

Children (Care and Justice) (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 30
Sections 31 and 32

Schedule
Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Before section 1

Martin Whitfield

164 Before section 1, insert—

<PART

PURPOSE OF THIS ACT

Purpose of this Act

The purpose of this Act is to promote the wellbeing and rights of children in the children's hearings system and criminal justice system.>

After section 1

Martin Whitfield

165 After section 1, insert—

<Welfare of the child

- (1) The 2011 Act is amended as follows.
- (2) In section 25 (welfare of the child), in subsection (2), after “welfare” insert “and rights”.>

Roz McCall

2 After section 1, insert—

<Consideration of person affected by child's offence or behaviour

- (1) The 2011 Act is amended as follows.
- (2) In section 26 (decisions inconsistent with section 25), in subsection (1), before paragraph (a) insert—

“(za) the children's hearing, pre-hearing panel or court considers that, for the purpose of protecting the person affected by the child's offence or

behaviour from harm (whether physical or not), it is necessary that the decision be made.”.>

Martin Whitfield

167 After section 1, insert—

<Non-discrimination

- (1) The 2011 Act is amended as follows.
- (2) After section 26 insert—

“26A Non-discrimination

- (1) This section applies where by virtue of this Act a children's hearing, pre-hearing panel or court is coming to a decision about a matter relating to a child.
- (2) The children's hearing, pre-hearing panel or court must not discriminate against the child on grounds of—
 - (a) age,
 - (b) disability,
 - (c) gender reassignment,
 - (d) race,
 - (e) religion or belief,
 - (f) sex,
 - (g) sexual orientation,
 - (h) socio-economic status.”.>

Martin Whitfield

166 After section 1, insert—

<Views of the child: commencement of section 3 of the Children (Scotland) Act 2020

The Scottish Ministers must make regulations under section 34 of the Children (Scotland) Act 2020 appointing a day for the coming into force of section 3 of that Act, which must be a day no later than 6 months after the day the Bill for this Act receives Royal Assent.>

Pam Duncan-Glancy

168 After section 1, insert—

<Views of the person affected by child’s offence or behaviour

- (1) The 2011 Act is amended as follows.
- (2) After section 27 insert—

“27A Views of the person affected by child’s offence or behaviour

- (1) This section applies where by virtue of this Act a children's hearing, pre-hearing panel or the sheriff is coming to a decision about a matter relating to a child.

- (2) The children's hearing, pre-hearing panel or the sheriff must, so far as practicable—
 - (a) give the person affected by the child's offence or behaviour an opportunity to indicate whether the person affected wishes to express their views,
 - (b) if the person affected by the child's offence or behaviour wishes to do so, give the person an opportunity to express them, and
 - (c) have regard to any views expressed by the person affected by the child's offence or behaviour.
- (3) In this section “coming to a decision about a matter relating to a child” includes a decision to impose a movement restriction condition under a compulsory supervision order.”.>

Pam Duncan-Glancy

169 After section 1, insert—

<Principle of trauma-informed practice

- (1) The 2011 Act is amended as follows.
- (2) After section 31 insert—

“31A Principle of trauma-informed practice

- (1) A children's hearing must carry out its functions in a way that accords with trauma-informed practice.
- (2) In this section “trauma-informed practice” is a means of operating that—
 - (a) recognises that a person may have experienced trauma,
 - (b) understands the effects which trauma may have on the person, and
 - (c) involves adapting processes and practices, based on that understanding of the effects of trauma, to seek to avoid, or minimise the risk of, exposing the person to—
 - (i) any recurrence of past trauma, or
 - (ii) further trauma.”.>

Martin Whitfield

170 After section 1, insert—

<Support for vulnerable children

- (1) The 2011 Act is amended as follows.
- (2) After section 31 insert—

“31A Support for vulnerable children

- (1) This section applies where by virtue of this Act a children's hearing, pre-hearing panel or court is coming to a decision about a matter relating to a child.
- (2) The children's hearing, pre-hearing panel or court must provide enhanced support for vulnerable children.

- (3) For the purposes of subsection (2) enhanced support may include—
 - (a) educational support,
 - (b) communication support.
- (4) A child may be considered vulnerable for the purposes of subsection (2) where the child—
 - (a) has a physical or mental disability,
 - (b) is a victim of abuse,
 - (c) is from a marginalised community.”.>

Martin Whitfield

171 After section 1, insert—

<Transition to adulthood

- (1) The 2011 Act is amended as follows.
- (1A) After section 31 insert—

“31A Children’s hearing: support for child’s transition to adulthood

- (1) This section applies where by virtue of this Act a children's hearing is coming to a decision about a matter relating to a child who has attained the age of 16 or 17 years.
- (2) The children’s hearing must—
 - (a) consider whether supervision or guidance is needed by the child to support the child’s transition to adulthood, and
 - (b) if so, make a statement to that effect.
- (3) If the children's hearing states that supervision or guidance is needed by the child, it is the duty of the relevant local authority for the child to give such supervision or guidance as the child will accept.”.>

Miles Briggs

119 After section 1, insert—

<Neurodevelopmental assessment

- (1) The 2011 Act is amended as follows.
- (2) After section 31 insert—

“31A Neurodevelopmental assessment

- (1) This section applies where by virtue of this Act a children's hearing, pre-hearing panel or court is coming to a decision about a matter relating to a child.
- (2) The children’s hearing, pre-hearing panel or court must ensure that the child receives a neurodevelopmental assessment where the child has an existing diagnosis for—
 - (a) autism spectrum disorder,
 - (b) Attention Deficit Hyperactivity Disorder.”.>

Miles Briggs

120 After section 1, insert—

<Autism assessment

- (1) The 2011 Act is amended as follows.
- (2) After section 31 insert—

“31A Autism assessment

- (1) This section applies where by virtue of this Act a children's hearing, pre-hearing panel or court is coming to a decision about a matter relating to a child.
- (2) Where the child has an existing diagnosis for Attention Deficit Hyperactivity Disorder, the children's hearing, pre-hearing panel or court must ensure that the child receives an assessment for autism spectrum disorder.”>

Miles Briggs

121 After section 1, insert—

<ADHD assessment

- (1) The 2011 Act is amended as follows.
- (2) After section 31 insert—

“31A ADHD assessment

- (1) This section applies where by virtue of this Act a children's hearing, pre-hearing panel or court is coming to a decision about a matter relating to a child.
- (2) Where the child has an existing diagnosis for autism spectrum disorder, the children's hearing, pre-hearing or court must ensure that the child receives an assessment for Attention Deficit Hyperactivity Disorder.”>

Natalie Don

1 After section 1, insert—

<Child assessment and child protection measures: secure accommodation

- (1) The 2011 Act is amended as follows.
- (2) In section 35 (child assessment orders), in subsection (3), at the end of paragraph (b) insert “(but see section 57A(2)),”.
- (3) In section 37 (child protection orders), in subsection (2), at the end of paragraph (b) insert “(but see section 57A(2)),”.
- (4) In section 55 (application to justice of the peace), in subsection (1), at the end of paragraph (b) insert “(but see section 57A(2)),”.
- (5) In section 56 (constable's power to remove child to place of safety), in subsection (1), after “may” insert “, subject to section 57A(3),”.
- (6) In section 57 (sections 55 and 56: regulations), in subsection (1), after “safety” insert “(other than secure accommodation)”.
- (7) After section 57 insert—

“Emergency placement of child in secure accommodation

57A Emergency placement of child in secure accommodation: pre-conditions

- (1) Subsection (2) applies to—
 - (a) a child assessment order,
 - (b) a child protection order,
 - (c) an order made by a justice of the peace under section 55.
- (2) The order may not include an authorisation that enables the child to be taken or removed to, and kept in, a place or, as the case may be, a place of safety that is secure accommodation unless—
 - (a) one or more of the conditions mentioned in subsection (4) applies, and
 - (b) having considered the other options available, the sheriff or, as the case may be, the justice of the peace is satisfied that it is necessary to include such an authorisation in the order.
- (3) A constable may not, under section 56(1), remove a child to a place of safety that is secure accommodation and keep the child there unless—
 - (a) one or more of the conditions mentioned in subsection (4) applies, and
 - (b) having considered the other options available, the constable is satisfied that it is necessary to do so.
- (4) The conditions are—
 - (a) that—
 - (i) the child has previously absconded and is likely to abscond again unless the child is kept in secure accommodation, and
 - (ii) if the child were to abscond, it is likely the child’s health, safety or development would be at risk,
 - (b) that the child is likely to engage in self-harming conduct unless the child is kept in secure accommodation,
 - (c) that the child is likely to cause physical or psychological harm to another person unless the child is kept in secure accommodation.
- (5) In subsection (4)(c), “psychological harm” includes fear, alarm and distress.

57B Emergency placement of child in secure accommodation: regulations

- (1) The Scottish Ministers may by regulations make further provision about the placing and keeping of a child in secure accommodation—
 - (a) by virtue of—
 - (i) a child assessment order,
 - (ii) a child protection order,
 - (iii) an order made by a justice of the peace under section 55,
 - (b) by a constable acting under section 56(1).

- (2) Regulations under subsection (1) may in particular include provision—
 - (a) requiring—
 - (i) the consent of the person in charge of the residential establishment containing the secure accommodation in which the child is to be placed (the “head of unit”),
 - (ii) the agreement of the chief social work officer,
 - (b) specifying the criteria to be applied and the procedure to be followed—
 - (i) by the head of unit in deciding whether to give such consent,
 - (ii) by the chief social work officer in deciding whether to give such agreement,
 - (c) specifying the procedure for—
 - (i) the notification of decisions,
 - (ii) the giving of reasons for decisions,
 - (d) imposing requirements in connection with the protection of the welfare of a child being placed and kept in secure accommodation.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.”.>

Roz McCall

3 After section 1, insert—

<Referral of serious offences to Lord Advocate

- (1) The 2011 Act is amended as follows.
- (2) In section 66 (investigation and determination by Principal Reporter)—
 - (a) in subsection (2), at the beginning insert “Subject to subsection (2ZA),”
 - (b) after subsection (2), insert—

“(2ZA) Where a child aged 16 years or more is alleged to have committed an offence which is required by law to be prosecuted on indictment, the Principal Reporter must not make a determination under subsection (2) but must instead refer the matter to the Lord Advocate.”.>

Pam Duncan-Glancy

172 After section 1, insert—

<Domestic abuse: referral of child to specialist support

- (1) The 2011 Act is amended as follows.
- (2) After section 67 insert—

“67A Principal Reporter’s duty to refer child to specialist domestic abuse support

 - (1) This section applies where, having made a determination under section 66(2) in relation to a child, the Principal Reporter considers that the ground in section 67(2)(f) applies.
 - (2) The Principal Reporter must ensure that the child is referred to a provider that specialises in domestic abuse support.”.>

Section 3

Roz McCall

Supported by: Pam Duncan-Glancy

- 4 In section 3, page 2, line 11, after <place> insert <(including a place where the person affected by the child's offence or behaviour lives, works or is educated)>

Roz McCall

- 5 In section 3, page 2, line 14, after second <person> insert <(including the person affected by the child's offence or behaviour)>

After section 3

Pam Duncan-Glancy

- 173 After section 3, insert—

<Compulsory supervision orders: person affected by child's offence or behaviour

- (1) The 2011 Act is amended as follows.
- (2) In section 83 (meaning of "compulsory supervision order"), after subsection (2) insert—
 - “(2A) A compulsory supervision order must—
 - (a) be specific to the circumstances of the child's offence or behaviour, and
 - (b) consider the concerns and safety of the person affected by the child's offence or behaviour.”.>

Roz McCall

- 6 After section 3, insert—

<Compulsory supervision orders: contact with person affected by the child's offence or behaviour

- (1) The 2011 Act is amended as follows.
- (2) In section 83 (meaning of "compulsory supervision order"), after subsection (2) insert—
 - “(2A) When making a compulsory supervision order the children's hearing or, as the case may be, the sheriff, must be satisfied that the measures included in the order are sufficient to prevent any contact (whether directly or indirectly) between the child subject to the order and the person affected by the child's offence or behaviour.”.>

Section 4

Natalie Don

- 7 In section 4, page 2, line 29, leave out <physical, mental or moral welfare> and insert <health, safety or development>

Martin Whitfield

- 174 In section 4, page 2, line 31, after <person> insert < (including the person affected by the child’s offence or behaviour)>

Section 5

Natalie Don

- 8 In section 5, page 3, line 19, leave out <physical, mental or moral welfare> and insert <health, safety or development>

Martin Whitfield

- 176 In section 5, page 3, line 24, after <person> insert< (including the person affected by the child’s offence or behaviour)>

Natalie Don

- 9 In section 5, page 3, line 37, leave out <physical, mental or moral welfare> and insert <health, safety or development>

Natalie Don

- 10 In section 5, page 4, line 14, leave out <physical, mental or moral welfare> and insert <health, safety or development>

After section 5

Martin Whitfield

- 177 After section 5, insert—

<Cases where a compulsory supervision order has not been made

- (1) The 2011 Act is amended as follows.
- (2) After section 124 insert—

“124A Cases where a compulsory supervision order has not been made

- (1) This section applies where the children’s hearing is not satisfied that it is necessary for the protection, guidance, treatment or control of the child to make a compulsory supervision order.
- (2) The children’s hearing must consider, despite this determination—
 - (a) whether any of the conditions in subsection (3) applies, and
 - (b) if so, whether the child should be the subject of monitoring and review.
- (3) The conditions are that the child—
 - (a) has experienced trauma,
 - (b) has been subject to or witnessed domestic abuse,
 - (c) has been exposed to violence,
 - (d) has been a victim of crime, abuse or harm,

- (e) has mental health issues,
 - (f) has a learning disability,
 - (g) is at risk due to the child’s history or particular vulnerability.
- (4) The children’s hearing must determine—
- (a) whether the child should be subject to monitoring and review, and
 - (b) if so, determine the frequency of that monitoring and review.
- (5) In making a decision under subsection (4), the Principal Reporter may obtain any report, from any person, which the children’s hearing considers necessary.”.>

Roz McCall

11 After section 5, insert—

<Review of compulsory supervision order: transfer to young offenders institution

- (1) The 2011 Act is amended as follows.
- (2) In section 138 (powers of children’s hearing on review), in subsection (3), after “Otherwise,” insert “subject to section 138A”.
- (3) After section 138 insert—

“138A Review of compulsory supervision order: transfer to young offenders institution

- (1) This section applies where a children's hearing is carrying out a review of a compulsory supervision order in relation to a child who—
 - (a) is aged 16 years or more,
 - (b) was referred to the children’s hearing under section 69(2) on the basis of the ground mentioned in section 67(2)(j), and
 - (c) is currently in secure accommodation.
- (2) Where the children’s hearing considers it would be appropriate in all the circumstances for the child to be transferred from secure accommodation to a young offenders institution, it must refer the matter to the Scottish Ministers.
- (3) The Scottish Ministers may direct that the child be transferred to a young offenders institution.
- (4) The Scottish Ministers may by regulations make provision about the transfer to a young offenders institution of children to whom this section applies.
- (5) Regulations under subsection (4) are subject to the affirmative procedure.
- (6) In this section, “young offenders institution” has the meaning given by section 19 of the Prisons (Scotland) Act 1989.”.>

Section 6

Roz McCall

12 In section 6, page 5, leave out lines 1 to 8 and insert—

<(b) where the person mentioned in subsection (4)(a) or (b) is a child, if satisfied that doing so would be detrimental to the best interests of the child.>

Natalie Don

13 In section 6, page 5, line 8, at end insert—

<() In section 179B (information to which section 179A applies)—

(a) in subsection (1)—

(i) in paragraph (a)(i), for “subsection (2)(a)” substitute “subsection (2)”,

(ii) in paragraph (a)(ii), for “subsection (2)(b)” substitute “subsection (3)”,

(iii) in paragraph (b), for “subsection (2)(b)” substitute “subsection (3)”,

(b) for subsection (2) substitute—

“(2) The information referred to in subsection (1)(a)(i) is information as to—

(a) what determination the Principal Reporter made under section 66(2), and

(b) any other action taken by the Principal Reporter (under section 68(5) or otherwise).”,

(c) after subsection (2) insert—

“(3) The information referred to in subsection (1)(a)(ii) and (b) is—

(a) information as to whether a compulsory supervision order has been made in respect of the child or, as the case may be, whether a compulsory supervision order which is already in force in respect of the child has been terminated, varied or continued,

(b) where such an order has been made or, as the case may be, varied or continued, information as to—

(i) whether a measure has been included in the order which prohibits the child from approaching, communicating with, attempting to approach or communicate with or otherwise contacting the person who made the request or, where that person is a relevant person, the child in relation to whom that person is a relevant person,

(ii) whether a secure accommodation authorisation has been included in the order,

(c) information as to how the referral to the children’s hearing was otherwise discharged.

(4) In this section, “communicating with” has the meaning given by section 83(8).>

Pam Duncan-Glancy

178 In section 6, page 5, line 8, at end insert—

<() In section 179B (information to which section 179A applies)—

(a) after subsection (2) insert—

“(c) Where a compulsory supervision order in respect of the child has been made, varied or continued, information to support safety planning for the

person requesting information under section 179A(3) including information as to—

- (i) the conditions of the compulsory supervision order,
- (ii) how the conditions are to be enforced.”.>

Roz McCall

Supported by: Russell Findlay

14 In section 6, page 5, leave out lines 9 to 15 and insert—

<() In section 179C (decision by Principal Reporter following request under section 179A)—

(a) for subsection (1) substitute—

“(1) The Principal Reporter must comply with a request made under section 179A(3) except where—

- (a) the person mentioned in section 179A(4)(a) or (b) is a child, and
- (b) the Principal Reporter is satisfied that complying with the request would be detrimental to the best interests of that child.”

(b) subsection (2) is repealed.>

Natalie Don

15 In section 6, page 5, line 15, at end insert—

<() after subsection (3) insert—

“(4) But subsection (3) does not prohibit the Principal Reporter, when providing information that a compulsory supervision order includes a measure mentioned in section 179B(3)(b)(i), from providing information about the details of the measure in so far as they relate to the person who made the request or, where that person is a relevant person, the child in relation to whom that person is a relevant person.”.>

After section 6

Pam Duncan-Glancy

175* After section 6, insert—

<Movement restriction conditions: duty to inform person affected by child’s offence or behaviour

- (1) The 2011 Act is amended as follows.
- (2) After section 179C insert—

“179D Movement restriction conditions: duty to inform person affected by child’s offence or behaviour

- (1) This section applies where by virtue of this Act a compulsory supervision order in respect of the child has been made, varied or continued which includes a movement restriction condition.

- (2) Subject to subsection (3), the Principal Reporter must inform the person affected by the child's offence or behaviour of—
 - (a) the restriction on the child's movements specified in the movement restriction condition,
 - (b) the arrangements specified in the movement restriction condition for monitoring compliance with the restriction.
- (3) The Principal Reporter may not provide information under subsection (2) if satisfied that it would be detrimental to the best interests of the child who is subject to the movement restriction condition.
- (4) The Principal Reporter must not, in providing information under subsection (2), provide any more information than is necessary to inform the person of the matters specified in subsection (2).".>

Pam Duncan-Glancy

180 After section 6, insert—

<Duty to inform person affected by child's offence or behaviour where compulsory supervision order not complied with

- (1) The 2011 Act is amended as follows.
- (2) After section 179C insert—

“179D Duty to inform person affected by child's offence or behaviour where compulsory supervision order not complied with

- (1) This section applies where the implementation authority has required a review of a compulsory supervision order under section 133 because it is satisfied that the compulsory supervision order is not being complied with.
- (2) Subject to subsection (3), the Principal Reporter must inform the person affected by the child's offence or behaviour of—
 - (a) the fact that the implementation authority has required a review of the compulsory supervision order under section 133,
 - (b) the outcome of that review.
- (3) The Principal Reporter may not provide information under subsection (2) if satisfied that it would be detrimental to the best interests of the child who is subject to the compulsory supervision order.
- (4) The Principal Reporter must not, in providing information under subsection (2), provide any more information than is necessary to inform the person of the matters specified in subsection (2). ”.>

Natalie Don

17 After section 6 insert—

<Support for victims in the children's hearings system

- (1) The 2011 Act is amended as follows.

- (2) After section 179C (decision by Principal Reporter following request for information under section 179A) insert—

“179D Support for persons affected by child’s offence or behaviour

- (1) The Scottish Ministers must, by regulations, make provision for or in connection with the provision of support services to the persons mentioned in subsection (2).
- (2) Those persons are—
 - (a) persons against whom an offence mentioned in section 179A(1)(a)(i) or (b) appears to have been committed,
 - (b) persons who appear to have been harmed by the action or behaviour of a child as mentioned in section 179A(1)(a)(ii),
 - (c) where persons mentioned in paragraph (a) or (b) are children, relevant persons in relation to those children,
 - (d) any other persons or classes of person the Scottish Ministers may specify in the regulations (subject to any conditions specified in the regulations).
- (3) Regulations under subsection (1) may in particular include provision about—
 - (a) the support to be provided by support services,
 - (b) the persons by whom support services are to be provided, including for support services to be provided by persons under arrangements (contractual or otherwise) with the Scottish Ministers,
 - (c) the training and qualifications of persons providing support services,
 - (d) the provision of information to and by persons providing support services,
 - (e) the payment of expenses, fees and allowances to persons providing support services (including who is to be responsible for making such payments).
- (4) Before making regulations under subsection (1), the Scottish Ministers must consult—
 - (a) SCRA,
 - (b) CHS,
 - (c) persons who are providing support services to persons in relation to offences perpetrated against or in respect of those persons,
 - (d) such other persons as the Scottish Ministers consider appropriate.
- (5) Regulations under subsection (1) are subject to the negative procedure.
- (6) In this section, “support services” has the meaning given in regulations under subsection (1).”>

Willie Rennie

- 122** After section 6, insert—

<Duty to establish an information sharing system

- (1) The Scottish Ministers must by regulations establish a system to provide information from the children’s hearings system to the person affected by the child’s offence or behaviour through a single point of contact, which may be a victim support organisation.

- (2) Regulations under subsection (1) must provide—
- (a) for a tiered approach to information-sharing under which—
 - (i) specified information must always be provided to the person affected by the child's offence or behaviour, unless that person indicates that they do not wish to receive the information,
 - (ii) a risk assessment is carried out in each case to determine what other information should be provided to the person affected by the child's offence or behaviour, unless that person indicates that they do not wish to receive the information,
 - (iii) where a child is released from secure accommodation or transferred to an adult prison, the person affected by the child's offence or behaviour should be notified, unless that person indicates that they do not wish to be notified.
 - (b) that information should be provided in a way that accords with trauma-informed practice,
 - (c) that information should be provided in an accessible format,
 - (d) for information-sharing arrangements to be put in place between relevant bodies including—
 - (i) Children's Hearings Scotland
 - (ii) the Scottish Children's Reporter Administration,
 - (iii) Police Scotland,
 - (iv) local authorities.
- (3) Information specified under subsection 2(a)(i) must include information on—
- (a) the joint reporting process,
 - (b) how the children's hearings system works,
 - (c) where to access victim support,
 - (d) where there is a referral to a children's hearing—
 - (i) the date of the children's hearing,
 - (ii) the outcome of the children's hearing, but only to the extent that the information is relevant to safety planning for the person affected by the child's offence or behaviour,
 - (e) where there is no referral to a children's hearing, that this is the case.
- (4) Information that may be provided under subsection 2(a)(ii) may include information on—
- (a) whether a compulsory supervision order has been made, varied, continued or terminated,
 - (b) the conditions of any compulsory supervision order relevant to the person affected by the child's offence or behaviour,
 - (c) what constitutes non-compliance with a compulsory supervision order,
 - (d) what action will be taken in the event the child does not comply with a compulsory supervision order,
 - (e) where the child has not complied with a compulsory supervision order, any review of the conditions of the order.

- (5) Regulations under subsection (1) may provide that, where a person affected by the child's offence or behaviour is also a child, information may be shared with a relevant person in relation to that child.
- (6) Regulations under subsection (1) are subject to the affirmative procedure.
- (7) In this section—
 - (a) “relevant person” has the meaning given by section 200 of the 2011 Act,
 - (b) “trauma-informed practice” means operating in a way that—
 - (i) recognises that a person may have experienced trauma,
 - (ii) understands the effects which trauma may have on the person, and
 - (iii) involves adapting processes and practices, based on that understanding of the effects of trauma, to seek to avoid, or minimise the risk of, exposing the person to—
 - (A) any recurrence of past trauma, or
 - (B) further trauma.>

Pam Duncan-Glancy

181 After section 6, insert—

<Single point of contact for victims in the children's hearings system

- (1) The Scottish Ministers must by regulations establish a single point of contact service to provide information from the children's hearings system to the person affected by the child's offence or behaviour.
- (2) Regulations under subsection (1) are subject to the affirmative procedure. >

Willie Rennie

182 After section 6, insert—

<Report on referrals to children's hearings system

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report on the referral of children who have committed an offence to the children's hearings system.
- (2) A report under subsection (1) must, in particular, include information for each reporting period on—
 - (a) the total number of referrals to the children's hearings system where a child has committed an offence,
 - (b) the number of children referred to the children's hearing system who have committed an offence, by reference to each of the following characteristics—
 - (i) the offence (or type of offence) committed,
 - (ii) the child's age,
 - (iii) the child's gender,
 - (iv) the local authority area in which the child lives,

- (c) the outcome of referrals to the children’s hearing system of children who have committed an offence, by reference to the offence (or type of offence).
- (3) For the purposes of subsection (1), a reporting period is—
 - (a) the period of one year beginning with the day of Royal Assent,
 - (b) each subsequent period of one year.>

Willie Rennie

123 After section 6, insert—

<Report on victims

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report on the experience of victims in cases where a child is referred to a children’s hearing on the ground that the child has committed an offence.
- (2) A report under subsection (1) must include the following information for each reporting period—
 - (a) the number of referrals,
 - (b) the number of referrals where a victim of the child’s offence was identified by an agency, by reference to each of the following characteristics—
 - (i) the type offence,
 - (ii) the age profile of the victim,
 - (c) the information and support given to victims by each agency,
 - (d) where victims were not identified, information about the reasons why this was the case.
- (3) For the purposes of subsection (2) an “agency” includes—
 - (a) the Crown Office and Procurator Fiscal Service,
 - (b) Police Scotland,
 - (c) Children’s Hearings Scotland
 - (d) the Scottish Children’s Reporter Administration.
- (4) For the purposes of subsection (1), a reporting period is—
 - (a) the period of 6 months beginning with the day of Royal Assent,
 - (b) each subsequent period of one year.>

Willie Rennie

183 After section 6, insert—

<Report on movement restriction conditions

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report on the experience of victims of compulsory supervision orders which include a movement restriction condition.

- (2) A report under subsection (1) must, in particular, include information for each reporting period on—
 - (a) the total number of compulsory supervision orders which include a movement restriction condition,
 - (b) the total number of occasions where a movement restriction condition is not complied with,
 - (c) the number of children who are subject to a movement restriction condition, by reference to each of the following characteristics—
 - (i) the offence (or type of offence) committed,
 - (ii) the child’s age,
 - (iii) the child’s gender,
 - (iv) the local authority area in which the child lives,
 - (d) the number of individuals identified as being a victim in relation to the child’s offence or behaviour, by reference to each of the following characteristics—
 - (i) the victim’s age,
 - (ii) the victim’s gender,
 - (iii) the local authority area in which the victim lives,
 - (e) the experience of the victim of the movement restriction condition.
- (3) In preparing the report, the Scottish Ministers must consult victims and victim support organisations.
- (4) For the purposes of section (1) a reporting period is—
 - (a) the period of one year beginning with the day of Royal Assent,
 - (b) each subsequent period of one year. >

Russell Findlay

179 After section 6, insert—

<Attendance at children’s hearing

- (1) The 2011 Act is amended as follows.
- (2) In section 78 (rights of certain persons to attend children’s hearing),
 - (a) for subsection (2) substitute—
 - “(2) Any other person may attend a children’s hearing unless the chairing member of the children’s hearing is satisfied that the presence of that person is causing, or is likely to cause, significant distress to the child.”
 - (b) subsection (4) is repealed.>

Natalie Don

16 After section 6, insert—

<Publishing restrictions

- (1) The 2011 Act is amended as follows.

- (2) In section 182 (publishing restrictions), in subsection (2), for “on summary conviction to a fine not exceeding level 4 on the standard scale.” substitute “—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).”>

After section 7

Martin Whitfield

184 After section 7, insert—

<Children's hearings: procedural rules

- (1) The 2011 Act is amended as follows.
- (2) In section 177 (children's hearings: procedural rules)—
 - (a) in subsection (2) after paragraph (h) insert—

“(ha) obtaining the views of the person affected by the offence or behaviour of the child to whom a children’s hearing relates.”>

Pam Duncan-Glancy

185 After section 7, insert—

<Legal aid and advice

- (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) In section 28C (circumstances where children’s legal aid automatically available)—
 - (a) after subsection (1)(d) insert—

“(da) a children’s hearing is arranged in relation to a child on the basis of the ground mentioned in section 67(2)(j) of the 2011 Act,”
 - (b) in subsection (2), in paragraph (b) for “or (d)” substitute “, (d) or (da)”>

Pam Duncan-Glancy

186 After section 7, insert—

<Legal aid and advice

- (1) The Legal Aid (Scotland) Act 1986 is amended as follows.
- (2) In section 28C (circumstances where children’s legal aid automatically available)—
 - (a) in subsection (1), for paragraphs (b) to (d) substitute—

“(b) a children’s hearing is arranged in relation to a child by virtue of the 2011 Act,”
 - (b) in subsection (2), in paragraph (b) the words “or, as the case may be, (c) or (d)” are repealed.>

Pam Duncan-Glancy

187 After section 7, insert—

<The Children’s Panel: training

- (1) The 2011 Act is amended as follows.
- (2) In schedule 2 (the Children’s Panel), in paragraph 3(3)—
 - (a) the words from “how panel members” to end become paragraph (a),
 - (b) after that paragraph insert “,
 - “(b) child development,
 - (c) children’s rights,
 - (d) domestic abuse.”.>

Martin Whitfield

188 After section 7, insert—

<Duty of Scottish Ministers to promote multi-agency approach

- (1) The Scottish Ministers must promote a multi-agency approach to supporting children who are referred to the children’s hearings system.
- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
 - (a) the period of one year beginning with the day of Royal Assent,
 - (b) each subsequent period of one year.>

After section 10

Roz McCall

18 After section 10, insert—

<Prosecution of children: risk to victim

- (1) The 1995 Act is amended as follows.
- (2) In section 42 (prosecution of children) after subsection (1) insert—
 - “(1A) Where the Lord Advocate is considering referring a child to the Principal Reporter instead of instructing the child to be prosecuted under subsection (1), the Lord Advocate must first assess the risk of physical or psychological harm to the victim of the offence if the child is not prosecuted.
 - (1B) Where the risk under subsection (1A) is assessed to be high, the Lord Advocate must not refer the child to the Principal Reporter instead of instructing the child to be prosecuted under subsection (1).”.>

Roz McCall

19 After section 10, insert—

<Prosecution of children: serious offences

- (1) The 1995 Act is amended as follows.
- (2) In section 42 (prosecution of children), after subsection (1) insert—
 - “(1A) Where the Lord Advocate is considering referring a child to the Principal Reporter instead of instructing the child to be prosecuted under subsection (1), the Lord Advocate may only do so if—
 - (a) the child is aged under 16 years, and
 - (b) the child is not alleged to have committed an offence which is required by law to be prosecuted on indictment.”.>

Russell Findlay

189 After section 10, insert—

<Decision not to prosecute a child: victim’s right to be informed

- (1) The 1995 Act is amended as follows.
- (2) After section 42 insert—

“42A Decision not to prosecute a child: victim’s right to be informed

Where the Lord Advocate decides not to instruct the prosecution of a child under section 42 but instead refers the child to the Principal Reporter, the Lord Advocate must inform any person who is or appears to be a victim in relation to the offence or alleged offence of that decision.”.>

Russell Findlay

190 After section 10, insert—

<Decision not to prosecute a child: victim’s right to request review

- (1) The 1995 Act is amended as follows.
- (2) After section 42 insert—

“42A Decision not to prosecute a child: victim’s right to request review

Where the Lord Advocate decides not to instruct the prosecution of a child under section 42 but instead refers the child to the Principal Reporter, any person who is or appears to be a victim in relation to the offence or alleged offence may request that the Lord Advocate undertake a review of that decision.”.>

Section 12

Natalie Don

20 In section 12, page 8, line 17, leave out <subsection> and insert <subsections (3A) and>

Natalie Don

21 In section 12, page 8, line 17, leave out <106B> and insert <106BA>

Natalie Don

- 22 In section 12, page 8, line 18, leave out from <aged> to end of line 23 and insert <if—
- () that information is likely to lead to the identification of the person as being a person—
 - (i) against or in respect of whom an offence is suspected to have been committed, or
 - (ii) who is suspected to have been a witness in relation to an offence, and
 - () the person was aged under 18 at the date of commission of the suspected offence.>

Ruth Maguire

- 124 In section 12, page 8, line 23, at end insert—
- <(2A) Subject to subsection (4) and section 106B, no publication is to include information relating to a deceased person that is likely to lead to the identification of that person as having been—
 - (a) a person against or in respect of whom an offence is suspected to have been committed, and
 - (b) aged under 18 at the date of commission of the suspected offence.>

Natalie Don

- 23 In section 12, page 8, line 29, at end insert—
- <() the identity of any place at which the person works,>

Natalie Don

- 24 In section 12, page 8, line 30, at end insert—
- <(3A) The restriction imposed by subsection (2) does not prevent a person to whom the information relates from publishing information which is likely to lead to their own identification as being a person—
 - (a) against or in respect of whom an offence is suspected to have been committed, or
 - (b) who is suspected to have been a witness in relation to an offence.>

Ruth Maguire

- 126 In section 12, page 8, line 30, at end insert—
- <(3A) For the purposes of subsection (2A), information relating to a deceased person includes in particular—
 - (a) the deceased person's name,
 - (b) the address at which the deceased person resided prior to the person's death,
 - (c) the identity of any school or other educational establishment that was attended by the deceased person prior to the person's death,
 - (d) any still or moving picture of the deceased person,

- (e) any of the information set out in subsection (3) in relation to a family member of the deceased person.>

Ruth Maguire

- 125* In section 12, page 8, line 31, leave out <and (2)> and insert <to (2A)>

Natalie Don

- 25 In section 12, page 8, leave out lines 35 to 37

Natalie Don

- 26 In section 12, page 8, line 38, after <section> insert <and in sections 106B to 106BB>

Ruth Maguire

- 127 In section 12, page 8, line 38, at end insert—

<“family member”, in relation to a deceased person, means—

(a) the person's—

(i) spouse or civil partner,

(ii) child,

(iii) parent,

(iv) sibling,

(v) aunt or uncle,

(vi) nephew or niece,

(vii) cousin,

(viii) grandparent, and

(b) the spouse or civil partner of any person listed in paragraph (a),>

Natalie Don

- 27 In section 12, page 8, line 39, after <is> insert <committed, or>

Ruth Maguire

- 128 In section 12, page 8, line 40, at end insert—

<“parent” has the same meaning as in section 108,>

Natalie Don

- 28 In section 12, page 9, line 2, after <addressed> insert <or accessible>

Natalie Don

- 29 In section 12, page 9, line 3, after <public> insert <(whether on registration, payment, subscription or otherwise)>

Ruth Maguire

129 In section 12, page 9, line 5, at end insert—

<“sibling”, in relation to a deceased person, means a person who had at least one parent in common with that person,

“spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Martin Whitfield

191 In section 12, page 9, line 6, leave out from beginning to end of line 4 on page 10

Natalie Don

30 In section 12, page 9, line 6, at end insert <: suspects>

Natalie Don

31 In section 12, page 9, line 7, leave out <, to the extent specified in the order,>

Natalie Don

32 In section 12, page 9, line 8, leave out <restrictions> and insert <restriction>

Natalie Don

33 In section 12, page 9, line 8, leave out <and (2)>

Ruth Maguire

130 In section 12, page 9, line 8, leave out <and (2)> and insert <to (2A)>

Ruth Maguire

131 In section 12, page 9, line 13, after <relates,> insert—

<(ca) if the person to whom the relevant information relates is deceased, a parent, sibling, child or spouse or civil partner of the deceased person,>

Natalie Don

34 In section 12, page 9, line 19, at end insert—

<(za) where the person to whom the relevant information relates is aged under 18, regard the best interests of the person as a primary consideration,>

Natalie Don

35 In section 12, page 9, line 20, at beginning insert <where the person to whom the relevant information relates is aged 18 or over,>

Natalie Don

36 In section 12, page 9, line 20, leave out <to whom the relevant information relates>

Ruth Maguire

132 In section 12, page 9, line 21, at end insert—

<(aa) if the person to whom the relevant information relates is deceased, have regard to the wellbeing of any family member of the deceased,>

Natalie Don

37 In section 12, page 9, line 22, leave out <consider whether any of the following persons should be given the> and insert <give the following persons an>

Natalie Don

38 In section 12, page 9, leave out lines 26 and 27

Ruth Maguire

133 In section 12, page 9, line 27, at end insert—

<(iia) if the person to whom the relevant information relates is deceased, a family member of the deceased person,>

Ruth Maguire

134 In section 12, page 9, line 32, at end insert—

<“family member”, in relation to a deceased person, means—

(a) the person’s—

(i) spouse or civil partner,

(ii) child,

(iii) parent,

(iv) sibling,

(v) aunt or uncle,

(vi) nephew or niece,

(vii) cousin,

(viii) grandparent, and

(b) the spouse or civil partner of any person listed in paragraph (a),>

Natalie Don

39 In section 12, page 9, leave out line 37

Natalie Don

40 In section 12, page 10, line 2, leave out <or (2)>

Ruth Maguire

135 In section 12, page 10, line 2, leave out <or (2)> and insert <to (2A)>

Natalie Don

- 41 In section 12, page 10, leave out lines 3 and 4

Ruth Maguire

- 136 In section 12, page 10, line 4, at end insert—

<“sibling”, in relation to a deceased person, means a person who had at least one parent in common with that person,

“spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Natalie Don

- 42 In section 12, page 10, line 4, at end insert—

<106BA Power to dispense with restriction: child victims and witnesses

- (1) A sheriff may by order dispense with the restriction imposed by section 106A(2) where—
 - (a) the information to which the restriction would apply is information relating to a child, and
 - (b) the sheriff considers that the conditions set out in subsection (4)(a) and (b) are satisfied.
- (2) A sheriff may make an order under subsection (1) on the application of a person other than the child who wishes to publish information relating to the child.
- (3) Before deciding whether to make an order under subsection (1), the sheriff must—
 - (a) regard the best interests of the child to whom the information relates as a primary consideration,
 - (b) give the following persons an opportunity to make representations—
 - (i) the person who made the application,
 - (ii) the child to whom the information relates,
 - (iii) any other person the sheriff considers to have an interest in the application.
- (4) The conditions referred to in subsection (1)(b) are that—
 - (a) the child to whom the information relates—
 - (i) understands the nature of an order under subsection (1),
 - (ii) appreciates what the effect of making such an order would be, and
 - (iii) gives consent to the publication of the information, and
 - (b) there is no good reason why an order under subsection (1) should not be made.
- (5) The child to whom the order under subsection (1) relates may withdraw consent by giving, before the information is published, written notice to the person who obtained the order.
- (6) Where a child gives notice under subsection (5), the restriction imposed by section 106A(2) is, from the time the notice is received, no longer dispensed with.

- (7) The decision of the sheriff under this section is final.
- (8) In this section—
 - “child” means a person who is aged under 18 at the date on which the application is made,
 - “consent” means free agreement.>

Natalie Don

43 In section 12, page 10, line 4, at end insert—

<106BB Offence and defences

- (1) A person who publishes relevant information in contravention of section 106A commits an offence and is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (2) A person charged with an offence under this section has a defence if it is established that the conditions mentioned in subsection (3) were met.
- (3) Those conditions are that—
 - (a) the person to whom the relevant information relates—
 - (i) had given written consent to the publication of information in relation to an offence mentioned in section 106A(2),
 - (ii) was aged 18 or over when that consent was given, and
 - (iii) had not, before the information was published, given written notice of the withdrawal of that consent, and
 - (b) the information published relates to the offence to which that consent relates.
- (4) A person charged with an offence under this section has a defence if it is established that—
 - (a) the information published was in the public domain (having already been published by the person, being a person aged 18 or over, to whom the information relates or otherwise), and
 - (b) where the information was in the public domain as a result of it being published by a person other than the person to whom it relates, there was no reason for the person charged to believe that the conditions mentioned in subsection (3) were not met in relation to that prior publication.
- (5) A person charged with an offence under this section has a defence if it is established that they were not aware, and neither suspected nor had reason to suspect, that the publication included relevant information.
- (6) For the purposes of subsections (2), (4) and (5), a matter is established if—
 - (a) evidence adduced is enough to raise an issue as to whether that is the case, and
 - (b) the prosecution does not prove beyond reasonable doubt that it is not the case.

- (7) For the purposes of subsections (2), (3)(a)(ii) and (4)(a), that a person was aged 18 or over is established only if the person charged with the offence took reasonable steps to establish the person’s age.
- (8) For the purposes of subsection (3)(a), consent which purports to be specific to a particular publication may be taken to be consent to publication generally.
- (9) In this section—
- “consent” means free agreement,
- “relevant information” means information the publication of which is restricted under section 106A(1) or (2).

106BC Individual culpability where organisation commits offence under section 106BB

- (1) This section applies where—
- (a) an offence under section 106BB is committed by a relevant organisation, and
- (b) the commission of the offence—
- (i) involves consent or connivance, or
- (ii) is attributable to neglect,
- on the part of a responsible individual.
- (2) The responsible individual (as well as the relevant organisation) commits the offence.
- (3) For the purposes of this section—
- (a) “relevant organisation” means an organisation listed in the first column of the table in subsection (4),
- (b) “responsible individual” means, in relation to a relevant organisation—
- (i) an individual falling within the corresponding entry in the second column of that table, or
- (ii) an individual purporting to act in the capacity of an individual falling within the corresponding entry.
- (4) The table is as follows—

Relevant organisation	Responsible individual
a company as mentioned in section 1 of the Companies Act 2006	a director, manager, secretary or other similar officer a member, where the company’s affairs are managed by its members
a limited liability partnership	a member
a partnership other than a limited liability partnership	a partner
any other body or association	an individual who is concerned in the management or control of the body’s or association’s affairs

106BD Crown application: offence under section 106BB

- (1) Nothing in section 106BB makes the Crown criminally liable.
- (2) The Court of Session may, on an application by the Lord Advocate, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (1).
- (3) Subsection (1) does not affect the criminal liability of persons in the service of the Crown.>

Ruth Maguire

137 In section 12, page 10, line 4, at end insert—

<106C Power to retrospectively require removal of report of suspected offences

- (1) A sheriff may by order require the taking of reasonable steps to withdraw from public availability any publication which—
 - (a) was published prior to—
 - (i) the date on which section 106A came into force, and
 - (ii) the commencement of proceedings in a court in respect of the offence to which the information mentioned in subsection (b) relates (but see sections 47F to 47H of the Criminal Procedure (Scotland) Act 1995 which allow for equivalent orders to be made in respect of proceedings involving children), and
 - (b) includes information mentioned in section 106A(1), (2) or (2A) in respect of a person, including a deceased person, who is identified in the order.
- (2) A person who is served with or otherwise made aware of the existence of an order made under subsection (1) may comply with the order by withdrawing from public availability only so much of the publication as contains the restricted information.
- (3) A person who is served with or otherwise made aware of the existence of an order made under subsection (1), and who fails to comply with the order, commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) It is a defence for any person charged with an offence under this section ("P") to prove that P reasonably believed that P had taken reasonable steps to ensure that the publication or (as the case may be) the restricted information was withdrawn from public availability.
- (5) A sheriff may make an order under subsection (1) on the application of—
 - (a) a constable,
 - (b) a prosecutor,
 - (c) the person to whom the relevant information relates, or
 - (d) if the person to whom the relevant information relates is deceased, a parent, sibling, child or spouse or civil partner of that person.
- (6) An application for an order under subsection (1) shall be made to the sheriff by way of a summary application.

- (7) An order made under subsection (1) may be varied or revoked by a sheriff, at any time, on the application of—
 - (a) the person to whom the restricted information relates,
 - (b) if the person to whom the restricted information relates is deceased, a parent, sibling, child or spouse or civil partner of that person,
 - (c) a person to whom the order applies, or
 - (d) a media representative.
- (8) A sheriff may vary or revoke an order further to an application made under subsection (7) in respect of particular restricted information, particular publications or particular persons, or generally.
- (9) In considering whether to make an order under subsection (1), or to vary or revoke an order under subsection (7), the sheriff must consider whether it is in the interests of justice, or otherwise in the public interest, to do so.
- (10) In determining whether it is in the interests of justice or otherwise in the public interest to make an order under subsection (1) or to vary or revoke an order under subsection (7), the sheriff must—
 - (a) have regard to the wellbeing of the person to whom the relevant information relates,
 - (b) if the person to whom the relevant information relates is deceased, have regard to the wellbeing of any family member of the deceased,
 - (c) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the sheriff,
 - (ii) the person to whom the relevant information relates,
 - (iii) if the person mentioned in sub-paragraph (ii) is aged under 18, a parent of that person,
 - (iv) if the person mentioned in sub-paragraph (ii) is deceased, a family member of the deceased person,
 - (v) the person or persons to whom the order applies or would apply,
 - (vi) a media representative,
 - (vii) any other person the sheriff considers to have an interest in the application.
- (11) In a case where there is a section of the public that is already aware of the identity of a person who—
 - (a) is a person by whom an offence is or was suspected to have been committed,
 - (b) is or (as the case may be) was a person against or in respect of whom an offence is or was suspected to have been committed, or
 - (c) is or was suspected to have been a witness in relation to an offence,the sheriff must not consider this to be a factor in favour of refusing to make the order sought under subsection (1) or in favour of varying or revoking an order under subsection (7).

(12) In this section—

“constable” has the same meaning as in section 99(1) of the Police and Fire Reform (Scotland) Act 2012,

“family member”, in relation to a person (including a deceased person), means—

- (a) the person’s—
 - (i) spouse or civil partner,
 - (ii) child,
 - (iii) parent,
 - (iv) sibling,
 - (v) aunt or uncle,
 - (vi) nephew or niece,
 - (vii) cousin,
 - (viii) grandparent, and

(b) the spouse or civil partner of any person listed in paragraph (a),

“media representative” means—

- (a) a photographer, camera operator, researcher or producer for, or of, any relevant programme, or
- (b) a representative of a newspaper or news agency,

“parent” has the same meaning as in section 108,

“prosecutor” means the Lord Advocate, Crown Counsel or the procurator fiscal,

“publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public,

“relevant information” means the information to which an application relates,

“relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990,

“restricted information” means the information in respect of which an order is made under subsection (1),

“sibling”, in relation to a person (including a deceased person), means a person who has or had at least one parent in common with that person,

“spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Ruth Maguire

138 In section 12, page 10, line 4, at end insert—

<106D Power to reinstate restriction on report of suspected offences

- (1) This section applies where—
 - (a) a restriction imposed by section 106A has been dispensed with under section 106B, and
 - (b) section 106A(4) would not otherwise apply to the restriction.
- (2) A sheriff may by order reinstate the restriction in whole or in part.
- (3) An order under subsection (2)—
 - (a) may not be made in respect of a restriction that applied by virtue of section 106A(2)(b),
 - (b) may be made at any time.
- (4) An order under subsection (2) may reinstate the restriction, in whole or in part, such that no publication may include the information mentioned in section 106A(1), (2) or (as the case may be) (2A)—
 - (a) until the occurrence of a particular event or particular circumstances,
 - (b) in respect of restricted information relating to a living person—
 - (i) until the person to whom the restricted information relates reaches a particular age,
 - (ii) during the lifetime of the person to whom the restricted information relates,
 - (c) in respect of restricted information relating to a deceased person, until—
 - (i) the death of any specified family member of the deceased person to whom the restricted information relates,
 - (ii) the date on which any specified family member of the deceased person reaches a specified age, or
 - (d) for the duration of any other period the sheriff deems appropriate in all the circumstances.
- (5) A sheriff may make an order under subsection (2) on the application of—
 - (a) the person to whom the relevant information relates, or
 - (b) if the person to whom the relevant information relates is deceased, a parent, sibling, child or spouse or civil partner of that person.
- (6) An application for an order under subsection (2) shall be made to the sheriff by way of a summary application.
- (7) An order made under subsection (2) may be varied or revoked, at any time, on the application of—
 - (a) the person to whom the restricted information relates,
 - (b) if the person to whom the restricted information relates is deceased, a parent, sibling, child or spouse or civil partner of that person, or
 - (c) a media representative.
- (8) A sheriff may vary or revoke an order further to an application made under subsection (7) in respect of particular restricted information, particular publications or particular persons, or generally.

- (9) In considering whether to make an order under subsection (2), or to vary or revoke an order under subsection (7), the sheriff must consider whether it is in the interests of justice, or otherwise in the public interest, to do so.
- (10) In determining whether it is in the interests of justice or otherwise in the public interest to make an order under subsection (2) or to vary or revoke an order under subsection (7), the sheriff must—
- (a) have regard to the wellbeing of the person to whom the relevant information relates,
 - (b) if the person to whom the relevant information relates is deceased, have regard to the wellbeing of any family member of the deceased,
 - (c) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the sheriff,
 - (ii) the person to whom the relevant information relates,
 - (iii) if the person mentioned in sub-paragraph (ii) is aged under 18, a parent of that person,
 - (iv) if the person mentioned in sub-paragraph (ii) is deceased, a family member of the deceased person,
 - (v) the person or persons to whom the order applies or would apply,
 - (vi) a media representative,
 - (vii) any other person the sheriff considers to have an interest in the application.
- (11) In a case where there is a section of the public that is already aware of the identity of a person who—
- (a) is or (as the case may be) was a person by whom an offence is or was suspected to have been committed, or
 - (b) is or (as the case may be) was a person against or in respect of whom an offence is or was suspected to have been committed,

the sheriff must not consider this to be a factor in favour of refusing to make the order sought under subsection (2) or in favour of varying or revoking an order under subsection (7).

- (12) In this section—

“family member”, in relation to a deceased person, means—

- (a) the person’s—
 - (i) spouse or civil partner,
 - (ii) child,
 - (iii) parent,
 - (iv) sibling,
 - (v) aunt or uncle,
 - (vi) nephew or niece,
 - (vii) cousin,

- (viii) grandparent, and
 - (b) the spouse or civil partner of any person listed in paragraph (a),
- “media representative” means—
- (a) a photographer, camera operator, researcher or producer for, or of, any relevant programme, or
 - (b) a representative of a newspaper or news agency,
- “parent” has the same meaning as in section 108 of the Criminal Justice (Scotland) Act 2016,
- “relevant information” means the information to which an application relates,
- “restricted information” means the information that is the subject of a restriction by virtue of an order made under subsection (2),
- “sibling”, in relation to a deceased person, means a person who had at least one parent in common with that person,
- “spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Section 13

Natalie Don

- 44 In section 13, page 10, line 9, after <subsection (3)> insert <and section 47ZA>

Natalie Don

- 45 In section 13, page 10, line 15, after <subsection (3)> insert <and section 47ZB>

Natalie Don

- 46 In section 13, page 10, line 22, leave out <date of commencement of the proceedings> and insert <alleged date of commission of the relevant offence>

Ruth Maguire

- 139 In section 13, page 10, line 23, at end insert—
- <(1AA) Subject to subsection (3), no publication is to include information relating to a deceased person to whom any proceedings in a court relate if—
- (a) that information is likely to lead to the identification of the deceased person as having been a person against or in respect of whom a relevant offence is alleged to have been committed, and
 - (b) the person was aged under 18 at the alleged date of commission of the relevant offence.>

Natalie Don

- 47 In section 13, page 10, line 29, at end insert—
- <(ca) the identity of any place at which the person works,>

Natalie Don

48 In section 13, page 10, line 30, at end insert—

<(1BA) The restriction imposed by subsection (1) does not prevent a person to whom the information relates from publishing, after the completion of the proceedings, information which is likely to lead to their own identification as being a person accused of a relevant offence.

(1BB) The restriction imposed by subsection (1A) does not prevent a person to whom the information relates from publishing, during or after the completion of the proceedings information which is likely to lead to their own identification as being—

- (a) a person against or in respect of whom a relevant offence is alleged to have been committed, or
- (b) a witness in relation to a relevant offence.>

Ruth Maguire

140 In section 13, page 10, line 30, at end insert—

<(1BA) For the purposes of subsection (1AA), information relating to a deceased person includes in particular—

- (a) the deceased person's name,
- (b) any address at which the deceased person resided, whether at the time of the alleged offence or any other time,
- (c) the identity of any school or other educational establishment that was attended by the deceased person prior to the person's death,
- (d) any still or moving picture of the deceased person,
- (e) any of the information set out in subsection (1B) in relation to a family member of the deceased person.>

Natalie Don

49 In section 13, page 10, line 31, leave out first <subsection> and insert <subsections (1BA) and>

Natalie Don

50 In section 13, page 10, line 37, leave out first <subsection> and insert <subsections (1BB) and>

Ruth Maguire

141 In section 13, page 10, line 37, after <subsection (3)> insert <and section 47BA>

Ruth Maguire

142 In section 13, page 10, line 39, at end insert—

<(1E) Subject to section 47BA, subsection (1AA) applies until the date of completion of the proceedings.>

Natalie Don

51 In section 13, page 11, leave out lines 2 to 14 and insert—

<() for subsection (3) substitute—

“(3) On the disposal of the proceedings, the court may, if satisfied that it is in the public interest to do so, direct that the restriction imposed by subsection (1) or (as the case may be) (1A) is to be dispensed with to such extent as the court specifies.”,>

Natalie Don

52 In section 13, page 11, line 19, leave out <subsection (4) is> and insert <subsections (4) and (5) are>

Natalie Don

53 In section 13, page 11, line 26, after <appeal> insert <(provided the direction is upheld)>

Ruth Maguire

143 In section 13, page 11, leave out lines 28 to 30 and insert—

<(a) either—

(i) a court decides not to make an order under section 47BA(1) to extend the period during which the restriction imposed by subsection (1) is to apply, or

(ii) a court decides not to make an order under section 47BA(1) to extend the period during which a restriction imposed by subsection (1A) or (as the case may be) subsection (1AA) is to apply, and>

Natalie Don

54 In section 13, page 11, line 29, after <subsection (1)> insert <or (as the case may be) (1A)>

Natalie Don

55 In section 13, page 11, line 34, after <subsection (1)> insert <or (as the case may be) (1A)>

Ruth Maguire

144 In section 13, page 11, line 34, after <subsection (1)> insert <or (as the case may be) (1A) or (1AA)>

Natalie Don

56 In section 13, page 11, line 38, after <appeal> insert <(provided the decision is upheld)>

Natalie Don

57 In section 13, page 12, line 1, after <section> insert <and in sections 47A to 47E>

Ruth Maguire

145 In section 13, page 12, line 1, at end insert—

<“family member”, in relation to a deceased person, means—

(a) the person’s—

(i) spouse or civil partner,

(ii) child,

(iii) parent,

(iv) sibling,

(v) aunt or uncle,

(vi) nephew or niece,

(vii) cousin,

(viii) grandparent, and

(b) the spouse or civil partner of any person listed in paragraph (a),

“parent” has the same meaning as in section 108 of the Criminal Justice (Scotland) Act 2016.>

Natalie Don

58 In section 13, page 12, line 3, after <addressed> insert <or accessible>

Natalie Don

59 In section 13, page 12, line 4, after <public> insert <(whether on registration, payment, subscription or otherwise)>

Ruth Maguire

146 In section 13, page 12, line 8, at end insert—

<“sibling”, in relation to a deceased person, means a person who had at least one parent in common with that person,

“spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Natalie Don

60 In section 13, page 12, line 9, at end insert—

<47ZA Power to dispense with restriction: accused persons

(1) A sheriff may, after the completion of proceedings to which section 47(1) applies, by order dispense with the restriction imposed by section 47(1) where—

(a) the information to which the restriction would apply is information relating to a child, and

(b) the sheriff considers that the conditions set out in subsection (5)(a) and (b) are satisfied.

(2) A sheriff may make an order under subsection (1) on the application of a person other than the child who wishes to publish information relating to the child.

- (3) Before deciding whether to make an order under subsection (1), the sheriff must—
 - (a) regard the best interests of the child to whom the information relates as a primary consideration,
 - (b) give the following persons an opportunity to make representations—
 - (i) the person who made the application,
 - (ii) the child to whom the information relates,
 - (iii) any other person the sheriff considers to have an interest in the application.
- (4) The conditions referred to in subsection (1)(b) are that—
 - (a) the child to whom the information relates—
 - (i) understands the nature of an order under subsection (1),
 - (ii) appreciates what the effect of making such an order would be, and
 - (iii) gives consent to the publication of the information, and
 - (b) there is no good reason why an order under subsection (1) should not be made.
- (5) The child to whom the order under subsection (1) relates may withdraw consent by giving, before the information is published, written notice to the person who obtained the order.
- (6) Where a child gives notice under subsection (5), the restriction imposed by section 47(1) is, from the time the notice is received, no longer dispensed with.
- (7) The decision of the sheriff under this section is final.
- (8) In this section and in section 47ZB—
 - “child” means a person who is aged under 18 at the date on which the application is made,
 - “consent” means free agreement.

47ZB Power to dispense with restriction: child victims and witnesses

- (1) The court may, during or after completion of proceedings to which section 47(1A) applies, by order dispense with the restriction imposed by section 47(1A) where—
 - (a) the information to which the restriction would apply is information relating to a child, and
 - (b) the court considers that the conditions set out in subsection (4)(a) and (b) are satisfied.
- (2) The court may make an order under subsection (1) on the application of a person other than the child who wishes to publish information relating to the child.
- (3) Before deciding whether to make an order under subsection (1), the court must—
 - (a) regard the best interests of the child to whom the information relates as a primary consideration,
 - (b) give the following persons an opportunity to make representations—
 - (i) the person who made the application,
 - (ii) the child to whom the information relates,

- (iii) any other person the court considers to have an interest in the application.
- (4) The conditions referred to in subsection (1)(b) are that—
- (a) the child to whom the information relates—
 - (i) understands the nature of an order under subsection (1),
 - (ii) appreciates what the effect of making such an order would be, and
 - (iii) gives consent to the publication of the information, and
 - (b) there is no good reason why an order under subsection (1) should not be made.
- (5) The child to whom the order under subsection (1) relates may withdraw consent by giving, before the information is published, written notice to the person who obtained the order.
- (6) Where a child gives notice under subsection (5), the restriction imposed by section 47(1A) is, from the time the notice is received, no longer dispensed with.
- (7) The decision of the court under this section is final.
- (8) In this section the “court” means—
- (a) where the application is made during proceedings, the court dealing with the proceedings,
 - (b) where the application is made after completion of proceedings, the sheriff.>

Natalie Don

- 61 In section 13, page 12, line 11, leave out <47(3)(b)> and insert <47(3)>

Natalie Don

- 62 In section 13, page 12, line 19, after <directs> insert <, in accordance with section 47(3),>

Natalie Don

- 63 In section 13, page 12, line 22, leave out <restrictions> and insert <restriction>

Natalie Don

- 64 In section 13, page 13, leave out lines 1 to 4

Ruth Maguire

- 147 In section 13, page 13, line 5, at end insert <: persons accused of a relevant offence>

Natalie Don

- 65 In section 13, page 13, line 6, after <47(1)> insert <or (as the case may be) (1A)>

Natalie Don

- 66 In section 13, page 13, line 11, after <47(1)> insert <or (1A)>

Natalie Don

67 In section 13, page 13, line 17, leave out <or a person accused of an alleged offence to which the proceedings relate.> and insert—

- <() in the case of information mentioned in section 47(1), a person accused of a relevant offence to whom the information relates, or
- () in the case of information mentioned in section 47(1A), a person to whom the information relates.>

Ruth Maguire

148 In section 13, page 13, line 26, at end insert —

<47BA Power to extend period of restriction on report of proceedings: persons in respect of whom a relevant offence is alleged to have been committed

- (1) Subject to subsection (2), in any proceedings to which section 47(1A) or (1AA) applies, the court may make an order extending the period during which the restriction imposed by the relevant subsection is to apply unless the court considers that it would be contrary to the public interest to do so.
- (2) An order under subsection (1) may not be made in respect of a restriction applying by virtue of section 47A(1A)(a)(ii).
- (3) An order under subsection (1) may extend the restriction so that no publication may include the information mentioned in section 47(1A) or (as the case may be) 47(1AA)—
 - (a) until the occurrence of a particular event or particular circumstances,
 - (b) in respect of a restriction applying by virtue of section 47(1A)—
 - (i) until the person to whom the information relates reaches a particular age,
 - (ii) during the lifetime of the person to whom the information relates,
 - (c) in respect of a restriction applying by virtue of section 47(1AA), until—
 - (i) the death of any specified family member of the deceased person to whom the information relates,
 - (ii) the date on which any specified family member of the deceased person reaches a specified age, or
 - (d) for the duration of any other period the court deems appropriate in all the circumstances.
- (4) The court may make an order under subsection (1)—
 - (a) of its own accord,
 - (b) on the application of the prosecutor,
 - (c) in respect of a restriction applying by virtue of section 47(1A), on the application of the person to whom the information relates, or
 - (d) in respect of a restriction applying by virtue of section 47(1AA), on the application of a parent, sibling, child or spouse or civil partner of the deceased person to whom the information relates.

- (5) An order made by a court under subsection (1) may be varied or revoked by the court, at any time, on the application of—
- (a) the person to whom the information relates,
 - (b) if the person to whom the information relates is deceased, a parent, sibling, child or spouse or civil partner of that person, or
 - (c) a media representative.
- (6) In this section—
- “family member”, in relation to a deceased person, means—
- (a) the person’s—
 - (i) spouse or civil partner,
 - (ii) child,
 - (iii) parent,
 - (iv) sibling,
 - (v) aunt or uncle,
 - (vi) nephew or niece,
 - (vii) cousin,
 - (viii) grandparent, and
 - (b) the spouse or civil partner of any person listed in paragraph (a),
- “media representative” means—
- (a) a photographer, camera operator, researcher or producer for, or of, any relevant programme, or
 - (b) a representative of a newspaper or news agency,
- “parent” has the same meaning as in section 108 of the Criminal Justice (Scotland) Act 2016,
- “sibling”, in relation to a deceased person, means a person who had at least one parent in common with that person,
- “spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Ruth Maguire

192 In section 13, page 13, line 28, after <47B(1)> insert <or 47BA(1)>

Ruth Maguire

149 In section 13, page 13, line 31, leave out <or> and insert—

<() where the person to whom the information relates is deceased, a parent, sibling, child or spouse or civil partner of that person, or>

Ruth Maguire

150 In section 13, page 14, line 2, at end insert—

<“parent” has the same meaning as in section 108 of the Criminal Justice (Scotland) Act 2016,

“sibling”, in relation to a deceased person, means a person who had at least one parent in common with that person,

“spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Natalie Don

68 In section 13, page 14, line 5, leave out <47> and insert <47(3)>

Natalie Don

69 In section 13, page 14, line 5, leave out <or to the Scottish Ministers>

Natalie Don

70 In section 13, page 14, line 11, after <47(1)> insert <or (as the case may be) (1A)>

Natalie Don

71 In section 13, page 14, line 13, leave out <what is in the public interest> insert <whether it is in the public interest to dispense with the restriction imposed by section 47(1) or (as the case may be) whether it would be contrary to the public interest to extend the period of that restriction>

Natalie Don

72 In section 13, page 14, line 13, leave out <or (as the case may be) the Scottish Ministers>

Natalie Don

73 In section 13, page 14, line 29, leave out <treat the factor mentioned at paragraph (a)(ii) (effect on wellbeing)> and insert <regard the best interests of the person>

Natalie Don

74 In section 13, page 14, line 34, after <47(1A)> insert <or (as the case may be) whether it would be contrary to the public interest to extend the period of that restriction>

Natalie Don

75 In section 13, page 14, line 34, after <court> insert <—

(a) >

Natalie Don

76 In section 13, page 14, line 34, leave out <or (as the case may be) the Scottish Ministers>

Natalie Don

77 In section 13, page 14, line 37, leave out <it is in the public interest to dispense with> and insert <to dispense with or (as the case may be) extend the period of>

Natalie Don

78 In section 13, page 14, line 39, after <with> insert <, or extending the period of,>

Natalie Don

79 In section 13, page 15, line 2, at end insert <, and

- <(e) must, if the person to whom the information relates is aged under 18 at the date of determining what is in the public interest—
 - (i) regard the best interests of the person as a primary consideration, and
 - (ii) have no regard to the length of time until the person will reach the age of 18.>

Natalie Don

80 In section 13, page 15, line 8, leave out <was> and insert <is>

Natalie Don

81 In section 13, page 15, line 9, leave out <or (as the case may be) the Scottish Ministers>

Natalie Don

82 In section 13, page 15, line 11, after <be> insert <a factor against extending the period of the restriction imposed by subsection>

Natalie Don

83 In section 13, page 15, leave out lines 12 and 13

Natalie Don

84 In section 13, page 15, line 13, at end insert—

<47E Offence and defences

- (1) A person who publishes relevant information in contravention of section 47 commits an offence and is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both).
- (2) A person charged with an offence under this section has a defence if it is established that the conditions mentioned in subsection (3) were met.
- (3) Those conditions are that—
 - (a) the person to whom the relevant information relates—
 - (i) had given written consent to the publication of information in relation to an offence mentioned in section 47(1) or (as the case may be) (1A),
 - (ii) was aged 18 or over when that consent was given, and
 - (iii) had not, before the information was published, given written notice of the withdrawal of that consent, and

- (b) the information published relates to the offence to which that consent relates.
- (4) A person charged with an offence under this section has a defence if it is established that—
 - (a) the information published was in the public domain (having already been published by the person, being a person aged 18 or over, to whom the information relates or otherwise), and
 - (b) where the information was in the public domain as a result of it being published by a person other than the person to whom it relates, there was no reason for the person charged to believe that the conditions mentioned in subsection (3) were not met in relation to that prior publication.
- (5) A person charged with an offence under this section has a defence if it is established that they were not aware, and neither suspected nor had reason to suspect, that the publication included relevant information.
- (6) For the purposes of subsections (2), (4) and (5), a matter is established if—
 - (a) evidence adduced is enough to raise an issue as to whether that is the case, and
 - (b) the prosecution does not prove beyond reasonable doubt that it is not the case.
- (7) For the purposes of subsections (2), (3)(a)(ii) and (4)(a), that a person was aged 18 or over is established only if the person charged with the offence took reasonable steps to establish the person’s age.
- (8) For the purposes of subsection (3)(a), consent which purports to be specific to a particular publication may be taken to be consent to publication generally.
- (9) In this section—
 - “consent” means free agreement,
 - “relevant information” means information the publication of which is restricted under section 47(1) or (1A).

47F Individual culpability where organisation commits offence under section 47E

- (1) This section applies where—
 - (a) an offence under section 47E is committed by a relevant organisation, and
 - (b) the commission of the offence—
 - (i) involves consent or connivance, or
 - (ii) is attributable to neglect,
 on the part of a responsible individual.
- (2) The responsible individual (as well as the relevant organisation) commits the offence.
- (3) For the purposes of this section—
 - (a) “relevant organisation” means an organisation listed in the first column of the table in subsection (4),
 - (b) “responsible individual” means, in relation to a relevant organisation—
 - (i) an individual falling within the corresponding entry in the second column of that table, or

- (ii) an individual purporting to act in the capacity of an individual falling within the corresponding entry.

(4) The table is as follows—

Relevant organisation	Responsible individual
a company as mentioned in section 1 of the Companies Act 2006	a director, manager, secretary or other similar officer a member, where the company's affairs are managed by its members
a limited liability partnership	a member
a partnership other than a limited liability partnership	a partner
any other body or association	an individual who is concerned in the management or control of the body's or association's affairs>

Ruth Maguire

151 In section 13, page 15, line 13, at end insert—

<47E Decisions as to public interest for purposes of section 47BA

- (1) This section applies where, for the purposes of section 47BA, it falls to a court to determine whether it would be contrary to the public interest to make an order extending the period during which a restriction imposed by virtue of section 47(1A) or (1AA) is to apply.
- (2) In determining whether it is in the public interest to extend a restriction applying by virtue of section 47(1A), the court—
 - (a) must have regard, in particular, to—
 - (i) the age and maturity of the person against or in respect of whom a relevant offence was committed, or was alleged to have been committed, at the date of commission or alleged commission of the offence,
 - (ii) the age and maturity of the person to whom the information relates at the time of determining whether it is in the public interest to extend the restriction,
 - (iii) the effect that extending or (as the case may be) not extending the period of the restriction may have on that person's wellbeing,
 - (iv) the views of that person so far as they are reasonably ascertainable,
 - (v) whether publication of the information may result in a risk of harm to any other person, and
 - (b) must, if the person in respect of whom the relevant restriction applies is aged under 18 at the date of determining what is in the public interest—
 - (i) treat the factor mentioned at paragraph (a)(iii) (effect on wellbeing) as a primary consideration, and

- (ii) have no regard to the length of time until the person will reach the age of 18.
- (3) In determining whether it is in the public interest to extend a restriction applying by virtue of section 47(1AA), the court—
 - (a) must have regard, in particular, to—
 - (i) the effect that extending or (as the case may be) not extending the period of the restriction may have on the wellbeing of any family member of the deceased person in question, including by virtue of the age of the deceased person at the date of commission or alleged commission of the relevant offence,
 - (ii) the age and maturity of any family member of the deceased at the time of determining whether it is in the public interest to extend the restriction,
 - (iii) the views of such family member so far as they are reasonably ascertainable,
 - (iv) whether publication of the information may result in a risk of harm to any other person, and
 - (b) must, if any family member of the deceased person is aged under 18 at the date of determining what is in the public interest, treat as a primary consideration the factor mentioned at paragraph (a)(i) (effect on wellbeing) as it applies to that family member.
- (4) In a case where there is a section of the public that is already aware of the identity of a person, including a deceased person, who is or (as the case may be) was a person against or in respect of whom a relevant offence is alleged to have been committed, the court must not consider this to be a factor in favour of refusing to extend the restriction imposed by section 47(1A) or (as the case may be) (1AA).
- (5) In this section—
 - “family member”, in relation to a deceased person, means—
 - (a) the person’s—
 - (i) spouse or civil partner,
 - (ii) child,
 - (iii) parent,
 - (iv) sibling,
 - (v) aunt or uncle,
 - (vi) nephew or niece,
 - (vii) cousin,
 - (viii) grandparent, and
 - (b) the spouse or civil partner of any person listed in paragraph (a),
 - “parent” has the same meaning as in section 108 of the Criminal Justice (Scotland) Act 2016,
 - “relevant offence” means an alleged offence to which the proceedings relate,
 - “sibling”, in relation to a deceased person, means a person who had at least one parent in common with that person,

“spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Ruth Maguire

152 In section 13, page 15, line 13, at end insert—

<47F Power to retrospectively require removal of report of proceedings: person accused of a relevant offence

- (1) In any proceedings to which section 47(1) applies, the court may make an order requiring the taking of reasonable steps to withdraw from public availability any publication which—
 - (a) was published prior to the date on which section 13 of the Children (Care and Justice) (Scotland) Act 2024 came into force, and
 - (b) includes the information mentioned in section 47(1) in relation to a person who is identified in the order.
- (2) A person who is served with or otherwise made aware of the existence of an order made under subsection (1) may comply with the order by withdrawing from public availability only so much of the publication as contains the restricted information.
- (3) A person who is served with or otherwise made aware of the existence of an order made under subsection (1), and who fails to comply with the order, commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) It is a defence for any person charged with an offence under this section ("P") to prove that P reasonably believed that P had taken reasonable steps to ensure that the publication or (as the case may be) the restricted information was withdrawn from public availability.
- (5) The court may make an order under subsection (1)—
 - (a) of its own accord,
 - (b) on the application of the prosecutor, or
 - (c) on the application of the person to whom the information relates.
- (6) An order made by a court under subsection (1) may be varied or revoked by the court, at any time, on the application of—
 - (a) the person to whom the information relates,
 - (b) a person to whom the order applies, or
 - (c) a media representative.
- (7) The court may vary or revoke an order further to an application made under subsection (6) in respect of particular restricted information, particular publications or particular persons, or generally.
- (8) In considering whether to make an order under subsection (1), or to vary or revoke an order under subsection (6), the court must consider whether it is in the public interest, to do so.

- (9) In determining whether it is in the public interest to make an order under subsection (1), or to vary or revoke an order under subsection (6), the court must—
- (a) have regard, in particular, to—
 - (i) the age and maturity of the person to whom the information relates at the date of commission of the offence,
 - (ii) the effect that making, not making or (as the case may be) varying or revoking the order may have on that person’s wellbeing,
 - (iii) the effect that making, not making or (as the case may be) varying or revoking the order may have on that person’s rehabilitation or reintegration,
 - (iv) whether not making or (as the case may be) varying or revoking the order may constitute additional and disproportionate punishment,
 - (v) whether the publication or continued public availability of the relevant information may result in a risk of harm to any other person,
 - (b) if the person to whom the information relates is aged under 18 at the date of determining what is in the public interest—
 - (i) treat the factor mentioned at paragraph (a)(ii) (effect on wellbeing) as a primary consideration, and
 - (ii) have no regard to the length of time until the person will reach the age of 18,
 - (c) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the court,
 - (ii) the person to whom the information relates,
 - (iii) if the person mentioned in sub-paragraph (ii) is aged under 18, a parent of that person,
 - (iv) the person or persons to whom the order applies or would apply,
 - (v) a media representative,
 - (vi) any other person the court considers to have an interest in the application.
- (10) In a case where there is a section of the public that is already aware of the identity of a person who is accused of a relevant offence, the court must not consider this to be a factor in favour of refusing to make the order sought under subsection (1) or in favour of varying or revoking an order under subsection (6).
- (11) In this section—
- “media representative” means—
 - (a) a photographer, camera operator, researcher or producer for, or of, any relevant programme, or
 - (b) a representative of a newspaper or news agency,
 - “parent” has the same meaning as in section 108 of the Criminal Justice (Scotland) Act 2016,

“publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public,

“relevant offence” means an alleged offence to which the proceedings relate,

“relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990,

“restricted information” means the information in respect of which an order is made under subsection (1).

47G Power to retrospectively require removal of report of proceedings: persons against or in respect of whom a relevant offence is alleged to have been committed

- (1) Subject to subsection (2), in any proceedings to which section 47(1A) or (1AA) applies, the court may make an order requiring the taking of reasonable steps to withdraw from public availability any publication which—
 - (a) was published prior to the date on which section 13 of the Children (Care and Justice) (Scotland) Act 2024 came into force, and
 - (b) includes the information mentioned in section 47(1A) or (1AA) in relation to a person, including a deceased person, who is identified in the order.
- (2) An order under subsection (1) may not be made in respect of information of the type mentioned in section 47A(1A)(a)(ii).
- (3) A person who is served with or otherwise made aware of an order made under subsection (1) may comply with the order by withdrawing from public availability only so much of the publication as contains the restricted information.
- (4) A person who is served with or otherwise made aware of an order made under subsection (1), and who fails to comply with the order, commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) It is a defence for any person charged with an offence under this section ("P") to prove that P reasonably believed that P had taken reasonable steps to ensure that the publication or (as the case may be) the restricted information was withdrawn from public availability.
- (6) The court may make an order under subsection (1)—
 - (a) of its own accord,
 - (b) on the application of the prosecutor,
 - (c) on the application of the person to whom the information relates, or
 - (d) if the person to whom the information relates is deceased, on the application of a parent, sibling, child or spouse or civil partner of that person.
- (7) An order made by a court under subsection (1) may be varied or revoked by the court, at any time, on the application of—
 - (a) the person to whom the information relates,
 - (b) if the person to whom the information relates is deceased, a parent, sibling, child or spouse or civil partner of that person,
 - (c) a person to whom the order applies, or

- (d) a media representative.
- (8) The court may vary or revoke an order further to an application made under subsection (7) in respect of particular restricted information, particular publications or particular persons, or generally.
- (9) In considering whether to make an order under subsection (1), or to vary or revoke an order under subsection (7), the court must consider whether it is in the public interest to do so.
- (10) In determining whether it is in the public interest to make an order under subsection (1), or to vary or revoke an order under subsection (7), the court must—
- (a) have regard, in particular, to—
 - (i) the age and maturity of the person to whom the information relates at the date of commission or alleged commission of the offence,
 - (ii) the age and maturity of the person to whom the information relates at the time of determining whether it is in the public interest to extend the restriction,
 - (iii) the effect that making, not making or (as the case may be) varying or revoking the order may have on that person’s wellbeing,
 - (iv) the views of that person so far as they are reasonably ascertainable,
 - (v) whether publication of the information may result in a risk of harm to any other person,
 - (b) if the person to whom the information relates is aged under 18 at the date of determining what is in the public interest—
 - (i) treat the factor mentioned at paragraph (a)(iii) (effect on wellbeing) as a primary consideration, and
 - (ii) have no regard to the length of time until the person will reach the age of 18, and
 - (c) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the court,
 - (ii) the person to whom the information relates,
 - (iii) if the person mentioned in sub-paragraph (ii) is aged under 18, a parent of that person,
 - (iv) the person or persons to whom the order applies or would apply,
 - (v) a media representative,
 - (vi) any other person the court considers to have an interest in the application.
- (11) In determining whether it is in the public interest to make an order under subsection (1), or to vary or revoke an order under subsection (7), in respect of information relating to a person who is deceased, the court must—
- (a) have regard, in particular, to—
 - (i) the effect that making, not making or (as the case may be) varying or revoking the order may have on the wellbeing of any family member of the deceased person in question, including by virtue of the age of the

deceased person at the date of commission or alleged commission of the relevant offence,

- (ii) the age and maturity of any family member of the deceased at the time of determining whether it is in the public interest to make, vary or revoke the order,
 - (iii) the views of such family member so far as they are reasonably ascertainable,
 - (iv) whether publication of the information may result in a risk of harm to any other person,
- (b) if any family member of the deceased person is aged under 18 at the date of determining what is in the public interest, treat as a primary consideration the factor mentioned at paragraph (a)(i) (effect on wellbeing) as it applies to that family member, and
- (c) consider whether any of the following persons should be given the opportunity to make representations—
- (i) the person who made the relevant application to the court,
 - (ii) a family member of the deceased person to whom the information relates,
 - (iii) the person or persons to whom the order applies or would apply,
 - (iv) a media representative,
 - (v) any other person the court considers to have an interest in the application.
- (12) In a case where there is a section of the public that is already aware of the identity of a person, including a deceased person, who is or (as the case may be) was a person against or in respect of whom a relevant offence is or was alleged to have been committed, the court must not consider this to be a factor in favour of refusing to make the order sought under subsection (1) or in favour of varying or revoking an order under subsection (7).
- (13) In this section—
- “family member”, in relation to a deceased person, means—
- (a) the person’s—
 - (i) spouse or civil partner,
 - (ii) child,
 - (iii) parent
 - (iv) sibling,
 - (v) aunt or uncle,
 - (vi) nephew or niece,
 - (vii) cousin,
 - (viii) grandparent, and
 - (b) the spouse or civil partner of any person listed in paragraph (a),
- “media representative” means—
- (a) a photographer, camera operator, researcher or producer for, or of, any relevant programme, or

- (b) a representative of a newspaper or news agency,
- “parent” has the same meaning as in section 108 of the Criminal Justice (Scotland) Act 2016,
- “publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public,
- “relevant offence” means an alleged offence to which the proceedings relate,
- “relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990,
- “restricted information” means the information in respect of which an order is made under subsection (1),
- “sibling” in relation to a person (including a deceased person), means a person who has or had at least one parent in common with that person,
- “spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Ruth Maguire

153 In section 13, page 15, line 13, at end insert—

<47H Power to retrospectively require removal of reporting of concluded court proceedings

- (1) A sheriff may make an order requiring the taking of reasonable steps to withdraw from public availability any publication which—
 - (a) includes information relating to a person identified in the order who was concerned in any concluded proceedings in a court, if—
 - (i) that information is likely to lead to the identification of the person as having been a person accused of a relevant offence, and
 - (ii) the person was aged under 18 at the alleged date of commission of the relevant offence,
 - (b) includes information relating to a person identified in the order who was concerned in any concluded proceedings in a court if—
 - (i) that information is likely to lead to the identification of the person as being a person against or in respect of whom a relevant offence was alleged to have been committed, and
 - (ii) the person was aged under 18 at the date of commencement of the proceedings,
 - (c) includes information relating to a deceased person identified in the order to whom any concluded proceedings in a court related, if—
 - (i) that information is likely to lead to the identification of the deceased person as having been a person against or in respect of whom a relevant offence was alleged to have been committed, and
 - (ii) the deceased person was aged under 18 at the alleged date of commission of the relevant offence.

- (2) A person who is served with or otherwise made aware of an order made under subsection (1) may comply with the order by withdrawing from public availability only so much of the publication as contains the restricted information.
- (3) A person who is served with or otherwise made aware of an order made under subsection (1), and who fails to comply with the order, commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (4) It is a defence for any person charged with an offence under this section ("P") to prove that P reasonably believed that P had taken reasonable steps to ensure that the publication or (as the case may be) the restricted information was withdrawn from public availability.
- (5) An application for an order under subsection (1) shall be made to the sheriff by way of a summary application.
- (6) A sheriff may make an order under subsection (1) on the application of—
 - (a) the person to whom the relevant information relates, or
 - (b) if the person to whom the relevant information relates is deceased, a parent, sibling, child or spouse or civil partner of that person.
- (7) An order under subsection (1) may require that restricted information need only be withdrawn from public availability—
 - (a) until the occurrence of a particular event or particular circumstances,
 - (b) in respect of restricted information of the type mentioned in subsection (1)(a) or (b)—
 - (i) until the person to whom the information relates reaches a particular age,
 - (ii) during the lifetime of the person to whom the information relates,
 - (c) in respect of restricted information of the type mentioned in subsection (1)(c), until—
 - (i) the death of any specified family member of the deceased person to whom the information relates,
 - (ii) the date on which any specified family member of the deceased person reaches a specified age, or
 - (d) for the duration of any other period the sheriff deems appropriate in all the circumstances.
- (8) An order made under subsection (1) may be varied or revoked by a sheriff, at any time, on the application of—
 - (a) the person to whom the restricted information relates,
 - (b) if the person to whom the restricted information relates is deceased, a parent, sibling, child or spouse or civil partner of that person,
 - (c) a person to whom the order applies, or
 - (d) a media representative.
- (9) A sheriff may vary or revoke an order further to an application made under subsection (8) in respect of particular restricted information, particular publications or particular persons, or generally.

- (10) In considering whether to make an order under subsection (1), or to vary or revoke an order under subsection (8), the sheriff must consider whether it is in the public interest to do so.
- (11) In determining whether it is in the public interest to make an order under subsection (1), or to vary or revoke an order under subsection (8), in respect of information of the type mentioned in subsection (1)(a), the court must—
 - (a) have regard, in particular, to—
 - (i) the age and maturity of the person to whom the relevant information relates at the date of commission or alleged commission of the offence,
 - (ii) the effect that making, not making or (as the case may be) varying or revoking the order may have on that person’s wellbeing,
 - (iii) the effect that making, not making or (as the case may be) varying or revoking the order may have on that person’s rehabilitation or reintegration,
 - (iv) whether not making or (as the case may be) varying or revoking the order may constitute additional and disproportionate punishment,
 - (v) whether the publication or continued public availability of the relevant information may result in a risk of harm to any other person,
 - (b) if the person to whom the relevant information relates is aged under 18 at the date of determining what is in the public interest —
 - (i) treat the factor mentioned at paragraph (a)(ii) (effect on wellbeing) as a primary consideration, and
 - (ii) have no regard to the length of time until the person will reach the age of 18,
 - (c) if the person to whom the relevant information relates is deceased, have regard to the wellbeing of any family member of the deceased,
 - (d) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the sheriff,
 - (ii) the person to whom the relevant information relates,
 - (iii) if the person mentioned in sub-paragraph (ii) is aged under 18, a parent of that person,
 - (iv) if the person mentioned in sub-paragraph (ii) is deceased, a family member of the deceased person,
 - (v) the person or persons to whom the order applies or would apply,
 - (vi) a media representative,
 - (vii) any other person the sheriff considers to have an interest in the application.

- (12) In determining whether it is in the public interest to make an order under subsection (1), or to vary or revoke an order under subsection (8), in respect of information of the type mentioned in subsection (1)(b), the sheriff must—
- (a) have regard, in particular, to—
 - (i) the age and maturity of the person to whom the relevant information relates at the date of commission or alleged commission of the offence,
 - (ii) the age and maturity of the person to whom the relevant information relates at the time of determining whether it is in the public interest to make, vary or revoke the order,
 - (iii) the effect that making, not making or (as the case may be) varying or revoking the order may have on that person’s wellbeing,
 - (iv) the views of that person so far as they are reasonably ascertainable,
 - (v) whether the publication or continued public availability of the relevant information may result in a risk of harm to any other person,
 - (b) if the person to whom the relevant information relates is aged under 18 at the date of determining what is in the public interest—
 - (i) treat the factor mentioned at paragraph (a)(iii) (effect on wellbeing) as a primary consideration, and
 - (ii) have no regard to the length of time until the person will reach the age of 18, and
 - (c) if the person to whom the relevant information relates is deceased, have regard to the wellbeing of any family member of the deceased,
 - (d) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the sheriff,
 - (ii) the person to whom the relevant information relates,
 - (iii) if the person mentioned in sub-paragraph (ii) is aged under 18, a parent of that person,
 - (iv) if the person mentioned in sub-paragraph (ii) is deceased, a family member of the deceased person,
 - (v) the person or persons to whom the order applies,
 - (vi) a media representative,
 - (vii) any other person the sheriff considers to have an interest in the application.
- (13) In determining whether it is in the public interest to make an order under subsection (1), or to vary or revoke an order under subsection (8), in respect of information of the type mentioned in subsection (1)(c), the sheriff must—
- (a) have regard, in particular, to—
 - (i) the effect that making, not making or (as the case may be) varying or revoking the order may have on the wellbeing of any family member of the deceased person in question, including by virtue of the age of the deceased person at the date of commission or alleged commission of the relevant offence,

- (ii) the age and maturity of any family member of the deceased at the time of determining whether it is in the public interest to make, vary or revoke the order,
- (iii) the views of such family member so far as they are reasonably ascertainable,
- (iv) whether the publication or continued public availability of the relevant information may result in a risk of harm to any other person,
- (b) if any family member of the deceased person is aged under 18 at the date of determining what is in the public interest, treat as a primary consideration the factor mentioned at paragraph (a)(i) (effect on wellbeing) as it applies to that family member, and
- (c) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the sheriff,
 - (ii) a family member of the deceased person to whom the relevant information relates,
 - (iii) the person or persons to whom the order applies or would apply,
 - (iv) a media representative,
 - (v) any other person the sheriff considers to have an interest in the application.
- (14) In a case where there is a section of the public that is already aware of the identity of a person who—
 - (a) committed, or was accused of committing, a relevant offence, or
 - (b) is or (as the case may be) was a person against or in respect of whom a relevant offence was, or was alleged to have been, committed,

the sheriff must not consider this to be a factor in favour of refusing to make the order sought under subsection (1) or in favour of varying or revoking an order under subsection (8).

- (15) In this section—
 - “family member”, in relation to a deceased person, means—
 - (a) the person’s—
 - (i) spouse or civil partner,
 - (ii) child,
 - (iii) parent,
 - (iv) sibling,
 - (v) aunt or uncle,
 - (vi) nephew or niece,
 - (vii) cousin,
 - (viii) grandparent, and
 - (b) the spouse or civil partner of any person listed in paragraph (a),

“media representative” means—

- (a) a photographer, camera operator, researcher or producer for, or of, any relevant programme, or
- (b) a representative of a newspaper or news agency,

“parent” has the same meaning as in section 108 of the Criminal Justice (Scotland) Act 2016,

“publication” includes any speech, writing, relevant programme or other communication in whatever form, which is addressed to the public at large or any section of the public,

“relevant information” means the information to which an application relates,

“relevant offence” means an offence or alleged offence to which the proceedings related,

“relevant programme” means a programme included in a programme service, within the meaning of the Broadcasting Act 1990,

“restricted information” means the information in respect of which an order is made under subsection (1),

“sibling”, in relation to a person (including a deceased person), means a person who has or had at least one parent in common with that person,

“spouse” includes a person who lives with another person as if their spouse or civil partner.>

Ruth Maguire

154 In section 13, page 15, line 13, at end insert—

<47I Power to reinstate reporting restriction after the conclusion of court proceedings

- (1) This section applies where a restriction imposed by section 47(1), (1A) or (1AA), and including a restriction that was extended under section 47B or section 47BA, has expired or otherwise no longer applies by virtue of—
 - (a) section 47(1C) to (3),
 - (b) section 47B(2) or (4), or
 - (c) section 47BA(2) or (4).
- (2) At any time following the conclusion of the proceedings by virtue of which the restriction mentioned in subsection (1) applied, and regardless of the outcome of those proceedings, a sheriff may by order reinstate the restriction in whole or in part.
- (3) An order under subsection (2) may not be made in respect of a restriction that applied by virtue of section 47A(1A)(a)(ii).
- (4) An order under subsection (2) may reinstate the restriction, in whole or in part, such that no publication may include the restricted information—
 - (a) until the occurrence of a particular event or particular circumstances,
 - (b) in respect of restricted information relating to a living person—
 - (i) until the person to whom the information relates reaches a particular age,

- (ii) during the lifetime of the person to whom the restricted information relates,
 - (c) in respect of restricted information relating to a deceased person, until—
 - (i) the death of any specified family member of the deceased person to whom the restricted information relates,
 - (ii) the date on which any specified family member of the deceased person reaches a specified age, or
 - (d) for the duration of any other period the sheriff deems appropriate in all the circumstances.
- (5) A sheriff may make an order under subsection (2) on the application of—
 - (a) the person to whom the relevant information relates, or
 - (b) if the person to whom the relevant information relates is deceased, a parent, sibling, child or spouse or civil partner of that person.
- (6) An application for an order under subsection (2) shall be made to the sheriff by way of a summary application.
- (7) An order made under subsection (2) may be varied or revoked, at any time, on the application of—
 - (a) the person to whom the restricted information relates,
 - (b) if the person to whom the restricted information relates is deceased, a parent, sibling, child or spouse or civil partner of that person, or
 - (c) a media representative.
- (8) A sheriff may vary or revoke an order further to an application made under subsection (7) in respect of particular restricted information, particular publications or particular persons, or generally.
- (9) In considering whether to make an order under subsection (2), or to vary or revoke an order under subsection (7), the sheriff must consider whether it is in the interests of justice, or otherwise in the public interest, to do so.
- (10) In determining whether it is in the interests of justice or otherwise in the public interest to make an order under subsection (2) or to vary or revoke an order under subsection (7), in respect of information of the type mentioned in section 47(1), the sheriff must—
 - (a) have regard, in particular, to—
 - (i) the age and maturity of the person to whom the relevant information relates at the date of commission of the offence,
 - (ii) the effect that making, not making or (as the case may be) varying or revoking the order may have on that person’s wellbeing,
 - (iii) the effect that making, not making or (as the case may be) varying or revoking the order may have on that person’s rehabilitation or reintegration,
 - (iv) whether not making or (as the case may be) varying or revoking the order may constitute additional and disproportionate punishment,
 - (v) whether the publication of the relevant information may result in a risk of harm to any other person,

- (b) if the person to whom the relevant information relates is aged under 18 at the date of determining what is in the public interest—
 - (i) treat the factor mentioned at paragraph (a)(ii) (effect on wellbeing) as a primary consideration, and
 - (ii) have no regard to the length of time until the person will reach the age of 18,
 - (c) if the person to whom the relevant information relates is deceased, have regard to the wellbeing of any family member of the deceased,
 - (d) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the sheriff,
 - (ii) the person to whom the relevant information relates,
 - (iii) if the person mentioned in sub-paragraph (ii) is aged under 18, a parent of that person,
 - (iv) if the person mentioned in sub-paragraph (ii) is deceased, a family member of the deceased person,
 - (v) a media representative,
 - (vi) any other person the sheriff considers to have an interest in the application.
- (11) In determining whether it is in the public interest to make an order under subsection (2), or to vary or revoke an order under subsection (7), in respect of relevant information of the type mentioned in section 47(1A), the sheriff must—
- (a) have regard, in particular, to—
 - (i) the age and maturity of the person to whom the relevant information relates at the date of commission or alleged commission of the offence,
 - (ii) the age and maturity of the person to whom the relevant information relates at the time of determining whether it is in the public interest to make, vary or revoke the order,
 - (iii) the effect that making, not making or (as the case may be) varying or revoking the order may have on that person's wellbeing,
 - (iv) the views of that person so far as they are reasonably ascertainable,
 - (v) whether the publication of the relevant information may result in a risk of harm to any other person,
 - (b) if the person to whom the relevant information relates is aged under 18 at the date of determining what is in the public interest—
 - (i) treat the factor mentioned at paragraph (a)(iii) (effect on wellbeing) as a primary consideration, and
 - (ii) have no regard to the length of time until the person will reach the age of 18,
 - (c) if the person to whom the relevant information relates is deceased, have regard to the wellbeing of any family member of the deceased,

- (d) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the sheriff,
 - (ii) the person to whom the relevant information relates,
 - (iii) if the person mentioned in sub-paragraph (ii) is aged under 18, a parent of that person,
 - (iv) if the person mentioned in sub-paragraph (ii) is deceased, a family member of the deceased person,
 - (v) a media representative,
 - (vi) any other person the sheriff considers to have an interest in the application.
- (12) In determining whether it is in the public interest to make an order under subsection (2), or to vary or revoke an order under subsection (7), in respect of relevant information of the type mentioned in section 47(1AA), the sheriff must—
 - (a) have regard, in particular, to—
 - (i) the effect that making, not making or (as the case may be) varying or revoking the order may have on the wellbeing of any family member of the deceased person in question, including by virtue of the age of the deceased person at the date of commission or alleged commission of the alleged offence to which the proceedings related,
 - (ii) the age and maturity of any family member of the deceased at the time of determining whether it is in the public interest to make, vary or revoke the order,
 - (iii) the views of such family member so far as they are reasonably ascertainable,
 - (iv) whether the publication of the relevant information may result in a risk of harm to any other person,
 - (b) if any family member of the deceased person is aged under 18 at the date of determining what is in the public interest, treat as a primary consideration the factor mentioned at paragraph (a)(i) (effect on wellbeing) as it applies to that family member, and
 - (c) consider whether any of the following persons should be given the opportunity to make representations—
 - (i) the person who made the relevant application to the sheriff,
 - (ii) a family member of the deceased person to whom the relevant information relates,
 - (iii) a media representative,
 - (iv) any other person the sheriff considers to have an interest in the application.
- (13) In a case where there is a section of the public that is already aware of the identity of a person who—
 - (a) was accused of a relevant offence, or

- (b) is or (as the case may be) was a person against or in respect of whom a relevant offence was suspected to have been committed,

the sheriff must not consider this to be a factor in favour of refusing to make the order sought under subsection (2) or in favour of varying or revoking an order under subsection (7).

(14) In this section—

“family member”, in relation to a deceased person, means—

(a) the person’s—

- (i) spouse or civil partner,
- (ii) child,
- (iii) parent,
- (iv) sibling,
- (v) aunt or uncle,
- (vi) nephew or niece,
- (vii) cousin,
- (viii) grandparent, and

(b) the spouse or civil partner of any person listed in paragraph (a),

“media representative” means—

- (a) a photographer, camera operator, researcher or producer for, or of, any relevant programme, or
- (b) a representative of a newspaper or news agency,

“parent” has the same meaning as in section 108 of the Criminal Justice (Scotland) Act 2016,

“relevant information” means the information to which an application relates,

“relevant offence” means an alleged offence to which the proceedings related,

“restricted information” means the information in respect of which an order is made under subsection (2),

“sibling”, in relation to a person (including a deceased person), means a person who has or had at least one parent in common with that person,

“spouse or civil partner” includes a person who lives with another person as if their spouse or civil partner.>

Section 14

Martin Whitfield

- 193 In section 14, page 15, line 16, after <proceedings),> insert—
<() in subsection (6), after “welfare” insert “and rights”,>

Martin Whitfield

- 194 In section 14, page 15, line 16, after <proceedings),> insert—

<() in subsection (6), after second “child” insert “as the paramount consideration”,>

Martin Whitfield

195 In section 14, page 15, line 17, after <particular,> insert <(a)>

Martin Whitfield

196 In section 14, page 15, line 20, after <steps> insert <,>

<(b) give the child an opportunity to express the child's views in—

(i) the manner that the child prefers, or

(ii) a manner that is suitable to the child if the child has not indicated a preference or it would not be reasonable in the circumstances to accommodate the child's preference, and

(c) have regard to any views expressed by the child, taking into account the child's age and maturity.>

Martin Whitfield

197 In section 14, page 15, line 20, at end insert—

<(7A) But the court is not required to comply with subsection (7)(b) or (c) if the court is satisfied that the child is not capable of forming a view.

(7B) The child is to be presumed to be capable of forming a view unless the contrary is shown.>

Martin Whitfield

198 In section 14, page 15, line 25, leave out <may> and insert <must>

Martin Whitfield

199 In section 14, page 15, line 29, leave out <may> and insert <must>

Martin Whitfield

200 In section 14, page 16, line 3, leave out from <must> to <regard to> and insert <may not take the steps mentioned in subsection (1) or make a direction as mentioned in subsection (2) if to do so would seriously interfere with>

Martin Whitfield

201 In section 14, page 16, line 13, leave out <may> and insert <must>

Martin Whitfield

202 In section 14, page 16, line 18, leave out <may> and insert <must>

Martin Whitfield

- 203 In section 14, page 16, line 35, leave out from <must> to <regard to> and insert <may not take the steps mentioned in subsection (1) or make a direction as mentioned in subsection (2) if to do so would seriously interfere with>

After section 14

Martin Whitfield

- 204 After section 14, insert—

<Conduct of criminal proceedings involving children

- (1) The 1995 Act is amended as follows.
- (2) In section 305 (Acts of Adjournal), after subsection (1A) insert—
 - “(1B) Subsection (1) above extends to making provision by Act of Adjournal for the purpose of ensuring that criminal proceedings involving a child are concluded in a way that accords with the needs of the child.”.>

Pam Duncan-Glancy

- 205 After section 14, insert—

<Domestic abuse offences involving children

Domestic abuse offences involving children: specialist support

- (1) The Domestic Abuse (Scotland) Act 2018 is amended as follows.
- (2) After section 11 insert—

“Domestic abuse offences involving children

11A Domestic abuse offences involving children: specialist support

- (1) In proceedings for an offence under section 1(1), the court must ensure that a child mentioned in subsection (2) is referred to a provider that specialises in domestic abuse support.
- (2) The child is—
 - (a) a child usually residing with A or B,
 - (b) where the offence is aggravated within the meaning of section 5, a child to whom the aggravation relates.”.>

Section 15

Roz McCall

- 85 In section 15, page 17, line 14, at beginning insert <if the child is under 16 years of age,>

Roz McCall

- 86 In section 15, page 17, line 30, at beginning insert <if the child is under 16 years of age,>

Roz McCall

87 In section 15, page 17, line 33, leave out from <, (1A)(a)> to <(1D)(a)>

Roz McCall

88 In section 15, page 17, line 38, at end insert—

<(1EA) Where the court requests advice as mentioned in subsection 1(A)(a) or, as the case may be, 1(D)(a), it may, after consideration of the advice received from the children’s hearing—

(a) if the child is under 16 years of age, remit the case to the Principal Reporter to arrange for the disposal of the case by a children’s hearing, or

(b) dispose of the case itself.>

Russell Findlay

206 In section 15, page 17, line 38, at end insert—

<(1EA) Where the court remits a case as mentioned in subsection (1)(a)(ii), (1A)(b), (1D)(b) or, as the case may be, (1E)(a), the Principal Reporter must give any person who is a victim in relation to the offence, the opportunity to make a victim statement.

(1EB) For the purposes of subsection (1EA), a victim statement means a statement as to the way in which, and degree to which, that offence (or apparent offence) has affected and, as the case may be, continues to affect, that person.>

Natalie Don

89 In section 15, page 18, line 2, leave out <and (4B)> and insert <, (4B) and (4C)>

Natalie Don

90 In section 15, page 18, line 7, after <34> insert <, 35>

Natalie Don

91 In section 15, page 18, line 22, at end insert—

<(4C) Where the offence to which the child pleads guilty, or of which the child is found guilty, is an offence in relation to which the court would be entitled, under section 234A, or obliged, under section 234AZA, to make a non-harassment order, those sections continue to apply despite the case being remitted for disposal by a children’s hearing as mentioned in subsection (1)(a)(ii), (1A)(b), (1D)(b) or, as the case may be, (1E)(a).>

Section 16

Roz McCall

92 In section 16, page 18, line 29, after <(a)> insert—

<() at the beginning insert “subject to subsection (1A),”>

Roz McCall

93 In section 16, page 18, line 32, at end insert—

<() after subsection (1) insert—

“(1A) If the person has attained the age of 16 years and has been charged with or convicted of an offence on indictment, the court shall, instead of committing the person to a local authority under subsection (1)(a), commit the person to a young offenders institution.”>

Roz McCall

94 In section 16, page 18, line 38, at end insert—

<(6A) Regulations under subsection (6) may, in particular, make provision about the circumstances in which such children may be transferred to a young offenders institution after attaining the age of 16 years.>

Roz McCall

95 In section 16, page 18, leave out lines 39 to end of line 2 on page 19

Section 17

Roz McCall

96 In section 17, page 19, line 14, at end insert—

<(5ZA) Regulations under subsection (5) may, in particular, make provision about the circumstances in which such children may be transferred to a young offenders institution after attaining the age of 16 years.>

Roz McCall

97 In section 17, page 19, leave out lines 15 to 18

Roz McCall

98 In section 17, page 20, line 12, leave out <The Scottish Ministers may not> and insert <If the child is aged 16 years or more, the Scottish Ministers must direct>

Natalie Don

99 In section 17, page 20, line 13, leave out <the> and insert <a>

Roz McCall

100 In section 17, page 20, line 14, at the beginning insert <If the child is under 16 years of age,>

Natalie Don

101 In section 17, page 20, line 14, leave out <the> and insert <a>

Roz McCall

102 In section 17, page 20, line 17, at end insert—

<(4A) Regulations under subsection (4) may, in particular, make provision about the circumstances in which such children may be transferred to a young offenders institution after attaining the age of 16 years.>

Roz McCall

103 In section 17, page 20, leave out lines 18 to 21

Roz McCall

104 In section 17, page 20, leave out lines 29 to 32

After section 17

Natalie Don

105 After section 17, insert—

<Mental health disposals for convicted children

Hospital directions

- (1) The 1995 Act is amended as follows.
- (2) In section 59A (hospital directions)—
 - (a) in subsection (1), “, not being a child,” is repealed,
 - (b) in subsection (10), after the definition of “medical treatment” insert—

““sentence of imprisonment” includes any sentence of detention,”.>

Section 18

Roz McCall

106 In section 18, page 21, line 2, leave out <18> and insert <16>

Roz McCall

107 In section 18, page 21, line 7, leave out subsections (3) and (4)

After section 21

Martin Whitfield

207 After section 21, insert—

<Alternatives to detention of children

Duty of Scottish Ministers to promote alternatives to detention of children

- (1) The Scottish Ministers must promote the use of alternatives to the detention of children who plead guilty to, or are found guilty of, an offence.

- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
 - (a) the period of one year beginning with the day of Royal Assent,
 - (b) each subsequent period of one year.>

Martin Whitfield

208 After section 21, insert—

<Restorative justice for children

Duty of Scottish Ministers to promote restorative justice for children

- (1) The Scottish Ministers must promote the referral to restorative justice services of children who have, or are alleged to have, committed an offence.
- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
 - (a) the period of one year beginning with the day of Royal Assent,
 - (b) each subsequent period of one year.
- (4) In this section, “restorative justice services” has the same meaning as in section 5 of the Victims and Witnesses (Scotland) Act 2014.>

Martin Whitfield

209 After section 21, insert—

<Rehabilitation and reintegration of children guilty of offences

Duty on Scottish Ministers to promote rehabilitation and reintegration of children guilty of offences

- (1) The Scottish Ministers must promote the rehabilitation and reintegration into the community of children who plead guilty to, or are found guilty of, an offence.
- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
 - (a) the period of one year beginning with the day of Royal Assent,
 - (b) each subsequent period of one year.
- (4) In this section, “rehabilitation” means the elimination or reduction of future offending.>

Pam Duncan-Glancy

210 After section 21, insert—

<Training for criminal justice agencies

Duty of Scottish Ministers to secure training for criminal justice agencies working with children

- (1) The Scottish Ministers must secure the provision of appropriate training for members and employees of a criminal justice agency working with children.
- (2) Training under subsection (1) must include training on—
 - (a) child development,
 - (b) children’s rights,
 - (c) domestic abuse.
- (3) In this section, “criminal justice agency” means—
 - (a) the Lord Advocate,
 - (b) the Scottish Ministers,
 - (c) the chief constable of the Police Service of Scotland,
 - (d) the Scottish Courts and Tribunals Service,
 - (e) the Parole Board for Scotland.>

Pam Duncan-Glancy

211 After section 21, insert—

<Multi-agency approach

Duty of Scottish Ministers to promote multi-agency approach

- (1) The Scottish Ministers must promote a multi-agency approach to supporting children who are involved in criminal proceedings.
- (2) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report setting out the steps taken under subsection (1) in the reporting period.
- (3) For the purposes of subsection (2), a reporting period is—
 - (a) the period of one year beginning with the day of Royal Assent,
 - (b) each subsequent period of one year.>

Ross Greer

212 After section 21, insert—

<PART

SECURE TRANSPORTATION

Standards for provision of secure transportation

- (1) The Children and Young People (Scotland) Act 2014 is amended as follows.
- (2) After section 90 insert—

“PART 16A

SECURE TRANSPORTATION

90A Secure transportation: duty of Scottish Ministers to prepare and publish standards

- (1) The Scottish Ministers must prepare and publish standards applicable to any service (a “secure transportation service”) which consists of or includes providing secure transportation—
 - (a) for persons—
 - (i) who have not attained the age of 19 years, and
 - (ii) in relation to whom the taking to or the placing, keeping or detention in secure accommodation is authorised or required under or by virtue of a relevant enactment, and
 - (b) for the purpose of transporting those persons to or from secure accommodation.
- (2) The standards—
 - (a) must include the minimum standards to be met by a provider of a secure transportation service which may, in particular, relate to—
 - (i) the manner in which, and the extent to which, the service provider is to have regard to the rights of the persons mentioned in subsection (1)(a) who require to be transported to or from secure accommodation,
 - (ii) the establishment of measures and procedures to prevent or minimise a risk of a serious incident occurring,
 - (iii) the establishment of measures and procedures to deal with, and prevent the recurrence of, a serious incident,
 - (iv) the circumstances in which restraint or control of persons mentioned in subsection (1)(a) who require to be transported to or from secure accommodation may or may not be appropriate,
 - (v) the provision of training and support to staff to ensure the safe transportation of the persons mentioned in subsection (1)(a) to or from secure accommodation,
 - (b) may include such further provision in connection with the provision of a secure transportation service as the Scottish Ministers consider appropriate.
- (3) The Scottish Ministers may make different provision for different kinds of secure transportation service.
- (4) The Scottish Ministers—
 - (a) must publish the first standards under subsection (1) no later than one year after the day on which section (*standards for provision of secure transportation*) of the Children (Care and Justice) (Scotland) Act 2024 comes into force,
 - (b) must keep the standards published under subsection (1) under review,
 - (c) may, under subsection (1), publish revised standards whenever they consider it appropriate to do so, and

- (d) must lay a copy of the first published standards, and any published revised standards, before the Scottish Parliament.
- (5) Before publishing the standards or any revised standards under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.
- (6) In this section—
 - “relevant enactment” means the following enactments—
 - (a) the Children (Scotland) Act 1995,
 - (b) the Criminal Procedure (Scotland) Act 1995,
 - (c) the Adoption and Children (Scotland) Act 2007,
 - (d) the Children’s Hearings (Scotland) Act 2011,
 - “secure accommodation” has the meaning given by section 202(1) of the Children’s Hearings (Scotland) Act 2011,
 - “secure transportation” means transportation which provides such additional security and support measures as are required to prevent or minimise a risk—
 - (a) to the health, safety or welfare of a person mentioned in subsection (1)(a) who is being transported to or from secure accommodation,
 - (b) which that person may pose to the safety of any other person.
 - “serious incident” includes an incident involving a person mentioned in subsection (1)(a)—
 - (a) absconding or attempting to abscond,
 - (b) suffering harm (including self-harm) or ill-health (whether physical or mental),
 - (c) causing harm to another person, or
 - (d) causing (whether directly or indirectly) damage to property,whilst being transported to or from secure accommodation.
- (7) The Scottish Ministers may by regulations modify the definition of “relevant enactment” in subsection (6) by—
 - (a) adding an enactment,
 - (b) removing an enactment for the time being listed in it,
 - (c) varying a reference to an enactment for the time being listed in it.

90B Secure transportation: duty of providers to meet standards

- (1) The provider of a secure transportation service must meet the applicable standards.
- (2) The persons mentioned in subsection (3) must, when making arrangements with another person for the provision of a secure transportation service, ensure that the service meets the applicable standards.
- (3) The persons are—
 - (a) a local authority,
 - (b) the Scottish Ministers.

- (4) The Scottish Ministers may by regulations modify subsection (3) by—
 - (a) adding a person or description of persons,
 - (b) removing a person or description of persons for the time being listed in it,
 - (c) varying a description of a person for the time being listed in it.
- (5) In this section and in section 90C—
 - “applicable standards” means the standards, or (as the case may be) any revised standards, published under section 90A(1) which apply to the secure transportation service being provided,
 - “secure transportation service” has the meaning given by section 90A(1).

90C Secure transportation: reports

- (1) Subsection (2) applies where a relevant person has, during the reporting period—
 - (a) provided a secure transportation service,
 - (b) made arrangements with another person for the provision of a secure transportation service.
- (2) The relevant person must, as soon as reasonably practicable (and in any event no later than 3 months) after the end of the reporting period—
 - (a) prepare a report on—
 - (i) how the relevant person monitored the secure transportation service provided or arranged by the relevant person to ensure that the service met the applicable standards during the reporting period,
 - (ii) the extent to which the service met the applicable standards during the reporting period,
 - (b) publish the report, and
 - (c) send a copy of the report to the Scottish Ministers.
- (3) Reports prepared under subsection (2) are to be published in such manner as the relevant person considers appropriate (and, in particular, reports may be published together with, or as part of, any other report or document).
- (4) The Scottish Ministers must, as soon as reasonably practicable (and in any event no later than 6 months) after the end of the reporting period —
 - (a) prepare a report (“the consolidated report”) on—
 - (i) how the relevant persons to whom subsection (1) applies have ensured that the secure transportation services provided or arranged by those relevant persons have met the applicable standards during the reporting period,
 - (ii) the extent to which those services met the applicable standards during the reporting period,
 - (b) publish the consolidated report in such manner as the Scottish Ministers consider appropriate, and
 - (c) lay a copy of the consolidated report before the Scottish Parliament.

- (5) Where the Scottish Ministers have provided or made arrangements for the provision of a secure transportation service during the reporting period, the consolidated report must include a report on—
 - (a) how the Scottish Ministers monitored the service to ensure it met the applicable standards during the reporting period,
 - (b) the extent to which the service met the applicable standards during the reporting period.
- (6) The consolidated report may include such other information as the Scottish Ministers consider appropriate.
- (7) The Scottish Ministers may by regulations prescribe information that reports prepared under subsection (2) must contain.
- (8) In this section—
 - “relevant person” means a local authority,
 - “reporting period” means—
 - (a) the period of 3 years beginning with the day on which section (*standards for provision of secure transportation*) of the Children (Care and Justice) (Scotland) Act 2024 comes into force, and
 - (b) each subsequent period of 3 years until a date specified in regulations made by the Scottish Ministers.
- (9) The Scottish Ministers may by regulations modify the definition of “relevant person” in subsection (8) by—
 - (a) adding a person or description of persons,
 - (b) removing a person or description of persons for the time being mentioned in it,
 - (c) varying a description of a person for the time being mentioned in it.”.
- (3) In section 99 (subordinate legislation)—
 - (a) in subsection (1), after “order” insert “or regulations”,
 - (b) in subsection (2)—
 - (i) after “order” insert “or (as the case may be) regulations”,
 - (ii) after “section 71(5)(b)” insert—
 - “section 90A(7)
 - section 90B(4)
 - section 90C(9)”,
 - (c) in subsection (4), after “order” insert “or regulations”.>

Section 23

Roz McCall

108 In section 23, page 23, line 29, at end insert—

- <(3) Regulations under subsection (1) must provide that, where a secure accommodation service provides accommodation for children who have committed an offence, the service may only be approved if the accommodation for those children is separated according to the child's sex.>

Roz McCall

109 In section 23, page 23, line 29, at end insert—

- <(3) Regulations under subsection (1) must provide that, where a secure accommodation service provides accommodation for children who have committed an offence, the service may only be approved if that accommodation is separate from any accommodation for children who have not committed an offence.>

Miles Briggs

155 In section 23, page 23, line 29, at end insert—

- <(3) Regulations under subsection (1) must provide that a secure accommodation service may only be approved if it can demonstrate that all staff working with children will undertake training on—
- (a) the use of restrictive practice, and
 - (b) de-escalation techniques.>

Miles Briggs

156 In section 23, page 23, line 29, at end insert—

- <(3) Regulations under subsection (1) must provide that a secure accommodation service may only be approved if it can demonstrate that all staff working with children will undertake training on learning disabilities and complex needs.
- (4) For the purposes of subsection (3), complex needs includes where a child, in addition to having a learning disability—
- (a) is autistic,
 - (b) has a mental health diagnosis,
 - (c) has a forensic need,
 - (d) is described as demonstrating challenging behaviour which is of such intensity, frequency or duration as to threaten the quality of life or physical safety of the child or any other person.>

Natalie Don

110 In section 23, page 23, line 37, after <support> insert <—

- (i)>

Natalie Don

111 In section 23, page 23, line 38, at end insert <, and

- (ii) that takes account of the effects of trauma which the children may have experienced,>

After section 23

Martin Whitfield

213 After section 23, insert—

<Provision of services to children in secure accommodation

- (1) A secure accommodation service must ensure that any child detained in its establishment is provided with appropriate—
 - (a) advocacy services,
 - (b) education,
 - (c) emotional and mental health support,
 - (d) health care,
 - (e) support to maintain contact with the child’s family,
 - (f) transition and aftercare support.
- (2) In this section, “secure accommodation service” has the meaning given in section 202(1) of the 2011 Act.>

Miles Briggs

157 After section 23, insert—

<Use of restrictive practices in secure accommodation: guidance

- (1) The Scottish Ministers must prepare and publish guidance on the use of restrictive practices on children in secure accommodation.
- (2) Guidance under subsection (1) may include information on—
 - (a) the types of restrictive practices which may be used,
 - (b) the circumstances in which restrictive practices may be used,
 - (c) assessing the risks to the physical and mental wellbeing of the child of the use of restrictive practices,
 - (d) de-escalation techniques.>

Miles Briggs

158 After section 23, insert—

<Use of restrictive practices in secure accommodation: duty of local authorities to collect data

- (1) A local authority must collect data on the use of restrictive practices on children in secure accommodation.
- (2) Data under subsection (1) must include—
 - (a) the type of restrictive practice used,
 - (b) the reason for the use of the restrictive practice,
 - (c) where and when the restrictive practice was used,
 - (d) the length of time the restrictive practice was used,

- (e) the known impact on the child of the use of the restrictive practice, including any injuries or risks to the physical or mental wellbeing of the child,
 - (f) the characteristics of the child, including—
 - (i) age,
 - (ii) gender,
 - (iii) sex,
 - (iv) disability,
 - (v) race,
 - (g) whether any relevant family member or carer was notified of the use of the restrictive practice,
 - (h) the outcome of any incident review, and
 - (i) the involvement of the child in any incident review.
- (3) A local authority must publish the data in a manner it considers appropriate.>

Miles Briggs

159 After section 23, insert—

<Assessment of needs of a child placed in secure accommodation

- (1) The Scottish Ministers must ensure that any child placed in secure accommodation—
 - (a) at the point they enter secure accommodation, is assessed for any learning disabilities and complex needs, and
 - (b) receives appropriate and timely support for any learning disabilities and complex needs identified in an assessment under paragraph (a).
- (2) The Scottish Ministers must, no later than one year after the date of Royal Assent, prepare and publish a report on the steps they have taken under subsection (1).
- (3) For the purposes of this section, complex needs includes where a child, in addition to having a learning disability—
 - (a) is autistic,
 - (b) has a mental health diagnosis,
 - (c) has a forensic need,
 - (d) is described as demonstrating challenging behaviour which is of such intensity, frequency or duration as to threaten the quality of life or physical safety of the child or any other person.>

Miles Briggs

160 After section 23, insert—

<Report on children in secure accommodation with learning disabilities and complex needs

- (1) A local authority must as soon as reasonably practicable after the end of each reporting period, prepare and publish a report on the steps it has taken during the reporting period

to reduce the use of, or length of time spent in, secure accommodation for children with learning difficulties and complex needs.

- (2) For the purposes of subsection (1), complex needs includes where a child, in addition to having a learning disability—
 - (a) is autistic,
 - (b) has a mental health diagnosis,
 - (c) has a forensic need,
 - (d) is described as demonstrating challenging behaviour which is of such intensity, frequency or duration as to threaten the quality of life or physical safety of the child or any other person.
- (3) For the purposes of subsection (1), a reporting period is—
 - (a) the period of one year beginning with the day of Royal Assent,
 - (b) each subsequent period of one year.>

Miles Briggs

161 After section 23, insert—

**<Children in secure accommodation with learning disabilities and complex needs:
duty of local authority to collect data**

- (1) A local authority must collect data on the number of children in secure accommodation with learning disabilities and complex needs.
- (2) Data under subsection (1) must include—
 - (a) the learning disabilities and complex needs of the child,
 - (b) the age of the child, and
 - (c) the number of days the child spent in secure accommodation.
- (3) A local authority must publish the data in a manner it considers appropriate.
- (4) For the purposes of this section, complex needs includes where a child, in addition to having a learning disability—
 - (a) is autistic,
 - (b) has a mental health diagnosis,
 - (c) has a forensic need,
 - (d) is described as demonstrating challenging behaviour which is of such intensity, frequency or duration as to threaten the quality of life or physical safety of the child or any other person.>

Section 25

Natalie Don

112 In section 25, page 25, line 40, leave out from beginning to line 28 on page 26 and insert—

- <() in subsection (1), for “as if it were such an order” substitute “in Scotland”,
() for subsection (2) substitute—

- “(2) Regulations under subsection (1) may in particular—
- (a) provide that a non-Scottish order is to have such effect only—
 - (i) in specified circumstances,
 - (ii) for specified purposes,
 - (iii) subject to specified conditions,
 - (b) provide that a non-Scottish order is—
 - (i) to have effect as if it were a compulsory supervision order, or
 - (ii) to have such other effect as may be specified,
 - (c) include provision—
 - (i) requiring specified persons to provide or share specified information,
 - (ii) requiring specified persons to provide, or make arrangements for the provision of, any services which are needed to support a child who is the subject of a non-Scottish order,
 - (iii) requiring specified persons to meet the costs incurred in relation to, or as a consequence of, giving effect to a non-Scottish order in Scotland,
 - (iv) in connection with the safeguarding and promotion of the welfare of a child who is the subject of a non-Scottish order,
 - (d) make provision for or in connection with—
 - (i) the monitoring of whether any condition specified by virtue of paragraph (a)(iii) is being met in relation to a non-Scottish order,
 - (ii) the consequences of such a specified condition not being met,
 - (iii) the monitoring of whether any requirement imposed is being complied with in relation to a non-Scottish order (where compliance with the requirement is not a condition specified by virtue of paragraph (a)(iii)),
 - (iv) the consequences of failing to comply with such a requirement.
- (2A) Regulations under subsection (1)—
- (a) may modify any enactment in its application by virtue of the regulations to a non-Scottish order, including—
 - (i) the Social Work (Scotland) Act 1968,
 - (ii) the Children (Scotland) Act 1995,
 - (iii) this Act,
 - (b) are subject to the affirmative procedure.”>

Michael Marra

214 In section 25, page 26, line 3, at end insert—

<() after paragraph (a) insert—

“(aza) may provide that a non-Scottish order may only have effect if it is in the best interests of the child.”>

After section 25

Natalie Don

113 After section 25, insert—

<Regulation of cross-border placements

- (1) The Children (Scotland) Act 1995 is amended as follows.
- (2) After section 33 insert—

“33A Regulation of cross-border placements

- (1) The Scottish Ministers may by regulations make provision in relation to cross-border placements.
- (2) Regulations under subsection (1) may in particular include provision—
 - (a) requiring specified persons to provide or share specified information,
 - (b) requiring specified persons to provide, or make arrangements for the provision of, any services which are needed to support a child who is the subject of a cross-border placement,
 - (c) requiring specified persons to meet the costs incurred in relation to, or as a consequence of, a cross-border placement,
 - (d) requiring a cross-border placement to be kept under review,
 - (e) in connection with the safeguarding and promotion of the welfare of a child who is the subject of a cross-border placement.
- (3) Regulations under subsection (1)—
 - (a) may modify any enactment in its application by virtue of the regulations to a cross-border placement, including—
 - (i) the Social Work (Scotland) Act 1968,
 - (ii) this Act,
 - (b) may make any incidental, supplementary, consequential, transitional, transitory or saving provision that the Scottish Ministers consider appropriate for the purposes of, in connection with or for giving full effect to the regulations,
 - (c) are subject to the affirmative procedure.
- (4) In this section, “cross-border placement” means the placement of a child in a residential establishment in Scotland where—
 - (a) the child was, immediately before the placement, resident in England, Wales or Northern Ireland, and
 - (b) the placement is authorised under the law in England and Wales or, as the case may be, in Northern Ireland by virtue of—
 - (i) an order made by a court in England and Wales or in Northern Ireland,
 - (ii) any provision made by or under an Act of Parliament, an Act of Senedd Cymru, or Northern Ireland legislation (as defined by section 98(1) of the Northern Ireland Act 1998), whenever passed or made.”>

Michael Marra

215 After section 25, insert—

<Cross-border placements: provision of services for children

- (1) The 2011 Act is amended as follows.
- (2) After section 190 insert—

“190A Provision of services for children subject to orders made outwith Scotland

Where a child is subject to a non-Scottish order, the Scottish Ministers must ensure that the child has access to appropriate support in relation to—

- (a) education,
- (b) health,
- (c) trauma-recovery,
- (d) maintaining contact with the child’s family.”>

Michael Marra

216 After section 25, insert—

<Cross-border placements: duty to produce a cross-border placement plan

- (1) The 2011 Act is amended as follows.
- (2) After section 190 insert—

“190A Duty to produce a cross-border placement plan

- (1) The Scottish Ministers must, no later than one year after Royal Assent, prepare and publish a plan on cross-border placements.
- (2) A plan under subsection (1) must, in particular, include information on—
 - (a) the arrangements for the sharing of information about the support needs of children subject to cross-border placements,
 - (b) the measures that secure accommodation services will take to support the specific needs of children subject to cross-border placements.
- (3) In preparing a plan under subsection (1), the Scottish Minister must consult—
 - (a) UK Ministers,
 - (b) any other persons they consider to be appropriate.
- (4) For the purposes of this section, “cross-border placement” means the placement of a child in secure accommodation where—
 - (a) the child was, immediately before the placement, resident in England, Wales or Northern Ireland, and
 - (b) the placement is authorised by an order made by a court in England and Wales or in Northern Ireland.”>

Michael Marra

217 After section 25, insert—

<Placement of children outwith Scotland

- (1) The 2011 Act is amendment as follows.
- (2) After section 190A, insert—

“190A Placement of children outwith Scotland: duty to ensure equivalent provision and support

- (1) This section applies where—
 - (a) a child subject to a secure accommodation authorisation is to be placed in secure accommodation in England, Wales or Northern Ireland, and
 - (b) the child is currently resident in Scotland.
- (2) Before the child is placed in the secure accommodation, the Scottish Ministers must take all reasonable steps to ensure that the child will receive equivalent provision and support to that which they would have received had they been placed in secure accommodation in Scotland.”>

Miles Briggs

- 162** After section 25, insert—

<Secure transportation services

Secure transportation services: duty of Scottish Ministers to produce standards

- (1) The Scottish Ministers must by regulations specify standards on the use of secure transportation services for children.
- (2) Regulations under subsection (1) must provide that—
 - (a) secure transportation services must only be used if, following a risk assessment, it is considered necessary to reduce the risk of—
 - (i) harm to the child being transported,
 - (ii) serious harm to any other person,
 - (b) where the child being transported is detained in secure accommodation by virtue of section 51(1)(a), 205(2), 208(1) or, as the case may be, 216(7) of the 1995 Act, that handcuffs of any kind—
 - (i) must not be used, or
 - (ii) may only be used if there is a significant risk of serious harm to the child or another person,
 - (c) any use of restrictive practices during the secure transportation of the child must be reported to the relevant commissioning body.
- (3) Any person providing secure transportation services for children must comply with the standards specified in regulations under subsection (1).
- (4) Regulations under subsection (1) are subject to the affirmative procedure.>

Miles Briggs

- 163** After section 25, insert—

<Secure transportation services

Use of restrictive practices during secure transportation: duty of local authority to collect data

- (1) A local authority must collect data on the use of restrictive practices during the secure transportation of a child.
- (2) Data under subsection (1) must include—
 - (a) the type of restrictive practice used,
 - (b) the reason for the use of the restrictive practice,
 - (c) where and when the restrictive practice was used,
 - (d) the length of time the restrictive practice was used,
 - (e) the known impact on the child of the use of the restrictive practice, including any injuries or risks to the physical or mental wellbeing of the child,
 - (f) the protected characteristics of the child, including—
 - (i) age,
 - (ii) gender,
 - (iii) sex,
 - (iv) disability,
 - (v) race,
 - (g) whether any relevant family member or carer was notified of the use of the restrictive practice,
 - (h) the outcome of any incident review, and
 - (i) the involvement of the child in any incident review.
- (3) A local authority must publish the data in a manner it considers appropriate.>

After section 27

Martin Whitfield

218 After section 27, insert—

<PART

DATA COLLECTION

Duty on Scottish Ministers to collect data

- (1) The Scottish Ministers must by regulations set out the data that is required to be collected in order to monitor the operation and impact of this Act.
- (2) Regulations under subsection (1) must provide for the collection of data on the characteristics of children—
 - (a) referred to a children’s hearing,
 - (b) who plead guilty to, or are found guilty of, an offence.

- (3) For the purposes of subsection (2), the characteristics are—
 - (a) age,
 - (b) disability,
 - (c) gender reassignment
 - (d) race,
 - (e) religion or belief,
 - (f) sex,
 - (g) sexual orientation.
- (4) Regulations under subsection (1) must provide for the collection of data on—
 - (a) the number of children referred to a children’s hearing on the ground that they have committed an offence who go on to commit further offences,
 - (b) the number of children who plead guilty to, or are found guilty of, an offence who go on to commit further offences.
- (5) The Scottish Ministers must publish the data in a manner they consider appropriate.
- (6) Regulations under subsection (1) are subject to the affirmative procedure.>

Martin Whitfield

219 After section 27, insert—

<PART

REPORTING REQUIREMENTS

Report on outcomes for children

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of each reporting period, prepare and publish a report on the outcomes for children—
 - (a) referred to a children’s hearing,
 - (b) who plead guilty to, or are found guilty of, an offence.
- (2) A report under subsection (1) must, in particular, include information on—
 - (a) the characteristics of the children mentioned in subsection (1)(a) or (b),
 - (b) the provision of social work services to children mentioned in subsection 1(a) or (b),
 - (c) the outcomes for children subject to a compulsory supervision order with a movement restriction condition,
 - (d) the outcomes for children subject to a compulsory supervision order with a secure accommodation authorisation,
 - (e) the outcomes for children detained in secure accommodation after pleading guilty to, or being found guilty of, an offence.
- (3) For the purposes of subsection (2)(a), the characteristics are—
 - (a) age,
 - (b) disability,
 - (c) gender reassignment,

- (d) race,
 - (e) religion or belief,
 - (f) sex,
 - (g) sexual orientation,
- (4) For the purposes of subsection (1), a reporting period is—
- (a) the period of one year beginning with the day of Royal Assent,
 - (b) each subsequent period of one year.
- (5) In this section—
- “compulsory supervision order” has the meaning given by section 83 of the 2011 Act,
 - “movement restriction condition” has the meaning given by section 84 of the 2011 Act,
 - “secure accommodation” has the meaning given by section 202(1) of the 2011 Act,
 - “secure accommodation authorisation” has the meaning given by section 85 of the 2011 Act,
 - “social work services” has the meaning given by section 48 of the 2010 Act.>

Schedule

Natalie Don

- 114** In the schedule, page 29, line 3, at end insert—

<PART

CHILDREN’S HEARINGS SYSTEM

Children’s Hearings (Scotland) Act 2011

- (1) The 2011 Act is amended as follows.
- (2) In section 73 (child’s duty to attend children’s hearing), in subsection (3)(b), for “physical, mental or moral welfare” substitute “health, safety or development”.
- (3) In section 103 (child’s duty to attend hearing unless excused), in subsection (3)(b), for “physical, mental or moral welfare” substitute “health, safety or development”.>

Natalie Don

- 115** In the schedule, page 30, line 4, at end insert—

<*Social Work (Scotland) Act 1968*

- (1) The Social Work (Scotland) Act 1968 is amended as follows.
- (2) In section 27(1) (supervision and care of persons put on probation or released from prisons etc.), in paragraph (b)(vb), for “16” substitute “18”.>

Natalie Don

- 116** In the schedule, page 30, leave out lines 9 to 11 and insert—

<() for subsection (2C) substitute—

“(2C) In a case where subsection (2A) applies and the single term mentioned in that subsection is of four or more years, this Part applies to the person as if the single term were an equivalent sentence of detention or, as the case may be, imprisonment.”>

Natalie Don

117 In the schedule, page 31, line 22, leave out paragraph 12

Natalie Don

118 In the schedule, page 32, line 30, at end insert—

<PART

LOCAL AUTHORITY DUTIES IN RELATION TO DETAINED CHILDREN

Social Work (Scotland) Act 1968

- (1) The Social Work (Scotland) Act 1968 is amended as follows.
- (2) In section 5 (powers of Scottish Ministers), in subsection (1B)(f), for “section 51” substitute “sections 44, 51 and 216”.

Public Services Reform (Scotland) Act 2010

- (1) The 2010 Act is amended as follows.
- (2) In schedule 13 (social work services functions: specified enactments), “Section 51 of the Criminal Procedure (Scotland) Act 1995 (c. 46)” is repealed.>

Section 31

Pam Duncan-Glancy

220 In section 31, page 27, line 29, at end insert—

- <(2A) The Scottish Ministers may not lay before the Parliament regulations under subsection (2) until the end of the period of one month beginning with the day on which they comply with subsection (2B).
- (2B) The Scottish Ministers must lay before the Parliament a report setting out why they consider that there are a sufficient number of members of the Children’s Panel for the other provisions of this Act to come into force.>

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