

COMMUNITY AND SUSPENDED SENTENCES (NOTIFICATION OF DETAILS) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Community and Suspended Sentences (Notification of Details) Bill as introduced in the House of Commons on 6 December 2023 (Bill 34).

- These Explanatory Notes have been prepared by the Ministry of Justice, with the consent of Ruth Jones MP, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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Overview of the Bill

- 1 This Bill will place a new duty on offenders serving a sentence in the community, and who are supervised by probation or a youth offending team (“YOT”), requiring them to inform the responsible officer if they change their name, use a different name (e.g. an alias) or change their contact information. The name change could be for any reason. The Bill will amend the Sentencing Act 2020 and will apply to offenders sentenced to a community order, suspended sentence order, youth rehabilitation order or referral order.
- 2 This Bill will improve the ability of probation teams and YOTs to monitor offenders, ensuring that the public are protected so, while an offender is serving a sentence in the community, the responsible officer has the information that they need to keep tabs on that individual, including if they change their name and their contact information.

Policy background

- 3 In August 2022, secondary legislation was passed requiring offenders on licence to inform their probation officer if they change their name or contact details (Criminal Justice (Sentencing) (Licence Conditions) (Amendment) (No.2) Order 2022). This instrument recognised the importance of ensuring the public is protected and offenders managed in the community are able to be properly monitored by probation services with the ability for services to take robust enforcement action where necessary.
- 4 This Bill will ensure consistency across the sentencing framework, meaning that regardless of the sentence an offender is serving, probation is aware of the name(s) they are using and have up-to-date contact details for the purposes of effectively supervising them.
- 5 This legislation captures not just formal legal changes of name by deed poll but also, for example, the use of an online alias. There will also be a duty on offenders (as with offenders on licence), to inform the responsible officer of any additions or changes to contact details, including any phone number or email.
- 6 For offenders serving community orders, youth rehabilitation orders and referral orders, the requirement will last for the whole duration of the supervision period while the offender is supervised by probation or a YOT until it reaches the end date set by the court or is otherwise terminated. For suspended sentence orders, this requirement will last for the period when the offender must keep in touch with their probation team or YOT. Once the offender is no longer required to keep in touch with their probation team or YOT, this requirement will also end.

Legal background

- 7 Section 83 of the Sentencing Act 2020 requires an offender under the age of 18, subject to a referral order, to attend meetings of a youth offender panel as established by a YOT, and to comply with a programme of behaviour as directed by the panel under a youth offender contract.
- 8 Section 193 of the Sentencing Act 2020 requires the offender to keep in touch with the responsible officer, and to notify the responsible officer of a change of address while a youth rehabilitation order is in force. This applies for the duration of the order i.e. until the end date set by the court or until the order is revoked. Further, it requires the offenders to “keep in touch with the responsible officer in accordance with any instructions the responsible officer may give the offender from time to time”. However, this provision does not explicitly set out any particular information the offender must give the responsible officer.

- 9 Section 215 of the Sentencing Act 2020 requires the offender to keep in touch with the responsible officer while a community order is in force. This applies for the duration of the order – i.e. until the end date set by the court or until the order is revoked. Further, it requires the offenders to “keep in touch with the responsible officer in accordance with any instructions the responsible officer may give the offender from time to time”. However, this section does not explicitly specify the type of information the offender must give the responsible officer.
- 10 Section 301 of the Sentencing Act 2020 requires the offender to keep in touch with the responsible officer during the supervision period of a suspended sentence order. Similar to the provision in sections 193 and 215 above relating to a youth rehabilitation order and community order, this section does not explicitly specify the type of information the offender must give the responsible officer.

Territorial extent and application

- 11 This Bill will apply to England and Wales only.
- 12 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Bill

Clause 1: Duty of offender to notify details

- 13 Clause 1(1) sets out that the Sentencing Act 2020 (“**the Sentencing Code**”) will be amended.
- 14 Clause 1(2) amends the Sentencing Code by inserting new section “97A Duty of offender to notify details to panel” (“**new section 97A**”). This will apply to offenders under the age of 18.
- 15 Subsection (1) of new section 97A provides that this section applies to offenders that have been sentenced to a referral order, and a youth offender contract has not been revoked or discharged.
- 16 New section 97A(2)(a) establishes a requirement for youth offenders sentenced to a referral order to notify the relevant member of the youth offender panel (“**the panel**”) if they begin using a name that is not specified in the referral order whilst the terms of the contract are active. New section 97A(2)(b) requires offenders sentenced to a referral order to notify the relevant members of the panel of any telephone numbers or email addresses they have.
- 17 New section 97A(3) provides that the offender must notify the panel of the change of name and contact details as soon as reasonably practicable in the relevant circumstances.
- 18 New section 97A(4) provides that the obligation in subsection (2) will apply to an order made at any time including before this section comes into force.
- 19 New section 97A(5) provides that the obligation in subsection (2) to notify the relevant member of the panel is to be treated as a term of the youth offender contract.
- 20 New section 97A(6) defines the “relevant member” as the member of the panel who, in accordance with the arrangements made by the panel, is responsible for receiving the notifications of a change of name or contact details.
- 21 New section 97A(7) states that a “relevant member” for the purposes of section 97A, must be the person specified as the panel member appointed by the youth offending team from among its members in accordance with section 91(4)(a) of the Sentencing Code.
- 22 New section 97A(8) requires the panel to provide the offender with written notification and contact details of the relevant member they must notify if they change their name or contact details.
- 23 Clause 1(3) amends section 193(2)(b) of the Sentencing Code (Duty of offender to keep in touch with responsible officer etc) by inserting new subsections (2)(b)(i) and (b)(ii), and (2A) and (2B) which make further provision about the obligation to keep in touch in subsections (2)(b), and (2)(c). These amendments place a duty on youth offenders sentenced to a youth rehabilitation order to notify their responsible officer if they change their name or contact details, and to notify the responsible officer of any telephone numbers or email addresses they have.
- 24 New section 193(2A) provides that offenders must comply with the obligation in subsection (2)(b)(i) and (ii) as soon as reasonably practicable.
- 25 New section 193(2B) provides that the obligation in section 193(2)(b)(i) and (ii) will apply to a youth rehabilitation order made at any time including before this section comes into force.
- 26 Clause 1(3)(c) amends section 193(3) to provide for the court to deal with an offender who

breaches the obligation in subsection (2) in the same way as someone who breaches a youth rehabilitation order.

- 27 Clause 1(4) amends section 215 of the Sentencing Code (Duty of offender to keep in touch with responsible officer) and inserts new subsections (2), (2A) and (2B) which make further provision about the obligation to keep in touch in subsections (2)(b), and (2)(c). These amendments require offenders sentenced to community orders to keep in touch with their responsible officer in accordance with any instructions the responsible officer may give the offender to notify their responsible officer if they use a name not mentioned in the community order and must notify the responsible officer of their telephone numbers and email addresses if they have any.
- 28 New section 215(2A) provides that offenders must comply with the obligation in subsection (2)(b)(i) and (ii) as soon as reasonably practicable.
- 29 New section 215(2B) provides that the obligation in subsection (2)(b)(i) and (ii) will apply to a community order made at any time including before this section comes into force.
- 30 Clause 1(4)(c) amends section 215(3) to provide for the court to deal with an offender who breaches the obligation in subsection (2) in the same way as someone who breaches a community order.
- 31 Clause 1(5) amends the heading to section 301 of the Sentencing Code (Duty of offender to keep in touch with responsible officer) and inserts new subsections (2), (2A) and (2B) which make further provision about the obligation to keep in touch in subsections (2)(b), and (2)(c). These amendments require offenders sentenced to suspended sentence orders to keep in touch with their responsible officer in accordance with any instructions the responsible officer may give the offender, to notify their responsible officer if they use a name not specified in the suspended sentence order and must notify the responsible officer of their telephone numbers and email addresses if they have any.
- 32 New section 301(2A) provides that offenders must comply with the obligation in subsection (2)(b)(i) and (ii) as soon as reasonably practicable.
- 33 New section 301(2B) provides that the obligation in subsection (2)(b)(i) and (ii) will apply to a suspended sentence order made at any time including before this section comes into force.
- 34 Clause 1(5)(c) amends section 301(3) to provide for the court to deal with an offender who breaches the obligation in subsection (2) in the same way as someone who breaches a suspended sentence order.

Clause 2: Extent, commencement, short title

- 35 Clause 2(1) sets out that the territorial extent of this Bill is England and Wales only.
- 36 Clause 2(2) provides that the Bill will come into force at the end of a period of two months following Royal Assent.
- 37 Clause 2(3) sets out the short title of the Bill as the Community and Suspended Sentences (Notification of Details) Act 2024.

Commencement

- 38 Clause 2(2) sets out that the provisions in this Bill will come into force at the end of the period of two months beginning with the day on which it is passed.

Financial implications of the Bill

- 39 There are no provisions in this Bill that give rise to or create powers that could be used so as to give rise to new charges on public expenditure. On that basis, this Bill does not require a money resolution. Nor does this Bill create or confer power to create new charges on people (new taxation or similar charges).

Compatibility with the European Convention on Human Rights

- 40 This is a Private Member's Bill and there is no requirement for a statement of compatibility with the European Convention on Human Rights ("ECHR") in accordance with section 19(1)(a) of the Human Rights Act 1998.
- 41 The Ministry of Justice has, nevertheless, considered the question of compatibility and has concluded that the Bill is compatible with the ECHR.

Related documents

- 42 The following documents are relevant to the Bill and can be read at the stated locations:
- Sentencing Code: e.g. <http://www.gov.uk/government/collections/good-law>

Annex A – Territorial extent and application in the United Kingdom

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion process engaged?	Extends and applies to Scotland?	Legislative Consent Motion process engaged?	Extends and applies to Northern Ireland?	Legislative Consent Motion process engaged?
Clause 1	Yes	Yes	No	No	No	No	No
Clause 2	Yes	Yes	No	No	No	No	No

Subject matter and legislative competence of devolved legislatures

- 43 The management of offenders is a reserved matter in Wales. On that basis, a legislative consent motion is not required for this Bill to apply to Wales.
- 44 The management of offenders is not a reserved matter in Scotland, nor a reserved or excepted matter in Northern Ireland. This Bill does not extend to Scotland or Northern Ireland.

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