DÁIL ÉIREANN

SELECT SUB-COMMITTEE ON CHILDREN AND YOUTH AFFAIRS

Déardaoin, 2 Iúil 2015

Thursday, 2 July 2015

The Select Sub-Committee met at 11.10 a.m.

MEMBERS PRESENT:

Deputy Catherine Byrne,	Deputy Dan Neville,
Deputy Clare Daly,	Deputy James Reilly (*Minister for Children and Youth Affairs*)
Deputy Sandra McLellan,	Deputy Robert Troy.

In attendance: Deputy Mary Mitchell O'Connor.

DEPUTY JERRY BUTTIMER IN THE CHAIR.

Children (Amendment) Bill 2015 [Seanad]: Committee Stage

Chairman: I welcome the Minister, Deputy James Reilly, who is an *ex officio* member of the committee. I also welcome Mr. Dan Kelleher and Ms Mary Johnson, the officials accompanying the Minister. I thank the Minister for being present. The purpose of the meeting is to consider the Children (Amendment) Bill 2015, which was referred to the committee by the Seanad on 24 June. We will have the quarterly meeting with the Minister at 12.15 p.m.

Deputy Sandra McLellan: I thought the quarterly meeting with the Minister was later.

Chairman: No. The discussion on the Bill must conclude at 12 noon. If we have not completed the Bill by then, we will resume at 1.45 p.m.

Deputy Sandra McLellan: I had picked it up wrong.

Chairman: I hope we will be finished by 12 noon. I remind members that mobile phones should be turned off. If the Minister does not wish to make an opening statement, we will proceed to section 1.

Sections 1 to 4, inclusive agreed to.

SECTION 5

Deputy Clare Daly: I move amendment No. 1:

In page 8, between lines 3 and 4, to insert the following:

"(a) by the insertion of the following subsection after subsection (2):

"(2A) The maximum total period that a child may spend remanded in custody is three months from the date of being remanded in custody by the Court.",".

I will be very brief. I hope we can meet our deadline of 12 noon. We will all strive for that. To my mind, this is one of the most important of the amendments that I have tabled. Its purpose is to limit the amount of time children spend on remand. The Irish Penal Reform Trust, IPRT, has highlighted the general issue of remand, and that it should not be more than six months, but in the case of children it should be limited to a period of three months and, ideally, they should not be remanded at all. The change is necessary because three months is a substantial amount of time in a child's lifespan. The figures are available on the number of children who were detained, who were on remand and who ended up getting a conviction. We have highlighted them previously. We must factor that in as well. I will not go through the list of human rights organisations that support the amendment but it is necessary and we should accept it.

Deputy Sandra McLellan: I wish to speak in favour of the amendment. We had a similar amendment in the Seanad. It is our intention to resubmit the amendment on Report Stage if it is not accepted now. Three months is a very long time in a child's life. I also believe that children on remand should be kept separate from children who have been convicted if that is in the best interests of the child. People who have not been convicted previously should not be placed with others who have been convicted.

Minister for Children and Youth Affairs (Deputy James Reilly): Amendment No. 1

proposes to insert a new provision in section 88 of the existing Children Act, which deals with the remand of children in custody. The effect of the proposed amendment would be to impose a maximum period of remand in custody for a child of three months from the date of being remanded in custody by the court.

Section 88 of the Children Act allows that a court may remand a child in custody who is charged with or found guilty of an offence, who is being sent forward for trial or in respect of whom the court has postponed a decision. The section in question also provides that a court shall not remand a child in custody if the only reason for so doing is that the child is in need of care or protection or the court wishes Tusla, the Child and Family Agency, to assist in dealing with the case. In addition, section 76B of the existing Act provides for the involvement of Tusla in such cases as deemed necessary by the court.

As provided for in various District Court rules, a child may be remanded in custody in the Children Court for an initial period not exceeding eight days and subsequently for an individual period not exceeding 15 days. Children can be remanded in custody for successive periods within this framework but they are brought back before the court at regular intervals.

While there is no legislation governing the length of remand periods in the criminal Circuit Court for children, the right to an expeditious trial applies to every accused person irrespective of age. Section 100 of the current Act provides that where a court is satisfied as to the guilt of a child, it may remand a child in custody for the purpose of preparation of any necessary reports, but for not longer than 28 days, and this period may only be extended once by a maximum of 14 days.

It is also important to note that all children remanded in custody have access to independent legal assistance. Children remanded in custody can apply to a court to be remanded on bail at any time, and a refusal of bail can be appealed to the High Court in accordance with the Bail Act 1997.

The effect of the amendment, as drafted, would be to impose a maximum period of remand in custody of three months for all children. That would create a blunt rule which would apply in all cases relating to children in the criminal justice system, irrespective of the circumstances where remand in custody may be considered necessary by the courts. The creation of such an upper limit to apply in all cases would not be consistent with the operation of the existing safeguards in the courts system and would limit the scope for individual consideration of whether a child should be granted bail at any particular time. This is a matter best left to the Judiciary in individual cases.

I would be particularly concerned in relation to the application of the proposed amendment where very serious charges may be a factor in an individual case. One must also take into consideration the victim. For those reasons, I do not accept the amendment.

Deputy Clare Daly: The precise point is that we are speaking about people on remand, which means they have not been convicted of any crime. We live in a state where someone is innocent until proven guilty. The statistics compiled by the Children's Rights Alliance show that last year only 27% of the children who were remanded ended up with a conviction. In other words, if we do not put a limit in place, we could have three out of every four who do not end up being convicted being imprisoned unnecessarily. We must put a ceiling on the maximum period. It is necessary to do so and so doing would focus the mind.

It has been highlighted by the IPRT that children have been remanded for breaches of bail conditions, which would be a substantial component of the children in this category. It makes the point very well that there is no support or supervision given to children who are out on bail and they might not understand the terms. If we addressed the issue and gave the support, then it would potentially reduce the number of children in that category. I do not think three months is too onerous on the courts system in the context of children. It would focus the mind and is absolutely necessary.

Deputy James Reilly: I hear what the Deputies are saying but I would contend that the primary policy issue being addressed by the Bill is the need to end the detention of children in adult prison facilities. However, I understand the concern expressed by Deputies, which has also been expressed by organisations outside this House, in relation to the relatively high use of remands in custody under section 88 of the Act. This is within the independent remit of the Judiciary but it has been the subject of commentary in our Second Stage debate. Further progress in this area perhaps by enhanced community alternatives for the courts to not place children in custody and remand would make a significant contribution in this area.

I believe that one could argue the case both ways. The low number of people in detention does indicate that we are trying to ensure that detention is absolutely the last resort. I have asked my Department to inquire further into the possibilities in this area under the current Youth Justice Action Plan 2014 - 2018, in conjunction with other agencies in the criminal justice system. As matters stand, section 88(10) of the existing Act already provides that children shall not be remanded in custody if the only reason for doing so is for reasons of care or protection, or for obtaining the assistance of the Child and Family Agency with the case. We are looking at a bail support scheme and we will make provision for that when we put in our bid in the Estimates for 2016, because I acknowledge there is an issue there.

Amendment put and declared lost.

Amendment No. 2 not moved.

Deputy Clare Daly: I move amendment No. 3:

> In page 8, line 10, after "of"," to insert "and by the deletion of "as far as practicable and where it is in the interests of the child".

This is very clear. It is about where a remand centre is part of a children's detention school. When children are remanded in custody to the centre the legislation as currently stands says that "as far as is practicable" they be kept separate from, and not allowed to associate with, children in respect of whom a period of detention is being imposed. This amendment is to remove the term "as far as practicable" because it gives a little too much wriggle room to achieve an objective which, we agree, should be that they should be kept separate. It is better to be clear about it. I believe that we need to firmly set out that children on remand and those in detention should not be put together. The children who are on remand may never end up with the sentence of detention, most of them do not and they may be there for other reasons. It is entirely inappropriate to have these children in with children who have been convicted, some of serious crimes. I believe this amendment will remove that prospect.

Deputy James Reilly: With respect the issue raised was discussed in fair detail in the Seanad and on Second Stage. Amendment No. 3 as proposed would result in a free-standing requirement that remanded children would be kept separate from sentenced children in

all circumstances. Section 88(8) of the existing Children Act 2001 deals with the issue of the separation of remand children and detention children where the remand centre is located in a children's detention school. The existing section 88(8) outlines an important principle that where children are remanded in a remand centre situated in a children's detention school, such children shall, as far as practicable and where it is in the interests of the child, be kept separate from and not allowed to associate with children in respect of whom a period of detention is being imposed. The effect of the proposed amendment would be to remove the reference to "as far as practicable and where it is in the interest of the child" from the section and would require complete separation of remand children and committal children in all instances, irrespective of whether this is possible operationally.

It should be noted that the existing children's detention schools in Oberstown tend to be full on most occasions with varying numbers of children on remand and serving a sentence at different times of the year depending on the demand for detention places from the courts system. In line with section 88(8) every effort is made to accommodate children in custody on remand in separate residential units from children who are serving a sentence of detention. This is an issue of professional assessment of the situation of each child and day-to-day operational management of the children's detention schools. However, in an environment of high demand for both remand places and places for children serving a sentence it would not be possible to keep remand children and committal children separate on all occasions. This would require a significant increase in detention accommodation. It would also result in new accommodation, currently being built on the Oberstown campus, being insufficient to cater for all children up to the age of 18, as is currently planned.

The need to meet the requirements of the proposed amendment could also undermine the existing policy in place in all circumstances of keeping male and female children in separate residential facilities. There are also circumstances where the separation of a remand child from committal children may not be in the child's best interests. In addition I have been advised that there are cases where a child is remanded in custody on one set of charges but serving a sentence of detention on another set of charges. This proposed amendment could also lead to a situation where a person would be in solitary confinement, being the only person in the place who is on remand. I do not believe that would be in the child's best interests. It was raised by Judge Michael Reilly in relation to the situation at St. Patrick's where 17-year-olds on remand were sometimes there on their own. That is a scary situation for a child to be in. I understand the idea behind Deputy Daly's proposed amendment and I concur with the sentiment, but the practicality and the practice of it could be detrimental to the best interests of a child.

Deputy Clare Daly: The last point made by the Minister is the only one that I believe carries any weight. This legislation must always be framed in the context of the child's best interest. I would not buy financial considerations and extra building pressures as an argument. This debate is indicative of why we should not remand children at all - the best way of dealing with the issue would be to move away from that. The idea of the same person being on remand and detention at the same time is easily overcome and should not be a barrier - but I will leave it for now, I will think about the points made by the Minister and I reserve my right to reconsider.

Amendment, by leave, withdrawn.

Section 5 agreed to.

SECTION 6

Deputy Clare Daly: I move amendment No. 4:

In page 8, line 38, to delete "whether another" and substitute "what other".

I wish to see some amendments being accepted and this is a fairly harmless one. It is about a certain amount of unacceptable latitude provided at the moment in the transfer of children on remand, and circumstances where it would not be in the best interests of the child to have him or her transferred. The Bill currently states that the Minister must consult with the director in those circumstances as regards whether another course of action could be considered. That means there is no obligation to provide another course of action. I propose to change "whether another" to "what other" to put the onus back on the director and the Minister to act in the best interests of the child and to find that other course of action.

Deputy James Reilly: The proposal is to substitute "what other" for "whether another" in the proposed new section 88(2) of the Children Act as contained in section 6 of this Bill. The purpose of section 88 is to introduce a new power to transfer children between remand centres where the remand centre to which the child is being transferred caters for that class of child or where the Minister for Children and Youth Affairs considers that the transfer is necessary in the interests of the good governance of remand centres. Section 88 (2), as drafted, requires the Minister to consult the director or board of management of both remand centres involved in the proposed transfer so as to ascertain whether the transfer would be in the child's best interests or if the transfer would not be in the child's best interests whether another course of action should be adopted in respect of the child. The use of the words "whether another" was intended to lead to consideration of other options for the child in a situation where the proposed transfer would not be in the child's best interests. I am advised that if a transfer is not approved by the Minister other courses of action would be considered depending on the circumstances. I have raised this matter with the Office of the Attorney General and I am advised that the inclusion of the phrase "or if the transfer would not be in the child's best interests" has the effect of narrowing the Minister's position to deciding "what other" course of action should be adopted in respect of the child, rather than "whether another" course of action should be adopted. For this reason I am accepting the amendment.

Amendment agreed to.

Section 6, as amended, agreed to.

Section 7 agreed to.

Chairman: Amendments Nos. 5 and 7 are related and will be discussed together.

NEW SECTION

Deputy James Reilly: I move amendment No. 5:

In page 9, between lines 38 and 39, to insert the following:

"Amendment of section 143 of Principal Act

8. Section 143 of the Principal Act is amended, in subsection (2), by the insertion of "in language that is appropriate to the age and level of understanding of the child concerned" after "give its reasons for doing so in open court".".

Amendment No. 5 proposes to insert the words "in language that is appropriate to the age and

level of understanding of the child" into section 143(2) of the Act. Section 143(2) already provides that where a court proposes to impose a period of detention on a child, it should give its reasons for doing so in open court. It should be noted that the amendment proposed to section 143 is, in part 9 of the Children Act, providing for the powers of the courts in relation to child offenders. Part 9 of the Children Act falls within the remit of the Minister for Justice and Equality. We have close co-operation on criminal justice matters relating to children, and I have consulted with the Minister for Justice and Equality in relation to the proposed amendment to provide that where a court imposes a period of detention on a child, it shall give its reasons for doing so in open court in language that is appropriate to the age and level of understanding of the child. It is important that where a lengthy period of detention is imposed on a child, the child fully understand the reasons for it. The amendment that I propose will ensure that the reason for the detention of the child is explained in open court in language that is appropriate to the age and level of understanding of the child.

Chairman: We will speak on amendment No. 7 because they are grouped together. Did Deputy McLellan indicate that she wished to speak on amendment No. 7?

Deputy Sandra McLellan: I did, but it was on amendment No. 7.

Deputy Clare Daly: The second part is linked to some of the points that the Minister made, and they follow on from that. The first part is in relation to putting a ceiling on the sentencing of a child - that is, that a court may not sentence a child to more than three years in detention. The original Children Act of 2001, before it was amended in 2006, contained an upper limit on the time a child could spend in detention and it did not permit the court to impose a sentence longer than that. I do not know why this was taken out in 2006. I do not see any good reason why we could not revert to what are, in reality, the more humane provisions of the 2001 Act. We say we want prison to be about rehabilitation and helping a child in trouble. We have seen the statistics on the types of children who end up in detention - they have difficult circumstances in their backgrounds and so on. Three years is more than enough to work on and assist that person to be rehabilitated. I think that what was in the 2001 Act should be maintained. I actually think three years is a bit long. I would revise it down to two years on Report Stage, if that were possible. The principle is critical if we talk about prison as being about rehabilitation rather than punishment. That is the first aspect of it. It is the second most important amendment.

The second part of amendment No. 7 follows on from what the Minister has said about the laying down of a sentence and it proposes that that should be done in writing. I agree with the Minister's amendments and the rationale for them, but the IPRT points out that the requirement to have a sentence in writing is a good practice to get into and I think it would complement what the Minister proposes here. I think it would focus the Judiciary on the reasons it is handing down a custodial sentence to a child. It would give a backup and a certain consistency in decision making if there was a written record. I do not think it is hugely onerous - it would bring clarity and transparency to courts where children are being sentenced. I think it would help victims and legal practitioners as well to have that in writing.

Deputy Sandra McLellan: I support this amendment. There was a similar one in the Seanad and I would propose to table it again on Report Stage. Somebody under 18 years of age should be given a chance. I think rehabilitation should work in these circumstances. Children should be assessed according to their age. One often finds that children in these circumstances have special needs or additional needs and may suffer from mental health issues, and I think they should not be just thrown in prison for up to three years.

Deputy James Reilly: Amendment No. 7 proposes to provide, in a new subsection (2) at

section 149, that the Court shall not impose a period of detention in excess of three years and, where it imposes any period of detention, that it shall give its reasons in writing in language that is appropriate to the age and level of understanding of the child.

Detention is always a measure of last resort, and that is clearly set out at subsection (2) of section 96. Subsection (4) of section 96 makes it clear that the penalty imposed on a child should be no greater than that which would be appropriate in the case of an adult who commits an offence of the same kind, and may be a lesser period. Section 143 of the principal Act also makes it clear that a court should not make an order imposing a period of detention unless it is satisfied that detention is the only suitable way of dealing with the child.

The Children Act 2001 provides various safeguards in terms of detention always being a measure of last resort and the duration of any period of detention to be imposed *vis-à-vis* an adult, where detention is the penalty imposed on a child. The amendment proposed imposing a limit on the period of detention of three years in all circumstances, regardless of the level of seriousness of the offence that has been committed, would not be appropriate. In relation to the proposed amendment to provide, at section 149(2) of the Children Act, that where any period of detention is imposed on a child, the court shall give its reasons for doing so in language that is appropriate to the age and level of understanding of the child, I refer to the amendment that I accepted during the passage of the Bill in the Seanad. In the Seanad, following consultation with the Minister for Justice and Equality, I accepted an amendment to section 149(2) providing for a statement of the reasons in open court in language that is appropriate to the age and level of understanding of the child where a period of detention exceeding three years is imposed on the child. It is important that where a lengthy period of detention is imposed on a child, the child fully understand the reasons for it. In addition to section 149, which deals with periods of detention in excess of three years, section 143(2) provides that where an order is made for the detention of a child, the court making the order shall give its reasons for doing so in open court. Amendment No. 5, which I have brought forward, proposes an amendment to section 143 of the Act to provide for the insertion of "in language that is appropriate to the age and level of understanding of the child concerned." This will mean that where any period of detention is imposed by a court on a child, the court shall give its reasons for doing so in open court in language that is appropriate to the age and level of understanding of the child. The amendment to section 143 will provide safeguards in terms of the reasons being stated in open court in age-appropriate language in the case of all children appearing before a court who have a period of detention imposed on them by the court.

I also wish to note recommendation 33 of the recent report of the working group conducting a strategic review of penal policy. This was published in September 2014 by my colleague, the Minister for Justice and Equality. The recommendations stated that in all cases where a custodial sentence is imposed by a court, the court should set out its reasons in writing for so doing, and that this requirement be incorporated in statute. I am advised that the recommendation in question is one of many in respect of which a high-level implementation group was recently established by the Minister for Justice and Equality to progress. It is envisaged that this recommendation - and, indeed, all recommendations on penal reform relating to sentencing - will be the subject of consultation with the Judiciary. This process should not be prejudiced and, therefore, I am not in a position to accept the amendment to provide that the court must give its reasons in writing. I will continue, however, to have close co-operation with the Minister for Justice and Equality on criminal justice matters relating to children. I am also taking measures in the Act to prevent children from progressing into the adult prison system or to reduce the number of those who do. We have made provision for children reaching 18 that they can stay

on until 18 and a half if they have not finished their education or still have further sentencing to go and they have been co-operating.

Deputy Clare Daly: It is precisely in the context of an awareness that there are talks going on behind the scenes on the requirement to have the judgment in writing that we moved the amendment. The Law Reform Commission, LRC, also recommended this. As it is under way, it would be good to have it included. Even though it is contained in the section on limiting sentences, it refers to all cases where any period of detention applies. Perhaps the best approach would be to insert an extra line at the end of the Minister's amendment, so we will reserve the right to do so on Report Stage. However, I stand over my other points and will press them on Report Stage.

Amendment agreed to.

SECTION 8

Deputy Clare Daly: I move amendment No. 6:

In page 10, line 6, after "offence" to insert the following:

"and may be less. The Court shall have regard to the age, level of maturity, best interests of the child and the principle of detention as a last resort in determining the nature of any penalty imposed".

This amendment specifies everything we have stated is the objective of the Bill. The principle of detention as a last resort should be enshrined in the legislation. We should try to move to a situation that is much closer to Sweden's, where no one under the age of 15 years is put in prison. The 2001 Act stated this principle and we should continue it.

Deputy James Reilly: I will make one point because the Deputy keeps mentioning prison. The point of this Bill is that children will not go to prison. It is a detention centre that has a different ethos very much focused on education and rehabilitation whereas the adult prison system has an element of restorative justice and punishment about it.

Amendment No. 6 proposes to insert the words "and may be less" into the substituted section 149(1) as provided for at section 8 of the Bill. As I have already stated in respect of amendment No. 5, section 149(1) implicitly makes provision for the period of detention imposed on a child to be less than that imposed upon an adult. The only limit being imposed by section 149(1) is that the period of detention imposed on a child by a court shall not be more than the period of detention or imprisonment that could be imposed on an adult. This does not mean that a lesser period of detention cannot be imposed on the child.

I refer to section 96(4) of the Act providing for the powers of the court in respect of child offenders. It provides that the penalty imposed on a child for an offence should be no greater than that which would be appropriate in the case of an adult who commits an offence of the same kind, and may be less. The Bill is not proposing to amend section 96(4) in any way.

I do not consider the words proposed as necessary, as section 149(1) implicitly makes provision for a lesser period to be imposed on a child. I do not propose to accept the amendment.

Regarding adding the words "The Court shall have regard to the age, level of maturity, best interests of the child and the principle of detention as a last resort in determining the nature of any penalty imposed", the principles proposed in the amendment are already inherent in the

Children Act 2001. I refer to Part 9 of the Act, which provides for the powers of courts in terms of child offenders. In particular, section 96 provides for the principles relating to the exercise of criminal proceedings over children. In Part 9, section 96(3) provides that a court may take into consideration as mitigating factors a child's age and level of maturity in determining the nature of any penalty imposed unless the penalty is fixed by law. Section 96(5) provides that when dealing with a child charged with an offence, a court shall have due regard to the child's best interests, the interests of the victim of the offence and the protection of society. Section 96(2) of the principal Act provides that a period of detention should be imposed only as a measure of last resort. Amendment No. 6, as proposed, relates to principles such as a lesser period of detention than an adult being imposed on a child and the court having regard to the age, maturity and best interests of the child and the principle of detention as a last resort. These are already clearly provided for in the Act in section 96, which sets out the principles to be applied by a court when exercising criminal jurisdiction over children, so I am not accepting amendment No. 6.

Deputy Clare Daly: I thought we were supposed to be co-operating here and that everybody was supposed to tighten up on their contributions. In some ways, the idea that the provision already exists should mean that it should not be a problem stating it again. We shall look at the matter on Report Stage.

Chairman: How stands the amendment?

Deputy Clare Daly: I shall withdraw my amendment for now but reserve the right to introduce it again.

Amendment, by leave, withdrawn.

Deputy Clare Daly: I move amendment No. 7:

In page 10, to delete lines 7 to 9 and substitute the following:

"(2) The Court shall not impose a period of detention in excess of three years. Where a court imposes any period of detention on a child it shall give its reasons for doing so in writing in language that is appropriate to the age and level of understanding of the child.".

Amendment put and declared lost.

Section 8 agreed to.

Sections 9 to 16, inclusive, agreed to.

SECTION 17

Chairman: Amendments Nos. 8, 9 and 11 are related and may be discussed together.

Deputy Clare Daly: I move amendment No. 8:

In page 24, between lines 33 and 34, to insert the following:

"(2A) Where an inquiry is held under subsection (1) the child shall be provided with an opportunity to be heard and to respond to any allegation of disciplinary breach orally or in writing.".

My amendment provides that if a child is subject to an inquiry over a disciplinary breach that

he or she gets a chance to respond to any allegations.

Deputy James Reilly: I have a long response for the Deputy.

Deputy Clare Daly: I had one as well.

Deputy James Reilly: I am not going to accept amendment No. 8 but I will look at amendment No. 9 and consult with the Attorney General. I understand the principle behind the amendment. I have to be careful about the language used because it could have unforeseen consequences for other sections in the Bill. Therefore, I need to consult the Attorney General and I will come back on Report Stage with something.

Chairman: How stands the amendment?

Deputy Clare Daly: I shall withdraw my amendment but will introduce it again.

Amendment, by leave, withdrawn.

Deputy Clare Daly: I move amendment No. 9:

In page 25, between lines 3 and 4, to insert the following:

"(5) At the conclusion of the inquiry, if a finding of a disciplinary breach under section 201 has been made and/or if a sanction has been imposed under section 201A, the child shall be informed of his or her right to send to the Director, for transmission to the Minister, a petition concerning the finding or sanction or both the finding and sanction, and he or she shall be informed of the time limit of 7 days after the date of being informed of the finding and the imposition of any sanction for the submission of such a petition, as provided in section 201B(1).

(6) At the conclusion of the inquiry, if a finding of a disciplinary breach under section 201 has been made and if a sanction of forfeiture of remission of portion of a period of detention has been imposed, the child shall be informed of his or her right to notify the Director of his or her intention to appeal against the finding or sanction, or both finding and sanction, to an Appeal Tribunal, and he or she shall be informed of the time limit of 21 days after notification of the finding or sanction to notify the Director as such, as provided for in section 201C(1)(b).".".

Chairman: How stands the amendment?

Deputy Clare Daly: I take on board the point made by the Minister but we will look at the matter again on Report Stage.

Amendment, by leave, withdrawn.

Section 17 agreed to.

SECTION 18

Deputy Clare Daly: I move amendment No. 10:

In page In page 25, between lines 28 and 29, to insert the following:

"(1A) Any child who breaches the rules of a children detention school may be sanctioned on the instructions of the Director of the school in a way that is both reasonable,

proportionate and within the prescribed limits.

(1B) Without prejudice to the power of the Minister to prescribe limits for the disciplining of children detained in children detention schools, the following forms of sanction shall be prohibited:

(a) corporal punishment or any other form of physical violence;

(b) deprivation of food or drink;

(c) treatment that could reasonable be expected to be detrimental to physical, psychological or emotional wellbeing; or

(d) treatment that is cruel, inhuman or degrading.".

My amendment explicitly prohibits corporal punishment, the deprivation of food or drink and the psychological, emotional or traumatic treatment, etc. of children.

Deputy James Reilly: I have a big long answer for the Deputy.

Deputy Sandra McLellan: I wish to state that I support Deputy Daly's amendment. I also wish to inform the sub-committee that I shall submit a similar amendment on Report Stage.

Chairman: I thank the Deputy.

Deputy James Reilly: I am not going to accept amendment No. 10 and I will briefly explain why. My legal advice is that if one stipulates each thing that is not allowed then other things, ergo, are allowed, which clearly should not be allowed. One cannot give an exhaustive list and that is the danger of doing what the Deputy has suggested. Accordingly, I do not accept the amendment.

Chairman: How stands the amendment?

Deputy Clare Daly: I shall withdraw my amendment but I will consider bringing it back.

Amendment, by leave, withdrawn.

Deputy Clare Daly: I move amendment No. 11:

In page 26, line 38, after "sanction" to insert "and/or finding".

Chairman: How stands the amendment?

Deputy Clare Daly: I will definitely put it forward again on Report Stage.

Chairman: Is the Deputy withdrawing her amendment again but reserving the right to reintroduce it on Report Stage?

Deputy Clare Daly: Yes, but only because it is 11.58 a.m.

Chairman: We can stay and return to discussing the amendment at 1.45 p.m. At the beginning of the meeting, I made the point that we can take as long as we like. The Deputy should not feel that we must finish at 12 noon because we can come back at 1.45 p.m.

Deputy Clare Daly: I heard the Chairman's very kind invitation to return at 1.45 p.m.

Amendment, by leave, withdrawn.

Section 18 agreed to.

Sections 19 to 31, inclusive, agreed to.

Title agreed to.

Chairman: I thank the Minister and the Deputies for their co-operation. Does the Minister wish to make any final remarks?

Deputy James Reilly: No; I just want to thank the Deputies for their co-operation. I will endeavour to examine the issues I said I would examine, and I look forward to Report Stage. As a principle, and to say what may be blindly obvious, let us not let the perfect get in the way of the good.

Bill reported with amendments.

Message to Dáil

Chairman: In accordance with Standing Order 87, the following message will be sent to the Dáil:

> The Select Sub-Committee on Children and Youth Affairs has completed its consideration of the Children (Amendment) Bill 2015 and has made amendments thereto.

The select sub-committee adjourned at 12.01 p.m. *sine die*.