



Police, Crime, Sentencing and Courts Bill HL Bill 40 of 2021–22

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The Police, Crime, Sentencing and Courts Bill was introduced in the House of Lords on 6 July 2021. At the time of writing no date has been scheduled for second reading. The bill is a wide-ranging piece of legislation that would make significant changes across the criminal justice system. The bill is formed of 13 parts and includes provisions that would:

- introduce several measures relating to the protection of the police;
- legislate for the prevention, investigation and prosecution of crime;
- make changes to the way protests are policed in England and Wales;
- create new offences and amend existing powers in relation to unauthorised encampments;
- introduce a number of road traffic measures;
- replace the existing out of court disposal framework;
- amend custodial sentences and community sentences;
- make changes to the youth justice system;
- legislate for secure schools and secure children’s homes;
- introduce measures for the management and rehabilitation of offenders; and
- update procedures in courts and tribunals.

The bill has completed its passage through the House of Commons. During debates, Labour said that although it welcomed parts of the bill, it would not support it because of the bill’s public protest provisions. It also called for the Government to take further action on issues including violence against women and girls. It tabled a number of amendments; however, all were unsuccessful.

Government amendments were added to the bill at both committee and report stage. The majority were minor and technical in nature, while others concerned extending the types of individuals covered by the Police Covenant. They also included the British Transport Police in some of the provisions in parts 1 and 10 of the bill.

Following amendments tabled during the debates, the Government said it would consider bringing forward amendments in the House of Lords on creating offences on pet theft, and the assault of retail workers. It also said it would consider increasing the time limit for domestic assaults following Yvette Cooper’s unsuccessful amendment at report stage.

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1. What is the background to the bill?

The Police, Crime, Sentencing and Courts Bill is a government Bill that would make significant changes across the criminal justice system. The Government has said its proposals would:

- “back our police by equipping officers with the powers and tools they need to keep themselves and all of us safe”;
- “introduce tougher sentencing for the worst offenders and end automatic halfway release from prison for serious crimes”; and
- “improve the efficiency of the court and tribunal system by modernising existing court processes”.¹

Many of the changes contained in the bill relate to commitments made by successive Conservative governments over the last few years. For example, some of the policies predate the 2019 general election and meet commitments first made by the Conservative Government led by Theresa May. Other provisions relate to commitments made in the 2019 Conservative Party manifesto.² In addition, provisions on sentencing and release were proposed in a September 2020 white paper, *A Smarter Approach to Sentencing*.³

As criminal justice policy is largely devolved to Scotland and Northern Ireland, most of the bill’s provisions apply only to England and Wales. However, there are some exceptions, which are set out by the House of Commons Library in its briefing on the bill.⁴

2. What would the bill do?

The bill has 177 clauses, split into 13 parts. It also has 20 schedules.

Part 1 (clauses 1 to 6) would introduce several measures relating to the ‘protection of the police’. Its provisions would:

- establish a new duty for the secretary of state to lay a Police Covenant report before Parliament each financial year;
- amend the Assaults on Emergency Workers (Offences) Act 2018 to increase the maximum available penalty for conviction of that offence on indictment from 12 months to two years;

¹ Home Office, ‘[Police, Crime, Sentencing and Courts Bill 2021: Overarching factsheet](#)’, updated 13 May 2021.

² Conservative Party, *Conservative Party Manifesto 2019*, November 2019.

³ Ministry of Justice, *A Smarter Approach to Sentencing*, September 2020, CP 292.

⁴ House of Commons Library, ‘[Police, Crime, Sentencing and Courts Bill 2019–21: Background](#)’, 24 June 2021.

- amend the Police Act 1996 to enable police specials (volunteer police officers) to join the Police Federation; and
- amend the Road Traffic Act 1988 so that trained police drivers who are driving for policing purposes are not compared to regular drivers for the offences of dangerous driving and driving without due care and attention.

Part 2 (clauses 7 to 54) is divided into four chapters relating to the ‘prevention, investigation and prosecution of crime’.

- Chapter 1, ‘functions relating to serious violence’, would introduce a new legal duty requiring certain local agencies to work together to prevent and reduce serious violence. It would also amend the Crime and Disorder Act 1998 so that existing community safety partnerships (CSPs) must consider serious violence when formulating and implementing their strategies to combat local crime and disorder.
- Chapter 2, ‘offensive weapons homicide reviews’, would require relevant agencies—police, local authorities and clinical commissioning groups (England) or local health boards (Wales)—to conduct an offensive weapons homicide review (OWHR). This would happen when an adult’s death involves the use of an offensive weapon, with some exceptions. It would also require a pilot of OWHRs before the chapter’s provisions can be brought fully into force.
- Chapter 3, ‘extraction of information from electronic devices’, would introduce a new statutory framework for the extraction of information from electronic devices for certain purposes relating to investigations.
- Chapter 4, ‘other provisions’, would contain various other provisions relating to: pre-charge bail; sexual offences (including positions of trust); criminal damage to memorials; overseas production orders; police powers to take photographs; search warrants relating to human remains; the functions of prisoner custody officers in live link court hearings; and account freezing orders in relation to proceeds of crime.

Part 3 (clauses 55 to 61) would make changes to the way protests are policed in England and Wales. This would include:

- Amending the Public Order Act 1986 to broaden the range of circumstances in which the police can impose conditions on protests, including where the noise of the protest causes “intimidation or harassment” or “serious unease, alarm or distress”.
- Amending the Police Reform and Social Responsibility Act 2011 to expand the ‘controlled area’ around Parliament where certain

protest activities are prohibited. It would also add obstructing access to the parliamentary estate to the activities prohibited in the controlled area.

- Abolishing the common law offence of public nuisance and replacing it with the statutory offence of ‘intentionally or recklessly causing public nuisance’.

Part 4 (clauses 62 to 64) would amend the Criminal Justice and Public Order Act 1994 to create a new offence of ‘residing or intending to reside on land without consent in or with a vehicle’. It would also amend the existing police powers in the 1994 act to: lower the threshold at which the powers can be used; allow the police to remove unauthorised encampments on, or partly on, highways; and prohibit unauthorised encampments moved from a site from returning within 12 months.

Part 5 (clauses 65 to 76) would introduce a number of road traffic measures. This would include:

- increasing the maximum penalty for causing death by dangerous driving from 14 years to life imprisonment;
- increasing the maximum penalty for causing death by careless driving whilst under the influence of drink or drugs from 14 years to life imprisonment;
- introducing a new offence of causing serious injury by careless, or inconsiderate, driving;
- providing a statutory basis for a charging regime for courses offered in lieu of prosecution for certain low-level road traffic offences;
- providing a statutory basis to charge for vehicle removal, storage and disposal fees where the police (or local authority) has removed a vehicle that is illegally, dangerously or obstructively parked, broken down or abandoned (this power was previously inadvertently removed due to a drafting error in amendments made to the Road Traffic Regulations Act 1984);
- removing the requirement for a physical driving licence to be produced when a fixed penalty notice (FPN) has been issued;
- changing the requirements for the production of a driving licence to a court;
- strengthening the rules about the surrender of driving licences where a driver has been disqualified; and
- enabling police in Scotland to issue FPNs ‘on-the-spot’ to road traffic offenders.

Part 6 (clauses 77 to 100) would replace the existing out of court disposal (OOCD) framework, which is used in cases where a charge or prosecution is not in the public interest. Its provisions would replace the six categories of

OCCDs currently in place with two: diversionary cautions and community cautions. It would also provide for conditions to be attached to the cautions.

Part 7 (clauses 101 to 131) is divided into two chapters. Chapter 1 would provide for custodial sentences. Its provisions would:

- Amend the Sentencing Code to require the court to impose a custodial sentence of at least the statutory minimum term for certain specified offences unless there are exceptional circumstances that relate to any of the offences or to the offender which would make it unjust to do so.
- Set the sentencing starting point for the premeditated murder of a child as a whole life order.
- Allow judges to impose whole life orders on offenders aged 18 to 20 in exceptionally serious circumstances.
- Replace the minimum term of 12 years in custody for mandatory life sentences for offenders who commit the offence of murder when they are a child with a sliding scale of minimum terms, taking the age of the child and the seriousness of the offence into consideration.
- Make changes to the minimum review process and remove eligibility for further reviews (after the initial halfway review) from offenders who are over the age of 18.
- Amend how minimum terms of discretionary life sentences are calculated, to require courts to base them on a starting point of at least two-thirds of a notional determinate sentence.
- Require offenders sentenced to between four and seven years for certain serious violent and sexual offences, and offenders serving a ‘sentence for offenders of particular concern’ for a child sex offence, to serve two-thirds of their sentence, rather than half.
- Enable the secretary of state to refer any prisoner to the Parole Board who would normally be released automatically but is deemed a terrorist threat, or to pose a significant threat to the public.
- Allow the secretary of state to make rules about the operation of the Parole Board.
- Repeal certain uncommenced provisions of, and make other minor changes and improvements to, the Criminal Justice and Courts Act 2015.
- Give the secretary of state a power to change the release test for fixed-term prisoners following recall.
- Amend the law to require the secretary of state to give effect to a direction to release an offender from the Parole Board as soon as practicable.

- Change the law to ensure driving disqualification periods are extended in line with the new release points for various offenders, as set out in recent changes to the law.

Chapter 2 of part 7 concerns community sentences. It would:

- Create a power to allow responsible officers to require offenders to attend appointments at any stage of a community order, or during the supervision period of a suspended sentence order.
- Increase the daily amount of curfew hours that can be specified in a community order or suspended sentence order and increase the total length of time a curfew can be imposed.
- Allow responsible officers to amend curfew requirements in two respects—to change the start and/or end time, and to change the residence of the offender as set out in the order—without approval from the court.
- Provide for legislative changes to enable pilots of problem-solving courts to take place.
- Create a new statutory duty to require probation officials to consult key local and regional stakeholders on the design and delivery of unpaid work.

Part 8 (clauses 132 to 137) concerns youth justice. Its provisions would:

- Amend the tests used for custodial remand for children to make it more difficult to remand a child and give local authorities a financial incentive to reduce their use.
- Introduce a statutory duty for courts to consider the welfare and best interests of a child when making remand decisions.
- Make changes to detention and training orders (DTOs) to: remove fixed lengths of orders; provide that time spent on remand or bail subject to specific conditions is counted as time served; provide that, when an offender is serving a DTO alongside another sentence consecutively, they are able to benefit from the same amount of early release for both sentences.
- Make changes to youth rehabilitation orders (YROs), including: introducing a new standalone electronic whereabouts monitoring requirement; amend the maximum curfew requirement from 16 daily hours to 20, but retaining a weekly maximum of 12 hours; and raising the age limit of the education requirement to be the same as the age of compulsory education and training.
- Allow for the government to pilot certain requirements under YROs, including electronic whereabouts monitoring and mandatory location monitoring for offenders under high-intensity

requirement YROs.

- Abolish reparation orders.

Part 9 (clauses 138 and 139) relates to secure schools, secure children's homes and 16–19 academies.⁵ It would:

- Provide a statutory power to allow children to be temporarily released from their detention in secure children's homes.
- Allow 16–19 academies to provide secure accommodation for the purpose of restricting liberty when approved to do so by the secretary of state.
- Expressly provide that the setting up, establishment and running of a secure 16–19 academy is to be treated as a charitable purpose.
- Insert secure 16–19 academies into the definition of a youth detention accommodation and apply the provisions of the Children's Homes (England) Regulations 2015 to such academies.

Part 10 (clauses 140 to 163) is split into three chapters relating to the 'management of offenders'.

- Chapter 1, 'serious violence reduction orders', would introduce serious violence reduction orders (SVROs) for those convicted of an offence involving an offensive weapon. These orders would enable officers to search those with SVROs without reasonable grounds. It would also require a pilot of SVROs before the chapter's provisions can be fully brought into force.
- Chapter 2, 'management of sex offenders', would make changes to the law on notification requirements under which registered sex offenders must notify the police of personal information. It would also make changes to the law on the civil orders used to manage sex offenders (sexual harm prevention orders (SHPOs) and sexual risk orders (SROs)).
- Chapter 3, 'management of terrorist offenders', would implement some of the recommendations of the review into the effectiveness of multi-agency public protection arrangements (MAPPA) by the Independent Reviewer of Terrorism Legislation, Jonathan Hall.⁶

⁵ Under the Academies Act 2010 a 16–19 academy is an academy "principally concerned with providing full-time or part-time education suitable to the requirements of persons over compulsory school age but under 19". The 16–19 academies are not schools, they are a legally distinct category of institution within the academies sector.

⁶ Ministry of Justice and Home Office, '[Multi-Agency Public Protection Arrangements Review](#)', 24 January 2020.

Part 11 (clause 164) concerns the rehabilitation of offenders. It would amend the Rehabilitation of Offenders Act 1974 to allow for some custodial sentences of over four years to become spent after a certain period of time. It would also reduce the existing rehabilitation periods for certain other disposals given or imposed on conviction. However, the change would not apply to those convicted of any serious violent, sexual or terrorist offences.

Part 12 (clauses 165 to 170) concerns procedures in courts and tribunals. Its provisions would:

- Permit the presence of a British Sign Language (BSL) interpreter in the jury deliberation room to assist a profoundly deaf juror in proceedings before a court.
- Create an offence for circumstances where a BSL interpreter intentionally interferes in or influences jury deliberations.
- Replace the current temporary provisions in the Coronavirus Act 2020 relating to live video and audio links in courts with new permanent broadcast provisions.

Part 13 (clauses 171 to 177) contains the bill's final provisions. It would:

- Make a number of minor and technical amendments to the Sentencing Act 2020 and the Criminal Justice Act 2003.
- Provide the secretary of state with a power to make consequential provisions to this act.⁷
- Provide for the bill's territorial extent. Its provisions would extend to England and Wales only, apart from certain specified sections which would apply to England and Wales, Scotland and Northern Ireland.⁸
- Provide for the bill's commencement. Some of the provisions would come into force on royal assent. Others would come into force two months after royal assent. The remaining would come into force through regulations.⁹
- Provide for its short title.

3. What happened in the House of Commons?

The bill was introduced in the House of Commons during the 2019–21 session on 9 March 2021.¹⁰

⁷ Page 155 of the [explanatory notes to the bill](#) provides further information on the circumstances where these provisions would apply.

⁸ [Explanatory notes](#), p 42.

⁹ *ibid*, p 156.

¹⁰ [HC Hansard, 9 March 2021, col 671](#).

3.1 Second reading

The bill's second reading took place in the House of Commons over two days, on 15 and 16 March 2021. Introducing the bill, Home Secretary Priti Patel set out steps the Government had taken to fulfil its manifesto commitments on law and order, such as recruiting an additional 6,000 police officers and tackling organised crime. She said that this bill would “go further still in our mission to back the police, to make our communities safe and to restore confidence in the criminal justice system”.¹¹ Ms Patel also said that she had worked closely with the Police Federation, the staff association for police constables, sergeants, inspectors and chief inspectors in England and Wales, in the development of the bill and highlighted many of the bill's key provisions.¹²

Concluding the debate on 16 March 2021, the Lord Chancellor and Secretary of State for Justice, Robert Buckland, said:

The bill is part of our wider approach to making the criminal justice system smarter, and to keeping our streets safe from the worst criminals, while giving offenders opportunities to turn their life around. We can rebalance the justice system. We can restore faith in it, which has sadly been in decline for too long. The bill is a welcome step forward [...]¹³

Responding for the Labour Party, Shadow Home Secretary Nick Thomas-Symonds, welcomed some of the provisions, such as those to increase the sentence given to those who assault emergency workers and those that would prevent adults in positions of power from engaging in sexual relationships with people under the age of 18. However, he said that they should go further by including additional categories in scope of each provision, for example by including driving instructors as an adult in a position of power.¹⁴ He also argued that the bill “does not meet the ambition of the time” in tackling violence against women and girls.¹⁵ Overall he said that the Opposition would oppose the bill due to its provisions regarding public protest.¹⁶

A carry-over motion for the bill was passed on 16 March 2021, enabling it to continue its progress in the 2021–22 parliamentary session.¹⁷

¹¹ [HC Hansard, 15 March 2021, col 59.](#)

¹² *ibid.*

¹³ *ibid.*, cols 266–7.

¹⁴ *ibid.*, cols 87 and 75.

¹⁵ *ibid.*, col 70.

¹⁶ *ibid.*, col 69.

¹⁷ [HC Hansard, 16 March 2021, col 277.](#)

3.2 Committee stage

A public bill committee sat 20 times between 18 May and 24 June 2021.¹⁸ The committee took evidence from expert witnesses for the first four sittings.

The House of Commons Library briefing on the progress of the bill provides an overview of the debate at public bill committee.¹⁹ In summary, the only changes to the bill were the following minor/technical government amendments, which were agreed without division:

- amendments 64 to 67 to clause 53 on prisoner custody officers to correct legislative cross-references;
- amendment 132 to clause 102 concerning the mechanism to change Parole Board decisions where there has been an error;
- transitional provisions about driving disqualifications (amendment 68); and
- amendments to the Rehabilitation of Offenders Act 1974 to clarify the disclosure period for certain orders made on conviction.²⁰

In addition, Labour held unsuccessful divisions on whether the following should remain part of the bill:

- part 3 (policing of protests);
- part 4 (unauthorised encampments); and
- part 7 (minimum sentences, release from prison and a power to refer offenders to the Parole Board).

The Opposition also tabled amendments to other parts of the bill and proposed a collection of new clauses concerning violence against women and girls, all of which were unsuccessful.

Further details of the committee debates on each part of the bill are also available in the House of Commons Library briefing.²¹

3.3 Report stage

Report stage was held in the House of Commons on 5 July 2021, with MPs tabling a large number of amendments covering a wide variety of issues. This

¹⁸ UK Parliament website, '[Police, Crime, Sentencing and Courts Bill: Committee stage](#)', accessed 9 July 2021.

¹⁹ House of Commons Library, Police, '[Crime, Sentencing and Courts Bill: Progress of the Bill](#)', 2 July 2021.

²⁰ *ibid.*, p 4.

²¹ *ibid.*

section provides information on the Government's amendments, divisions held and some of the other issues raised during the debate.

3.3.1 Government amendments

During report stage, government amendments were made to the bill without division. Several of these amendments were minor/technical and consequential (amendments 32, 33 and 46). The remaining amendments concerned extending the list of those included in the police covenant and including the British Transport Police in some of the provisions in parts I and 10 of the bill (amendments 34 to 45).

Commenting on the amendments, Victoria Atkins, Minister for Safeguarding, said:

In committee, I undertook to consider further whether the reporting duty in respect of the police covenant should be extended to apply to the British Transport police, the Ministry of Defence police and the Civil Nuclear Constabulary. Having reflected further, we agree. We want the wider policing family to be included in the covenant, and amendment 34 does exactly that, covering not only these three forces but the National Crime Agency. They do essential work for us, and we want them and their families to be looked after.

Government amendments 35 to 45 standardise the traffic offences in clauses 4 and 5, and clauses in relation to serious violence reduction orders, for the British Transport police—again, consistency in how we deal with these important matters.²²

3.3.2 Issues MPs voted on

A number of divisions on amendments from opposition parties were held during the sitting. They related to a variety of proposed new clauses such as:

- New clause 31: offence of assaulting a retail worker.
- New clause 91: review of the Misuse of Drugs Act 1971.
- New clause 19: justice impact assessments for Welsh devolved matters.
- New clause 89: minimum sentence for rape.
- New clause 97: video recorded cross-examination for sexual offences and modern slavery.
- New clause 98: offence of pet theft.

²² [HC Hansard, 5 July 2021, col 604.](#)

In addition, amendments also sought to remove two existing clauses relating to the policing of protests (clause 55) and unauthorised encampments (clause 62).

All opposition amendments were defeated on division. These amendments are discussed in greater detail below.

Offence of assaulting a retail worker

New clause 31 would have made it an offence to assault a retail worker while they were at work. It would have made an offender liable to a penalty of up to 12 months' imprisonment, a fine, or both. It would also have included provisions on: establishing if a person was a retail worker; aggravating factors; and definitions for the purpose of the clause.

Various MPs from opposition parties put their name to the amendment, including Sarah Jones, Shadow Minister for Policing and the Fire Service. Ms Jones argued that being subjected to violence and abuse should not be part of any retail worker's job.²³ She also stated that both the public and industry agreed, citing surveys, an open letter and a previous campaign all which focused on the issue. Highlighting a 2021 House of Commons Home Affairs Committee report on violence and abuse towards retail workers, she noted that a similar new clause (90) tabled by Matt Vickers, (Conservative MP for Stockton South), had attracted the support of "a very impressive number" of Conservative MPs.²⁴

Responding, Ms Atkins said that the Government understood the sentiments behind the amendment and other similar amendments, and highlighted existing laws and sentencing guidelines.²⁵ However, she said that the Government was not complacent and was "actively considering tabling an amendment, if appropriate, in the Lords". Explaining why the Government would not support the amendment, she said that "our genuine concerns about the new clauses relate to technical issues with some of the drafting".

New clause 31 was defeated on division by 350 votes to 233.²⁶

Misuse of Drugs Act 1971 review

The Scottish National Party's (SNP) new clause 91 would have required the secretary of state to conduct a review of the criminal offences in the Misuse of Drugs Act 1971 and lay a report before Parliament within nine months of the clause coming into force. It would also have required the Government

²³ [HC Hansard, 5 July 2021, col 563.](#)

²⁴ House of Commons Home Affairs Committee, [Violence and Abuse Towards Retail Workers](#), 29 June 2021, HC 141 of session 2021–22.

²⁵ [HC Hansard, 5 July 2021, col 606.](#)

²⁶ *ibid*, cols 611–14.

to consult with the Advisory Council on the Misuse of Drugs, ministers of the devolved assemblies and anyone else it considered appropriate when undertaking the review.

Anne McLaughlin, Shadow SNP Spokesperson (Justice), said that her support for the amendment was “wholehearted” and argued that the approach to drug misuse and addiction should be a public health approach, “because that is what saves lives”.²⁷

New clause 91 was defeated on division by 358 votes to 81.²⁸

Public protests

Tabled by Alistair Carmichael, Liberal Democrat Spokesperson (Home Affairs), and supported by various members of opposition parties, amendment 1 would have removed clause 55 from the bill. The clause as introduced would amend the Public Order Act 1986 to allow police officers to issue conditions on static protests that are noisy enough to cause “intimidation or harassment” or “serious unease, alarm or distress” to bystanders.

Speaking to the amendment, Mr Carmichael said that alongside amendments 2 and 7, his amendment would “remove the provisions in the bill that affect the right to protest”.²⁹ Explaining his reasoning, he said:

Essentially the objection that many of us have to the proposals is that, first, the Government have got the balance badly wrong, and, secondly, their language in trying to strike that balance is among the vaguest and most imprecise I have ever seen as either a legal practitioner or a parliamentarian.³⁰

Commenting further, he said that wanting to regulate the fundamental right to protest, risks “pit[ting] the police against the protesters” as it will be the police who make the decision about what is noisy and causes serious annoyance.³¹ He said that this risked undermining the principle of policing by consent. Concluding, he argued that the provision “will be ineffective and have a chilling effect” and would not stop organisations like Extinction Rebellion protesting but could stop communities from doing so.

Labour’s Sarah Jones agreed that the clause (and part 3 of the bill in general) could harm the relationship between the police and the public.³² She also

²⁷ [HC Hansard, 5 July 2021, col 569.](#)

²⁸ [HC Hansard, 5 July 2021, cols 616–18.](#)

²⁹ [HC Hansard, 5 July 2021, col 582.](#)

³⁰ *ibid.*

³¹ *ibid.*

³² *ibid.*, col 564.

argued that the provisions were not the “modest reset” Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services (HMICFRS) had called for in its review of how the police manage protests. She argued that the powers could potentially rule out peaceful protest.³³ Due to these concerns, she said that the Opposition wanted clauses 55 to 61 removed from the bill.³⁴

The SNP’s Anne McLaughlin, argued that “the curbs on the right to protest are draconian and contrary to international law”.³⁵ Gavin Robinson, Spokesperson for the Democrat Unionist Party, also said that he was “disappointed that after committee, the bill is not in a better place when it comes to protest”.³⁶

Commenting on the bill’s provisions on protests for the Government, Victoria Atkins argued that the bill “balances the rights of protestors to demonstrate with the rights of residents to access hospitals, to go to work, to let their children sleep at night”.³⁷ She said that the measures had been developed in consultation with the National Police Chiefs Council (NPCC) and the Metropolitan Police Service. She also highlighted that some protests had brought parts of London to a standstill, obstructed ambulances and disrupted the distribution of national newspapers.³⁸ In addition, Ms Atkins noted that “it will continue to be the case that the police attach conditions to only a small proportion of protests”, stating that in a three month period, only 12 of 2,500 protests had conditions attached to them.

Amendment 1 was defeated on division by 354 votes to 273.³⁹

Unauthorised encampments

Amendment 8 would have removed clause 62 from the bill.

Clause 62 of the bill as introduced in the House of Commons (offence relating to residing on land without consent in or with a vehicle) would amend existing police powers in the Criminal Justice and Public Order Act 1994 associated with unauthorised encampments. It would amend section 61 of the 1994 act so it could be used when those in unauthorised encampments cause damage, disruption or distress. It would also allow police to direct trespassers to move on if they are on land that forms part of a highway.

³³ Her Majesty’s Inspectorate of Constabulary and Fire and Rescue Services, [Getting the Balance Right? An Inspection of How Effectively the Police Deal with Protests](#), March 2021, p 2.

³⁴ [HC Hansard, 5 July 2021, cols 564–5.](#)

³⁵ *ibid*, col 569.

³⁶ [HC Hansard, 5 July 2021, col 600.](#)

³⁷ *ibid*, col 604.

³⁸ *ibid*, col 607.

³⁹ *ibid*, cols 620–4.

Commenting on the amendment in her name, Mary Kelly-Foy (Labour MP for City of Durham) said:

This bill needlessly criminalises Gypsy, Roma and Traveller communities. It will turn civil offences into criminal ones and punish littering and inconvenience with prison and homelessness.⁴⁰

She also argued that the police did not want the powers, highlighting comments by the National Police Chiefs' Council (NPCC) and Association of Police and Crime Commissioners that trespass was a civil offence and should remain so.⁴¹

Voicing her support for amendment 8, Labour's Sarah Jones argued that the provisions on unauthorised encampments represented "an attack on the Gypsy, Traveller and Roma communities and their whole way of life".⁴² She agreed that the police did not want the powers, highlighting evidence given to the public bill committee by Martin Hewitt, head of the NPCC. He observed "the fundamental problem" was instead "insufficient provision of sites for Gypsy Travellers to occupy".⁴³

Ms McLaughlin also stated her support and raised concerns, arguing that the bill would "disgracefully criminalise the way of life of Gypsy Travellers".⁴⁴

Responding to criticisms of these provisions, Ms Atkins said that there was a misunderstanding about what the measures were attempting to do. Arguing that it was not "an attack on the nomadic lifestyle", she said:

We are trying to tackle harmful behaviour, and Opposition Members need to ask themselves just how much damage, disruption and distress is acceptable for their constituents to bear.⁴⁵

Amendment 8 was defeated on division by 358 votes to 265.⁴⁶

Justice impact assessments for Welsh devolved matters

New clause 19 would have required the secretary of state to issue a justice impact assessment for any provision of the act, or regulations made under it, which impacted on matters which are devolved to the Welsh Parliament. It

⁴⁰ [HC Hansard, 5 July 2021, col 598.](#)

⁴¹ National Police Chiefs' Council and Association of Police and Crime Commissioners, [Consultation Response Proforma](#), accessed 13 July 2021.

⁴² [HC Hansard, 5 July 2021, cols 565–6.](#)

⁴³ Public Bill Committee, [Police, Crime, Sentencing and Courts Bill](#), 18 May 2021, session 2021–22, 1st sitting, col 15.

⁴⁴ [HC Hansard, 5 July 2021, col 699.](#)

⁴⁵ *ibid*, col 608.

⁴⁶ *ibid*, cols 625–9.

would have required this to be done within six months of the passing of the act.

Speaking to his amendment, Hywel Williams (Plaid Cymru MP for Arfon) thanked Labour and SNP colleagues for their support and argued that changes to currently reserved England and Wales matters could have “profound policy and cost implications” for devolved services in Wales.⁴⁷

He said that there was a growing divergence between the policies of the Ministry of Justice and the Welsh Government, and “the bill may well undermine Welsh legislation and policy”. A requirement for a Welsh-specific impact assessment could “reveal such problems or dispel our concerns”, but he argued “how will the people of Wales know unless we assess?”.

New clause 19 was defeated on division by 366 votes to 220.⁴⁸

Minimum sentence for rape

Labour tabled new clause 89. This would have provided that adults convicted of an offence under section 1 of the Sexual Offences Act 2003, rape, would receive a minimum custodial sentence of seven years unless the court was of the opinion that there were exceptional circumstances to justify not doing so.

Speaking to the amendment, David Lammy, Shadow Lord Chancellor and Shadow Secretary of State for Justice, highlighted figures that he said showed around a third of rapists received sentences of only four to seven years. He also said that research Labour had presented to the Government had shown that sentences for rape were lower in comparison to other common law jurisdictions.⁴⁹ Mr Lammy said that although the Government had explained that one of the reasons it was rejecting the amendment was because it did not agree with statutory minimum sentences, clause 100 of the bill would create a statutory minimum sentence for repeat offenders of certain crimes, including drug offences and burglaries.

Responding to new clause 89, Robert Buckland, Lord Chancellor and Secretary of State for Justice, said:

Our concern about the Labour party’s proposals is that they do not reflect the reality of what has been happening with regard to rape sentencing. There has, over the past 10 years, been a welcome increase of 15% in the average length of sentences for rape, with two thirds of offenders now receiving a custodial sentence of over seven years. In fact, the average is nine years and nine and a half months,

⁴⁷ [HC Hansard, 5 July 2021, cols 621–2.](#)

⁴⁸ *ibid*, cols 676–80.

⁴⁹ *ibid*, col 648.

which reflects the evolution of sentencing guidelines and the welcome changes that have been made.⁵⁰

He also challenged the argument made by Mr Lammy that the Government was introducing minimum sentences in clause 100 of the bill. He said that the Government was:

[...] tightening up the criterion by which the courts apply minimum sentences for certain repeat offences. The existence of a minimum term for only one offence is, I think, only evidenced in one aspect of the law, relating to the possession of a firearm.⁵¹

The amendment was defeated on division by 355 votes to 229.⁵²

Video recorded cross-examination for sexual offences and modern slavery

Labour's new clause 97 would have brought section 28 of the Youth Justice and Criminal Evidence Act 1999, which provides for the cross-examination of vulnerable witnesses to be recorded rather than undertaken in court, into force for victims of sexual and modern slavery offences.

Speaking on the issue, Mr Lammy said that the Government's rape review recognised that "one of the reasons almost half of rape victims withdraw is the fear of giving evidence in court".⁵³ Commenting further, he said:

We know that the pre-recording of evidence is hugely important in limiting the distress of already traumatised victims, and that rolling out section 28 would allow more rape victims to see justice done quicker. Why, then, are the Government re-piloting something that has already been piloted twice?⁵⁴

Speaking for the Government, Mr Buckland said that the Government was working in the rape review "to ensure that we can drive forward more early guilty pleas so that victims and survivors do not have to go through the ordeal of the trial process".⁵⁵

New clause 97 was defeated on division by 356 votes to 227.⁵⁶

⁵⁰ [HC Hansard, 5 July 2021, col 673.](#)

⁵¹ *ibid*, col 672.

⁵² *ibid*, cols 680–5.

⁵³ *ibid*, col 648.

⁵⁴ *ibid*.

⁵⁵ *ibid*, col 673.

⁵⁶ *ibid* cols 685–9.

Offence of pet theft

Labour's new clause 98 would have amended the Animal Welfare Act 2006 to create an offence of pet theft if a person "dishonestly appropriates a pet belonging to another person with the intention of permanently depriving that other person of it". It would have provided for a maximum penalty of 51 weeks imprisonment, or a fine, or both, for a summary conviction. Alternatively, it would have provided for imprisonment for a maximum of four years, a fine, or both, for a conviction on indictment. It would also have provided aggravating factors that the court would need to consider when sentencing, including if the theft caused fear, alarm or distress or if the theft was for commercial gain.

Mr Lammy said that the Opposition had tabled new clause 98 as during the pandemic dog thefts had "skyrocketed" with at least five dogs stolen every day. He argued that owners would "be horrified" to learn that the law of theft does not expressly treat the theft of pets differently, but does so for the theft of a bicycle or scrap metal.⁵⁷

Focusing on the proposed penalty of four years, Mr Lammy said that concerns had been raised that two years, as previously proposed by Labour at committee stage, would not act as a sufficient deterrent. He also highlighted new clause 16 tabled by Sir Iain Duncan Smith (Conservative MP for Chingford and Woodford Green), which he referred to as "in effect a carbon copy" of his proposed new clause.

During the debate, a number of MPs from across the political spectrum spoke about pet theft. For example, Sir Iain, who tabled several amendments on the issue, raised concerns that some people would not walk their dogs at the moment due to fear of theft. He also said that while thefts increased during lockdown, "only 1% of dog crime cases investigated resulted in a charge in England and Wales".⁵⁸

Responding for the Government, Robert Buckland highlighted the pet theft taskforce's work and noted the amendments tabled by Sir Iain. He stated that it was the Government's intention to:

Make any necessary changes to this bill in the Lords before it returns to the Commons once we have finalised the detail of exactly what is needed, using a range of powers, including primary legislation. The effect of these changes will, I believe, help to achieve what he and other hon. and right hon. Members are seeking to achieve today.⁵⁹

⁵⁷ [HC Hansard, 5 July 2021, col 650.](#)

⁵⁸ *ibid*, col 651.

⁵⁹ *ibid*, col 675.

Labour's new clause was defeated on division by 354 votes to 232.⁶⁰

3.3.3 Other issues

During report stage, MPs spoke on a number of issues that were not subject to division. These issues included:

Violence against women and girls

Throughout the debate, many MPs raised the murders of women such as Nicole Smallman and Bibaa Henry, Sarah Everard and PCSO Julia James as evidence that violence to women and girls remained prevalent throughout society.⁶¹

David Lammy, Shadow Lord Chancellor and Shadow Secretary of State for Justice, criticised the Government's bill for failing to tackle the issue. He stated:

This bill presented the Government with an opportunity to enact measures that would end violence against women and girls, but I am afraid that they blew it.⁶²

He set out several amendments that Labour had tabled on this issue, which would have:

- Extended whole-life orders for offenders who are found guilty of the murder, abduction and sexual assault of another person (amendment 50).
- Required the Lord Chancellor to commission an independent review into the sentencing of domestic homicides, as he said evidence suggested those who kill in the home are treated more leniently than those who commit the same offence outside the home (new clause 86).
- Created a new power for judges to sentence offenders for up to two years if they identify an anonymous complainant (new clause 87).

Responding, Robert Buckland, the Lord Chancellor and Secretary of State for Justice, said that the Government "sympathised" with the principle behind amendment 50 but raised concerns that such a change could create discrepancies throughout the sentencing framework. He said that he had been working to review the framework, in particular for domestic homicide.

⁶⁰ [HC Hansard, 5 July 2021, cols 690–4.](#)

⁶¹ [HC Hansard, 5 July 2021, col 560;](#) and [HC Hansard, 5 July 2021, cols 648, 660 and 671.](#)

⁶² [HC Hansard, 5 July 2021, col 647.](#)

He said he would update the House on that review as it progressed.⁶³

Commenting on new clause 87, Mr Buckland said that the Law Commission had been asked to undertake a review into all offences where legal anonymity was a requirement and make recommendations for strengthening the law in this area.⁶⁴

Labour also tabled an amendment (new clause 88) that would have compelled the Law Commission to undertake a review into whether section 41 of the Youth Justice and Criminal Evidence Act 1999 is fit for purpose. This section restricts evidence or questions during proceedings about a complainant's previous sexual history by or on behalf of the accused. The review would examine whether the section was fit for purpose.⁶⁵

Chair of the Joint Committee on Human Rights, Harriet Harman (Labour) tabled a related amendment. She highlighted that:

In a third of all rape cases now, one way or another, the defendant brings into court the complainant's previous sexual history.⁶⁶

She noted that, as part of its rape review, the Government had said that it would refer the idea to the Law Commission to consider. She asked that the Law Commission be assisted by an independent reference group in its consideration of the issue, and that there should be a time limit on its work, so that it was ready in time for the Government's victims bill.⁶⁷

Responding for the Government, Robert Buckland, said that:

Section 41 already provides a very comprehensive prohibition on the defence adducing any evidence or any questions relating to previous sexual behaviour. The hon. Lady is right to refer to our undertaking in the rape review action plan to ask the Law Commission to examine the law, guidance and practice relating to the use of evidence in prosecutions.

The Law Commission will be very happy to meet the right hon. and learned Member for Camberwell and Peckham (Ms Harman) about her concerns to take on board the proper observations she makes. Let us not forget that the wider issue about rape myths will also be part of its work.⁶⁸

⁶³ [HC Hansard, 5 July 2021, col 673.](#)

⁶⁴ *ibid*, col 674.

⁶⁵ *ibid*, col 649.

⁶⁶ *ibid*, col 645.

⁶⁷ [HC Hansard, 5 July 2021, col 646.](#)

⁶⁸ *ibid*, col 674.

In addition, Yvette Cooper (Labour), chair of the House of Commons Home Affairs Committee, tabled an amendment (new clause 69) to extend the existing six-month time limit for common assault in cases of domestic abuse. She said that the amendment was needed as “in domestic abuse cases it may take many months, for good reason, for victims to feel able to go to the police”.⁶⁹ The new clause would have given the police six months to deal with the case from the point of reporting, rather from the point when the offence was committed.

Responding, Victoria Atkins thanked Ms Cooper for raising the issue. She said:

We take this issue very seriously, and I can assure the House that we will return with a proposal at a later stage. I certainly do not rule out an amendment, if appropriate, in the Lords. This must be looked into and I am extremely grateful to her for raising it.⁷⁰

Abortion services and buffer zones around abortion clinics

Dame Diana Johnson (Labour MP for Kingston upon Hull North) and Dr Rupa Huq (Labour MP for Ealing Central and Acton) tabled two new clauses about abortion services.

New clause 55 would have decriminalised abortion and created a new offence of non-consensual termination of pregnancy, for example where a woman’s abusive partner intentionally or recklessly causes her abortion through abusive behaviour.⁷¹ Speaking about her new clause, Ms Johnson said it was a:

[...] probing amendment in the light of abortion being decriminalised in Northern Ireland by this Government, to ascertain what the Government intend to do about women in England and Wales who are still subject to the criminal law under the Offences Against the Person Act 1861.

For those who have spread much misinformation about what this new clause is about, let me be very clear. Decriminalisation of abortion does not mean deregulation of abortion, as we have seen in Northern Ireland.

The new clause was opposed by a number of MPs, many of whom said that they had received many messages from their constituents to encourage them to vote against it.⁷²

⁶⁹ [HC Hansard, 5 July 2021, col 572.](#)

⁷⁰ [ibid.](#)

⁷¹ [HC Hansard, 5 July 2021, col 538.](#)

⁷² [HC Hansard, 5 July 2021, cols 576 and 578;](#) and [HC Hansard, 5 July 2021, cols 600 and 604.](#)

For example, Fiona Bruce (Conservative MP for Congleton) said that the amendment would legalise abortions “right up to the moment of the birth of a child” and would “legalise sex-selective abortions”.⁷³ She further said that the new clause “would be significantly more permissive than the Northern Ireland regulations introduced in 2020, and it would leave England and Wales with one of the most extreme abortion laws in the world”.⁷⁴

Other MPs highlighted that the new clause had prompted MPs to debate the issue. For example, Stella Creasy (Labour MP for Walthamstow) said that Ms Johnson had “identified an anomaly in our law, where the women in Northern Ireland now enjoy better reproductive rights than women in England, Wales and Scotland”.⁷⁵ Maria Miller (Conservative MP for Basingstoke) said she would not support the new clause due to its “expansiveness” but stated that the House of Commons should “take the opportunity to have a thoughtful and thorough debate” on the issue “in the very near future”.⁷⁶

Dr Huq did not take part in the debate. New clause 42 would have introduced buffer zones around abortion clinics and hospitals where interference with, and intimidation or harassment of, women accessing or people providing abortion services would be an offence.⁷⁷

Sally Ann-Hart (Conservative MP for Hastings and Rye) thought the “censorship zones” Dr Huq’s new clause would create went “against the long-standing tradition in the UK that people are free to gather together to express their views”.⁷⁸ She noted further that legislation was already in place to protect women from harassment, for example public space protection orders.⁷⁹

Gavin Robinson, Spokesperson for the DUP, said that he supported the amendment in principle, but would not support it as currently drafted. However, he said that he was not speaking on behalf of other members of the DUP, who were “not comfortable at all” about the amendment.⁸⁰

Maria Miller thought “the bill already recognises that protests should not stop others going about their daily business. Frankly, new clause 42 does similarly for individuals who want to access abortion advice and services”.⁸¹

⁷³ [HC Hansard, 5 July 2021, col 575.](#)

⁷⁴ *ibid*, col 576.

⁷⁵ [HC Hansard, 5 July 2021, col 655.](#)

⁷⁶ *ibid*, col 603.

⁷⁷ [HC Hansard, 5 July 2021, col 534.](#)

⁷⁸ *ibid*, col 578.

⁷⁹ *ibid*, col 579.

⁸⁰ [HC Hansard, 5 July 2021, col 601.](#)

⁸¹ *ibid*, col 602.

Speaking for the Government, Victoria Atkins did not refer to these new clauses in her response to the debate.

Identification of sex offenders

Sarah Champion (Labour MP for Rotherham) tabled new clause 24 which called on the secretary of state to commission a review into how registered sex offenders are changing their names or other aspects of their identity. The new clause proposed solutions to tackle the issue.⁸² Introducing the new clause, she explained:

Current notification requirements leave the onus on the offender to report a change in their name. The result is that many slip under the radar of the police, with potentially devastating consequences. This serious safeguarding loophole leaves sex offenders free to get a new name, a new driving licence and a passport, and then to secure a new disclosure and barring service check, with which they can go on to gain jobs working with children and vulnerable people.⁸³

Ms Champion said that 41 MPs from across the House supported the amendment.⁸⁴

Responding to this issue, Ms Atkins set out that the Government did not want any loopholes in this area, and further said:

I am pleased to advise the House that we are conducting a time-limited review of the enrolled and unenrolled processes for changing names to better understand the scale and nature of the issue, whether current processes are being or could be exploited to facilitate further offending and, if so, how that can be addressed.⁸⁵

3.4 Third reading

Third reading took place immediately after report stage on 5 July 2021. Home Secretary Priti Patel said that the bill “delivers on our promise to the British people to keep them safe”.⁸⁶

She highlighted key measures in the bill, and said they would: strengthen public safety; update the law; allow the police to manage new and emerging threats; and ensure the criminal justice system works for the British people.⁸⁷ Commending the bill to the House, she said its provisions were

⁸² [HC Hansard, 5 July 2021, col 530.](#)

⁸³ *ibid*, col 577.

⁸⁴ [HC Hansard, 5 July 2021, col 577.](#)

⁸⁵ [HC Hansard, 5 July 2021, col 606.](#)

⁸⁶ *ibid*, col 695.

⁸⁷ *ibid*, col 696.

“emphatically on the side of the police and the law-abiding majority of the British people”.⁸⁸

Nick Thomas-Symonds, Shadow Home Secretary, commented that it was “a great shame that a bill that could have commanded wide support ended up being so divisive”.⁸⁹ He argued that the bill “showed a warped sense of priorities” and did “more to protect statues” than it did to “protect women”.⁹⁰ He said that the Labour party would continue to campaign for “frontline workers, those who have suffered as a consequence of disproportionality, or victims of antisocial behaviour” and would “put victims first”.⁹¹

Third reading was agreed to on division, by 365 votes to 265.⁹²

4. Read more

Further information on the background to the bill and its provisions is available in the [explanatory notes](#). The Government has also published overarching documents and factsheets associated with the bill, these include:

- Home Office and Ministry of Justice, ‘[Police, Crime, Sentencing and Courts Bill 2021: overarching documents](#)’, last updated 14 July 2019
- Home Office, ‘[Police, Crime, Sentencing and Courts Bill 2021: factsheets](#)’, last updated 7 July 2021

In addition, the House of Commons Library has produced a series of briefings to support the debates on the bill as introduced in the House of Commons:

- House of Commons Library, [Police, Crime, Sentencing and Courts Bill: Part 1—Protection of the Police Etc](#), 12 March 2021
- House of Commons Library, [Police, Crime, Sentencing and Courts Bill: Part 2—Prevention, Investigation and Prosecution of Crime](#), 12 March 2021
- House of Commons Library, [Police, Crime, Sentencing and Courts Bill: Part 3 and 4—Public Order and Unauthorised Encampments](#), 12 March 2021
- House of Commons Library, [Police, Crime, Sentencing and Courts Bill: Part 5 Road Traffic](#), 12 March 2021

⁸⁸ [HC Hansard, 5 July 2021, col 696](#).

⁸⁹ *ibid.*

⁹⁰ *ibid*, col 697.

⁹¹ *ibid*, col 698.

⁹² *ibid*, col 702.

- House of Commons Library, [*Police, Crime, Sentencing and Courts Bill: Part 6—Cautions*](#), 12 March 2021
- House of Commons Library, [*Police, Crime, Sentencing and Courts Bill: Part 7—Sentencing and Release*](#), 12 March 2021
- House of Commons Library, [*Police, Crime, Sentencing and Courts Bill: Parts 8 and 9—Youth Justice, Secure Children’s Home and Secure Academies*](#), 12 March 2021
- House of Commons Library, [*Police, Crime, Sentencing and Courts Bill: Parts 10 and 11—Management and Rehabilitation of Offenders*](#), 12 March 2021
- House of Commons Library, [*Police, Crime, Sentencing and Courts Bill: Part 12, Procedures in Courts and Tribunals*](#), 12 March 2021

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