

Criminal Justice Committee

**4th Meeting, 2023 (Session 6), Wednesday 1
February 2023**

Bail and Release from Custody (Scotland) Bill

Note by the clerk

Background

1. The Committee is concluding its evidence taking on the [Bail and Release from Custody \(Scotland\) Bill](#) at [Stage 1 of the Parliament's legislative process](#).
2. The Bill proposes changes to the law in two main areas:
 - decisions about granting bail to people accused of a crime
 - arrangements for the release of some prisoners and the support that is provided to those who leave prison.
3. When a person accused of a crime appears in court, the court has to decide whether they should be remanded in custody or remain in the community on bail while they await their trial.
4. Part 1 of the Bill makes changes to the current law relating to bail in four areas:
 - requiring justice social work to be given the opportunity to provide information to the court when making decisions about bail
 - changing the test that the court must apply when making decisions about bail
 - requiring the court to record reasons for refusing bail
 - allowing time spent on electronically monitored bail to be counted as time served against a custodial sentence.
5. Part 2 of the Bill makes changes to some prisoner release arrangements and the support provided to those being released. These include:
 - preventing prisoners from being released on:
 - Fridays or the day before public holidays (adding to the existing requirement that prisoners are not released on Saturdays, Sundays and public holidays)
 - Thursdays in some circumstances

- replacing home detention curfew for long-term prisoners with a new system that will allow them to be temporarily released to support their reintegration – subject to risk assessment and consultation with the Parole Board
- giving the Scottish Ministers power to release certain prisoners early in emergency situations to protect the security and good order of prisons or the health, safety or welfare of those in prison
- requiring certain public bodies (for example local authorities and health boards) to engage in release planning for prisoners
- requiring the Scottish Ministers to produce minimum standards for throughcare support, provided to prisoners throughout their time in prison and during their transition back into the community
- allowing victim support organisations to receive certain information about prisoners, including about the release of prisoners.

Finance and Public Administration Committee

6. The Finance and Public Administration Committee is responsible for scrutinising Financial Memorandums (FMs) to Bills. The Committee ran a call for views on the FM for the Bail and Release from Custody (Scotland) Bill between July and September 2022 and received three responses, from Victim Support Scotland, Police Scotland and Glasgow City Health and Social Care Partnership.
7. The Finance and Public Administration Committee [wrote to the Criminal Justice Committee](#) to highlight the contents of these responses and refer them for its consideration as part of evidence taking at Stage 1.
8. These responses have been [published on the Scottish Parliament's call for views website](#).

Today's meeting

9. At today's meeting, Members will hear from Keith Brown MSP, Cabinet Secretary for Justice and Veterans, who will be accompanied by Scottish Government officials.

Previous witnesses

10. At previous meetings, the Members have heard from the following witnesses—

14 December 2022

Panel 1

- Charlie Martin, Stakeholder and Policy Lead, Wise Group
- Lynne Thornhill, Director of Justice Services, SACRO
- Tracey McFall, Member of Executive Committee of the Criminal Justice Voluntary Sector Forum

Panel 2

- Gillian Booth, Justice Service Manager, South Lanarkshire Council
- Sandra Cheyne, National CIAG Policy & Professional Practice Lead, Skills Development Scotland
- Rhoda Macleod, Head of Adult Services (Sexual Health, Police Custody & Prison Healthcare), Glasgow Health & Social Care Partnership

Panel 3

- Sharon Stirrat, Justice Social Work Policy and Practice Lead, Social Work Scotland
- Keith Gardner, CJS Specialist Adviser, Community Justice Scotland
- Suzanne McGuinness, Executive Director of Social Work, Mental Welfare Commission for Scotland

11 January 2023

Panel 1

- Kate Wallace, Chief Executive, Victim Support Scotland
- Emma Bryson, Speak out Survivors

Panel 2

- Dr Hannah Graham, Senior Lecturer, Sociology, Social Policy & Criminology, University of Stirling
- Professor Fergus McNeill, Professor of Criminology & Social Work, University of Glasgow
- Professor Lesley McAra, Professor of Penology, Edinburgh Law School, University of Edinburgh

18 January 2023

Panel 1

- Stuart Munro, Convenor of the Criminal Law Committee, Law Society of Scotland
- Fred Mackintosh KC, Faculty of Advocates
- Joanne McMillan, Committee Member, Glasgow Bar Association

Panel 2

- David Mackie, Howard League Scotland
- Professor Nancy Loucks, CEO, Families Outside
- Wendy Sinclair-Gieben, HM Chief Inspector of Prisons, HMIPS

Panel 3

- Chief Inspector Nick Clasper, Policy and Partnerships, Criminal Justice Services Division, Police Scotland

25 January 2023

Panel 1

- John Watt, Parole Board for Scotland
- Mark McSherry, Risk Management Authority
- Jim Kerr, Interim Deputy Chief Executive, Scottish Prison Service

Panel 2

- Kenny Donnelly, Crown Office and Procurator Fiscal Service
- David Fraser, Executive Director Court Operations, Scottish Courts and Tribunals Service

**Clerks to the Committee
January 2023**