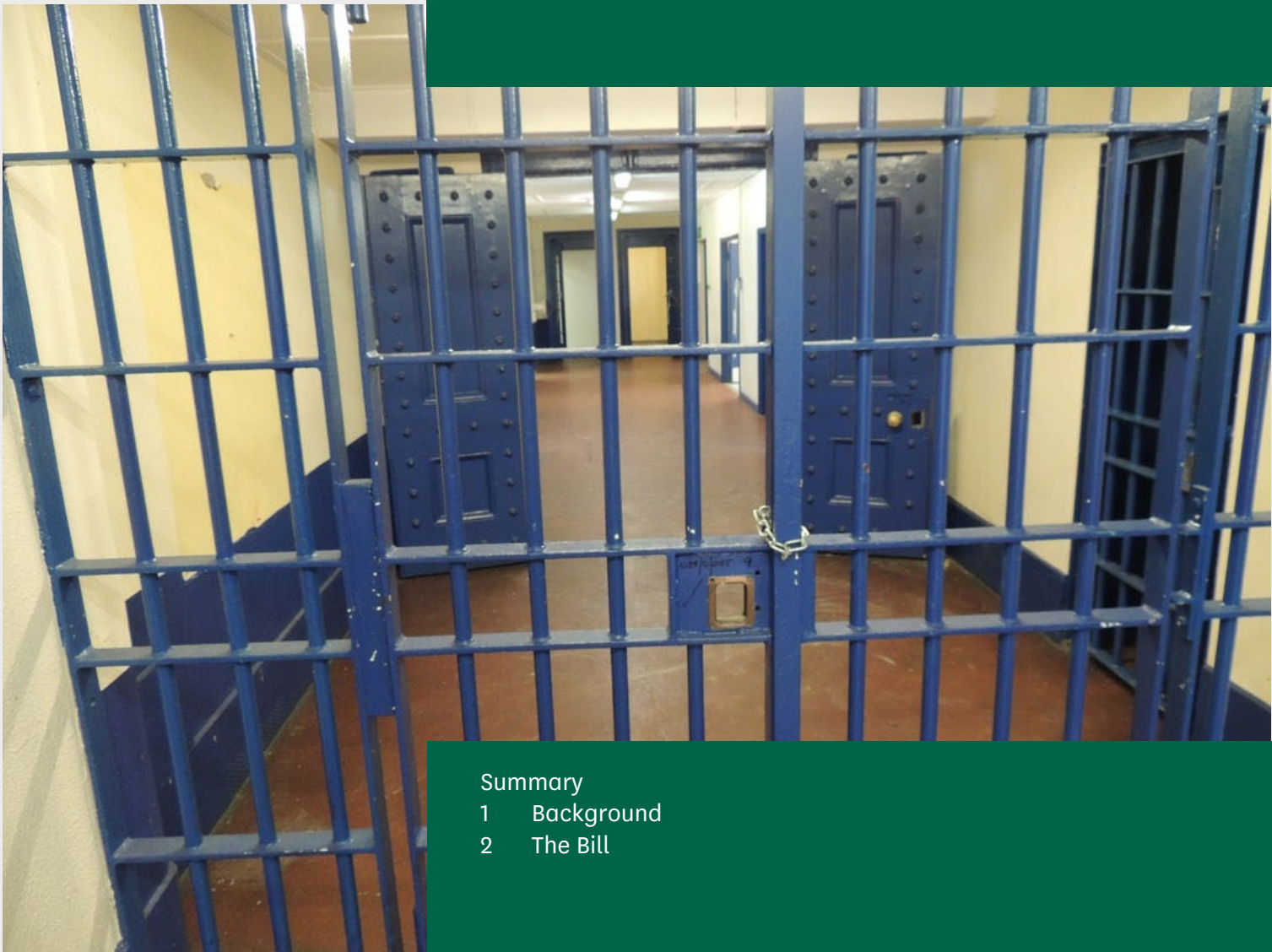


Research Briefing

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Offenders (Day of Release from Detention Bill)



Summary

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Summary

The [Offenders \(Day of Release from Detention\) Bill](#) is a Private Member's Bill which has Government support. It was presented to Parliament on 15 June 2022 through the ballot procedure. The Member in charge is Simon Fell in place of Mark Jenkinson.

Second reading took place on 2 December 2022. The Bill was considered in Committee on 8 February 2023. No amendments were made. Commons report stage and third reading are scheduled for 3 March 2023.

[Explanatory Notes](#) (PDF) have been prepared by the Ministry of Justice.

The Bill would provide the Secretary of State with a discretionary power to bring forward the release date of an offender by up to two working days where that release date falls on a Friday or the day preceding a bank/public holiday. The Government has said that, in practice, this power will be delegated to the Governor (of a public prison) or the Director (of a private prison) or appropriate officials in youth establishments. Guidance on eligibility criteria will be set out in a policy framework. The Bill extends to England and Wales.

In the Government's December 2021 [Prisons Strategy White Paper](#) (PDF), the Government said it would explore allowing prisoners who are at risk of reoffending to be discharged one or two days earlier at governor discretion where a Friday release can be demonstrated to be detrimental to an individual's resettlement. Following consultation with stakeholders, the Government committed to pursue legislation when parliamentary time allowed.

The announcement of the Government's decision to legislate on this issue was widely welcomed, including by NACRO the [Association of Police and Crime Commissioners](#), the [Local Government Association](#), and the [BMA](#). The charity [NACRO](#), has [campaigned](#) since 2018 for an end to Friday releases.

The Government confirmed in a [press release](#) on 2 December 2022 that it would support Simon Fell's Private Member's Bill on the issue

The Bill was widely supported at Second reading and Committee stage.

1 Background

1.1 NACRO's campaign

The charity [NACRO](#), has [campaigned](#) since 2018 for an end to Friday releases, stating:

Friday prison releases are needlessly setting people up to fail; putting additional pressure on other services; and increasing the risk of reoffending.¹

NACRO identifies three main factors which contribute to additional problems with releasing people on a Friday:

- Increased number of releases results in pressure on services
- Fridays are busy days in prisons which often results in delayed releases
- Services in the community can have reduced service on Fridays and reduced or no service over the weekend.²

NACRO says that until all prison leavers get the support they need for the day of release, solutions are needed to smooth the transition to the community:

Taking action to enable people to be released on an alternative day of the week where it would help them to access the services and support they need is one such solution. Being released on a Friday is not a problem for everyone, but for those most in need of support it can unnecessarily put them at heightened risk of homelessness, substance misuse and/or further offending.³

NACRO's campaign points to the law in Scotland where the [Prisoners \(Control of Release\) \(Scotland\) Act 2015](#) allows for prisoners due for release on a Friday to have their release brought forward by one or two days if it would be better for the prisoner's re-integration into the community.⁴ NACRO has called for similar legislation to allow for early release in England and Wales. NACRO notes that the provision in Scottish law has been under-used, and so has stated it is important that, alongside the legislative change:

... a simple application process is devised, clear guidance is provided on how best to apply, and that the availability of early release and the process for

¹ NACRO, [Friday Prison Releases: Collective Voices](#), (PDF) September 2021, p3

² NACRO, [Friday Prison Releases: Collective Voices](#), (PDF) September 2021, p6

³ NACRO, [Friday Prison Releases: Collective Voices](#), (PDF) September 2021, p4

⁴ See Scottish Prison Service, [Partnership Framework Agreement](#) for details of how the Scottish law operates

applying is publicised widely to people in prison, prison and probation staff, particularly those who are supporting resettlement.⁵

Information on NACRO's campaign is available on its website, including in its briefing [Friday Prison Releases: Collective Voices](#), (PDF) September 2021.

1.2 Government policy

During the passage of the bill that became the [Police Crime, Sentencing and Courts Act 2022](#), the Shadow Justice Minister, Alex Cunningham, proposed a new clause which would have provided for the changes campaigned for by NACRO.⁶ Responding for the Government, the then Justice Minister Chris Philp said:

We do recognise that there are challenges in making sure that offenders leaving prison are given access to the services they need, so that they can get their lives back on track. However, Friday is a working day, and we would prefer to focus our efforts on making sure that those services are available on Friday, rather than on excluding Friday as a release day and therefore concentrating all the releases on just four days—Monday, Tuesday, Wednesday and Thursday—which, by definition, would mean that release numbers on those days were 25% higher than would otherwise be the case.⁷

In the Government's December 2021 [Prisons Strategy White Paper](#) (PDF), the Government said it would:

... explore allowing prisoners who are at risk of reoffending to be discharged one or two days earlier at governor discretion where a Friday release can be demonstrated to be detrimental to an individual's resettlement.⁸

The Government acknowledged that accessing timely support on release can be particularly challenging on a Friday, due to the limited time before services close for the weekend. It said it needed to do more to support those with complex needs to access support on release.

The Prisons Strategy White Paper said that this approach would only be taken where it was "vital to effective resettlement and to reduce the likelihood of reoffending". To ensure this, decisions would "weigh up the needs of an individual, an assessment of risk, and the need to uphold the sentence of the court and would need to be approved by a prison Governor".⁹

The Prisons Strategy White Paper included a consultation question on the issues asking stakeholders:

⁵ NACRO, [Friday Prison Releases: Collective Voices](#), (PDF) September 2021, p12

⁶ [PBC 22 June 2021 c704](#)

⁷ [PBC 22 June 2021 c706](#)

⁸ Ministry of Justice, [Prison Strategy White Paper](#), (PDF), CP 581, December 2021, para 139

⁹ Ministry of Justice, [Prison Strategy White Paper](#), (PDF), CP 581, December 2021, para 140

Should we take a legislative approach, as described above, for those at risk of reoffending who would otherwise be released on a Friday? If so, how should we structure this approach?¹⁰

The [response to the consultation](#) (PDF) was published in June 2022. The Government noted that “generally respondents felt there should be increased flexibility and discretion, that legislation may be needed to support this”. The Government committed to action, including pursuing legislation when parliamentary time allowed:

This Government will legislate to enable prison leavers who are at risk of reoffending to be released up to two days earlier, where a release date falls on a Friday or before a bank holiday, when Parliamentary time allows. We will take into account the personal circumstances of the offender to ensure public protection is maintained.¹¹

A Government [press release](#) gave some further details and explained why the change was being made:

Figures show that around 1 in 3 offenders currently leave prison on a Friday – giving them just a few short hours to arrange a bed for the night, register with a GP and sign-up for job support to keep them on the straight and narrow before services shut down for the weekend.

This race against the clock can end up with ex-offenders spending their first days on the streets with little in the way of support – increasing the likelihood they will commit further crimes.¹²

The announcement of the Government’s decision to legislate on this issue was widely welcomed, including by NACRO¹³ the [Association of Police and Crime Commissioners](#),¹⁴ the [Local Government Association](#),¹⁵ and the [BMA](#).¹⁶

The Government confirmed in a press release on 2 December 2022 that it would support Simon Fell’s Private Members Bill on the issue.¹⁷

¹⁰ Ministry of Justice, [Prison Strategy White Paper](#), (PDF), CP 581, December 2021, p48

¹¹ Ministry of Justice, [Prisons Strategy White Paper – Response to Consultation Questions](#) (PDF), CP686, June 2022, para 30

¹² Gov.uk, press release, [End to Friday releases to cut crime and make streets safer](#), 14 June 2022

¹³ Gov.uk, press release, [End to Friday releases to cut crime and make streets safer](#), 14 June 2022

¹⁴ Association of Police and Crime Commissioners, press release, [End to Friday prison releases](#), 15 June 2022

¹⁵ Local Government Association, press release, [LGA responds to Government plans to end Friday releases to cut crime and make streets safer](#), 14 June 2022

¹⁶ BMA, [Government plans to reduce jail releases during times when support is unavailable](#), 21 June 2022

¹⁷ Gov.uk, press release, [Government backs crime-cutting bill to end Friday releases](#), 2 December 2022

2

The Bill

The [Offenders \(Day of Release from Detention\) Bill](#) would provide the Secretary of State with a discretionary power to bring forward the release date of an offender by up to two working days, where that release date falls on a Friday or the day preceding a bank/public holiday. The [Explanatory Notes](#) (PDF) state that, in practice, this power will be delegated to the Governor (of a public prison) or the Director (of a private prison) or appropriate officials in youth establishments. Guidance on eligibility criteria will be set out in a policy framework.

The current law ([section 23\(3\) of the Criminal Justice Act 1961](#)) provides that prisoners who would otherwise be released on weekends or bank/public holidays are to be released on the preceding day (i.e. a Friday, or the day before a bank/public holiday). The Explanatory Notes say that this is so that offenders are able to access services and accommodation upon the day of their release, given that these would be closed on non-working days.

Clause 1 of the Bill would amend section 23 of the 1961 Act to provide for a power for the Secretary of State, at their discretion, to bring a prisoner's discharge further forward where a prisoner would otherwise be discharged on a working day immediately before a non-working day. The Explanatory Notes provide worked examples, including:

If a prisoner was due to be released on a Friday, this is a working day immediately before a non-working day, so the discretion arises. The last eligible working day before the Friday is the Thursday, and the last eligible working day before the Thursday is the Wednesday. Therefore, the Secretary of State may direct that the prisoner must be discharged on either the Wednesday or the Thursday.

The new power will apply to those in prisons, young offender institutions, secure training centres, secure academies and secure children's homes.

The Bill extends and applies to England and Wales only. It will come into force on a date to be set out in regulations made by the Secretary of State.

2.1

Second reading

The Bill had its second reading on [2 December 2022](#).¹⁸ It was widely supported.

¹⁸ [HC Deb 2 December 2022 c1114](#)

Opening the debate Simon Fell explained that many offenders released on a Friday release face a “race against the clock” to access the multiple support services they need before they close. He stated that many services close early on a Friday and are then shut over the weekend. He noted that because approximately a third of all releases are on a Friday, services can be under considerable additional pressure.¹⁹

Anna Firth noted the reason that so many releases occur on Fridays is that a sentence is calculated in days from the date on which it is given. Therefore, if the date of release happens to fall on a Saturday or Sunday, it is then brought back to the Friday.²⁰

Simon Fell stated that evidence suggests that a Friday release day has a disproportionate impact on those with complex needs, those who have greater distances to travel upon release or those with substance or mental health needs, who face an increased risk of homelessness.

Shaun Bailey commented that the Bill would make a technical and quite minor change to the existing legislation, would not require significant spend from the Treasury but would have a considerable impact.²¹

Yasmin Qureshi, speaking for Labour in support of the Bill, drew attention to Alex Cunningham’s attempt to amend the Bill that became the Police, Crime, Sentencing and Courts Act 2022 to include such a provision, noting this was not supported by the Government at the time.²²

The Justice Secretary said that removing the barriers that a Friday release can create would ensure custody leavers have a better chance to access the support they need. This, he said, would result in fewer victims and less crime.²³

2.2

Committee stage

The Bill had its short committee stage on [8 February 2023](#).²⁴ There was a single debate on all clauses of the Bill. No amendments were tabled. The Bill was welcomed by all members of the Committee who spoke in the debate. The Minister, Damian Hinds, restated the Government’s support for the Bill.

¹⁹ [HC Deb 2 December 2022 c1115](#)

²⁰ [HC Deb 2 December 2022 c1117](#)

²¹ [HC Deb 2 December 2022 c1120](#)

²² [HC Deb 2 December 2022 c1127](#)

²³ [HC Deb 2 December 2022 c1137](#)

²⁴ [PBC 8 February 2023 c1](#)

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