DÁIL ÉIREANN

AN ROGHCHOISTE UM DHLÍ AGUS CEART DHLÍ AGUS CEART

SELECT COMMITTEE ON JUSTICE

Dé Máirt, 26 Aibreán 2022

Tuesday, 26 April 2022

Tháinig an Romhchoiste le chéile ag 3 p.m.

The Select Committee met at 3 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	
Pa Daly,	
Martin Kenny,	
Helen McEntee (Minister for Justice).	

I láthair / In attendance: Deputy Denis Naughten.

Teachta / Deputy Patrick Costello sa Chathaoir / in the Chair.

Business of Select Committee

Election of Acting Chairman

Clerk to the Committee: As we have a quorum I call the meeting to order in public session. In the unavoidable absence of the Chairman and Vice Chairman, I invite nominations for the position of Acting Chairman.

Deputy Martin Kenny: I nominate Deputy Costello.

Clerk to the Committee: Are there any other nominations? No.

Deputy Patrick Costello took the Chair.

Sex Offenders (Amendment) Bill 2021: Committee Stage

Acting Chairman (Deputy Patrick Costello): This meeting has been convened to consider Committee Stage of the Sex Offenders (Amendment) Bill. I welcome the Minister for Justice, Deputy McEntee.

It is important to note that in order to participate in a division of the committee, members must be physically present. That means they cannot vote from a remote location. In view of the remote participation of some members and in order to ensure contributions are accurately recorded, it is essential for members to wait until I call them by name before commencing a contribution. Members participating remotely might use the raise hand function.

Sections 1 and 2 agreed to.

SECTION 3

Acting Chairman (Deputy Patrick Costello): Amendments Nos. 1, 8 to 10, inclusive, 26, 29, 30 and 35 are related and will be discussed together.

Deputy Denis Naughten: I move amendment No. 1:

In page 6, between lines 13 and 14, to insert the following:

" 'Act of 2018' means the Data Protection Act 2018;

'Act of 2019' means the Parole Act 2019;

'local district headquarters' means the local district headquarters of the Garda Síochána which is closest to the place within the county where he or she intends to reside;

'psychosexual evaluation' means an evaluation that specifically addresses sexual development, sexual deviancy, sexual history and risk of re-offence as part of a comprehensive evaluation of an offender;".

I thank the Minister for being here to deal with this important legislation.

Amendment No. 1 provides a number of definitions for further consequential amendments that I have tabled.

Amendments Nos. 8 to 10, inclusive, address the issue in the legislation where there is a requirement for a sex offender who is being put on the sex offenders register to notify a divisional headquarters. The reality is that divisional headquarters are spread across the country. For example, the divisional headquarters for Longford, Roscommon and Mayo is located in Castlebar, County Mayo. So for someone living in Longford, Roscommon or Mayo, the nearest location is Castlebar. The legislation does not state that sex offenders must inform their local divisional headquarters. A sex offender can inform any divisional headquarters in the country. One could have a situation where someone who is convicted of a very serious offence, is considered to be a high-risk sex offender and, say, resides in Roscommon or Galway notifies Wexford Garda station. That person would have complied with the legislation, as currently drafted. My amendment states that such persons must present themselves at "the local district headquarters of the Garda Síochána". Let us remember that it is the gardaí in the local district who will be responsible for monitoring these sex offenders. We are not even asking sex offenders, in order to comply with the register, to present themselves at the Garda station from where they are going to be monitored. We are facilitating high-risk sex offenders going undetected by allowing them to contact any divisional headquarters. This comes back to the culture that we have concerning the overall legislation that protects the rights of the offender rather than the rights of the victim or any future potential victims of the individual concerned.

As the Minister will know, we have a so-called sex offenders register but it exists in name only because, in practice, gardaí have both hands tied behind their backs in trying to enforce it. Every year there are in excess of 70 breaches of the register. These involve individuals who have come to the attention of An Garda Síochána for some other reason and then they are prosecuted for a breach of the sex offenders register. We need to put a robust system in place and facilitate the Garda to monitor these individuals.

I want to raise another issue. As set out in the legislation, a sex offender can comply with the requirements of registration by writing a letter to, for example, Wexford Garda station if he or she is going to reside in Donegal, Roscommon, Galway or wherever. Sex offenders should have to present themselves in person at the Garda station that is located closest to where they reside. In 2012, the Association of Garda Sergeants and Inspectors, AGSI, passed a motion at its annual conference which stated that sex offenders, in order to comply with the sex offenders register, should have to present in person at the relevant local Garda station where they plan to reside and should not have the option to notify by post. The motion was put forward as a result of the work being done at the time by Sergeant John Hynes, who has probably been the foremost member of An Garda Síochána in terms of securing prosecutions against sex offenders right across the west of Ireland. He had that motion passed out of sheer frustration regarding the existing register. The anomalies that are in the register are replicated in this legislation and, therefore, I ask the Minister to accept my amendments Nos. 8 to 10, inclusive.

Amendments Nos. 26 and 30 relate to the court being able to order a sex offender to avail of treatment or counselling or participate in a psychosexual evaluation. A psychosexual evaluation is one where the risk of that offender is evaluated by a mental health professional to determine if the individual is at risk of committing a further sexual offence, and recommends treatments to diminish that particular risk. The ultimate objectives are to: identify deviant sexual behaviour patterns; determine the risk of sexual and non-sexual tendencies and-or repetition; estimate whether there is a threat to the community; assess if they should be allowed contact

with minors; clarify diagnostic impressions; offer treatment recommendations; identify specific elements that should be targeted during the patient's treatment; and render suggestions regarding community supervision. I do not think it is too much to ask that those criteria be assessed for any individual prior to his or her release from prison. This process would protect them as well as protect the community at large and I hope that the Minister can accept my amendments.

Amendment No. 29 seeks to ensure that an incentive is put in place for sex offenders to complete their treatment programmes. As the Minister will know, only one in eight sex offenders avails of treatment in prison. I accept that treatment is not always available when offenders want it but the reality is that there has been an expansion in the capacity of treatment within the Prison Service. Yet, despite an expansion, the actual number who avail of the treatment has decreased. In the three years up to the end of 2019, just 55 sexual offenders had taken part in the Building Better Lives programme. In the three years up to the end of 2015, when the Building Better Lives programme was not as accessible prior to the expansion of the programme in 2016, there were 73 sex offenders participating in that treatment programme. The reality is that such treatment reduces the risk of re-offending by three and a half times according to the Irish Prison Service's psychological unit. The review that led to the legislation before us today, which was published by the Minister's Department back in 2009, recommended in respect of the sentencing, treatment and monitoring of sex offenders that early release of sex offenders should be conditional on their engagement with such treatment programmes. That is recommended by the Department's report. The report states that there should be extrinsic incentives, positive and negative, that will motivate sex offenders to participate in programmes. It goes on to cite the practice in Vermont, in which prisoners who do not participate in programmes are not deemed eligible for parole. The report says that the view taken was that sex offenders who do not participate in programmes should not be eligible for any form of early release or additional privileges within the prison system. The Department's report is saying that, and I am asking that the report be implemented and its recommendations acted on here in this set of amendments.

The final amendment, No. 35, relates to the general data protection regulation, GDPR, right to be forgotten. This is an issue I raised on Second Stage. We have a situation where the press coverage of the activities of sex offenders can be erased from the Google listings by exploiting the EU privacy laws under GDPR. It was never the intention of the right to be forgotten to include the facilitation of the removal and delisting of court reports regarding sex offenders and their convictions for very serious sexual offences. Our Constitution clearly sets out that courts should be held in public, and the only way that happens effectively is through court reporting. It is completely unacceptable that this mechanism is being used by sex offenders to erase their electronic record. Concerns have been raised regarding the operation of this right to be forgotten. While there is a right there, it is not an absolute right and it must be weighed against the interests of the public. It is vital that this information is available to the public. We cannot just airbrush away the stories of the victims. We all know that victims in the past and even today sadly have felt compelled to waive their right to anonymity to ensure that the perpetrators are named and shamed. Now we are exploiting the failure to apply the GDPR law effectively and the victims' stories are being erased. This is a further abuse of those victims. It should not and cannot be tolerated.

Google has defended its handling of requests to delist articles relating to these criminal convictions on the basis of the amount of time since the conviction took place being the main factor in that regard. It is not taking into account the public interest in this regard. I am saying that it must be taken into account. The reality is that all the big tech companies are regulated in this country. While the Minister will probably argue that this is a European regulation and must

be dealt with by Europe, they are regulated in this country. If we apply a regulation here and act effectively in respect of the management of this type of information, and it is in the public interest and in the interests of victims that it would remain in the public domain, it means that this will happen across Europe. I hope the Minister can recognise the interests of victims here by ensuring that this particular loophole is no longer exploited by sex offenders.

Minister for Justice (Deputy Helen McEntee): In response to amendments Nos. 8, 9 and 10, given the fact that An Garda Síochána will be organised on a divisional basis and that physically there will be no Garda districts, it is impossible to accept the amendments because they refer specifically to local district Garda Síochána headquarters. Under the new model, the Garda will be organised on a divisional basis and districts simply will not exist. In drafting the legislation we had to take this into account, pre-empting the fact that while it is not in place across the country it will be the situation. That is the reason for divisional headquarters instead of district headquarters.

In amendments Nos. 26, 29 and 30, the Deputy is essentially enforcing that all offenders would engage with psychosexual evaluation and treatment. It is already the case that this type of engagement is taken on board by members of the Parole Board, such as where offenders have engaged in certain types of treatment, where they have shown remorse and where they have engaged and shown that they perhaps want to change. What has been made clear to us is that forcing these types of programmes on people who do not want to acknowledge that what they have done is wrong and who do not want to engage in the programmes does not have any benefit. It is often the case that where they do not engage in any type of programme, be it psychosexual evaluation or otherwise, the Parole Board takes that into account and can ensure that they are not released earlier. It is obviously the Deputy's concern that people would be released early without any type of evaluation. Having looked closely at a number of cases prior to the establishment of the Parole Board, I can assure the Deputy that the board and any recommendations that come forward take into account this type of engagement. However, it is clear from the engagement we have had that where this is forced on individuals it does not have the desired effect which the Deputy has set out clearly and which we all would like it to have. This applies to the number of amendments that are specifically related to this change.

With regard to amendment No. 35, I remember the debate we had about this in the Dáil. As the Deputy said, the right to be forgotten is not an absolute right. What we have done is properly transpose the GDPR. That has been reinforced most recently in the Court of Justice of the European Union, which established in the Google Spain case and in any subsequent cases that the right to be forgotten should not apply to information that is relevant to the public interest, including previous convictions. That is very clear. It is not about us not regulating here but us complying with European law and the transposition of the regulation as it is set out. However, I take on board the Deputy's concern about self-regulation of companies and how important it is that companies such as the ones he has mentioned and otherwise are clear on and understand the law and the requirement to take into account relevant public interest, including previous convictions. Perhaps that is something we can explore further. What I cannot and do not want to do, given the legal advice I have, is to go further than the requirement to transpose the law as it is. We are required to transpose EU law as it is set out. Clearly, we have done that. The law is clear and the companies must adhere to it. To go beyond that is not good practice and is something we are advised against. However, I believe there is a logic in exploring further how we can make sure that it is very clear to all those online companies that this is the law, that it has been clearly set out and that where anybody is in breach of that law, there is recourse there.

Unfortunately, for the reasons I have outlined I cannot accept the amendments. On the last point, however, I would be happy to explore further how we can deal with the fact that while the law is there and is clear, we must make sure that companies adhere to it and they know it is not an absolute right when it comes to the right to be forgotten.

Deputy Denis Naughten: I will come back in on a few of the points the Minister has made. I was very much involved in the debate on the reconfiguration of the divisions. In fact, I remember the Garda Commissioner sitting in the seat the Minister is sitting in today as we teased out these issues. We were all assured that the reconfiguration of An Garda Síochána was to improve policing. This afternoon, the Minister is giving us a practical example of where it is not helping policing, helping victims or protecting local communities. She is saying that, under the reconfiguration, we will not have any district headquarters any more. It is very easy to change the amendment to read "local Garda station" because I presume there will still be local Garda stations after this reconfiguration is completed. With all due respect, the Minister is playing with words in respect of my amendment. She knows the thrust of it. In fairness, it is not me who is putting it down. Members of An Garda Síochána, who have been implementing this register for decades, have come forward and said that it is not practical and that, if they are going to be able to monitor these individuals, they need them to present in person at the local Garda station rather than in Castlebar, 40 or 50 miles away. The difficulty is that, as result of the way in which the legislation is written, those on the register can notify any divisional headquarters in the country and thereby comply with the law. That is not good enough. We want these people to have to present in person to issue the notification in their local Garda station. I ask the Minister to reflect on the amendment put forward in a genuine effort to deal with specific concerns gardaí have raised regarding the implementation of this legislation.

On the issue regarding the parole board, what I am saying is that applications should not be accepted by the parole board unless people have availed of treatment. I will not press the issue today but I ask the Minister to reflect on the intention behind this amendment before we deal with it on Report Stage. I accept that people cannot be forced to avail of treatment. It is very clear that they are not doing it at the moment because only one in eight sex offenders is prepared to avail of treatment while in prison. There is something fundamentally wrong with the system at the moment. The Minister's report, which was published back in 2009 and which this legislation is based on, specifically states that an incentive needs to be put in place. If it is not to be access to the parole board, the Minister should come forward with some incentive on Report Stage. I am only asking that she reflect the recommendations in her own report, which include a recommendation that an incentive be put in place because the system is not working at the moment. If the treatment is as effective as the Prison Service says it is - and it says that people who avail of treatment are three and a half times less likely to reoffend - why are we not putting some sort of incentive in place to ensure this treatment is taken up?

My final point relates to compliance with the right to be forgotten under the GDPR. Under a very strict interpretation, the Minister is correct in what she is saying. There is absolutely nothing to impede us, as a member state of the European Union, from going further in this regard. I am not asking that we go further, however. All I am asking is that the law as set out at European Union level be enforced and implemented here in Ireland by the technology companies based here. As a jurisdiction, we are turning a blind eye to the approach being taken at present, which effectively abuses victims again. These people have been put under great pressure to waive their anonymity so that the offenders can be named. With the stroke of a pen, the technology companies are airbrushing their stories away. That cannot be allowed to happen. If we are genuine and serious about acknowledging the hurt that has been caused and ensuring that those

victims are not abused again, we need to ensure that the EU regulation is enforced in principle and verbatim, which is not happening. We need something else here.

I submitted these amendments at the end of last year so the Department has had a full four months to consider them. I am surprised that no positive suggestion has been made as to how to address this particular problem. It was flagged when I raised this issue with the Minister on the floor of the House on Second Stage. It is just not good enough to say that we will look at it. We need some practical measures. It has taken us 13 years to get this legislation in place. The victims cannot wait another 13 years for this particular provision to be enforced by the technology companies that come under our jurisdiction and which are regulated here in Ireland.

Deputy Helen McEntee: I need to respond to a couple of things. With regard to amendments Nos. 8 to 10, inclusive, perhaps the Deputy has not seen the changes but it is now required that people present in person. That is very clear set out in the legislation. In fact, I believe an amendment the Deputy is to propose later removes the need for it to be done orally and allows it to be done *in camera*. I am not sure if that is what was intended in the later amendment, but it is very clear that people must present in person. We have engaged very closely with An Garda Síochána in developing this and it is happy with what we have set out with regard to the divisions. I apologise if I sounded like I was playing with words but we obviously cannot accept the amendment which refers to a local district headquarters because they will now be divisions. An Garda Síochána is also happy that people will not be allowed to evade it because there are a number of different mechanisms within the legislation in that regard. These include a requirement to report when moving address. People's local stations might not be open but they must report to a local Garda station so that An Garda Síochána knows where they are and is able to monitor them. There are a number of elements to this legislation in that respect. The question of districts and divisions is just a technicality but people must report to local gardaí or to gardaí in general, whether in their own local station or a nearby station, and An Garda Síochána is able to monitor them. We have a very clear system. Later amendments propose to change the time limit for notifying An Garda Síochána that a person is leaving an area from seven days to three or potentially two.

Deputy Denis Naughten: The number of hours does not make any difference. The Minister knows-----

Deputy Helen McEntee: Reporting to gardaí three stations down the road rather than in the Garda station right next to them will not stop people from offending.

Deputy Denis Naughten: Absolutely, but An Garda Síochána would actually have some chance of being able to enforce this if people present at local stations rather than elsewhere. I know there is primary legislation and that we are amending it here. I may have misread it and I hope the Minister will correct me if I have but, on the top of page 9 it says that:

> A person may give a notification under subsection (4)—
>
> (a) by sending, by post, a written notification of the matters concerned

Deputy Helen McEntee: That refers specifically to when people are abroad.

Deputy Denis Naughten: When they are resident here, they must present to-----

Deputy Helen McEntee: It must be in person, yes.

Deputy Denis Naughten: Is it not unfair to an offender who lives in Granard, County Longford, to have to present in Castlebar? Would it not make more sense for them to present in Granard? That is what the legislation says.

Deputy Helen McEntee: They do not have to present anywhere specific. They present to their local station. I assume it would be much easier for offenders to present to their local station than to have to travel. It does not change the fact that they live where they live. There is communication within An Garda Síochána and if there are any changes or concerns then that again comes under the remit of the legislation where relevant information can be shared if there is a concern within An Garda Síochána. Whether it is a local station or one further down the road, they have to present in person and they must comply with the terms set out in their post-release programme. There is a number of different mechanisms in the legislation that allow An Garda Síochána to monitor. We get into all the elements of it later, like changing name and so on, but An Garda Síochána is clear that what we have in the Bill is workable and suitable and it does not impact on how it monitors sex offenders. Whether it is the local station or one 20 miles down the road, it is clear that individuals still have to present to the station and that members of the Garda have an appropriate mechanism to monitor them. If they change address, they obviously have to register that and make a change. If they go on holidays for two days to a different county, they have to present to a station in that county as well.

Deputy Denis Naughten: They do not have to present to a station in that county, they can present to any station.

Deputy Martin Kenny: When I asked about this before, my understanding was that they will give notice, if you like, to the divisional headquarters and it would probably end up that they would make an appointment to see a member of An Garda Síochána in a Garda station close to them. Is that the intention here?

Deputy Helen McEntee: The intention is that it would be next to them, but that is not always practicable.

Deputy Martin Kenny: It would be where ever is practicable.

Deputy Helen McEntee: Yes, it would be whereever is practicable for them.

Deputy Martin Kenny: Is the intention that their initial contact would be to make an appointment to see somebody and that would probably be somewhere very close to them and would be available and open within the set of three days or whatever is in the legislation?

Deputy Helen McEntee: That is the intention. The amendment is specific to-----

Deputy Martin Kenny: Does the Minister think it could be clearer? In fairness, Deputy Naughten raises some valid points and there should be an attempt to make this clearer if that is the intention.

Deputy Helen McEntee: The amendment on the local district-----

Deputy Martin Kenny: I had to ask and then it was made clearer to me in conversation, but it should be clearer in legislation rather than in conversation.

Deputy Helen McEntee: We will try to clarify it. They can engage first with the divisional headquarters but it is not that they must then report to-----

Deputy Martin Kenny: They do not have to present there.

Deputy Helen McEntee: -----that divisional headquarters. It will most likely be next to them but I do not know if there is any way we can clarify that even further.

Deputy Martin Kenny: For instance, if we take the case Deputy Naughten mentioned of someone in Granard going to Castlebar, it is likely that they would make an appointment with somebody in Castlebar to meet someone perhaps in Longford, which is closer to them.

Deputy Denis Naughten: The big issue is the word "any".

Deputy Martin Kenny: It is not clear here.

Deputy Helen McEntee: It is. We are responding to the division and-----

Deputy Denis Naughten: In fairness, this group of amendments is fundamental to the Bill itself. When we have dealt with them, the rest of the debate will run more smoothly. The series of amendments I have tabled are fundamental.

Deputy Helen McEntee: The inclusion of "any" is to capture situations where they are away from their local station. We will try to make that clearer. The intention is that they will report to their local station. I do not think it benefits an offender to have to travel 50 miles to another station. It does not benefit them because they do not evade anyone or anything. It does not change anything. We will make it clearer. Whether the reference is to "district" or "divisional", it is a technical element to it.

In terms of the Parole Board, we have a Parole Act and that is where any changes to the Parole Board would fall under. We have just increased from seven to 12 years when a person can come before the Parole Board. That is set out, irrespective of whether somebody has engaged with education, psychosexual supports or any other type of supports. What happens afterwards is what the Parole Board must take into account. Any changes that fall under the Parole Act would not sit under this legislation. It has been made very clear to us by the Prison Service and the Parole Board that it is only effective where people admit their guilt. As Deputy Naughten says, it is very effective and where people engage in these programmes, they are less likely to reoffend, but if someone has not admitted their guilt or that what they did was wrong, engaging with these type of programmes simply will not work. The Parole Board takes that type of engagement into account, and somebody is less likely to be released if they have not engaged in any way, shape or form, but if any changes were to happen, it would have to be reflected in the Parole Act.

In the final piece, what Deputy Naughten has proposed here is essentially already set out in law. The law is very clear that the right to be forgotten is not an absolute right. That is the law. It is very clear. The Parole Board must take on board what is relevant to the public interest, including previous convictions. That clearly includes convictions for sexual offences. What I am saying in terms of further engagement once this Bill is implemented is that we will engage with those companies and make sure they fully understand the law. Deputy Naughten noted that people have had to waive anonymity. If there are examples where companies have breached the law and removed content or data which are clearly in the public interest or clearly include people's previous convictions, then they are in breach of the law. If we do not know about them then nothing can be done, so if there are very clear examples of where that has happened, then it would be very helpful to know that. The law is the law and I am not sure if we can strengthen it any further. By implementing this legislation and then engaging with that particular sector

to make sure that the companies are clear about what is set out in the law and what has been set out by the Court of Justice of the European Union might go some way to making sure it is absolutely understood.

Deputy Denis Naughten: I will not go into the detail of cases but there are newspaper reports of cases where individuals have been delisted for managing vice rings and for various other convictions relating to sexual offences, including those convicted of possessing material relating to child sexual abuse. That is in the public domain. I personally hate to see where victims waive their anonymity because they are given that status during a legal process to protect the victim and they feel they have no choice at the end of the court case but to disclose who they are in order to have the perpetrator named. I do not think it is right that having gone through the trauma of the case and having to deal with it, we then have companies that are regulated here in this country deciding to just completely erase their story. That is wrong and I do not think it should be allowed. We need to ensure that the letter of the law is implemented here in Ireland. I ask the Minister to think long and hard about it and I will reintroduce the amendment on Report Stage.

Acting Chairman (Deputy Patrick Costello): The enforcement of GDPR or the lack thereof has been an issue that has taken up lots of time in this committee and will do in the future. We will discuss that with Deputy Naughten again.

Amendment, by leave, withdrawn.

Section 3 agreed to.

Sections 4 to 6, inclusive, agreed to.

SECTION 7

Acting Chairman (Deputy Patrick Costello): Amendments Nos. 2 and 3 are related and may be discussed together, by agreement. Is that agreed? Agreed.

Deputy Denis Naughten: I move amendment No. 2:

In page 8, line 2, to delete "18 years" and substitute "17 years".

The age of sexual consent in this country is 17. Why is there a difference in the age here? There seems to be a lack of consistency between the age of consent and the threshold regarding an individual being placed on the register and the length of time he or she is on it. What is the reason for that?

In terms of amendment No. 3, the reality is that if an offender was just shy of his or her 18 birthday and committed a very serious offence and has a high risk of reoffending, why is a maximum of five years being placed on that individual?

My questions are, first, why there is a differential between 17 and 18 and, second, should we not be giving the courts the discretion on an individual who has not reached the threshold of 18 years of age but has a very high risk of reoffending. Why should we minimise the length of time that they are subsequently on the register?

Deputy Helen McEntee: This has nothing to do with the age of consent. It simply has to do with whether someone is charged as a child or an adult. In Ireland, a child is defined as a person under 18 years of age. It is simply to make sure we have that clear definition. It is not

in any way aligned to consent. I do not think consent or the age of consent should come into any of this where we are speaking about a sexual offence. They are two separate issues. If we start treating children differently for different crimes where do we stop? It is simply a very clear clarification. If people are under 18 they are a child and the rules have to apply the same as they do for any other offence. If they are over 18 they are treated as an adult. If we start blurring the lines, is someone aged 16 much different to someone aged 17 and *vice versa*? This is where the five years comes in. It applies to a child under the age of 18. I appreciate that we can have very mature 17-year-olds and very immature 22-year-olds. We have to have a legal definition and the line is drawn at 18. It is not possible for us to suddenly deviate from this.

Deputy Denis Naughten: That is fair enough and I take the point the Minister is making regarding being 17 versus 18 years of age. Regarding the five years, surely this should be based on the risk assessment carried out and available to the Judiciary at the point of sentencing. Why are we tying the hands of the courts? The Minister will very cogently argue against mandatory sentencing on the basis we are tying the hands of the Judiciary. In this case, we are saying it is based on the age of the individual, despite the fact this could be a very serious offence. The risk of reoffending could be extremely high. We are minimising the period for which a person can be on the register after release.

Deputy Helen McEntee: There are only one or two offences that require minimum sentencing and even these are challenged by the courts. In many instances, we have a maximum sentence or penalty. What we are referring to here is a maximum sentence of five years. I do not think this ties the hands of the Judiciary. This is a recommendation from the Attorney General who looked at other types of case law and criminal offences and the fact that it involves a minor. The recommendation is five years. This is something on which we have had a great deal of engagement with the Attorney General. It is a maximum that allows up to five years for the judge to respond.

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 3:

In page 8, lines 4 and 5, to delete ", which period shall not exceed 5 years,".

Amendment, by leave, withdrawn.

Section 7 agreed to.

SECTION 8

Acting Chairman (Deputy Patrick Costello): Amendments Nos. 4 to 7, inclusive, and 14 are related and will be discussed together.

Deputy Martin Kenny: I move amendment No. 4:

In page 8, to delete line 12 and substitute the following:

"(i) by the substitution of "48 hours" for "7 days",".

These amendments deal with the issue of when a sex offender has to report to the Garda station, whether divisional headquarters, local Garda station or whatever. A little more clarity needs to be brought to this and the Minister accepts this. In the modern world we live in we can communicate with a person in seconds and minutes. We need to be able to ensure that victims

understand that a person who is released and who is reporting is doing so as efficiently and effectively as possible. This is why we feel 48 hours is more than enough time for people to be able to communicate with the Garda station, and I hope it will be the local Garda station. They can make an appointment to go in person to meet somebody. This should be able to be done as quickly as possible and 48 hours is more than sufficient time to do so. This concept is repeated throughout the amendments. I hope the Minister recognises that modern communications and technology should mean this can happen very fast. Even 48 hours is giving too much time to do it. We have to put it somewhere but as close as possible to immediate is what we should be trying to achieve.

Deputy Helen McEntee: Between two or three days does not make a difference. It is not something I am majorly opposed to. We have engaged with all of the stakeholders, including An Garda Síochána, victims groups and the Irish Prison Service. It is three days in Northern Ireland and the UK. We felt that by aligning this it would be in sync with the legislation in the North and the UK, where there is a lot of crossover. It is not something I am very opposed to but there is logic given this is the number of days that people have asked for and there is synchronicity with our colleagues in the North.

Deputy Martin Kenny: I accept that it is a limit, and it is not something that people have to push out to the limit. They could contact the local Garda station within hours of arriving in an area if they wish. The sooner it is done, the sooner local gardaí are aware that a person who has a past and who has had a conviction for a very serious sexual offence is living in the area or coming to live in there. The sooner gardaí are aware of this, the more prepared they can be for it. From this point of view, 48 hours gives them adequate time. I hope the Minister will agree with this.

Deputy Denis Naughten: I agree with the Minister on the point she made regarding someone coming to reside in an area. There is a big difference between 48 hours and three days from the point of view of someone coming into and leaving the country who wants to exploit this. I ask the Minister to have a look at the matter again prior to Report Stage.

Deputy Helen McEntee: As I have said, it is not something I am steadfast on. It is simply that this is what we have been asked for. It is what the Garda has said works. It is what there is in the North and the UK. I will take it on board and come back to it on Report Stage.

Amendment, by leave, withdrawn.

Deputy Martin Kenny: I move amendment No. 5:

In page 8, line 21, to delete " "3 days" " and substitute " "48 hours" ".

Amendment, by leave, withdrawn.

Deputy Martin Kenny: I move amendment No. 6:

In page 8, line 35, to delete " "3 days" " and substitute " "48 hours" ".

Amendment by leave withdrawn.

Deputy Martin Kenny: I move amendment No. 7:

In page 8, line 36, to delete " "3rd day" " and substitute " "48th hour" ".

Amendment by leave withdrawn.

Deputy Denis Naughten: I move amendment No. 8:

In page 9, lines 4 to 6, to delete all words from and including "any" in line 4 down to and including "section" in line 6 and substitute "the local district headquarters of the Garda Síochána".

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 9:

In page 10, lines 16 and 17, to delete "any Garda Síochána station which is a divisional headquarters" and substitute "the local district headquarters of the Garda Síochána".

Deputy Helen McEntee: The section specifically deals with somebody with a disability. Deleting the word "orally" and substituting the phrase "remotely by video" does not-----

Deputy Denis Naughten: We have not come to that. That is amendment No. 11.

Deputy Helen McEntee: I apologise.

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 10:

In page 10, lines 26 and 27, to delete "any Garda Síochána station which is a divisional headquarters" and substitute "the local district headquarters of the Garda Síochána".

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 11:

In page 10, line 32, to delete "orally" and substitute "remotely by video".

I accept that the section relates to people with physical disabilities. What I am saying is that if a person cannot physically present at Garda station, and there are reasons this may be the case, then it should be done by video. We all have devices that have video cameras on them. We can use WhatsApp or any type of other video app on the phone to have a conversation with the Garda. Gardaí need to have the opportunity to see what the individual looks like and what their demeanour is. This cannot be done over the phone. We must remember the reason we are moving to a situation where people need to present at a Garda station and engage with gardaí is because of the lack of engagement that has happened up to now. We are enshrining in this law analogue technology to monitor potentially a high-risk sex offender who is using the latest digital technology to continue the exploitation of children or anyone else they might want to abuse if they so wish or are so inclined. We are saying in terms of engagement with the Garda they can do it over the phone. This is not good enough. The technology is there today to allow this to happen easily by means of a video call.

That should be the mechanism used in cases where people cannot physically present, for whatever reason, at the local Garda station.

Deputy Helen McEntee: By deleting "orally" and substituting "remotely by video" in this case, we would essentially be saying that people must do this remotely, which is not what I

think the Deputy means. "Orally", here covers not just contact by telephone, but also a Garda calling to a person's house. That has happened in certain circumstances. It also covers remote contact by video, where people are orally talking to someone but via video. Therefore, this wording covers every way in which the Garda can communicate with the person, except in writing. As was said, that is not something that will be required. I do not know if we can clarify that "orally" means including talking remotely by video, or if it might be possible to clarify that there are ways-----

Deputy Denis Naughten: Perhaps we can use the words "orally and visibly". The Minister understands the point I am trying to make.

Deputy Helen McEntee: I do, and I do not think the intention of the amendment is to-----

Deputy Denis Naughten: I want to have a situation where people can make contact in person, if possible. At a minimum, it should be possible for gardaí to visibly see the individual concerned.

Deputy Helen McEntee: In that regard, arrangements can be made for someone to call to a house. "Orally" covers remotely by video as well. As I said, the amendment is not intended to remove that flexibility to call to a house and specify that contact can only be done by video. By making this change, however, that is what the amendment would actually set out. I reiterate that "orally" means that someone can call to a person's house or that the person concerned can go to the station or make contact remotely by video. Therefore, it covers several different actions, which-----

Deputy Denis Naughten: Yes, but individuals are also complying with the legal requirement by having a telephone conversation. This is the difficulty. They are complying with the law and not breaching it by having a conversation on the telephone to say they cannot attend. Individuals will have complied with the law by doing so, and this is my difficulty.

Deputy Helen McEntee: We will look at the issue.

Deputy Denis Naughten: I would appreciate if the Minister could have a look at it. I can see where she is coming from and the intention behind this provision. We are at one regarding where we want to get to. I am just afraid that, as drafted, this wording could allow for a loophole to be created, which I do not want to see happen.

Deputy Helen McEntee: Being on a video camera does not determine a person's location. Being on a telephone call does not determine a person's location. That comes from speaking to someone and confirming-----

Deputy Denis Naughten: Yes.

Deputy Helen McEntee: -----that the person is who he or she claims to be. Seeing someone in person on camera does not necessarily offer the confirmation being sought either. I can look at the word suggested and see if it covers everything or if there might be room for loopholes. The intention is that there will be a conversation with someone. In the small number of cases, and there have been some, where someone had a disability, the Garda have called in person to the individual's house. The force has got around this issue in its own way. We can look at this wording and explore this issue, but I cannot give a commitment because I think that "orally" makes clear there is a requirement to talk to somebody, be that on camera or in person. Doing so over the telephone does not remove the fact that a person could be anywhere.

Deputy Denis Naughten: Grand. I will look at this again as well. Perhaps we could include wording such as "orally in the presence of a member". That might get around it. I will withdraw this amendment, while reserving the right to reintroduce something similar on Report Stage. We can revisit the issue then.

Amendment, by leave, withdrawn.

Section 8 agreed to.

SECTION 9

Acting Chairman (Deputy Patrick Costello): Amendments Nos. 12 and 13 are related and will be discussed together.

Deputy Denis Naughten: I move amendment No. 12:

In page 11, lines 14 and 15, to delete "3 days" and substitute "7 days".

If I have read the legislation correctly, the Garda has three days to act on foot of an offender making a notification to the force. The Garda can only take fingerprints and photographs within that time. This seems to be a tight window. If the Garda member monitoring sex offenders goes out sick or if there is a serious incident in a particular station, this three-day period seems to be a tight window. Does the clock start ticking when the offender contacts the station? Is that when the three-day period kicks in? Periods such as bank holiday weekends or Christmas could be deliberately used as a mechanism to try to ensure the individual concerned does not provide the relevant information to the Garda. The three-day window seems to be tight.

On amendment No. 13, the Garda can only hold an offender's fingerprints for three months after his or her monitoring period has expired. The reality is that the victims must deal with this impact for the rest of their lives. We are stipulating, however, that offenders' records will be erased three months after the monitoring period has ceased. That is not appropriate and it is why I propose this amendment.

Deputy Helen McEntee: Regarding amendment No. 12, I am open to the proposed seven days. The Garda has not asked for a longer period and that is because we have provided for a level of flexibility in this section. If it is not possible to carry out these tasks within three days, there is flexibility to further extend the period. I am happy to clarify the position on the seven days and ensure it is clear that it is possible.

Deputy Denis Naughten: Great.

Deputy Helen McEntee: On amendment No. 13, the provision concerned simply refers to duplicate fingerprints. The original fingerprints are retained indefinitely as part of the provisions of the Criminal Justice Act. The Attorney General's advice is that the reason fingerprints are being taken in this section is to confirm a person's identity at that time. Once they are no longer needed, the Garda is no longer able to hold on to them.

Deputy Denis Naughten: Okay.

Deputy Helen McEntee: The original prints are held indefinitely.

Deputy Denis Naughten: That is grand. I would appreciate if the Minister could respond to me regarding amendment No. 12. I may reintroduce it but I will withdraw amendment No.

13.

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 13:

In page 11, to delete lines 35 to 41, and in page 12, to delete lines 1 to 12.

Amendment, by leave, withdrawn.

Deputy Helen McEntee: Just to add, making this change would mean having to amend sections 10A(1)(b) and 10A(2) as well, so we will need to ensure that happens. If we increase the period from three days to seven days, these subsequent subsections will also need to be amended as a consequence.

Section 9 agreed to.

Section 10 agreed to.

SECTION 11

Deputy Martin Kenny: I move amendment No. 14:

In page 13, line 5, to delete "3 days" and substitute "48 hours".

I will withdraw this amendment, with leave to reintroduce it on Report Stage.

Amendment, by leave, withdrawn.

Section 11 agreed to.

Section 12 agreed to.

SECTION 13

Deputy Helen McEntee: I move amendment No. 15:

In page 14, lines 19 and 20, to delete "pursuant to section 29(1)".

I thank the committee for considering this amendment. This responds to concerns raised that the present definition is too narrow and therefore deems some offenders ineligible. The deletion proposed will facilitate the inclusion of a slightly wider cohort of offenders, including offenders subject to probation supervision for an offence rather than a sexual offence. Such offenders would still need to have a previous conviction for a sexual offence to fall within the definition. These include offenders subject to part-suspended sentence supervision orders, fully-suspended sentence supervision orders, adjourned supervision cases, Circuit Court probation orders and non-statutory supervision cases. By deleting the text as proposed, all offenders who need to be managed through the sex offender risk assessment and management, SORAM, process will be included by virtue of widening the definition and, thereby, the cohort. This just means we will be including more people within this cohort.

Amendment agreed to.

Acting Chairman (Deputy Patrick Costello): Amendments Nos. 16 and 17 are related and will be discussed together.

Deputy Denis Naughten: I move amendment No. 16:

In page 14, lines 28 and 29, to delete "Officer may, where they are satisfied, in relation to a relevant offender, that it is necessary to do so," and substitute the following:

"Officer—

(a) shall, prior to the release of the offender from prison or place of detention, and

(b) may, where they are satisfied, in relation to a relevant offender, that it is necessary to do so,".

This amendment places an obligation on the Garda and the Probation Service to review every planned release from prison and to determine if a risk assessment management team needs to be established, based on the risk of the individual in question reoffending. I accept this amendment may not be drafted as effectively as it should be, but that is why the Minister has a drafting team and I do not. The principle behind what I am seeking is that an obligation should be placed on the Garda and the Probation Service to assess each individual prior to his or her release to determine if a risk assessment management team needs to be established. I ask that the legislation reflect this.

Deputy Helen McEntee: As Deputy Naughten said, this amendment, as worded, would not allow SORAM engagement at a later stage and I know that is not what is intended. There is a working group in place, namely, the pre-release SORAM working group, with members of the probation service, the Prison Service and An Garda Síochána. That is there to put in place operational procedures to help manage sex offenders once they are released. You have all of the relevant people, as mentioned, on it. Then that continues after somebody is released.

Acting Chairman (Deputy Patrick Costello): Does the Minister want to discuss amendment No. 17?

Deputy Helen McEntee: This amendment relates to the composition of the risk assessment and management team and the range of experts and the representatives from relevant agencies who are members of the teams. As such, it is a technical amendment. The Government is proposing to delete the words "from time to time" as they are superfluous to the meaning given that the preceding words "consider appropriate" in the same sentence are sufficient in reflecting that not all individuals, as outlined, may be required to represent. As such, it is very much a technical term.

Amendment, by leave, withdrawn.

Deputy Helen McEntee: I move amendment No. 17.

In page 15, line 7, to delete "from time to time".

Amendment agreed to.

Acting Chairman (Deputy Patrick Costello): Amendments Nos. 18 to 21, inclusive, are related and may be discussed together.

Deputy Denis Naughten: I move amendment No. 18:

In page 15, line 29, to delete "may" and substitute "shall".

The risk assessment is only done for those who are at high risk of reoffending. In those circumstances, there should be responsibility on the risk assessment team to share the relevant information in managing the risk of harm posed by them. There needs to be a responsibility and an obligation on the team to share information and it cannot be used as a defence that where they reoffend and violate another human being, they can say that they had discretion or did not believe that the information was relevant. A doctor, a health professional or a teacher has a legal obligation under the Children First policy in regard to a child who is at risk. Surely that should be extended, so all relevant information is given and that we are not talking about the discretion of the individuals who are referenced here as to what information they are going to give and to whom they will give that information. The intention behind this legislation should be that we are protecting women and vulnerable adults in many cases. We should draft the legislation in that manner rather than giving discretion as to whom information or what information is going to be released. That is the thrust of those amendments.

Deputy Martin Kenny: Amendment No. 20 is around the issue of the risk management team and its communication with the victim in these cases. What is being proposed here is that there will be a written agreement whereby a particular member of the team will be nominated as a contact point for the victim. In the case where the offender has served a sentence and is about to be released or is being released that they provide relevant information to the victim, including a notification of the release as soon as practical after the release has occurred and a copy of updated photographs of the offender, and any other such information considered necessary to avoid, mitigate or manage the risk posed by the offender.

On different occasions we have all come across circumstances where individuals have had the shock of their lives when they met the person that had done them serious harm on the street, in the supermarket or wherever and were unaware they had been released or that they were back in the community. Somebody will have told them that the person is at large again and that they have seen them. It has been a very traumatic experience for the victim. We all know that the person who goes to prison is not going to be there forever and that they are going to get out at some stage. There needs to be a process to prepare the victim for that because in many of these cases the victim has been left behind or certainly feels they have been left behind in the past. I think there is an opportunity in this legislation to do so.

In the initial draft of this legislation, I thought that one would have to inform the victim when the person was being released but probably that would not be appropriate. Certainly, as soon as practical after release, it would be important that the victim be made aware of that and as much preparation as possible should be provided to the victim.

Deputy Helen McEntee: On the first point by Deputy Naughten, we had extensive legal advice in regard to the words "shall" or "may" and the reason we have put forward "may" is that there has to be some level of discretion in certain situations where An Garda Síochána believes that certain information is not appropriate to share, be it with the local housing authority, the HSE or another relevant body. There is a degree of flexibility built in. That is why we have "shall" which allows for that type of information to be shared. The Attorney General is very clear that those who need access to relevant information shall get it, but those who do not, do not. There are certain situations where a particular type of information might not be relevant to the individuals involved at a particular time or a particular stage in the process and that is why we put forward the word "shall". It gives that little bit of flexibility where it is not necessary to provide that information.

On the second piece, SORAM deals directly with the offenders and not the victims, so we have a separate process through the Victims of Crime Act. We have the Victims' Charter which we are updating and, hopefully, improving through O'Malley and Supporting a Victim's journey which covers all victims, including those who are victims of sexual assault or crimes. The Prison Service and the prison liaison officer is there to make sure that if someone is being released, the victim has that information. An Garda Síochána at a certain point will engage in certain information but certainly when a prisoner is being released, there is already that contact with the prison liaison officer to let a person know. When it comes to the Parole Board, engagement can happen there. What has come to light recently in my own engagement with victims is that they were not always aware that they had a right to engage with the Parole Board and that they would then in turn get the information. We are trying to make it absolutely clear through the Victims' Charter and the Victims of Crime Act that the victim has the right to know when someone is being released, the terms of the release, the timelines, where they might be and all of those different things. We need to make it as clear as possible but that is done through the Victims of Crime Act.

In regard to the photograph, this is something we could look at through the Victims of Crime Act. Obviously, you do not want a situation where you have SORAM**,** which is not necessarily equipped to deal with victims as opposed to offenders, presenting someone with a photograph if they have not asked for it or if it not something that they require. If it is something a victim wants and asks for, then perhaps there could be an appropriate mechanism for them to receive that. I am happy to explore this further and to perhaps to look at it through the Victims of Crime Act but only to do so where a victim wants it, it is appropriate and he or she has asked for it.

There are circumstances where a picture could be shared if a member of An Garda Síochána has a concern that a person is in an area they should not be in, or that there are children nearby, or where they are alerting someone to the fact that this person might be in the area. That is at the discretion of An Garda Síochána but when it comes to the victim, that is something we need to explore further in the other legislation. I am very happy to do that.

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 19:

In page 15, line 30, to delete "relevant".

Amendment, by leave, withdrawn.

Deputy Martin Kenny: I move amendment No. 20:

In page 15, between lines 33 and 34, to insert the following:"(4A) A member of a risk management team shall, with the express written agreement of the team, be nominated as a contact point for the victim in the case for which the offender has served the sentence which he or she is being released from. This team member will provide relevant information to the victim, including:(a) notification of the offenders release, as soon as is practicable after the release has occurred;(b) copy of the updated photograph of the offender, as provided for in section 10;(c) such other information as the member considers necessary to avoid, mitigate or manage the risk posed by the offender."

At the moment the victim has to actively look to find out when the person is being released. The victim is not informed automatically. That needs to be re-examined and a way around it found because many victims do not know when the person is coming out. They can get early release

and it is a shock to the victim. They do not know that they can seek that information already. Possibly more information needs given. It would be better than putting the onus on the victim. There needs to be a system to get around that.

Deputy Helen McEntee: I agree with Deputy Kenny but that should not be done through SORAM. SORAM is specifically for offenders. I agree, however, that we need to make it clearer that victims have a right to access that information but it would have to be done in other legislation. I am happy to come back to that and include it in the follow-up with the photographic engagement as well.

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 21:

In page 15, line 34, to delete "may" and substitute "shall".

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 22.

In page 17, line 15, after "name" to insert "and photograph".

Amendment No. 22 is self-explanatory. I listened to the comment earlier in regard to photographic evidence. Where a member of the public is being informed and given the name of a relevant offender, they should also be given their photograph. We will deal with the issue of names later on in the final amendment I put down.

The name may not have any relevance to the person who is being informed. The likelihood is that in the cases where this disclosure is being made, the person being informed is aware of the individual. If, however, an individual is hanging around a school, for example, and the person being informed is the school principal, giving a name to the principal is of little use in that instance; he or she needs to know what the individual looks like. The requirement for a photograph should be included under section 14E(1)(a). The Garda will have taken a photograph of the individual when he or she is being put on the register. The disclosure should include photographic evidence.

Deputy Helen McEntee: What I am proposing is to separate the two. As it is currently worded, the Garda would have to give both the name and a photograph. The relevant Garda member may decide it is not necessary to give both, so we will separate it out such that there is a paragraph relating to disclosure of the name and another relating to a photograph.

Deputy Denis Naughten: I am happy enough with that.

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Patrick Costello): Amendments Nos. 23 to 25, inclusive, are related and may be discussed together.

Deputy Denis Naughten: I move amendment No. 23:

In page 18, to delete lines 9 to 36.

The amendment proposes the deletion of the provision requiring that the offender be informed

before the potential victims or their guardians. In reality, what would happen under the section as drafted is that when a sex offender who is in contact with and has obviously been grooming a child or vulnerable adult is informed this disclosure will be made, he or she will just go to ground. That means that nobody will be informed and the offender will be free to do the same thing again but on that occasion will be far more careful to ensure his or her movements do not come to the attention of An Garda. All the offenders will do is refine the grooming mechanism they have been using up to that point to go undetected the next time. The offenders should not be given advance notice of this information.

Amendment No. 24 is a technical amendment in respect of what "publication" actually means. To me, it means the release to a publication and may not, in theory, include social media. My wording avoids that confusion. That is the only reason I have tabled the amendment.

Amendment No. 25 proposes that the Commissioner should be obliged to publish details on how he or she intends to assess and manage offenders post release, as well as how and when the information will be provided to other police forces or third parties.

Deputy Helen McEntee: The advice of the Attorney General is that we would have to disclose or give advance notice to the offender before this is done. We may be able to consider this further and clarify it. The wording is that a Garda "shall, in advance of making a disclosure" inform the relevant offender. It does not state that the member must do so. That provides flexibility. The Attorney General is clear that notice must be given. I do not think there is any way around it but the use of the word "shall" suggests that, for example, a member of An Garda could go to a person who is in a new relationship and explain that his or her partner will be told and give the person an opportunity to make the disclosure himself or herself, move away from his or her partner or disengage from the relationship. The Deputy mentioned certain other situations and in that context there is an option for the member of An Garda to go directly to the family, school or principal where there is a concern in that regard and not give advance warning. The word "shall" gives that flexibility to An Garda, which means it does not have to give-----

Deputy Denis Naughten: The word "may" gives flexibility. To me, "shall" does not give flexibility. That is the difficulty here.

Deputy Helen McEntee: Apologies. I read it as "may". We will get clarity on that issue. I agree with the Deputy. I do not think that in all instances-----

Deputy Denis Naughten: Yes.

Deputy Helen McEntee: I will get clarity on this.

Deputy Denis Naughten: I will live with "may" but I have a difficulty with "shall".

Deputy Helen McEntee: Sorry. I was saying "shall" as "may" in my head. I would like to get clarity on this point. I agree with the Deputy on it. We will come back to that issue.

On the issue of publication, I am sure that what is in the Bill is the strongest language that covers everything. We can look at it again to clarify that the intention is that it would apply to every type of publication, including online media, print, radio and everything else. We will clarify that and ensure it is as strong as it can be.

I did not get a chance to mention it at the outset, but I have three other amendments that I hope to bring forward on a later Stage. One of those amendments looks at the engagement

between An Garda Síochána and other police forces, to which the Deputy has referred. If it is okay, I will come back with amendments on Report Stage to deal with that directly.

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 24:

In page 19, line 3, to delete "publication" and substitute "release of information".

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 25:

In page 20, line 8, to delete "14D and" and substitute "14A to".

I will withdraw the amendment with leave to reintroduce.

Amendment, by leave, withdrawn.

Question proposed: "That section 13, as amended, stand part of the Bill."

Deputy Denis Naughten: On the section, I want to flag a broad issue. I will not dwell on it. I know the Minister or, more so, the Department has taken a position in respect of the approach in this regard. I have dealt with the Department in respect of this issue for a decade and I doubt it will back down from its position but I want to flag my concern regarding the legislation as drafted in the context of the disclosure of information. What is being provided is a very restrictive and limited right to information. It is too restrictive and limited. All of the discretion in this regard is being left in the hands of An Garda. While I welcome the fact that An Garda will have the legal right to make a disclosure, an option that has not been available to it until now, there should be a mechanism for members of the public who have responsibility for the protection of a child or vulnerable adult to make an inquiry to An Garda. I do not have an issue with An Garda then making an evaluation based on the request in respect of whether it decides to disclose. In fairness, I believe the Garda will take a responsible approach on this issue but it is more about changing the mindset in this country in respect of the principle of disclosure. It is about giving parents the right to protect and safeguard their child or a vulnerable adult. Changing the culture in this country will protect far more children. As the Minister will be aware, similar legislation has been in place in the UK for many years. I know examples will be given of where it has been abused. I have put forward amending legislation that provides the correct balance between the rights of parents and guardians and those of the offender. Where it has happened in the UK, however, only a very small number of disclosures have been made. Less than 10% of requests have led to a disclosure but in one third of cases it has brought to the attention of the authorities situations that had not previously come to their attention and led to other protection measures being put in place in respect of children. A cultural change needs to take happen in this country such that people are far more proactive in expressing concerns to An Garda Síochána when something just is not right or does not add up.

Acting Chairman (Deputy Patrick Costello): I am conscious that there are more amendments to be dealt with. This is not Second Stage. It would be good if we could push on with the details of the remaining amendments.

Deputy Denis Naughten: I am dealing with the detail of the section in the context of-----

Acting Chairman (Deputy Patrick Costello): That has been done through many of the amendments that we have already-----

Deputy Denis Naughten: No. We have not dealt at all with the disclosure to third parties. This is my only opportunity to do so. I am quite happy to have it out with he Chair but, under Standing Orders, I am within my remit to raise this at this point,. If the Chair gives me a couple of minutes, I will finish with it before long. It is a key issue.

I am talking about legislation that passed Second Stage and that was accepted by the then Minister, Alan Shatter. It was referred to this committee. It did not progress from the committee on the basis that the legislation before us now was coming forward. The general scheme was published subsequently, in 2018, and dealt with by the committee, which has led to the legislation before us now. Reference is made in this legislation to third parties but in very limited terms. We have already had the conversation about notifying the perpetrator in advance of notifying any potential victim. We need to go that step further and provide a mechanism for parents and guardians to make proactive contact with the Garda to express a reservation or concern because that may end up bringing to the attention of the Garda a risk to which a child or vulnerable adult is exposed but which is not active at the given moment.

I have put on the Dáil record on a number of occasions incidents where children have been approached at playgrounds or on streets in the city of Dublin, and those incidents were never reported to the Garda or were reported to the Garda only three or four days later. A cultural change needs to take place such that anything untoward is immediately reported to the Garda. I do not think the level of disclosure will change, but changing that culture in this legislation and providing a proactive avenue for people to make contact with the Garda if they have concerns such that that route is open to them and a disclosure may be made to the Garda could end up protecting many more children and vulnerable adults. I ask the Minister to contemplate the matter again in advance of Report Stage.

Deputy Helen McEntee: The intention behind the Bill is that An Garda Síochána have discretion to disclose information. We are in agreement that if something happens, it should be reported immediately, whether it is a child being approached or something more sinister or serious. If, however, a parent or other individual engages with An Garda Síochána, there is flexibility there. If An Garda Síochána feels there is a risk or a necessity to disclose certain information, that can be done. There is not a formal process set out in the legislation or a formal channel, as the Deputy proposes, but that does not prevent An Garda Síochána from disclosing information where it feels there is a particular risk or threat. I hope we have been clear in the legislation that that flexibility is there.

The Attorney General's advice and the other legal advice we have is also very clear that the rights must be balanced. While that might be difficult for people to hear when we are talking about victims, and often children in this regard, there has to be that certain balance. That is what we have tried to do in order that this does not apply in all instances in which information is disclosed. I do not think that is helpful for rehabilitation or, in some instances, safer communities, but there are instances in which people should be given information and in which individuals in particular cases should be aware of particular individuals. That discretion is there, although there is no formal channel *per se*. I am not sure how in the UK that formal channel works separately from somebody going into a police station, requesting information or giving information and then it subsequently being given back to them, but that, essentially, is available here, albeit at the discretion of An Garda Síochána. Gardaí know all the facts of the cases and of the individuals, and we are entrusting them to make that decision, albeit quite a big decision. Given that they are the ones who have all the information, they are the appropriate people to make that decision.

Deputy Denis Naughten: There should be a formal channel. I ask the Minister to think about the matter before Report Stage.

Question put and agreed to.

SECTION 14

Deputy Denis Naughten: I move amendment No. 26:

In page 20, to delete line 24 and substitute the following:

"in the order,

(aa) require the respondent to avail of treatment or counselling or participate in a psychosexual evaluation, and".

Amendment, by leave, withdrawn.

Acting Chairman (Deputy Patrick Costello): Amendments Nos. 27, 31 and 32 are related and will be discussed together.

Deputy Denis Naughten: I move amendment No. 27:

In page 20, between lines 29 and 30, to insert the following:

"(c) in subsection (4), after the word "respondent" where it secondly occurs to insert the following:

"or protecting the victim of previous crimes from harassment",".

The main aspect of this group of amendments is to deal with the harassment of victims for which the perpetrator was charged, convicted and served a sentence. Such perpetrators are then released back into the community. They have orders placed on them, but if such an individual harasses the victim or hangs around the vicinity of where the victim resides or works, that victim has to go through a completely separate and new legal process. It is considered a new offence, and that should not happen. When the witness is useful to the State in achieving a conviction, protection is afforded to him or her during the investigation, the pre-trial and the trial proceedings. At that stage we are talking about only an alleged offender, but once that individual changes from being an alleged offender to being a convicted offender, the protection that applies to the victim evaporates with that conviction. There is no way the victim can at present be protected from secondary and repeated victimisation, intimidation or retaliation by a convicted offender. We need to reflect clearly in the legislation the current shortcomings and to address those shortcomings by continuing that protection of the victim after the sex offender is released from prison such that he or she cannot go back and re-victimise the victim and effectively re-abuse the victim through the threat of intimidation or harassment. The law needs to be strengthened in this area. As I have said before, we do not want to see victims re-abused, which I feel is happening. The Minister is aware of a case. I am aware of a case in my constituency in which this level of intimidation is going on but it is at a level that will not secure a new conviction. It should not have to come to that. This is a continuation of abuse that has gone on previously. That should be taken into consideration and protection provided to that individual and all other individuals who find themselves in similar circumstances. That is the focus of amendment No. 27.

As for amendment No. 31, again, we should protect the public from harm, not just serious harm. What is the definition of serious harm compared with the definition of harm? Again, we are qualifying the right to protection there, and that is not appropriate.

I think I have addressed the amendments, if the Minister wishes to respond.

Deputy Helen McEntee: I fully agree with the Deputy that somebody who is released from prison should not be allowed to continue to harass or to engage in behaviour that causes alarm, distress or upset that has serious implications for a person. Obviously, there is discretion for any judge to say that, on release, the person cannot engage with a person or go within X amount of miles of a person, but I am also aware that does not always happen. Understanding the case the Deputy mentioned and knowing that this is happening not just to one individual but to many others, a new civil order I am proposing as part of the stalking and harassment legislation would enable a person to bring forward a case to the civil court without having to go through a criminal process or procedure. It is obviously much more challenging and lengthy to essentially have a civil protection order against an individual where they engage in particular types of behaviour, such as communicating to, at or with the person through another person, directly interfering with the person's day-to-day lives or causing alarm or distress. It does not have to be that they are physically engaging with the person all of the time and it could be through many and various different means. Once the person is able to show some form of evidence of those different behaviours, which are set out clearly in the stalking legislation, then he or she would be able to receive a civil protection mechanism, which in certain instances would be hugely helpful.

I hope that matter will be dealt with. What I might do is make sure that as that separate legislation is progressing, it covers this type of instance where there are people who have been victims of sexual offences and where the perpetrators are released and are engaging. I will 100% make sure that that covers it.

Deputy Denis Naughten: I thank the Minister. I will withdraw the amendment with leave to reintroduce.

Amendment, by leave, withdrawn.

Section 14 agreed to.

Sections 15 to 18, inclusive, agreed to.

SECTION 19

Question proposed: "That section 19 stand part of the Bill."

Deputy Denis Naughten: Sections 19 and 20 restrict the sex offender from being employed in certain professions where the work involves children or vulnerable persons. Should that not include the security industry as well? Within the security industry, they are going to come in contact with vulnerable adults on an ongoing basis. Surely it should include the security industry as well. Maybe it is an area that needs to be looked at in advance of Report Stage.

Deputy Helen McEntee: I am happy to look at it. I will come back to the Deputy before we take Report Stage.

Question put and agreed to.

SECTION 20

Deputy Denis Naughten: I move amendment No. 28:

In page 25, to delete lines 33 to 36.

The Minister can correct me if I have got the interpretation of this wrong. It seems to me that the longer the custodial sentence, the shorter the maximum period of the monitoring post release. If that is the case, it is absolutely crazy. We are saying that the more heinous the crime and the higher the severity of the custodial sentence, the less time the person can be monitored post release. I hope I have interpreted it wrong but that is where I am coming from in this amendment.

Deputy Helen McEntee: The position is that we cannot go beyond maximum sentencing for an outright prohibition when it comes to the offender's work. Therefore, if the maximum sentence is ten years and he or she serves five, the prohibition is five years. In a lot of the serious cases, it is life imprisonment, so it means it would apply for life. This refers to where it is not a life sentence. As I said, if it was a particular crime where the maximum penalty is ten years and somebody serves five years, then the maximum that can be applied in terms of an outright prohibition is five years to bring it up to the ten. In the most severe cases, a person will generally receive a life sentence. Obviously, that means he or she goes before the parole board after 12 years and goes through that whole process, but that would mean it is an outright ban for life, irrespective of whether he or she gets out after 15 or 20 years, or whatever other length of time.

This is set out in the legal advice as to how this must be applied. There are obviously other mechanisms. If it is a sentence that has a maximum of ten years, as in the example I have given, there are obviously other mechanisms in place so an offender must still inform his or her employer that he or she has been convicted of a sexual offence. There is also a Garda vetting process and anybody who engages with children will have to go through that process if they are being employed, be it by a charity, a community, a school or any other type of environment. There are those built-in mechanisms separate to where somebody is serving a life sentence, where it would apply for the remainder of the person's life.

Deputy Denis Naughten: What happens if there is a maximum ten-year sentence and the person is sentenced to the higher end of that, say, eight years? First, in terms of the register, is there a limit to how long they are on the register after release from prison? Can there be a situation where the person is on the register following release from prison but not precluded from working with children, and it is only that they have to inform their employer? Could a situation like that arise?

Deputy Helen McEntee: No, there is no timeline for being on the register but people have a constitutional right to work and to make a living, and outright restrictions impede on that constitutional right, so if there is a ten-year sentence, the outright ban constitutes a further penalty and we cannot go beyond the maximum sentence. If it is ten years and the person serves eight, we cannot apply it for another five because that goes beyond the maximum penalty. As I said, any type of abuse or assault is a serious case, but where life is given as the sentence, this would apply for life. I can only assume that in all circumstances where somebody applies for a job and gives the information that they are a sex offender, they are unlikely to get a job where they are working with children or in contact with vulnerable people. Obviously, that is up to the employer but I would assume that is the case. There is also a Garda vetting process so if somebody is a danger or a risk, that would clearly be made known to the employer as well.

There is a legal element to this. The advice we have been given is that we cannot go above the maximum penalty. An outright ban is a penalty. It impedes on people's constitutional rights so that is a much bigger question around the constitutional right to earn a living. If somebody has served their sentence, the same as with any other type of offence, they have a legal right to get on with their life, to try to earn a living and to make their way. While we are talking about sexual offences, which are particularly heinous crimes, and it is very difficult to comprehend how someone has the same rights and mobility as with a different type of offence, the law is clear in that regard. In the vast majority of these cases, a life sentence is often the sentence that is handed down and that would mean the outright ban.

I appreciate where the Deputy is coming from, I really do, but it is very clear in terms of the law and the Constitution what we can actually do here. However, through the Garda vetting process and through the explicit need to inform the employer, we have tried to put other mechanisms in place.

Deputy Denis Naughten: It is a good example of where the law is an ass, I am afraid. Anyway, I have flagged the issue.

Amendment, by leave, withdrawn.

Section 20 agreed to.

Section 21 agreed to.

SECTION 22

Deputy Denis Naughten: I move amendment No. 29:

In page 27, between lines 27 and 28, to insert the following:

"(b) by the insertion of the following:

"(aa) where such a sentence of imprisonment is imposed the person shall not be released on parole within the meaning of the Parole Act 2019 without successfully completing a sex offenders treatment programme, and",".

I will withdraw the amendment with leave to reintroduce.

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 30:

In page 27, between lines 29 and 30, to insert the following:

"(c) in paragraph (b), after "supervision" where it secondly occurs to insert the following:

"including the requirement to avail of treatment or counselling or participate in a psychosexual evaluation".".

I will withdraw the amendment with leave to reintroduce.

Amendment, by leave, withdrawn.

Section 22 agreed to.

Sections 23 and 24 agreed to.

SECTION 25

Deputy Denis Naughten: I move amendment No. 31:

In page 28, line 27, to delete "serious".

I will withdraw the amendment with leave to reintroduce.

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 32:

In page 28, line 27, after "concerned" to insert "or protecting the victim of previous crimes from harassment".

I will withdraw the amendment with leave to reintroduce.

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 33:

In page 28, to delete lines 28 to 33.

If someone is living in a place without the consent of the owner, then that person cannot be tagged unless they themselves agree to it. What we are saying here is that if a person squats in a premises or declares themselves homeless, then they cannot be tagged or the tag they have on has to be removed. There is an incentive there for someone to make themselves homeless in order to lose the electronic tag that they have. We must remember that those individuals who are going to be tagged are only those who are considered at high risk. I think we are providing a loophole in the legislation to allow high-risk sex offenders who should be electronically tagged a way out of not being electronically tagged on the basis that they are squatting somewhere, or have declared themselves homeless.

Deputy Helen McEntee: Part of this section is to get the permission of the property owner to install particular technical equipment that would be needed to monitor the person staying there. We cannot put equipment into somebody's house without his or her permission and that is what this allows for. If a convicted offender is staying in a property, be it rented or otherwise, we must seek the permission of the owner to install this equipment. The legal advice is that it is important this happens.

Regarding what Deputy Naughten has said about those who are more likely to reoffend, the evidence we have is that it is more likely that people who want to reform will take an electronic tag. It is often part of the terms of an agreement for early release. If an offender is released early, it is often on the basis that he or she wears an electronic tag. If this is breached and the offender does not wear it, he or she is put back in prison. Particularly in female cases, there is a higher percentage who would present for this type of an approach because it means they have an opportunity to be released sooner. They are obviously monitored and that presents a better outcome. However, I go back to my previous point about psychosexual treatment. If someone does not admit his or her guilt and does not want to reform, taking part in therapy or wearing an electronic tag will not change his or her behaviour. The tag means we know where he or she is but it does not necessarily prevent something from happening.

The section itself is very much dealing with the need to make sure a person is happy for

particular technology to be put into his or her home, rented property or apartment in which somebody is staying. If an offender does not comply with the actual restriction of movement and the use of electronic tagging, he or she is simply put back into prison because he or she is in breach of the terms of release.

Deputy Denis Naughten: Are we not talking about outdated technology that requires something to be physically installed in a person's home? I can be tracked anywhere through my mobile phone and there is nothing in my home that is included in that. Surely it is quite easy to put a tamper-proof bracelet onto someone's wrist or ankle, similar to that device, that does not require anything to be put in the home.

Deputy Helen McEntee: My understanding is that a base device is required. Perhaps technology will evolve, but if it is at the stage where something, albeit something small, needs to be installed, then the Bill allows for that. This does not really do anything other than ensure there is permission from the homeowner. If somebody is released from prison and he or she cannot comply with release commitments that include wearing a tag that is working effectively, then he or she is in breach of the release conditions and will be sent back to prison. That is very clear and is set out in the Bill.

As I said already, the evidence that has come back to us is that those who actually engage with this in other jurisdictions are more likely not to reoffend because they want to get out early and get on with their lives, although I appreciate that does not apply to everybody. It is a challenging issue. Electronic tagging does not prevent somebody from committing a crime but it means we know where he or she was when the crime was committed. Obviously, somebody being in a particular place at a particular time does not mean the offence has been committed; it just forms part of the evidence. Deleting this section would remove our ability to make sure this can be applied wherever a person is residing.

Deputy Denis Naughten: The reality is that technology has moved on. We can put a microchip on a tractor and trailer that has a very small long-life battery and that can be monitored remotely from a satellite. There are probably hundreds of such devices across the Minister's constituency in County Meath. The same would not be true of mine and Deputy Kenny's constituency, where there are only small tractors and trailers that are not worth robbing.

Deputy Helen McEntee: I do not know if the Garda is working with satellites just yet. We are not quite there yet.

Deputy Denis Naughten: That technology is there. I accept the 50 electronic tags the Irish Prison Service obtained a number of years ago may require this type of legislation but technology has moved on. I do not think there is a need for this provision in the context of the type of technology that is now available. If we can monitor tractors and trailers using equipment that does not require a base station, surely we can do the same with sex offenders. I will leave it with the Minister and she might consider it further.

Deputy Helen McEntee: The only thing I would say is that this only refers to situations where something needs to be installed. It does not mean there is a requirement for permission for anything else. If nothing needs to be installed, then no permission is needed. The provision is there in case permission is needed. I accept that technology has moved on, but at the same time, if some element of technology is required, this will cover that and make sure there is no issue with getting somebody's permission.

Deputy Denis Naughten: I will withdraw the amendment.

Amendment, by leave, withdrawn.

Section 25 agreed to.

Sections 26 and 27 agreed to.

NEW SECTION

Deputy Helen McEntee: I move amendment No. 34:

In page 30, between lines 18 and 19, to insert the following:

"Amendment of Schedule to Principal Act

28. The Schedule to the Principal Act is amended by the insertion of the following paragraphs after paragraph 7:

"7A. An offence under section 1 of the Act of 1935 (defilement of girl under 15 years of age).

8. An offence under section 2 of the Act of 1935 (defilement of girl between 15 and 17 years of age).".".

This proposed amendment seeks to reinsert two offences into the Schedule that were previously removed in error. I thank Deputy McNamara for drawing my attention to this during the Second Stage debate. I propose inserting an offence under section 1 of the Act of 1935 - defilement of a girl under 15 years of age - and an offence under section 2 of the Act of 1935 - defilement of a girl between 15 and 17 years of age - into the Schedule of the 2001 Act. This amendment is on foot of legal advice received by the Department arising from the identification of a lacuna in the Sex Offenders Act in which both of these offences had been removed from the Schedule through the Criminal Law (Sexual Offences) Act 2006. Neither offence now appears in the Schedule to the 2001 Act and this amendment will restore both to the Schedule.

Deputy Denis Naughten: I have one question on this which is related to gender difference. Unfortunately, we had first-hand experience of gender difference in the context of incest and the implications of that in a very unfortunate and tragic case. Will the Minister assure us this does not give rise to any gender differential? I accept these are two specific pieces of legislation but I ask her to assure us this does not have implications in terms of the defilement of a boy under the age of 15 or between the ages of 15 and 17. Will there be equal treatment?

Deputy Helen McEntee: My understanding is that it is simply the case that these two references were taken out by accident or were not included in the Schedule. There is no exclusion of either gender but I will clarify that for the Deputy. It is simply that these two offences were not included by accident but there are other offences that cover boys.

Deputy Denis Naughten: I take the point the Minister is making.

Deputy Helen McEntee: I will clarify that for the Deputy 100%.

Deputy Denis Naughten: I ask her to clarify that it does not create an anomaly in relation to gender. If she could to that in advance of Report Stage, I would appreciate it.

Amendment agreed to.

Section 28 agreed to

NEW SECTIONS

Deputy Denis Naughten: I move amendment No. 35:

In page 30, after line 28, to insert the following:

"29. The Minister shall, within 90 days of the passing of this Act, make regulations under section 60 of the Act of 2018 making it an offence to erase information regarding convictions for sexual offences as set out in section 3 of the Principal Act.".

Amendment, by leave, withdrawn.

Deputy Denis Naughten: I move amendment No. 36:

In page 30, after line 28, to insert the following:

"29. The Minister shall, within 6 months of the passing of this Act, lay before both Houses of the Oireachtas a report on how registered sex offenders are able to change their name or other aspects of their identity without the knowledge of the Garda Síochána with the intention of subverting the purpose of this Act.".

We discussed this in advance of Second Stage, and during the Second Stage debate I flagged this particular problem. An anomaly was brought to my attention by a colleague in the UK who has been highlighting an issue with regard to deed polls, which are being used to change individual's names to try to circumvent the sex offender's register there. As sure as night follows day, if a loophole is being exploited in the UK, that same loophole will be exploited here, either by individuals convicted here or, because of the common travel area, individuals convicted in the UK who subsequently reside here.

Sex offenders change their names to make it more difficult for members of the public or for the Garda to track and monitor them. I highlighted on Second Stage an example of a sex offender, Mr. Terry Price, who conducted a string of sexual offences over three decades and changed his name five times, including on one occasion when he was in prison. One of his victims waived her right to anonymity to highlight the issue and Mr. Price went on to change his name again. Sex offenders should not be allowed to change their names and definitely should not be able to do so while in prison. That right should be revoked in the case of convicted sex offenders. However, at a very minimum, as I have set out in this legislation, there is a responsibility on the authorities to inform the Garda of the change of name. As the law currently stands, it is the responsibility of the sex offenders to inform the Garda that they have changed their names. I believe this will be used to circumvent the monitoring legislation we have before us. It will lead to the abuse of victims in the future and I believe this particular loophole needs to be closed off.

Deputy Helen McEntee: We have engaged with the Garda on this matter. Following our most recent engagement, we asked if further legislative provisions are needed and the Garda authorities have assured us that the Sex Offenders Act 2001 is clear that it is an offence for offenders to change their names without notifying the Garda. If they are giving their personal details, including their names and addresses, on a regular basis, as they are required to do, the Garda will become aware of any change. If the Garda is not notified or given that information, the sex

offender is in breach of the Act and subject to an investigation by the Garda and potentially in breach of the conditions of their release. The sex offender may then be sent back to prison. It is already an offence for a sex offender to change his or her name without notifying the Garda.

People who have served their time in prison, as is the case with respect to any offence, have a legal right to change their names. However, sex offenders cannot do so without notifying the Garda. We have gone back and forth with the Garda on this point to see if there is anything further we can do to strengthen the position. The Garda has said the legislation in place is strong enough for it to be able to do its work. In the absence of high-risk offenders, this is something that would be noted quickly due to the notification requirements that are set out, and the court website publishes any changes to names anyway. People cannot hide the fact they have changed their names because those changes are published on a court website and are there for people to see, including members of the Garda. I appreciate the situation is not perfect when the individual concerned is required to notify the authorities but if he or she does not do so, it is a criminal offence and the offender is potentially in breach of his or her terms of release.

Deputy Denis Naughten: The first problem is that the sex offenders register we have at the moment is a joke. It is a register in name only. Even though we have such a lax sex offenders register in this country, the Garda comes across at least one person every week who is in breach of it. The Garda usually comes across them for other offences and as a result of that, the offender is charged for the breach of the conditions relating to the sex offenders register. The offender has either changed address and not informed the Garda or never registered in the first place. We are talking about people who are not compliant with the terms and conditions that are being placed on them after their release from prison. Enforcement is quite lax at the moment. We are now asking those individuals to inform the Garda if they change their names. We know that their peers in the UK are not doing that and as a result, convicted sex offenders who have changed their names are not being monitored by the police in the UK. Some such offenders have been identified in this country in the past. People who are on the register in the UK have not registered here despite residing in this country. It is not good enough for us to leave the onus with convicted sex offenders, who for one reason or another are trying to avoid detection, to inform the Garda that they have changed their names. There needs to be a strengthening of the legislation in this area.

Deputy Helen McEntee: What is the Deputy proposing in that regard, separate to what is contained in this amendment? The amendment requires a report to be placed before the Dáil within six months of the passing of the Act. The Garda has said that what is in place is strong enough. We cannot prevent people from changing their names when they have served their time because that is what applies in other types of criminal offence. The only thing we can do is to ensure it is a criminal offence for the Garda not to be notified. The penalty is obviously a severe one if somebody breaches that order. I am not sure what we can do when the Garda is saying that what it has is strong enough, save banning people from changing their names, which is not something we can legally do.

Deputy Denis Naughten: I accept that. I am suggesting that legal provision should be put in place so the Courts Service must check if someone is on the sex offenders register and then must inform the Garda that individual A has changed his or her name to individual B. There would be an obligation on the Courts Service to check if an individual is on the register and if so, the local Garda station must then be contacted and told the individual's new name. That is what I am looking for.

The difficulty arises because the way people change their names at the moment means I

cannot draft an amendment. I would have attempted to draft such an amendment otherwise. I have submitted this amendment so we find a mechanism to oblige the Courts Service, as part of this process, to check with the Garda if an individual is on the sex offenders register. If the individual is on the register, the Courts Service must inform the Garda of any name change. With email and everything else, this should not be difficult to do. It would ensure that the Garda has access to this information and is not relying solely on a sex offender to provide the information. The situation now means that if the offender does not provide that information, the Garda must compile a file, submit it to the Director of Public Prosecutions and secure a conviction. The Garda has to go through a long and drawn-out process to enforce such a breach when a simple email could circumvent all of that.

Deputy Helen McEntee: I cannot accept the amendment as proposed. We are both saying the information is there. If people change their names, that is registered on the court website and if they do not notify the Garda, they are in breach of their obligations. Perhaps there is a way outside the legislation for that notification to apply. I do not know if that is possible. As it currently stands, I cannot accept the amendment. I appreciate from where the Deputy is coming but the Garda has said it feels the law in place is strong enough.

He said that the situation in the UK is that people are not complying and it is not being followed up on. We expect that the Garda, in applying the legislation, will ensure that serious offenders report and engage with the Garda on a regular basis. If it transpires that the requirements are not being applied as they should be and as they are clearly set out, we can amend the legislation, as is the case with all legislation. It is simply a matter of linking two pieces of information together and making that information clear and accessible.

Deputy Denis Naughten: I will finish on this point. With all due respect to the Minister, it is not good enough for her to say to me we can come back and amend this legislation. A report was completed in 2009 because this legislation was inadequate at that stage.

Deputy Helen McEntee: But-----

Deputy Denis Naughten: It has taken us this long to amend that legislation and it will take us much longer to amend it again. This practice is happening. It is happening across the Irish Sea as we speak. The authorities there are trying to close off this abuse of the loophole in the legislation. My point is that as we are dealing with this legislation, now is the time to deal with this anomaly and to address it once and for all. Perhaps the Minister might think about this before Report Stage. I withdraw my amendment, with leave to reintroduce it on Report Stage. I will be bringing in my boxing gloves the next day.

Deputy Helen McEntee: I thank Deputy Naughten. I flag now that I will be bringing further amendments on Report Stage, including to revise the text of subsection 7B of the principal Act regarding the extension of the time between notifications. Under subsection 7A, the amendment would clarify that a member of An Garda Síochána, not below the rank of inspector, may specify a period of more or less than three days, where he or she is satisfied it would be appropriate to do so. However, that member of the force is not required to inform the person of such variation. Such informing can be done by any member of An Garda Síochána.

I will also be bringing forward an amendment which will require persons convicted of sexual offences to provide their previous addresses since the date of conviction. I also mentioned earlier that An Garda Síochána had flagged some concerns regarding the sharing of information with other police services. I sought legal advice concerning specific circumstances, and I will

be bringing forward amendments on Report Stage with the aim of balancing the disclosure and information requirements.

Amendment, by leave, withdrawn.

Title agreed to.

Bill reported with amendments, received for final consideration and passed.

Message to Dáil

Acting Chairman (Deputy Patrick Costello): In accordance with Standing Order 101, the following message will be sent to the Clerk of the Dáil:

The Select Committee on Justice has completed its consideration of the Sex Offenders (Amendment) Bill 2021 and has made amendments thereto.

Business of Select Committee

Acting Chairman (Deputy Patrick Costello): I thank the Minister and her officials for participating. I also thank the visiting members. I ask the members of the committee to remain, as we have some items to discuss in private session.

The select committee went into private session at 5.24 p.m. and adjourned at 5.32 p.m. *sine die*.