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Bill Digest

Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2026

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Abstract

This Bill Digest provides an overview of the provisions of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2026. The Bill contains a wide range of distinct criminal and civil matters including the introduction of incapacitant spray for prison officers, amendments to the law on the community service orders and the law on the disclosure of counselling records in sexual offence cases as well as the introduction of offences related to 'sex for rent'.

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Executive Summary

The Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2026 ('the Bill') was published on 9 January 2026 and is scheduled for Second Stage debate on 22 January 2026 in Dáil Éireann. The General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 was published on 6 May 2025 and a pre-legislative scrutiny (PLS) hearing was held on 30 September 2025. The Joint Oireachtas Committee on Justice, Home Affairs and Migration published its PLS Report on 13 November 2025, which included 17 recommendations.

Given the disparate and discrete nature of the Bill, covering a wide range of distinct criminal and civil matters, the Parliamentary Research Service (PRS) produced four separate *Policy and Legislative Briefing Papers* on selected Heads of the General Scheme. Some of the proposals in the Bill are covered in two of those papers and the Minister has indicated that he intends to bring forward Committee stage amendments which will include legislative proposals treated in two other PRS Briefing Papers.

The Bill contains 33 sections, divided into 12 Parts and contains a wide range of distinct criminal and civil matters, including, but not limited to, the following:

- Use of incapacitant spray by prison officers **(Part 2 – sections 4-5)**
- Non-judicial functions of the Chief Justice **(Part 3 – sections 6-7)**
- Extradition (Part 4 – sections 8-11)
- Community service orders **(Part 5 – section 12)**
- Disclosure of counselling records in sexual offence cases **(Part 6 – section 13)**
- Certification of citizenship **(Part 7 – sections 15 – 20)**
- Suspended sentence recognisances **(Part 8 – section 21(1))**
- Application for Anti-Social Behaviour Orders **(Part 8 – section 21(2))**
- DNA analysis (Part 9 – sections 22-23)
- Offences related to 'sex for rent' **(Part 10 – section 24)**
- Outdoor seating areas for licensed premises **(Part 11 – sections 25 – 29)**
- Bail recognisances (**Part 12 – section 30**)
- Certain offences categorised as "serious offences" for the purposes of bail **(Part 12 – section 31)**

The *Digest* will provide an overview of these provisions. More detailed analysis of Parts 6 and 10 are available in previous Parliamentary Research Service publications which will be referred to where relevant.

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Introduction

The Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2026 ('the Bill') was published on 9 January 2026 and is scheduled for Second Stage debate on 22 January 2026 in Dáil Éireann. The Bill is comprised of 33 sections which are divided into 12 Parts. Given the disparate and discrete nature of the Bill, covering a wide range of distinct criminal and civil matters, the Parliamentary Research Service (PRS) has elected to produce four separate *Policy and Legislative Briefing Papers* on selected Heads of the General Scheme. These papers are linked in the Box below and will provide an overview of the policy and legislative context to the selected Heads.

This Bill Digest will discuss the following:

- Policy and legal context
- Principal provisions of the Bill
- Regulatory Impact Analysis
- Pre-legislative scrutiny

This Bill Digest should be read alongside the Briefing Papers, which were published in 2025 and provides detailed legal and policy context related to this legislation.

Related Library and Research publications and resources:

Bill Resource page Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2026 [internal access only]

Policy and Legislative Briefing Paper on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 – Head 19: Disclosure of Counselling Records in Sexual Offence Cases (published 18 November 2025)

Policy and Legislative Briefing Paper on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 – Head 39: criminal offences for 'sex for rent' (published 24 November 2025)

Policy and Legislative Briefing Paper on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 – Remote Hearings in Criminal Proceedings (published 16 December 2025)

Policy and Legislative Briefing Paper on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025- power of An Garda Síochána to order removal of face coverings worn in public (published 18 December 2025)

Policy and legal context

The General Scheme of the Criminal Law and Civil Law Miscellaneous Provisions Bill 2025 was published on 6 May 2025 by the Department of Justice, Home Affairs and Migration. The General Scheme comprised of 51 Heads which were divided into 14 Parts. The Joint Oireachtas Committee on Justice, Home Affairs and Migration invited submissions on the General Scheme as part of its pre-legislative scrutiny process. The Committee also held a public hearing on 30 September 2025. On 13 November 2025, the Joint Oireachtas Committee on Justice, Home Affairs and Migration published its PLS Report on the General Scheme which made 17 recommendations. In the foreword to the PLS Report, it is stated that:

> ...The Committee is of the view that it is less than satisfactory to have such a range of issues which are significant in their own right contained within a single Miscellaneous Provisions Bill. Miscellaneous Bills should be used for minor and technical issues rather than significant and far-reaching policy changes such as are contained in this legislation.

Given the disparate and discrete nature of the Bill, covering a wide range of distinct criminal and civil matters, the Parliamentary Research Service (PRS) produced four separate *Policy and Legislative Briefing Papers* on selected Heads of the General Scheme. These papers considered the following selected Heads from the General Scheme:

- expanding and enhancing remote hearings for all types of criminal proceedings and international co-operation proceedings, including trials and other contested hearings where the court directs it **(Part 2: Heads 4-11 and Part 4: Heads 15 - 16),**
- amendments to the law on the disclosure of counselling records in sexual offence cases to remove the waiver of the right to non-disclosure so that disclosure hearings must take place in court wherever such records are sought by the accused **(Head 19)**,
- permitting members of An Garda Siochana to order removal of face coverings in public if there is concern for public safety **(Head 26)**,
- prohibiting a person offering another person accommodation in exchange for sexual activity in lieu of payment for the accommodation and prohibiting a person advertising or causing the advertisement of an offer of accommodation of 'sex for rent'. It will be a defence to show that a person did not suspect that the advertisement related to this type of accommodation offer **(Head 39)**.

Announcing Government approval to publish the Bill, Minister for Justice, Home Affairs and Migration, Jim O'Callaghan TD, stated:

> "Drafting of several provisions from the approved General Scheme is continuing in the Office of the Parliamentary Counsel, including provisions for remote hearings and electronic document transmission in criminal proceedings, and a new Garda power to require the removal of face coverings in certain circumstances. I intend to introduce these provisions by way of Committee Stage amendments to the Bill."

Principal Provisions of the Bill

The Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2026 contains 33 sections, divided into 12 Parts. This Bill contains a wide range of distinct criminal and civil matters, including, but not limited to, the following:

- Use of incapacitant spray by prison officers **(Part 2 – sections 4-5)**
- Non-judicial functions of the Chief Justice **(Part 3 – sections 6-7)**
- Extradition **(Part 4 – sections 8-11)**
- Community service orders **(Part 5 – section 12)**
- Disclosure of counselling records in sexual offence cases **(Part 6 – section 13)**
- Certification of citizenship **(Part 7 – sections 15 – 20)**
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- Offences related to 'sex for rent' **(Part 10 – section 24)**
- Outdoor seating areas for licensed premises **(Part 11 – sections 25 – 29)**
- Bail recognisances (**Part 12 – section 30**)
- Certain offences categorised as "serious offences" for the purposes of bail **(Part 12 – section 31)**

This section of the *Digest* will provide an overview of most of the provisions of the Bill. The Explanatory Memorandum also provides an overview of the provisions of the Bill. Reference will also be made in this section to the Department's Regulatory Impact Analysis[1]. It should be noted, however, that Parts 1 and 7 and sections 14, 32 and 33 are described as being of an "essentially technical nature" and were "considered not to require specific analysis within the RIA". Those provisions will not be considered in detail in this *Digest* either.

[1] A copy of the Regulatory Impact Analysis was supplied to the PRS by the Department of Justice, Home Affairs and Migration when requested.

Use of incapacitant spray by prison officers (Part 2 – sections 4-5)

Policy background to this legislative proposal

Prison overcrowding

According to the Department's Regulatory Impact Analysis "the proposal arises in a context of significant prison overcrowding and an attendant increase in risks to prisoner and staff safety". It is also noted in the Department of Justice's policy paper on Incapacitant spray and the Irish Prison Service that "...the Prison Officers' Association (POA) has sought the introduction of batons, incapacitant spray, conducted energy weapons and conflict resolution dogs in light of the challenges and potential dangers posed by overcrowding".[2]

There has been an ongoing issue of overcrowding in Irish prisons.[3] Prison overcrowding has also become a Europe-wide issue.[4] As of early January 2026, in Ireland, there were 5,759 people in custody,[5] compared with a bed capacity of 4,702.[6] Over 600 prisoners are required to sleep on mattresses on the floor. This overcrowding has raised serious concerns regarding the safety of persons in custody. The Inspector of Prisons indicated last November that there was "no doubt" that overcrowding pressures contributed to "a record 31 prison deaths" in 2024.[7]

Safety in Prisons

Following a Review of Assaults on Operational Prison Staff by Prisoners, the State Claims Agency recommended that the Irish Prison Service explore the use of incapacitant spray. Data published by the Irish Prison Service indicated that prisoner on staff direct physical assaults

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[2] Department of Justice, *Policy Paper on Incapacitant Spray and the Irish Prison Service,* version 1.3, September 2024, p 2.

[3] See e.g. Prisoner numbers on course to reach 'unimaginable' level, *Irish Examiner*, 05 January 2026; Prison service currently operating 'far beyond its limits', director general warns, *Irish Examiner*, 4 September 2025; Irish prisons at 'breaking point' with overcrowding and record deaths, *Irish Legal News*, 7 November, 2025.

[4] Increasing overcrowding in European prisons, European Council's Council for Penological Co-operation, July 2025. "Overall, in Europe, the number of inmates per 100 places available increased from 93.5 to 94.9 from 31 January 2023 to 31 January 2024, with significant differences across countries. In countries with over 500,000 inhabitants, fifteen prison administrations reported having more inmates than places available. Six prison administrations reported severe overcrowding: Slovenia (134 inmates per 100 places), Cyprus (132), France (124), Italy (118), Romania (116) and Belgium (113). Another eight prison administrations reported moderate overcrowding: Croatia (110), Ireland (105), Sweden (105), Hungary (104), Azerbaijan (103), Finland (103), Türkiye (102) and North Macedonia (101)...."

[5] Irish Prison Service – 2026 Prisoner Population. Statistics correct as of 8 January 2026.

[6] Prison Service - Dáil Éireann Debate, Wednesday - 10 December 2025.

[7] Prisoner numbers on course to reach 'unimaginable' level, *Irish Examiner*, 05 January 2026.

decreased by 14 per cent between 2022-2023[8] and decreased again by 3 per cent between 2023-2024[9]. During the same periods prisoner on prisoner direct physical assaults increased by 74 per cent between 2022-2023[10] and increased again by 31 per cent between 2023-2024[11]. In February 2024 the Director General of the Irish Prison Service wrote to the State Claims Agency (SCA) "...seeking fresh consideration of these matters as previously scrutinised in their 2016 'Review of Assaults on Operational Prison Staff by Prisoners".[12] Given the increase in prisoner-on-prisoner violence, the SCA recommended revisiting the introduction of incapacitant sprays and observed:

> "these devices can be effectively used by appropriately trained personnel in specified circumstances to reduce the risk to staff of injury ... however ... they should only be used with comprehensive policies and training, risk assessments and supports in place both for staff and any individual subjected to the effects of the sprays."[13]

The Department of Justice's policy paper also outlined the use of incapacitant spray in other jurisdictions, noting that Belgium and Greece are the only other two EU Member States where prison officers do not have incapacitant spray. The paper concludes that "Ireland is unique among EU Member States in that its prison officers are not permitted to carry defensive weapons or compliance tools".[14] However, in its PAVA in Prisons Project Evaluation Report, HM Prison & Probation Service's Operational Resilience and Response Unit stated that it was "unable to conclusively demonstrate that the use of PAVA spray had any direct impact on levels of prison violence".[15]

In its 2024 Policy Paper the Department of Justice recommended the introduction of incapacitant sprays following the enactment of legislation and the introduction of a pilot programme.[16] According to the Department's Regulatory Impact Analysis:

> "Failure to implement the proposed policy to introduce incapacitant spray as a tool for prison officers would result in continued safety risks for both prisoners and staff.

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[8] Table-of-assaults-on-prison-staff-and-prisoners-2012-–-2023.pdf

[9] Assaults-on-prison-staff-and-prisoners-2023-2024.pdf

[10] Table-of-assaults-on-prison-staff-and-prisoners-2012-–-2023.pdf

[11] Assaults-on-prison-staff-and-prisoners-2023-2024.pdf

[12] Department of Justice, *Policy Paper on Incapacitant Spray and the Irish Prison Service,* version 1.3, September 2024, p 3.

[13] Department of Justice, *Policy Paper on Incapacitant Spray and the Irish Prison Service,* version 1.3, September 2024, p 4-5.

[14] Department of Justice, *Policy Paper on Incapacitant Spray and the Irish Prison Service,* version 1.3, September 2024, p 18.

[15] HM Prison & Probation Service, PAVA in Prisons Project Evaluation Report, p 1.

[16] Department of Justice, *Policy Paper on Incapacitant Spray and the Irish Prison Service,* version 1.3, September 2024, p 17.

> Prison overcrowding exacerbates these challenges. Overcrowded facilities make it difficult to separate violent or disruptive prisoners and stretched resources limit rehabilitation opportunities. Without effective control measures, staff are left to manage violent incidents reactively rather than proactively. Failing to equip staff with appropriate tools leaves prisons less well equipped to handle violent situations, compromising prisoner and staff safety and negatively affecting the overall prison environment."

Pre-legislative scrutiny

The proposals in the Bill are broadly similar to the proposals that were set out in the General Scheme. In its PLS Report on the General Scheme, the Joint Oireachtas Committee on Justice, Home Affairs and Equality noted the concerns raised by stakeholders, including research, case law from the European Court of Human Rights and statistics from a pilot programme in English and Welsh Prisons.[17] The Committee ultimately recommended "removing Head 20 in full, and that Prison Officers are not armed with incapacitant spray".[18]

Proposals in the Bill

Part 2 of the Bill contains legislative proposals that will allow for the use of incapacitant spray by prison officers. Section 4 of the Bill proposes to exempt prison officers from firearms regulations in respect of the use of incapacitant spray (also known as 'pepper spray') in the course of their duties. These amendments to the Firearms Act 1925 may be summarised as follows:

- insertion of definition of "Irish Prison Service" in section 1(1) of the 1925 Act,
- changes the reference to member of the civilian staff of the Garda Síochána" in section 2(3)(b) of the 1925 Act to a "member of garda staff (within the meaning of the Policing, Security and Community Safety Act 2024)"
- insertion of a new subsection (bb) into section 2(3) of the 1925 Act to allow prison officers to possess, use, and carry incapacitant spray in the performance of his/her duty and in line with prison rules[19]

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[17] Joint Oireachtas Committee on Justice, Home Affairs and Migration, Report on Pre-Legislative Scrutiny of the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, November 2025, p. 17.

[18] PLS Report on the General Scheme, p. 7.

[19] This relates to prison rules made under section 35 of the Prisons Act 2007.

- amends section 10(6)(a) of the 1925 Act to include prison officers within the meaning of a "person officially authorised" under that section with the effect that incapacitant spray purchased by the State may be used by prison officers
- insertion of a new subsection (6) into section 16 of the 1925 Act to exempt any consignment of incapacitant spray belonging to or purchased or intended for the use of the Irish Prison Service from general restrictions on export or removal of firearms and ammunition,
- insertion of a new subsection (9) into section 17 of the 1925 Act to exempt the importation of incapacitant spray for use by the Irish Prison Service from general restrictions on the import of firearms, prohibited weapons and ammunition.

Section 5 of the Bill also proposes an amendment to section 35 of the Prisons Act 2007 to include the possession, use, or carriage of an incapacitant spray by a prison officer in the performance of his or her duties in the prison rules.

Commenting on these proposals, Minister for Justice, Home Affairs and Migration, Jim O'Callaghan TD, stated:

> "When the necessary primary and secondary legislation is in place, the Irish Prison Service intends to introduce a pilot programme, the outcome of which will help inform decisions on wider roll-out."

Financial and implementation issues

According to the Regulatory Impact Analysis carried out by the Department of Justice, Home Affairs and Migration, the planned implementation cost for the introduction of incapacitant spray is "estimated at approximately €25,000 (plus training and certification costs)".

It is also noted in the Regulatory Impact Analysis that:

> "Not implementing the policy would have no direct costs to the Exchequer but would not reduce the scope for claims against the State relating to physical force injuries incurred in tackling violent incidents."

Non-judicial functions of the Chief Justice (Part 3)

Part 3 proposes amendments related to the non-judicial functions of the Chief Justice. **Section 6** proposes to a number of amendments section 67 of the Courts of Justice Act 1936, related to the composition of the Superior Courts Rules Committee. Section 6(a) proposes to increase the number of nominated members of the Committee from 8 to 10. Section 6(b) removes the requirement for the Chief Justice to chair the Committee. Instead, section 6(b) read alongside section 6(d) allows the Chief Justice to nominate an ordinary judge of the Supreme Court, Court of Appeal or High Court, who may also act as chairperson. Section 6(c) proposes to reduce the required number of Supreme Court judges from 2 to 1 and also

provides for the appointment of an ordinary judge of the Court of Appeal nominated by the President of the Court of Appeal to the Committee.

Section 7 proposes to amend section 11 of the Courts Service Act 1998, which provides for the composition of the Board of the Courts Service. Section 7(a) proposes to amend section 11(1)(a) of the Act to allow for the Chief Justice to nominate a judge from any court, i.e. the Court of Appeal, the High Court, the Circuit Court or the District Court, rather than just a judge of the Supreme Court, to serve on the Board.. Section 7(b) of the Bill proposes to substitute section 11(4) of the Act to provide that either the Chief Justice or the nominated judge may serve as chairperson of the Board.

The General Scheme also proposed to amend sections 12 and 44 of the Judicial Council Act 2019 but those amendments are not provided for in the published Bill.

According to the Department's Regulatory Impact Analysis:

> "The objective is to reduce the non-judicial obligations of the Chief Justice and ordinary judges of the Supreme Court, thereby freeing up their time to deal with more pressing judicial matters."

The RIA also states:

> "Failure to implement these amendments would mean the Chief Justice and ordinary judges of the Supreme Court continue to be burdened with significant non-judicial administrative obligations. ... This represents a continued "opportunity cost," where the time and expertise of the highest-ranking judges are diverted away from pressing judicial matters. Not amending the legislation has no associated financial costs."

Extradition (Part 4)

Part 4 of the Bill proposes a number of amendments to the Extradition Act 1965, related to the Schengen Information System (SIS)[20]. In particular, **section 10(b)** of the Bill proposes the insertion of a new subsection (3AA) into section 27 of the 1965 Act, which empowers Garda members to provisionally arrest, without a warrant, persons named in SIS alerts from countries that do not participate in the European Arrest Warrant (e.g., non-EU Schengen states). Section 10(g) of the Bill also proposes the insertion of a new subsection (11A) into section 27 of the 1965 Act requiring the High Court to direct the Garda Commissioner to request the relevant SIRENE Bureau[21] to raise an alert in certain circumstances. Consequential

[20] For more information on the operation of this see: Schengen Information System (SIS) - Garda

[21] SIRENE stands for: Supplementary Information Request at the National Entries. For more information on the operation of this see: SIRENE cooperation - Migration and Home Affairs - European Commission.

amendments to sections 26 and 36 of the 1965 Act are proposed in sections 9 and 11 of the Bill.

According to the Department's Regulatory Impact Analysis:

> "This is necessary for the SIS alert system to operate as intended and fulfils a commitment made to the European Commission. It closes a legislative gap where currently a warrant is required before arrest for these specific alerts. This could prevent operational difficulties in extradition cases and avoid potential reputational damage with European partners. No financial costs have been identified regarding these amendments."

Community service orders (Part 5 – section 12)

Overview

Community Service Orders (CSOs) were introduced to Ireland by the Criminal Justice (Community Service) Act 1983 (the 1983 Act) as an alternative to custodial sentences. CSOs aim to maintain the social inclusion of offenders by keeping them within the community,[22] and were introduced to address concerns relating to prison overcrowding and rising crime rates.[23] A CSO is one of a range of community sanctions that may be imposed. In 2024, the Probation Service managed 1,723 Community Service Orders totalling more than 222,000 hours of work in lieu of 856 years in prison. It has been indicated by the Minister for Justice that this resulted in over €2.8m worth of unpaid work for the benefit of communities nationwide.[24] However, sentencing judges have been increasingly reticent to impose CSOs, and the Bill's proposed amendments are the latest in a series of legislative amendments made with the stated aim of promoting the use of CSOs.

A significant number of the current prison population are serving short custodial sentences. Of the 8,704 people imprisoned in 2024, 77 per cent of sentences were for 12 months or less. Of those in prison for under 12 months, on "a given day" approximately two-thirds were convicted of non-violent offences.[25] There are additional cost implications to custodial

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[22] Probation and Prisons in Europe, 2024: Key Findings of the SPACE reports, Survey conducted for the Council of Europe by the University of Lausanne, p 5.

[23] Dr Louise Kennefick and Dr Eoin Guilfoyle, An Evidence Review of Community Service Policy, Practice and Structure, The Probation Service of Ireland, November 2022.

[24] Probation and Welfare Service – Thursday, 9 Oct 2025 – Parliamentary Questions (34th Dáil) – Houses of the Oireachtas: Community Development Projects – Thursday, 4 Dec 2025 – Parliamentary Questions (34th Dáil) – Houses of the Oireachtas

[25] Irish Prison Service, Annual Report 2024; Opinion: Community sanctions make us all safer – here's how to support them, *Irish Legal News*, 11 November 2025.

sentences, with the average annual cost of an available, staffed prison space during the calendar year 2024 totalling €99,072.[26] CSOs provide non-custodial sentencing option for judges, which allows for the imposition of an appropriate penalty while not further contributing to the current problem of prison over-crowding, described in the previous section.

Proposed amendment

The Bill proposes to amend the 1983 Act, which currently provides that judges must consider imposing a CSO of up to 240 hours when they would otherwise impose up to 12 months in prison.[27] Section 12 of the Bill proposes to increase the maximum number of hours of community service that may be imposed from 240 hours to 480 hours. The Bill also proposes to increase the availability of CSOs by providing that they may be imposed when they would otherwise impose up to 24 months in prison[28]. The Bill proposes to insert a new provision to provide that if the court, when passing sentence in an appropriate case[29], decides not to impose a CSO they must give reasons for this decision.

The 1983 Act has previously been amended by the (Criminal Justice (Community Service) (Amendment) Act 2011) and the Fines (Payment and Recovery) Act 2014, with the intention of expanding the use of CSOs as an alternative to imprisonment.[30] However, as discussed below, these amendments have not been successful in their attempt to increase the use of CSOs by sentencing judges.

Calls for reform

The 'Review of Policy Options for Prison and Penal Reform 2022-2024', which was published by the Government in 2022, identified six priority actions to reduce reoffending and avoid prison overcrowding. The first two of these six priorities relate to the increased use of non-

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[26] Irish Prison Service, Annual Report 2024.

[27] Section 3(1) of the Criminal Justice (Community Service) Act 1983 (as amended by , Section 3 of the Criminal Justice (Community Service) (Amendment) Act 2011)

[28] This increase to 24 months is also proposed to be replicated in section 3(1)(b) of the 1983 Act.

[29] Section 12(a)(i)(II) of the Bill also proposes to insert a new subsection (aa) into section 3(1) of the 1983 Act and relates to the making of CSOs under section 3(1)(a) of the 1983 Act as amended.

[30] Dr Niamh Maguire and Prof Nicola Carr, Community or Custody? A Review of Evidence and Sentencers' Perspectives on Community Service orders and Short-Term Prison Sentences, Department of Justice, November 2024.; Submission by the Irish Penal Reform Trust on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, June 2025.

custodial sanctions and expanding the use of community-based sanctions. The recommendations are:

> 1. To consider the incorporation of prison as a sanction of last resort in statute, in relation to people who do not pose a risk of serious harm, to reduce reoffending and overcrowding in prisons.
>
> 2. To develop and expand the range of community-based sanctions including alternatives to imprisonment to reduce re-offending and overcrowding in prisons.[31]

The Bill aligns with these recommendations, and with the policy objectives of the Programme for Government,[32] which commits to "enact legislation to extend the use of community sanctions, in particular increasing the use of community service orders".[33]

In 2022, the Probation Service published 'An Evidence Review of Community Service Policy, Practice and Structure', conducted by Dr Louise Kennefick and Dr Eoin Guilfoyle. The review evaluated research findings and knowledge from peer-reviewed journals, national and international policy materials, reports, and publications relating to community service. The authors proposed a wide range of recommendations and considered options for legislative reform. Their reform proposal was as follows:

> "...introduce a presumption against short-term prison sentences, and introduce a legislative requirement that judges must justify their decision not to impose a CSO when considering a prison sentence of 12 months or less."

As set out above, the Bill requires sentencing judges to give reasons for their decision if they decide not to impose a CSO in an appropriate case.

The 2022 report also recommended that additional study should be carried out on the efficacy of CSOs and on the perspectives of sentencing judges, who had not been making frequent use of CSOs when imposing sentences.[34] Following this recommendation, the Department of Justice published 'A Review of Evidence and Sentencers' Perspectives on Community Service orders and Short-Term Prison Sentences',[35] which analysed existing literature and judicial perspectives on the use of CSOs to assess why they are not used more frequently and how their use may be promoted and increased. The authors of the review sought the views of

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[31] Government publishes Review of Policy Options for Prison and Penal Reform 2022-2024, August 2022.

[32] programme-for-government-securing-irelands-future.pdf

[33] programme-for-government-securing-irelands-future.pdf, p 118.

[34] Short prison sentences still used instead of community sentence orders, Irish Legal News, November, 2024.

[35] Dr Niamh Maguire and Prof Nicola Carr, Community or Custody? A Review of Evidence and Sentencers' Perspectives on Community Service orders and Short-Term Prison Sentences, Department of Justice, November 2024.

District Court judges on the use of CSOs. A number of issues were raised, including the following:

- The suitability of CSOs for people who are prolific repeat offenders.
- The suitability of CSOs for people with drug and alcohol addictions and mental health needs.
- The timely availability of assessments, and delays in people starting CSO placements.

The Bill proposes to impose a requirement on judges to give reasons if, in the appropriate circumstances, they choose not to impose a CSO. Notably, the 2024 report sought the views of District Court judges on this proposal. The judges had a negative view of the proposal, for the following reasons:

> "...Judges noted a variety of concerns but the most prominent was a view that 'tying the hands' of sentencing judges would be an unacceptable interference with their sentencing discretion. Some noted that many convicted people would simply not be suitable for a CSO and imposing a CSO on a person who is not suitable would be anathema to justice. Judges who both agreed with and disagreed with the idea of a presumption in favour of the imposition of a CSO noted that a duty to give reasons would be meaningless because all a judge has to say is that they considered it and the deemed a CSO inappropriate or unsuitable. In other words, reasons are often formulaic and do not really reflect the real considerations behind the decision. Some noted that giving reasons is not always possible due to confidentiality considerations and others that it delays courts. Another judge noted that judges can easily get around the duty to give reasons. Two noted that some judges have a policy of never applying a CSO because they do not believe in it. Of those who were in favour of the presumption, many still felt the reasons would be ineffective but that it was worth trying if it might increase the uptake of CSOs and reduce the use of short prison sentences."[36]

The CSO provisions of the Bill were welcomed by the Irish Penal Reform Trust (IPRT),[37] who have previously advocated for the increased use of CSOs.[38] In their submissions on the General Scheme, the IPRT highlighted that non-custodial sentences may be more effective at reducing reoffending than custodial options. In 2021, the Central Statistics Office statistics on

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[36] Dr Niamh Maguire and Prof Nicola Carr, Community or Custody? A Review of Evidence and Sentencers' Perspectives on Community Service orders and Short-Term Prison Sentences, Department of Justice, November 2024., pp 78 – 79.

[37] Submission by the Irish Penal Reform Trust on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, June 2025.

[38] IPRT Position Paper 8 Community Sanctions, 2010: "IPRT recommends that the use of community sanctions is extended and that appropriate resources are re-directed to the Probation Service and other organisations involved in the delivery of community-based sanctions", p11.

recidivism (reoffending) demonstrated that almost 45 per cent of those who served a prison sentence re-offended within a one-year period, compared with 29 per cent for those who served their sentence in the community.[39] Similar patterns of reoffending have been observed internationally.[40] The IPRT has also outlined in a number of reports the ongoing possible negative side-effects of custodial sentences including disruption to family relationships, contact with social or community services, and loss of employment. However, it was stressed that an increased use of CSOs must be accompanied by appropriate support systems to ensure completion of CSOs and to reduce the likelihood of reoffending.[41]

Disclosure of counselling records in sexual offence cases (Part 6 – section 13)

The prosecution has a duty to the defence to disclose any material which may be relevant to a case. This duty is derived from the right to a fair trial and is not absolute and therefore, may be limited by the potential impact of materials on the victim's right to privacy. The practice of the disclosure of counselling records has been the subject of debate and criticism for many years.

In light of this, section 19A was inserted into the Criminal Evidence Act 1992, which came into force on 30 May 2018.[42] This created a procedure for the right of the accused to a fair trial and the right of a victim to privacy to be weighed up by a trial judge in considering whether counselling records should be disclosed in a sexual offence case. Research findings, case law of the Supreme Court and Ministerial statements indicate that section 19A has not operated as the Oireachtas intended, due to the lack of disclosure hearings and overuse of the waiver provided for in subsection 17.[43]

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[39] Central Statistics Office, Prison Re-offending Statistics, 2021.

[40] Joint Committee on Justice, Home Affairs and Migration Report on Pre-Legislative Scrutiny of the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, November, 2025.

[41] Ibid; Submission by the Irish Penal Reform Trust on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025, June 2025.

[42] This provision was commenced by the Criminal Law (Sexual Offences) Act 2017 (Commencement) (No. 2) Order 2018, S.I. No. 172 of 2018. This provision was inserted by section 39 of the Criminal Law (Sexual Offences) Act 2017 following a number of Supreme Court cases (For example, *DH v Groarke* [2002] 3 IR 522 (SC); *The People (DPP) v Sweeney* [2001] 4 IR 102; *PG v DPP* [2007] 3 IR 39 (SC); *JF v DPP* [2008] 1 IR 753 (SC)) and a Report from the Law Reform Commission on Disclosure and Discovery in Criminal Cases.

[43] For further discussion see: *Policy and Legislative Briefing Paper on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 – Head 19: Disclosure of Counselling Records in Sexual Offence Cases.*

Head 19 of the General Scheme of the Criminal Law and Civil Law Miscellaneous Provisions Bill 2025 proposed to delete subsection 17 of section 19A of the Criminal Evidence Act 1992. Section 19A(17) currently provides:

> "This section does not apply where a complainant or witness has expressly waived his or her right to non-disclosure of a counselling record without leave of the court."

In its PLS Report on the General Scheme, the Joint Oireachtas Committee on Justice, Home Affairs and Migration recommended that "Head 19 sets out a complete and unconditional ban on the use of counselling records in sexual offence trials".

Section 13(1) of the Bill proposes to delete subsection 17 of section 19A of the Criminal Evidence Act 1992. There is therefore no change between the proposal in the General Scheme and the proposal in the Bill. Section 13(2) of the Bill provides that the practice of waving disclosure hearings under section 19A of the 1992 Act may continue until section 13(1) of the Bill comes into force.

Section 19A(16) of the Criminal Evidence Act 1992 provides that a complainant or witness may receive legal representation through the Legal Aid Board in relation to a disclosure application. According to the Department's Regulatory Impact Analysis:

> "There will be some increased costs in providing legal representation to victims at counselling records disclosure hearings."

Commenting on section 13 of the Bill, Minister for Justice, Home Affairs and Migration, Jim O'Callaghan TD, stated:

> "While this is a necessary initial step in reforming the law in this area, I also believe that further amendments may be merited. My department is currently consulting with relevant stakeholders on the development of concrete proposals to ensure the optimal balance between the rights of complainants and defendants is achieved. It is important that I balance those two rights, the rights of the victims and survivors, yet at the same time, I have a constitutional obligation to ensure that people who are before the criminal justice process as, accused, get a fair trial."

For a more in-depth discussion of this area see: *Policy and Legislative Briefing Paper on the General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 – Head 19: Disclosure of Counselling Records in Sexual Offence Cases* (published 18 November 2025).

Certification of Citizenship (Part 7)

Part 7 of the Bill proposes amendments to a number of pieces of primary and secondary legislation in relation to the certification of citizenship, namely:

- Section 15 of the Bill proposes the substitution of section 60(2) of Criminal Justice (Theft and Fraud Offences) Act 2001
- Section 16 of the Bill proposes the substitution of section 8(1) of Maritime Security Act 2004
- Section 17 of the Bill proposes the substitution of section 75(1) of the Criminal Justice Act 2006 and the insertion of new subsection 75(1A)
- Section 18 of the Bill proposes the substitution of section 63(2) of International Criminal Court Act 2006
- Section 19 of the Bill proposes the substitution of section 14(4) of Criminal Justice (Money Laundering and Terrorist Financing) Act 2010
- Section 20 of the Bill proposes the substitution of Regulation 8(4) of European Union (Market Abuse) Regulations 2016

All of these amendments have a similar effect in that they provide the Minister for Justice, Home Affairs and Migration with the power to certify Irish citizenship where this is relevant to the prosecution of certain offences.

Recognisances for suspended sentences (Part 8) and bail (Part 12, section 30)

According to Murdoch and Hunt's Dictionary of Irish Law, a recognisance is:

> "An obligation or bond made before a court of record binding a person (called the *recognisor*) to perform some act e.g. to appear before a court or to keep the peace or to be of good behaviour, or to ensure the attendance of an accused at his trial."[44]

Part 8 proposes a number of amendments to the Criminal Justice Act 2006. **Section 21(a)** proposes to amend section 99 of the Criminal Justice Act 2006 to insert a new subsection (1A) to provide that individuals who are in prison when they receive a suspended sentence for an offence they have been convicted of may provide a recognisance to the prison governor or a prison officer, designated by the governor, rather than appearing in court.

According to the Regulatory Impact Analysis:

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[44] Brian Hunt, *Murdoch and Hunt's Encyclopaedia of Irish Law*, 6th edition (Bloomsbury Professional 2025).

> "This change facilitates the use of remote hearings by removing the requirement to physically transport a person in custody to court solely for entering a recognisance. This will result in operational savings by freeing up Prison Officer time for core duties. This section will have Climate Impact Mitigation potential as it will enable a reduction in transport related carbon emissions by reducing the need for persons in custody to attend court proceedings in person. It will also have a positive impact on People with Disabilities as reduces the need for physical travel to court."

Furthermore, the RIA states:

> "If these amendments are not enacted, the current requirement to physically convey prisoners or detainees to court solely for the administrative purpose of entering into recognisances will continue. This maintains unnecessary financial and resource costs for the State, as prison officers will continue to be diverted from productive tasks to manage transport and court attendance. Furthermore, retaining the status quo would hinder the efficient use of remote hearings/ videolink participation, as the physical presence of the person in court would still be required for the recognisance."

In addition, **section 30** of the Bill proposes to amend section 22 of Criminal Procedure Act 1967 to provide that a Garda sergeant or other member of An Garda Síochána in charge of the station may take a recognisance for bail where the individual is already in custody.

In addition, to the policy rationale set out above for prison officers taking recognisance, the Regulatory Impact Analysis notes:

> "This will facilitate quicker bail hearings (thereby reducing the time spent in Garda custody) and operational savings by freeing up Garda time for policing duties. … This maintains unnecessary financial and resource costs for the State, as Gardaí will continue to be diverted from policing activities to manage transport and court attendance. … It would also fail to reduce the risk of delayed court hearings and *habeas corpus* applications (and related costs to the State) under Article 40 of the Constitution."

Anti-Social Behaviour Orders (Part 8)

Sections 21(b)-(d) propose amendments to Civil Proceedings in Relation to Anti-Social Behaviour under Part 11 of the Criminal Justice Act 2006. **Section 21(b)** proposes to amend section 113(1) of the 2006 Act through the deletion of the definition of "senior member of the Garda Síochána" which is currently defined in the Act as "a member of the Garda Síochána not below the rank of a superintendent". Given the deletion of this definition, **sections 21(c)-(d)** proposes to lower the rank of the authorising officer from superintendent to inspector in respect of applications for civil orders under sections 115(4) and 116(2) of the 2006 Act, respectively.

According to the Regulatory Impact Analysis:

> The primary benefit is efficiency, freeing up Superintendents' time to focus on other pressing matters. Additionally, this change provides more flexibility and allows for swifter action in relation to anti-social behaviour orders."

DNA analysis (Part 9)

Part 9 of the Bill proposes amendments to the Criminal Justice (Forensic Evidence and DNA Database System) Act 2014. Section 22 of the Bill proposes to provide for a new definition of "DNA profile". Section 23 of the Bill also proposes to insert a new provision, section 51A, into the Act to provide that more than one DNA profile may be generated from a sample taken in relation to missing persons, unknown persons and unknown deceased persons.

According to the Regulatory Impact Analysis:

> "This amendment allows the analysis of coding regions of DNA, increasing the number of scientific techniques available to identify unknown deceased persons and find matches with missing persons. This follows a precedent set by the Institutional Burials Act 2022 and has no associated financial costs."

The Regulatory Impact Analysis also notes that if the amendments are not advanced:

> "Forensic Science Ireland will remain legally restricted to generating DNA profiles only from non-coding regions of DNA. This limits the scientific techniques available for identifying unknown deceased persons, particularly when dealing with degraded samples. Consequently, the probability of identifying unknown remains and resolving missing persons cases would remain lower than potentially achievable, failing to align with the more effective precedents set by the Institutional Burials Act 2022. There are no financial costs associated with not implementing the measure."

Offences related to 'sex for rent' (Part 10 – section 24)

The issue of 'sex for rent' (SFR) has been reported in the media since 2017 and repeatedly raised in Dáil Éireann including the introduction of three Private Members Bills.[45] The Government made a commitment to "[c]riminalise those who seek sex in exchange for rent"[46]

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[45] These are the Ban on Sex for Rent Bill 2022 (No. 28 of 2022), Residential Tenancies (Amendment) (Sex for Rent) Bill 2024 (No. 17 of 2024) and Prohibition of Advertising or Importuning Sex for Rent Bill 2025 (Bill 12 of 2025).

[46] Government of Ireland, 'Programme for Government 2025: Securing Ireland's Future', at 121.

as part of its commitments under the section on 'Zero Tolerance of Domestic, Sexual, and Gender-Based Violence' in the Programme for Government 2025: Securing Ireland's Future. In the **press release** announcing the Government's approval to publish the Bill, the Minister for Justice, Home Affairs and Migration Jim O'Callaghan stated that:

> Any attempt by accommodation providers to exploit their position and prey on vulnerable people through these arrangements is completely unacceptable.
>
> It is an appalling abuse of power by unscrupulous individuals, and it will not be tolerated under any circumstances.
>
> This measure addresses a specific Programme for Government commitment and supports broader efforts to tackle the epidemic of domestic, sexual and gender-based abuse.[47]

Part 10, section 24 of the Bill proposes to insert a new section 45A into the Criminal Law (Sexual Offences) Act 2017 (the 2017 Act), creating two new offences offering accommodation in exchange for sexual activity and advertising it. The 2017 Act made paying for sexual services a criminal offence in Ireland. The two new offences are:

- prohibiting a person offering another person accommodation through a tenancy or licence in exchange for sexual activity in lieu of payment for the accommodation.
-
- prohibiting a person advertising or causing the advertisement of an offer of accommodation through a tenancy or licence in exchange for sexual activity in lieu of payment for the accommodation. It will be a defence to show that a person did not know and had no reason to suspect that the advertisement related to this type of accommodation offer.

The proposed penalty for these offences is a "class A" fine, i.e. a fine of up to €5,000. Part 10 echoes Head 39 of the General Scheme which also proposed the introduction of two new offences in very similar terms including a defence of honest belief. The new section 45A includes licences as well as tenancies, whether oral, written or implied.

However, there appears to be two differences between the General Scheme and the Bill. Firstly, the General Scheme contained an additional subsection which does not appear in the Bill. Subsection 5 of the proposed section 45A in the General Scheme extended the proposed offence to a body corporate. This also included liability for any person, such as a director/manager/secretary or other officer of the body corporate where such an offence was committed with their consent or collusion of, or attributable to any wilful neglect on their part. This subsection is not included in the published Bill. The other difference relates to relevant

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[47] Department of Justice, Home Affairs and Migration, 'Minister Jim O'Callaghan secures Government approval to publish the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025', *Press Release*, 22 December 2025.

definitions for the new section 45A. In the General Scheme a definition for sexual activity is included, while this is not included in the published Bill.

In the PLS Report, the Joint Committee made two recommendations (16 & 17) regarding Head 39 as follows:

- The Committee recommends that a review is conducted to assess if the provisions set out in Head 39 are working as intended, and a report should be produced and published regarding such a review.
- The Committee recommends that the following actions are covered by the provisions of Head 39:
  - Extending tenancy protections to those in informal or licensee housing arrangements,
  - Strengthening regulation and moderation by online platforms hosting rental advertisements,
  - Clarifying the rights and supports available to licensees, and
  - Rolling out a targeted public information campaign to raise awareness.

Some of these recommendations are policy based and thus fall outside the remit of the Bill. This is explored in further detail in the section on Pre-Legislative Scrutiny.

For a detailed exploration of the policy and legislative background to this section, please see: **Policy and Legislative Briefing Paper: General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025- Head 39: criminal offences for 'sex for rent'.**

Outdoor seating for licensed premises (Part 11)

Part 11 proposes to provide a permanent regulatory basis for outdoor seating areas for licensed premises. The Civil Law (Miscellaneous Provisions) Act 2021 currently provides for this but it requires renewal every six months by resolution of the Houses of the Oireachtas. The current resolution[48] will expire on 31 May 2026.

According to the Regulatory Impact Analysis:

> "This will provide legal certainty to those operating in the licensing trade, their patrons, Local Authorities and An Garda Síochána. This Part anticipated to have positive impacts for Employment as it will support the continued viability of hospitality businesses utilising outdoor spaces, protecting employment and economic activity."

[48] Civil Law (Miscellaneous Provisions) Act 2021: Motion – Dáil Éireann (34th Dáil) – Wednesday, 26 Nov 2025 – Houses of the Oireachtas

Pre-legislative scrutiny

The General Scheme of the Criminal Law and Civil Law (Miscellaneous Provisions) Bill 2025 was published on 6 May 2025 and a pre-legislative scrutiny (PLS) public hearing was held on 30 September 2025. The Joint Oireachtas Committee on Justice, Home Affairs and Migration published its PLS Report on 13 November 2025, which included 17 recommendations.

This section of the *Digest* seeks to assess the extent to which the Committee's recommendations have been addressed in the Bill, as initiated. To do this, a traffic light system is used by the L&RS, indicating whether a key issue is accepted and reflected in the Bill, whether a consistent or unclear approach is used, and whether the recommendation has not been accepted or is not reflected in the Bill. An additional categorisation is used for recommendations that were not implemented in the Bill, but where additional considerations are present, such as recommendations related to policy objectives, budgets, or where it would not be possible to progress these objectives in legislation. This categorisation is also used where proposals in the General Scheme are not set out in the published Bill but where it has been indicated that Committee Stage amendments will be brought forward. This traffic light approach represents the PRS's own, independent analysis of the Bill, and a key to this dashboard is shown in Table 1 below.

Table 1 Key to traffic light dashboard comparing the Bill as published with Committee PLS recommendations

L&RS categorisation of the Department's response in the Bill to the Committee's key issue	Traffic light dashboard used in Table summary of PLS recommendations to highlight impact of the Committee's PLS conclusion
Key issue has clearly been accepted and is reflected in the Bill	
The Bill may be described as adopting an approach consistent with the key issue or the impact of the key issue is unclear	
Key issue has not been accepted or implemented in the Bill	
Recommendation has not been implemented in the Bill, but additional considerations are present.	

Source: L&RS (2026).

Table 2 Traffic light dashboard comparing the Bill as published with Committee PLS recommendations.

PLS recommendation as per Committee report	PRS assessment	Department of Justice, Home Affairs and Migration response
1. The Committee recommends the inclusion of a subsection in Head 6 requiring that the consent of the accused be secured for each application for a remote hearing, in particular, when it is envisaged to conduct a trial remotely.		Drafting of these provisions are continuing with a view to their being introduced at Committee Stage. Consideration is being given as to whether any additional safeguards are merited, particularly in relation to trials.
2. The Committee recommends that a direction be included that remote hearings, as set out in Head 6, should not be extended to jury trials, and to summary trials involving the potential for imprisonment. If remote proceedings are permitted for such trials, it is recommended that these will be exceptional and not normative.		As above
3. The Committee recommends that regulations are provided on the use of remote proceedings as set out in Head 6, and that a human rights review of the operation of remote proceedings takes place within a three-year period of commencement of the legislation.		As above
4. Regarding the provisions set out in Head 17, the Committee recommends that only officers of the Forensic Science Ireland Laboratory may sign Section 10 of the 1984 Act certificate as provided by subsection (1).		Drafting of these provisions is continuing with a view to their being introduced at Committee Stage. Consideration is being given as to whether any refinements are merited to ensure the provisions are as procedurally robust as possible.
5. The Committee recommends that Head 19 sets out a complete and unconditional ban on the use of counselling records in sexual offence trials.		Legal advice received from the Attorney General indicates that an outright ban on the use of counselling records in sexual offence trials would be unconstitutional. While the Minister believes this amendment to be a necessary initial step in reforming the law in this area, the Minister has also stated his view that further amendments may be merited to ensure the optimal balance between the

		rights of complainants and defendants is achieved. The Department is currently consulting with relevant stakeholders on the development of concrete proposals to that end.
6. The Committee recommends removing Head 20 in full, and that Prison Officers are not armed with incapacitant spray.		The Bill provides an exemption for prison officers from the general prohibition on the possession, use or carriage of incapacitant sprays in the course of their duties. However, such possession, use or carriage will be permitted only in accordance with such provision as may be made by the Minister under the Prison Rules and will be further underpinned by detailed policies and operating procedures. This amendment will bring Ireland in line with EU counterparts, as the Department understands that we are one of only three EU jurisdictions whose laws do not currently permit prison officers to carry or deploy incapacitant spray in any circumstances.
7. The Committee recommends that Head 25 is amended to ensure that there is proportionality between the custodial sentence and the Community Service Order hours.		The Minister notes that it is implicit that such proportionality must exist in any Community Service Order that may be made by a court and that, as such, this does not need to be specified in legislation.
8. The Committee recommends the inclusion of a provision under Head 25 that would enable individuals subject to higher hours of community service to carry them out in a manner that takes into account the time they might need to dedicate to employment and childcare responsibilities, as well as therapeutic appointments.		The Minister notes that the court and the Probation Service would already be expected to take such factors into account, and is not of the view that legislative amendments to this end are necessary.
9. Regarding the provision set out in Head 25 obliging the Court to provide reasons for decisions to impose custodial sentences rather than community sentences, the Committee recommends that a mechanism is established to collect this data and monitor sentencing trends.		The Department will engage with the Courts Service to give consideration as to how such a mechanism may be put in place on an administrative basis.
10. The Committee recommends the allocation of additional funding to the Probation Service to enable the proposed expansion of alternatives to custodial sentences under Head 25.		While beyond the scope of this Bill, this has already happened - a significant budget increase of more than 11% for the Probation Service (€6.7 million) in Budget 2026 will allow

		for 100 additional staff to increase supervision capacity and support the expansion of community-based sanctions as an alternative to prison.
11. The Committee recommends, as a matter of urgency, the publication of the Review on the Criminal Justice (Community Sanctions) Bill 2014.		The Minister intends to publish this review in the near future.
12. Regarding the provisions set out in Head 25, the Committee recommends the inclusions of a provision that prohibits the use of Community Service Orders in place of other more appropriate non-custodial sentences.		The Minister's view is that it should be a matter for the court to determine which of the available non-custodial sanctions may be more appropriate in a given case. The Minister does not envisage introducing legislation that would fetter judicial discretion or sentencing options in such matters.
13. The Committee recommends the inclusion, in Head 25 of the General Scheme, of a Probation Order where a Community Service Order is not made.		The policy rationale underpinning the Community Service Act is to provide a specific non-custodial sanction as an alternative to imprisonment in cases where, in the opinion of the court, imprisonment would otherwise be the appropriate penalty. A different policy rationale underpins the Probation of Offenders Act and, while the Department is not clear as to what specifically is intended by the recommendation, any move to link or integrate the two regimes in statute would need very careful consideration. The Department will explore the matter further but it will not be possible to complete such consideration within the timeframes for this Bill.
14. The Committee recommends Head 26 is subjected to extensive human rights scrutiny and review. The review should include an impact assessment on how this provision might affect individuals who wear face coverings for legitimate reasons such as health, religious, cultural and solidarity purposes.		Drafting of these provisions is continuing with a view to their being introduced at Committee Stage. These proposals were the subject of human rights consideration during their development, including impacts on legitimate uses of face coverings (health, religious, or cultural). The draft measure is framed as a targeted public order provision, not as a general or targeted prohibition on face coverings. The finalised proposals to be introduced at Committee stage will have been further assessed by the Attorney General's

		Office against constitutional and human rights standards. An Garda Síochána's commitment to human rights as a central consideration in policing is reflected in the Garda Decision Making Model and the Garda Síochána Human Rights Strategy 2022–2024. As the latter notes, "Front line police must always act in accordance with human rights, taking a balanced perspective on the rights of arrested or detained persons, those of the wider public, and the rights of victims."
15. The Committee recommends that a review is conducted to assess the intended impact of the provisions set out in Head 26, and to ascertain if such powers are already proscribed within the Criminal Justice (Public Order) Act, 1994 or other statutory provisions.		Head 26 is intended to address a gap in the Criminal Justice (Public Order) Act 1994. While the Act provides powers to respond to public order offences (including s.4 on intoxication, s.5 on disorderly behaviour, s.6 on threatening or abusive conduct, and s.8 on directions to maintain public safety or public peace), it does not provide a clear statutory basis to direct the removal of face coverings used to intimidate or conceal identity in public order situations. The measure is intended as a targeted, proportionate power, applied only where public order risk exists, without duplicating existing offences, and with safeguards to protect fundamental rights.
16. The Committee recommends that a review is conducted to assess if the provisions set out in Head 39 are working as intended, and a report should be produced and published regarding such a review.		The Department is cognisant of Dáil Standing Order 164A and Seanad Standing Order 168 (2016) which provide that a post-enactment report for an Act of the Oireachtas is to be laid in the Parliamentary Library 12 months after enactment. The purpose of such report is to provide to the Oireachtas an assessment of the effect of the introduction of the legislation, including any benefits or impacts that have been noted.
17. The Committee recommends that the following actions are covered by the provisions of Head 39: • Extending tenancy protections to those in informal or licensee housing arrangements, • Strengthening regulation and moderation by online platforms hosting rental advertisements,		➢ This recommendation falls outside the scope of this legislation. Tenancy protections are a matter for the Department of Housing. ➢ This recommendation falls outside the scope of this legislation. Regulation of online platforms is not a matter for the Department of Justice, Migration and Home Affairs.

• Clarifying the rights and supports available to licensees, and • Rolling out a targeted public information campaign to raise awareness.		➢ This recommendation falls outside the scope of this legislation. This would be a matter for the Department of Housing. ➢ The Department, in conjunction with Cuan, will examine the development of appropriate arrangements to raise public awareness of the new offences once they are enacted and commenced.

Source: L&RS (2026), based on Joint Oireachtas Committee PLS Report and information provided by the Department of Justice, Home Affairs and Migration.