

## Bail and Release from Custody (Scotland) Bill — Stage 2

### Section 1

**Katy Clark**

- 28 In section 1, page 1, line 13, leave out from <Before> to <bail,> in line 14

**Katy Clark**

- 29 In section 1, page 1, line 16, after <determination> insert <where it has been requested by the local authority before determining whether to admit or refuse to admit the person accused or charged to bail>

### Section 2

**Katy Clark**

- 30 In section 2, page 2, line 15, after <justice.> insert—

- <( ) Without prejudice to the generality of subsection (1A), the court may consider an accused person to pose a risk to public safety under subsection (1A)(b)(i), if the accused—
- (a) has been known to demonstrate aggressive, abusive or anti-social behaviour of a nature that is likely to lead to harm to others,
  - (b) has any history of serious incidents involving harm to others,
  - (c) has demonstrated behaviour indicating recklessness, loss of self-control or lack of regard for the safety of others,
  - (d) has previous convictions which indicate a likelihood to re-offend during the bail period.>

**Katy Clark**

- 31 In section 2, page 2, line 15, after <justice> insert—

- <(iii) considering that monitoring in accordance with Part 1 of the Management of Offenders (Scotland) Act 2019 (electronic monitoring etc), or other special conditions would not adequately address public safety concerns>

**Katy Clark**

- 32 In section 2, page 2, line 31, at end insert—

- <(c) the intimidation of the complainer, witnesses or others>

**Katy Clark**

- 33 In section 2, page 3, line 4, leave out <a relevant diet> and insert <any outstanding or previous criminal proceedings relating to the relevant charge or charges>

**Katy Clark**

- 34 In section 2, page 3, leave out lines 6 to 10

#### **Section 4**

**Katy Clark**

- 35 In section 4, page 3, line 32, after <proceedings.> insert—

<(2AB) Where the court grants bail in any proceedings in which a person is accused of an offence, it must—

(a) state in particular—

- (i) the grounds on which it determines, in accordance with section 23B(1A)(b)(i), that there is no good reason for refusing bail and the accused does not pose a risk to public safety, including the safety of the complainer, in terms of the consideration under section 23B(1A)(b)(i),
- (ii) its reasons for considering that any risk the individual may pose as assessed under section 23B(1A)(b)(i), can be appropriately managed through the imposition of bail conditions,
- (iii) its reasons for considering that, in terms of section 23B(1A)(b)(i) and considerations of public and complainer safety, it was appropriate to impose on the accused, bail conditions subject to a requirement to submit to monitoring in accordance with Part 1 of the Management of Offenders (Scotland) Act 2019 (electronic monitoring), and
- (iv) any other mitigating factors which have been accounted for in the decision, and

(b) have those grounds and reasons entered in the record of the proceedings.>

**Katy Clark**

- 36 Leave out section 4

#### **After section 4**

**Katy Clark**

- 37 After section 4, insert—

##### **<Refusal of bail: report on women refused bail**

- (1) As soon as practicable at the end of each reporting period, the Scottish Ministers must publish a report on women who have been refused bail.
- (2) A report under subsection (1) must, in particular, include data on—
  - (a) the nature of the offences women refused bail have been charged with,
  - (b) whether women refused bail have a history of offending,
  - (c) the proportion of women refused bail who are primary carers,
  - (d) the average age of women refused bail,

- (e) any common health issues among women refused bail, including—
    - (i) physical health issues,
    - (ii) mental health issues,
    - (iii) drug addiction,
  - (f) the proportion of women refused bail who are subsequently sentenced to imprisonment,
  - (g) in respect of women who are convicted following refusal of bail, the subsequent sentence that they receive.
- (3) For the purposes of subsection (1), a reporting period is—
- (a) the period of one year beginning with the day of Royal Assent,
  - (b) each subsequent period of one year.>

### **Section 8**

**Katy Clark**

- 38** Leave out section 8

### **Section 9**

**Katy Clark**

- 39** In section 9, page 13, line 27, after <bodies> insert <, victims of crime, and organisations involved in providing support and advocacy for victims of crime>

**Katy Clark**

- 40** In section 9, page 14, line 6, at end insert—
- <( ) Within one year of this section coming into force, the Scottish Ministers must—
- (a) publish guidance and standards applicable to the development of release planning in Scotland, and
  - (b) carry out a public consultation on the guidance and standards published under paragraph (a).>

### **After section 9**

**Katy Clark**

- 41** After section 9, insert—
- <Review of release planning for women**
- (1) Within 2 years of section 9 coming into force, the Scottish Ministers must carry out a review of release planning in respect of women in custody.
  - (2) The review under subsection (1) must consider whether any specific issues arise in respect of release planning for women, including in relation to—
    - (a) caring responsibilities,

- (b) health issues,
  - (c) offending histories.
- (3) As soon as practical after the review has concluded, the Scottish Ministers must publish a report on the findings.>

## Section 10

### Katy Clark

- 42 In section 10, page 14, line 21, after <Ministers> insert <must carry out a public consultation, and in particular>

### Katy Clark

- 43 In section 10, page 14, line 31, at end insert—
- <(ga) victims of crime and organisations involved in providing support and advocacy for victims of crime,>

### Katy Clark

- 44 In section 10, page 15, line 31, after <procedure.> insert—

#### <34D Throughcare support and access to services on remand

The Scottish Ministers must take steps to ensure that individuals remanded in custody, from the start of their period in custody, receive—

- (a) throughcare support (as defined in section 34B(6)),
- (b) access to—
  - (i) educational opportunities,
  - (ii) training,
  - (iii) cultural and recreational activities,
  - (iv) consideration for meaningful work.>

## Section 11

### Katy Clark

- 45 In section 11, page 16, leave out lines 8 to 10

### Katy Clark

- 46 In section 11, page 17, line 6 leave out <entitled> and insert <authorised by the victim>

### Katy Clark

- 47 In section 11, page 17, leave out line 10

### Katy Clark

- 48 In section 11, page 18, leave out lines 8 to 10