



Offenders (Day of Release from Detention) Bill

HL Bill 113 of 2022–23

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On 21 April 2023, the second reading of the [Offenders \(Day of Release from Detention\) Bill](#) is scheduled to take place in the House of Lords. It is a private member's bill introduced in the Commons by Simon Fell (Conservative MP for Barrow and Furness). The bill is sponsored in the Lords by Lord Bird (Crossbench). It is supported by the government.

The bill would grant the secretary of state discretion to bring forward the release of a prisoner by up to two days in cases where their release date would otherwise fall on a Friday or the day preceding a bank or public holiday. The bill would also grant the same discretion in relation to the release of under-18s in secure children's homes and secure academies and ensure consistency across the youth estate regarding releases.

When a prisoner is released they may have to access a range of services that are normally closed at the weekend or on a bank holiday. The government has said that it is sometimes challenging for people to access all the services they need in the time available. It has said this can lead to people failing to secure accommodation and can lead to increased risks of reoffending.

The bill was unamended in the House of Commons and passed third reading without division. The bill is also supported by the Labour Party.

Explanatory notes have been prepared with the consent of Simon Fell by the Ministry of Justice. References in this briefing to the bill's explanatory notes are to those prepared for the bill when it was introduced in the House of Commons. At the time of writing, explanatory notes for the Lords bill were not available.

I. What would the bill do?

Under section 23(3) of the Criminal Justice Act 1961, a prisoner who would normally be released on Saturday (if serving a term of more than five days), Sunday, Christmas Day, Good Friday and “any day which under the Bank Holidays Act 1871 is a bank holiday in England and Wales” must be released on the preceding day. The explanatory notes to the bill state that approximately a third of releases occur on a Friday, “almost double that of any other day of the week”.¹

The [Offenders \(Day of Release from Detention\) Bill](#) would amend the Criminal Justice Act 1961 to insert new subsections into section 23. These provisions would grant the secretary of state a discretion to bring forward an offender’s release date by up to two ‘eligible days’ in cases where their release date would otherwise fall on a Friday or the day preceding a bank or public holiday. The explanatory notes to the bill state that in practice the power would be delegated to the governor in public prisons, the director in private prisons, or appropriate officials in youth establishments.²

Guidance on eligibility criteria would be set out in a policy framework “in order to target those most in need”.³ The Ministry of Justice is consulting with stakeholders on the guidance and has said it will be published after the bill’s royal assent.⁴

The bill would also grant the same discretion in relation to the release of under-18s in secure children’s homes and secure academies and ensure consistency across the youth estate. The explanatory notes state the reason for this is that:

For under-18s, being released on a Friday still means that a child may be going for at least two days without meaningful contact with support services at a time when they will be at their most vulnerable. This bill will also ensure that the same provisions relating to public holiday and weekend releases exist in respect of secure children’s homes and, the recently created secure academies as for young offender institutions and secure training centres, ensuring consistency across the youth estate and, in respect of secure children’s homes, correcting a historic omission.⁵

The International Criminal Court Act 2001 would also be amended by the bill so that the bill’s provisions would not apply to people detained pursuant to a sentence of the International Criminal Court.

The bill would extend and apply to England and Wales only. The explanatory notes state that a corresponding provision making changes to the dates of offenders’ discharge would not be within the competence of the Senedd Cymru.⁶

A similar discretion already exists in Scotland that allows the Scottish Prison Service to bring forward

¹ [Explanatory notes](#), para 3.

² As above, para 1.

³ As above.

⁴ House of Commons, ‘[Written question: Prisoners’ release](#)’, 21 March 2023, 165446.

⁵ [Explanatory notes](#), para 7.

⁶ As above, para 28.

the release date of people in its care by up to two days “for the purposes of benefiting a prisoner’s reintegration into the community”.⁷

2. What are the issues around Friday releases?

The bill’s explanatory notes were prepared by the Ministry of Justice with the consent of Simon Fell.

The explanatory notes state that prisoners are released on a Friday (rather than on non-working days) so that they can access services and accommodation, which they would otherwise not be able to do. However, the explanatory notes also set out that prisoners released on a Friday can face challenges because they must access a variety of services and failure to access support can increase risk of reoffending:

Accessing timely support on release can be particularly challenging on a Friday due to the number of different services, both wider government and third sector, that need to be accessed on release; the limited time before services close for the weekend; and the additional pressure on support services due to an increased number of releases (approximately a third of releases fall on a Friday, almost double that of any other day of the week). Failure to access this vital support can increase the risk of reoffending.⁸

The government argues that the bill’s provisions are important because accessing stable accommodation may help support rehabilitation:

From a public protection perspective, the proposed provisions will promote positive reintegration into society by ensuring those leaving custody access the support services they need upon release. We know, for example, that adult offenders without stable accommodation on release from prison are almost 50% more likely to reoffend and that access to stable accommodation is important in helping offenders to access employment and training opportunities which may support their rehabilitation.⁹

These challenges are made worse for different offenders depending on their circumstances. The explanatory notes specifically cite the following:¹⁰

- older offenders
- those released from establishments located far from their home address
- those with substance misuse or mental health needs, who face an increased risk of homelessness

The problem also impacts children, “of whom 15% are held over 100 miles from their homes and 41% are held over 50 miles away”.¹¹ A disproportionate impact may also be felt by “cohorts with

⁷ Scottish Prison Service, ‘[Partnership framework agreement](#)’, accessed 28 March 2023.

⁸ [Explanatory notes](#), para 3.

⁹ As above, para 5.

¹⁰ As above, para 6.

¹¹ As above.

complex needs”. Such people may “have greater support needs and vulnerability, greater distances to travel, or health/mobility issues which restricts their ability to attend multiple appointments in a short time”.

The government’s December 2021 ‘Prisons strategy white paper’ considered the issue of Friday releases, with the government saying that it knew that accessing support on a Friday can be “particularly challenging”.¹² It said more needed to be done to support people with complex needs to access support upon their release, “such as older prison leavers who struggle to access social care and those that face practical challenges such as travelling significant distances to access services on time”. The white paper said the government would explore allowing prisoners at risk of reoffending to be released one or two days earlier, at governor discretion, in cases where a Friday release could be demonstrated to be detrimental to a person’s resettlement.

Following a consultation, the government announced in June 2022 that it would bring forward measures to implement the policy “when parliamentary time allows”.¹³

The charity Nacro has been campaigning to end Friday releases.¹⁴ It has argued that Friday releases put pressure on people who need to access a range of services before they close for the weekend:

The day of release can be a race against the clock for people as they try to find somewhere to stay, get health support, apply for benefits and see their probation officer. For people released on a Friday this can feel like an impossible challenge: with services closing for the weekend, too many are left sleeping rough, without medication or enough money until Monday. Without the right support in place, we are simply setting people up to fail.¹⁵

3. Overview of the bill

Under section 23(3) of the Criminal Justice Act 1961, a prisoner who would normally be released on Saturday (if serving a term of more than five days), Sunday, Christmas Day, Good Friday and “any day which under the Bank Holidays Act 1871 is a bank holiday in England and Wales”, must be released on the next preceding day which is not one of those days. The bill’s explanatory notes set this out in practice as follows:

[A]nyone who would otherwise be released on a Saturday, Sunday or Bank Holiday Monday is released on the preceding Friday, anyone who would otherwise be released over Easter weekend is released on the preceding Thursday, et cetera¹⁶

Clause 1(2) of the Offenders (Day of Release from Detention) Bill would amend subsection 23(3) of the Criminal Justice Act 1961 to make it subject to a new subsection (3B). Clause 1(3) would insert new subsections (3B), (3C) and (3D) into section 23 of the 1961 act.

¹² Ministry of Justice, ‘[Prisons strategy white paper](#)’, December 2021, CP 581, para 139.

¹³ Ministry of Justice and HM Prison and Probation Service, ‘[End to Friday releases to cut crime and make streets safer](#)’, 14 June 2022.

¹⁴ Nacro, ‘[End Friday releases](#)’, accessed 27 March 2023.

¹⁵ As above.

¹⁶ [Explanatory notes](#), para 10.

New subsection (3B) would allow the secretary of state to direct that a prisoner who would otherwise be discharged on a working day immediately before a non-working day must instead be discharged on a day referred to in new subsection (3C). New subsection (3C) sets out that these days are:

- (a) the last eligible working day before the day on which the prisoner would otherwise be discharged;
- (b) the last eligible working day before that eligible working day.

Subsection (3D) provides the following definitions:

In this section—

“eligible working day” means a working day that is not immediately followed by a non-working day; “non-working day” means—

- (a) a Saturday or Sunday, Christmas Day, or Good Friday, or
- (b) any day that is a bank holiday under section 1 of the Banking and Financial Dealings Act 1971 in England and Wales;

“working day” means a day that is not a non-working day.

The explanatory notes give examples of the bill’s provisions in practice, including for a Friday release:

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.¹⁷

Section 23(4) of the Criminal Justice Act 1961 includes provisions that mean that subsection (3) applies to certain other institutions, but secure children’s homes and secure 16-to-19 academies are not included. The explanatory notes to the bill state:

Section 23(4) of the Criminal Justice Act 1961 specifies that references in the rest of section 23 to prisons and prisoners include references to young offender institutions, secure colleges, secure training centres and remand centres and to persons detained there. Therefore, section 23(3) applies to persons detained in these institutions, but not to persons detained in secure children’s homes and secure 16-19 academies, because they are not listed in section 23(4). Regarding secure children’s homes, this was an unintentional historic omission. Secure 16-19 academies are a new statutory creation, so it is necessary to update this legislation to include reference to them.¹⁸

Clause 1(4) would insert new subsections (5) and (6) after the existing subsection (4) in section 23 of the 1961 act. New subsection (5) would provide that references in subsections (3), (3B) and (3C) to a prisoner also include references to a person detained in a secure children’s home or a secure

¹⁷ [Explanatory notes](#), p 6.

¹⁸ As above, para 11.

16 to 19 academy. New subsection (6) provides definitions of a secure children’s home and a secure 16 to 19 academy.

Clause 2 would amend the International Criminal Court Act 2001 so that the bill’s provisions would not apply to people detained pursuant to a sentence of the International Criminal Court.¹⁹

Clause 3 sets out that clause 1 would extend to England and Wales and that clauses 2 and 3 would extend to England and Wales, Scotland and Northern Ireland. Clause 3(3) states that the bill would come into force on a day appointed by the secretary of state in regulations.

The House of Lords Delegated Powers and Regulatory Reform Committee has noted that the bill does not require the commencement regulations to be made by statutory instrument, though it also suggested this is more likely by accident than design:

Clause 3(3) provides for the bill to come into force “on such day as the secretary of state may by regulations appoint”. This is fairly common practice but, highly unusually, the bill does not require such regulations to be made by statutory instrument. This is such a departure from standard practice that we strongly suspect that it is by accident not design.²⁰

Consequently, the committee recommend that the bill be amended:

We recommend that the bill should be amended so that, in accordance with standard practice, regulations under clause 3(3) that appoint the day on which the bill is to come into force must be made by statutory instrument.²¹

4. Summary of Commons stages

Speaking to the bill at second reading, Simon Fell said that prisoners released on Fridays were “almost set up to fail from the moment they set foot outside the prison estate”.²² Mr Fell summarised the problems faced by people released on a Friday, highlighting the time pressures they confronted:

They face a race against time to access statutory and non-statutory services—to meet their probation officer; visit a pharmacy or a GP; sort out their accommodation—all on a Friday, with services closing early, and with some being a distance away or even impossible to reach by public transport. Many of them therefore end up homeless, with no hope of accessing services until Monday morning at the earliest. So they have nowhere to stay, they have little support and the world is on their shoulders. Is it any surprise that up to two thirds of people released without access to accommodation reoffend within a year.²³

¹⁹ [Explanatory notes](#), para 17.

²⁰ Delegated Powers and Regulatory Reform Committee, ‘[30th report of session 2022–23](#)’, 22 March 2023, HL Paper 173 of session 2022–23, para 10. See also: Ministry of Justice, ‘[Delegated powers memorandum: Offenders \(Day of Release from Detention\) Bill](#)’, 2 December 2022.

²¹ As above, para 12.

²² [HC Hansard, 2 December 2022, col 1114](#).

²³ [HC Hansard, 2 December 2022, col 1114](#).

He argued that if people could be supported as they came out of prison “we can play a key role in reducing the significant societal and individual costs of reoffending, leading to fewer victims of crime and fewer communities dealing with its impact”. He said that the bill was an important step towards this.

Mr Fell said that in practice the power in the bill would be delegated to prison governors or equivalent officials and it would be targeted at people most at risk of reoffending. He said that only certain prisoners would be considered:

To be clear, we are not talking about dangerous or high-risk offenders, and there will be strict security screening of eligible prisoners. The bill is aimed at helping vulnerable individuals with complex needs who may need additional support to help them make the transition back to life outside prison.²⁴

Speaking for the opposition, Yasmin Qureshi, shadow minister for the government equalities office, said that Labour “wholeheartedly” supported the bill.²⁵ She said that this would be “no surprise” to the government, “not least because we tried to legislate for this last year”. Ms Qureshi referred to an amendment tabled to the Police, Crime, Sentencing and Courts Act 2022 which would have provided flexibility on Friday releases.²⁶ New clause 18 was moved by Alex Cunningham, shadow minister for justice, at the House of Commons committee stage of the Police, Crime, Sentencing and Courts Act 2022.²⁷ At the time, the government said it understood the issues faced by prisoners in this regard but it wanted to focus on improving availability of services on a Friday:

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 [...]²⁸

The amendment was withdrawn after debate.

Speaking at the second reading of the Offenders (Day of Release from Detention) Bill, the minister of state at the Ministry of Justice, Damian Hinds, said that the bill offered an opportunity for people released from prison on a Friday “the best possible chance of living law-abiding, productive lives in the community and hence an opportunity to cut crime, making our streets safer and protecting constituents”.²⁹ He reiterated the government’s support for the bill.

Committee stage took place on 8 February 2023.³⁰ The public bill committee considered the bill’s clauses and all were ordered to stand part of the bill. No amendments were tabled for the bill’s

²⁴ [HC Hansard, 2 December 2022, col 1118.](#)

²⁵ [HC Hansard, 2 December 2022, col 1127.](#)

²⁶ [HC Hansard, 2 December 2022, col 1127.](#)

²⁷ [HC Hansard, 22 June 2021, cols 703–8.](#)

²⁸ [HC Hansard, 22 June 2021, col 706.](#)

²⁹ [HC Hansard, 2 December 2022, col 1139.](#)

³⁰ [HC Hansard, 8 February 2023, cols 1–10.](#)

committee stage and the bill proceeded to third reading on 3 March 2023.³¹ It passed third reading without division.

5. Read more

- House of Commons Library, '[Offenders \(Day of Release from Detention\) Bill](#)', 21 February 2023
- Sky News, '[Why campaigners want prisoners released on Wednesdays rather than Fridays](#)', 4 November 2022
- Association of Police and Crime Commissioners, '[End to Friday prison releases](#)', 15 June 2022
- Local Government Association, '[LGA responds to government plans to end Friday releases to cut crime and make streets safer](#)', 14 June 2022
- British Medical Association, '[Government plans to reduce jail releases during times when support is unavailable](#)', 21 June 2022

³¹ [HC Hansard, 3 March 2023, cols 1055–69.](#)

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