

Opening Statement of Jim O'Callaghan

Bail (Amendment) Bill 2017

The principal purpose of the Bill is to amend the Bail Act 1997 to address issues relating to bail. There is evidence of a high rate of offending among people out on bail. In 2017, 12% of all crimes committed were committed by persons who were out on bail for another offence.

This Bill attempts to target the bail laws in relation to persons charged with serious offences, including burglary and aggravated burglary. Some of these crimes have extremely high recidivism rates. Data from the 2013 Irish Prison Service Recidivism Study showed a recidivism rate of 79.5% amongst persons imprisoned for burglary and related offences. This is the highest rate for any offence group and is considerably above the overall recidivism rate of 62%.

Statistics from the Central Statistics Office (which are published under reservation) show that in 2017, under the category of "burglary and related offences", 1,342 such incidents were recorded when at least one suspected offender was on bail. That accounted for 7% of the total number of incidents of "burglary and related offences".

The Bill

The Bill aims to target repeat offenders by requiring the Court to refuse an application for bail to a person charged with a serious offence where the Court is satisfied that such refusal is reasonably considered necessary to prevent the commission of a serious offence by that person. The Bill also makes provision for the electronic monitoring of persons as a condition of bail in certain circumstances. Electronic monitoring was provided for in the Criminal Justice Act 2006 but has not yet been implemented across the criminal justice system. To date, its use has been restricted to the prison service. The Irish Prison Service use electronic monitoring to monitor some prisoners who have been granted Temporary Release including for the purpose of the Community Return/Support Scheme. The Bill aims to broaden the use of electronic monitoring by requiring the Court, when granting bail to repeat burglars, to make it a condition of such bail that the person be subject to electronic monitoring.

Section 1 is a standard provision providing a definition for the Act of 1997.

Section 2(a) amends section 2 of the Act of 1997 by requiring a Court to refuse a bail application where such application is made by a person charged with a serious offence and where the Court is satisfied that such refusal is reasonably considered necessary to prevent the commission of a serious offence by that person. The Act of 1997 currently affords a discretion to the Court in such circumstances, by the use of the word "may". *Section 2* removes this discretion, albeit that the original requirements to trigger the obligation to refuse bail remain, namely that the applicant for bail must be a person charged with a serious offence and the Court must first be

satisfied that the refusal of bail to that person is reasonably considered necessary to prevent the commission of a serious offence by that person.

Section 2(b) substitutes a new provision for subsection 2A, which was inserted into the Act of 1997 by the Criminal Justice (Burglary of Dwellings) Act 2015. The new section 2A requires the Court to refuse an application for bail where an application for bail is made by a person charged with a relevant offence (burglary/aggravated burglary), where the relevant offence is alleged to have been committed in a dwelling and the circumstances specified in subsection (2B) exist in respect of the person making that application.

Section 2(c) and 2(d) amend subsection 2B by providing for a broader range of circumstances which will warrant the refusal of bail by the Court. Under the provisions of this Bill, a person charged with burglary/aggravated burglary will be refused bail if: (1) the applicant has a conviction for burglary/aggravated burglary in a dwelling in the previous 5 years, or (2) the applicant has been charged with and awaiting trial for at least 2 offences of burglary/aggravated burglary in a dwelling within a period commencing 6 months before and ending 6 months after the offence in respect of which the bail application is being made, or (3) the applicant has a conviction for burglary/aggravated burglary in a dwelling and is awaiting trial for another such offence which is alleged to have occurred within a period commencing 6 months before and ending 6 months after the offence in respect of which the bail application is being made.

Section 3 inserts a new section 6B1 into the Act of 1997 which provides for the electronic monitoring of persons as a condition of bail in certain circumstances. The section provides that where a person is charged with an offence as provided for in section 2(2B) of the Act of 1997 the Court shall make recognisance subject to electronic monitoring, requiring the person to have an electronic monitoring device attached to his or her person, either continuously or for a shorter specified period.

Section 4 is a standard provision providing for the citation and the commencement of the Bill.