



Northern Ireland
Assembly

Research and Information Service Review of Costs

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NIAR 117-26

Criminal Justice (Sentencing etc) Bill: scrutinising key “public purse” implications

RaISe – Public Finance Scrutiny Unit

This Review of Costs aims to support Northern Ireland Assembly Members in their plenary, committee and constituency capacities, when scrutinising key potential implications for the “public purse”, if the Criminal Justice (Sentencing etc) Bill would be enacted as introduced. It relies on the Bill’s accompanying Explanatory and Financial Memorandum and other relevant sources; and should be read in conjunction with RaISe Bill Paper [NIAR 65-2026](#) (dated 11 May 2026), addressing the Bill’s underlying policy.

This information is provided to a Member of the Legislative Assembly (MLAs) in support of their duties, and is not intended to address the specific circumstances of any particular individual. It should not be relied upon as professional legal advice, or as a substitute for it.

Summary of key points

Aiming to support Northern Ireland Assembly Members when scrutinising the Criminal Justice (Sentencing etc) Bill - as introduced by the Minister of Justice - this Review of Costs examines the Bill's key potential implications for the "public purse". It draws on relevant information set out in the Bill's accompanying Explanatory and Financial Memorandum (EFM), data provided to the Public Finance Scrutiny Unit (PFSU) within the Assembly's Research and Information Service (RaISe) by the Department of Justice (DoJ), available DoJ data relating to its public consultation on the Bill and the wider fiscal and budgetary context in which the Bill would be implemented if enacted.

The Bill is wide-ranging in scope and legislates across several distinct policy areas within the justice system. It does a number of things – namely: implements elements of the Department's long-running sentencing policy review; introduces statutory measures addressing the non-disclosure of victims' remains (Charlotte's Law); creates a statutory aggravator framework for hate crime, vulnerable victims and offences against public workers; reforms suspended sentences; extends the unduly lenient sentence referral scheme; and, increases penalties for certain serious road traffic offences. In total, the Bill contains 51 clauses across eight Parts, including clauses specifying the subsequent introduction of secondary legislation, if the Bill enacted as introduced.

As set out in the EFM, compiled by the DoJ, the Bill would "primarily be delivered within existing resources". . While some provisions appear to be absorbable, it is reasonably foreseeable that others would give rise to potentially significant and recurring resource pressures, particularly when implementing provisions that would result in increased supervision, monitoring or custodial impacts, such as Clauses 8 and 19. In several instances, full costings have yet to be developed and would be brought forward only through post-legislative business cases, meaning key financial information would become available subsequent to the enactment of this primary legislation, when secondary legislation would be proposed..

As with all legislative proposals considered by the Assembly, key potential financial implications of this introduced Bill must be considered within the exceptionally challenging financial and budgetary context in which that Bill would be implemented if enacted. The DoJ is operating under sustained budgetary pressures arising from pay and inflationary costs, as well as rising service demand. For example, in recent years, costs - particularly within the Prison Service - have been rising sharply, with the cost per prisoner place increasing significantly, and in future years expected to continue.

The most substantial and clearly identifiable cost pressure arising from the Bill relates to suspended sentences reform in Part 2. The Bill creates a new suspended sentence order that allows courts to attach a range of community requirements, including unpaid work and supervision, with the stated aim of making suspended sentences more effective in reducing reoffending. While the Bill's policy intent is clear, the operational implications are significant. The Department recognises implementation would require substantial additional capacity within the Probation Board for Northern Ireland (PBNI). Relying on statistics recording current caseloads and sentencing patterns, PBNI's workload under the Bill, if enacted, could increase dramatically, potentially approaching a doubling of its existing caseload if judicial uptake would be high.

Indicative costing work undertaken by the Department suggests additional annual costs potentially ranging from approximately £3.1 million, with community requirements applied in around half of eligible cases, to around £6.25 million in a full uptake scenario. Those DoJ figures exclude further set-up costs and the additional resource demands associated with breaches of suspended sentence orders. Importantly, it must be noted that those costs would be recurring rather than one-off, and they would arise at a time of an already constrained DoJ budget. Though the Department suggested a phased or pilot-based roll-out could help manage affordability and risk here.

Nonetheless, key questions remain as to the timing, duration and funding of such an approach, particularly if bids for additional funding from the Executive would be unsuccessful.

The Department also highlighted potential longer-term economic benefits associated with these sentencing reforms, primarily through reductions in reoffending and consequent downstream savings to the prison system. While such benefits are relevant to value-for-money considerations, this Review of Costs notes that such prospective benefits are uncertain in scale, variable across scenarios and unlikely to translate into immediate savings. Crucially, they would not remove the requirement for substantial upfront investment in probation and community supervision capacity, meaning affordability remains a consideration for Assembly scrutiny.

Other Bill provisions expected to have more modest financial impacts, but several of them give rise to cumulative or ongoing costs, which should be noted. For example, it is expected that the extension of the unduly lenient sentence referral scheme, if enacted as introduced, would increase the number of cases the Public Prosecution Service would consider and the courts would hear, albeit from a very low baseline. The Department estimated this provision could lead to additional legal aid costs in the region of £200,000 per year, alongside increased workload pressures for Public Prosecution Service for Northern Ireland. Moreover, small increases in custodial sentence lengths, albeit some small, that would arise from such referrals would generate ongoing prison costs over time.

As introduced in the Bill, the Charlotte's Law provision requires courts to impose a substantial sentence uplift where an offender fails to disclose the location of a victim's remains. If enacted, it would be expected to affect only a very small number of cases. As such, overall system-wide costs would likely to be limited. However, each marginal increase in sentence length would carry a significant annual cost per prisoner place and the financial impact would need to be assessed given rising prison costs. In this context, the Department maintains the Bill's clearer statutory incentives for disclosure ultimately could reduce some costs; but that would remain to be seen.

The Bill's introduction of statutory aggravators for hate crime, vulnerable victims and offences against public workers, alongside the creation of a new offence of assaulting a public worker, is expected to primarily generate indirect and

system-wide costs. Those include IT changes to support new recording requirements, training and awareness-raising across criminal justice agencies, and potentially modest increases in sentence lengths. While each individual increase may be small, this Review of Costs highlights how it is reasonably foreseeable that cumulative impacts over time, particularly in a system already under pressure, could be financially material.

Similarly, increases to maximum penalties for offences causing death or serious injury by driving are expected to affect very small numbers of cases each year. While the immediate cost impact, if enacted as introduced, would be likely to be limited, it would be reasonably foreseeable that longer custodial sentences - even in a handful of cases - could add to ongoing prison costs, particularly as the cost per prisoner place are continuing to rise.

While the Department stated many of the Bill provisions would be absorbed into existing resources, if enacted as introduced, it also noted other provisions -most notably the reforms to suspended sentences involving community requirements -carry significant and recurring resource implications. The extent to which the DoJ identified, quantified and planned for those implications therefore is a central issue for Assembly scrutiny as the Bill as it progresses through its legislative stages.

A number of provisions in the Bill rely on secondary legislation, which may have costs associated with them. The type of resolutions under which the Bill specifies that those secondary legislation would be laid will impact how Assembly scrutiny would be undertaken, as each type of resolution procedurally requires different things. That is relevant when scrutinising this Bill in terms of both its potential policy and financial implications.

Introduction

On 3 March 2026, the Minister of Justice introduced the [Criminal Justice \(Sentencing etc\) Bill](#) (the Bill) into the Northern Ireland Assembly (the Assembly). The Bill seeks to specify clauses that transpose the principles and purposes of sentencing, sentencing guidance, suspended sentence orders, life sentence tariffs for murder, unduly lenient sentences, Charlotte’s Law, Helen’s Law, a hate crime statutory aggravator, a vulnerable victim aggravator and sentences for offences causing death or serious injury by driving. It also creates a new offence – that is, assaulting a person who delivers a public service, performs a public duty or provides a service to the public, along with a corresponding statutory aggravator – circumstances that make or encourage a harsher sentence. (See RaISe Bill Paper [Paper NIAR 65-2026](#) (dated 11 May 2026) for further information about the individual Bill clauses.¹)

This Review of Costs aims to support Northern Ireland Assembly Members in their plenary, committee and constituency capacities, when scrutinising key implications that could arise from the introduced Bill for the “public purse”, based upon the Bill’s accompanying Explanatory and Financial Memorandum (EFM). (A definition of the “public purse” is provided in section 1 below.) It draws on information available to the RaISe-Public Finance Scrutiny Unit (PFSU) at the time of writing. Its contents are not intended to be exhaustive and are structured as follows:

- [Section 1 - Background to the Bill proposals;](#)
- [Section 2 – Bill, as introduced](#)
- [Section 3 – Challenging financial and budgetary context;](#)
- [Section 4 – Key potential “public purse” considerations;](#)
- [Section 5 – Use of secondary legislation;](#) and,
- [Section 6 – Concluding remarks.](#)

¹ Available at Northern Ireland Assembly, [Research and Information Service Publications 2026](#) (NIAR-65-2026)

Included throughout are potential scrutiny points in blue boxes, which Members, including those in the Committee for Justice, may wish to draw on.

1 Background to the Bill proposals

According to the [EFM](#) accompanying the introduced Bill:

This Bill will make provision in relation to the policy issues arising from the Department's Sentencing Policy Review; offenders who fail to disclose information about victims' remains; and a statutory aggravator model for hate crime offences.²

As noted, the Bill addresses three distinct policy areas within the Department of Justice (DoJ) portfolio – those are, sentencing policy, non-disclosure of victim's remains and aggravation by hostility. To understand each, the following subsections provide key background information concerning them, including development of the related individual Bill clauses.

1.1 Sentencing Policy Review

On 9 June 2016, the then Justice Minister [announced](#) a review of sentencing, as highlighted in the Bill's EFM:

The Review planned to look at the legislative framework for certain categories of crime, the setting of tariffs for murder, the arrangements for unduly lenient sentences and the effectiveness of the current sentencing guidelines mechanism to enhance public confidence, consistency and transparency in sentencing.³

Thereafter, the DoJ launched a consultation on 28 October 2019, which ran until 3 February 2020⁴. And then, on 21 April 2021, it published the [Sentencing Review Policy Consultation Report and Way Forward](#), which concluded:

² [EFM - Criminal justice \(sentencing etc\) bill ,as introduced](#)

³ See footnote 2 immediately above

⁴ <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/summary-of-responses-sentencing-review.pdf>

In taking this work forward the Review Team recognises that some of the Minister's decisions may be dealt with administratively, others will require legislative change.

It is considered appropriate that all legislative recommendations should be delivered together in a single focussed Sentencing Bill.⁵

1.2 Non-disclosure of the victim's remains

On 28 September 2020, the Northern Ireland Assembly debated a motion on the [Introduction of Legislation Equivalent to Helen's Law](#). As noted in the Bill's EFM, the Justice Minister spoke at that Assembly debate, stating:

...expressed her intention to give careful consideration to the need for change in murder cases where the suspect or offender refused to provide information about the location of their victim's remains ('no body' murders); and, if change was appropriate, how this could be best tailored for Northern Ireland.⁶

Thereafter, the DoJ considered , a number of recommendations and published them for public consultation - entitled [Consultation on Charlotte's Law](#) – which ran from 29 November 2021 until 14 February 2022. The subsequent [Summary of responses and way forward](#) informed the drafting of this Bill.

1.3 Aggravation by hostility

On 6 June 2019, the DoJ [announced](#) the appointment of an independent review into hate crime legislation in Northern Ireland to be conducted by Judge Marrinan. On 1 December 2020, the [Hate Crime Legislation in Northern Ireland - Independent Review](#) was published. As noted in the current's Bill's EFM, the aim of that commissioned Review was to:

...consider [...] whether the existing legislation represents the most effective approach for the justice system to deal with criminal conduct

⁵ <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/sentencing-review-policy.pdf>

⁶ See footnote 2

*motivated by hatred, malice, ill-will or prejudice, including hate crime and abuse which takes place online.*⁷

The EFM further explains that the hate crime clauses in the Bill seek to respond to the findings of that Review, stating:

*The provision of a new statutory aggravation model for prosecuting hate crimes in Northern Ireland was sought on the basis of recommendations from Judge Marrinan's Review.*⁸

2 Bill, as introduced

The [Bill, as introduced](#), has 8 Parts, containing 51 clauses and 7 schedules, as follows:⁹

- **Part 1 – Exercise of court's discretion when sentencing** - *Sets out the purposes and principles of sentencing to which the Court must have regard in certain circumstances when sentencing adult offenders. It also creates a duty for the court to follow any relevant sentencing guidance.*
- **Part 2 – Availability and effect of suspended sentence orders** - *creates a new suspended sentence order for adult offenders. A suspended sentence order is an order that suspends a sentence of imprisonment or (in the case of a person under the age of 21) detention in a young offender's centre for a certain period, referred to as the operational period. Where the offence is not a serious offence the court may make a suspended order if the term of the sentence is not more than 2 years. Where the offence is a serious offence, the court may make a suspended sentence order if the term of the sentence is not more than 7 years. A suspended sentence order may specify one or more community requirements, such as requiring an offender to work unpaid, or to be subject to a curfew. Where a community requirement is*

⁷ See footnote 2

⁸ See footnote 2

⁹ See footnote 2

imposed the offender will be under the supervision of the responsible officer, during a period referred to as the supervision period.

- **Part 3 – Life sentences** - *makes provision in respect of mandatory life sentences for adults. It places a duty on the court, when passing a life sentence, under paragraph (1) or (3) of Article 5 of the Life Sentences (Northern Ireland) Order 2001 (“the 2001 Order”), to state in open court its reasons for deciding such a sentence and explain to the offender the effect of it. It also provides that when passing a life sentence for the offence of murder, where the offender was aged 18 or over when the offence was committed.*
- **Part 4 – Unduly lenient sentences** – *makes provision allowing any case in which a person is sentenced by the Crown Court, to be referred to the Court of Appeal by the Director of Public Prosecutions where it appears the Director that the sentencing has been unduly lenient. Provision is also made for the arrangements to apply to sentences imposed on summary trial for offences of a description specified by the Department in regulations.*

The provisions allow for referral to the Supreme Court on a point of law, by either the Director of Public Prosecutions or the offender to whom the sentencing relates, after the Court of Appeal has concluded its review. Such a referral may only be made with the leave of the Court of Appeal or the Supreme Court.

- **Part 5 – Failure to disclose information about a victim’s remains** – *provides that where –*
 - *a person has been convicted of murder or manslaughter;*
 - *the court dealing with the offender does not know where the victim’s remains were disposed of;*
 - *the court believes the offender has information about where or how the victim’s remains were disposed of;*

- *the court is imposing a custodial sentence of a kind specified in this Part,*

The sentence passed by the court must contain an additional custodial period to take account of effect of the non-disclosure, unless the court considers it would be contrary to the interests of justice.

This Part also allows that where an offender, in respect of whom a specified custodial sentence has been passed in accordance with this Part, makes a statement which contains information about where or how the victim's remains were disposed of (whether or not that information leads to the recovery of the body), and that statement is not rejected by the Department, the Department must reduce the additional custodial period in line with the calculation set out in this Part.

- **Part 6 – Particular persons or groups** - *creates a number of statutory aggravators in respect of aggravation by hostility, aggravation by reason of vulnerability and aggravation where an offence is committed against a public worker. It also creates a new offence of assault on a public worker or a person assisting a public worker who is acting in exercise of their functions.*
- **Part 7 – Road traffic offences** - *makes provision increasing penalties for certain road traffic offences where death or serious injury is caused. In determining the maximum sentence or the period of disqualification for certain repeat offences regard is had to the offender's previous convictions. Schedule 6 makes amendments relating to the extension of disqualification for driving which will reflect any custodial period imposed by a court at the same time as the driving ban.*
- **Part 8 – General** - *makes general provision including general regulation making powers, interpretation, transitional and saving provisions and commencement.*

3 Challenging financial and budgetary context

Before considering key public purse implications arising from the introduced Bill, some additional context-setting information is provided to highlight the challenging financial and budgetary context in which Assembly Members considers the introduced Bill. Initially, the term “public purse” is defined, followed by an overview summarising the challenging budgetary environment within which the DoJ is currently operating.

3.1 “Public purse” defined

In Northern Ireland, the public purse encompasses the Northern Ireland Block Grant from His Majesty’s (HM) Treasury; revenues raised regionally; and other funding sources. The Northern Ireland Executive is responsible for allocating those monies through the Executive Budget, which it is to do so in line with the financial arrangement sunder current devolution, including requirements specified in the [Budget Sustainability Plan](#) and the accompanying [Budget Improvement Plan Roadmap](#), which collectively aim to improve Northern Ireland public finances, while seeking to balance numerous competing priorities and demands for limited available funding.

If the Bill would be enacted, as introduced, the DoJ then would be responsible for covering costs arising when implementing the Bill, including the specified statutory duties. At the given time, the DoJ would do so using its budget and/or seeking additional monies from the Executive.

3.2 Budgetary Context – central and devolved – generally speaking

The central and devolved budgetary contexts remain challenging across the United Kingdom, due to a number of contributory factors that are relevant to Assembly consideration of this Bill. **Table 1** below summarises the most significant developments from February 2024 to the time of writing.

Table 1: Challenging budgetary context - Contributory factors dating from February 2024 to present

| Date | Contributory Factors |
|------------------------------|--|
| February 2024 to date | Ongoing work across Northern Ireland Departments to facilitate the Executive’s implementation of the December 2023 political agreement and related February 2024 funding package – such as the Interim Fiscal Framework (May 2024), the Budget Sustainability Plan (October 2024) and the accompanying Budget Improvement Plan Roadmap (December 2024), as well as the establishment of Interim Transformation Board (March 2025). Generally speaking, all have aimed to improve Northern Ireland public finances, while seeking to balance numerous competing priorities and demands for limited available funding. |
| August 2024 | The Department of Finance (DoF) undertook a 2025-28 Budget Information Gathering Exercise, requesting returns from all Northern Ireland Departments, marking the start of the planning stage in the 2025/26 Northern Ireland Executive Budget cycle. The DoF found that “Departments identified a reported £767 million of unfunded pressures”, as reported to the Assembly on 23 September 2024. |
| October 2024 | The Chancellor’s Autumn Budget 2024 set out some of the multi-year competing pressures facing the United Kingdom Government, potentially adversely impacting the Government’s spending power in certain areas, along with other decisions relating to social security - see RaISe Briefing Paper 47/24 entitled “ Chancellor’s Autumn Budget 2024: initial considerations for Northern Ireland ”. |
| December 2024 | Northern Ireland Departmental bids for 2025/26 resource and capital expenditure exceeded the Northern Ireland Budget allocated by the United Kingdom Government to the Executive. Later that month, the 2025/26 Draft Executive Budget and accompanying Written Statement by the Minister for Finance highlighted ongoing “pay and inflationary pressures” and “growing demands” on public services. |
| March 2025 | The Chancellor’s 2025 Spring Statement updated the House of Commons on the United Kingdom economy and public finances. Her Statement was accompanied by an Economic and Fiscal Forecast from the Office for Budget Responsibility (OBR). It also announced a number of policy decisions, which included reforms |

| | |
|-------------------------|---|
| | to the welfare system, increased defence spending and a £3.25 billion (b) " Transformation Fund " to reform public services. (Important to note this central government development, as the Northern Ireland Executive Budget is a sub-cycle within the United Kingdom Government's Budget cycle.) |
| 1 April 2025 | DoF officials thereafter explained during the Assembly Finance Committee meeting that: <i>.... on the allocations out of that fund, it will depend on which Whitehall departments get allocations from it so we don't get it on the £3.25 billion we'll get it on the allocations</i> |
| 3 April 2025 | The Executive agreed the 2025/26 Executive Budget , which as the Finance Minister described "sets out a direction of travel" which "clearly prioritises its Programme for Government priorities". |
| 4 April 2025 | The context significantly changed when the American President announced substantial trade tariffs, which followed with: plummeting stock markets across the globe, a collapsing American bond market; the subsequent 9 April 90-day pause on some new US tariffs; other countries' similar pause, further consideration of introducing tariffs or issuance of retaliatory tariffs on the United States (US); and, a international trade war arising between the US and China. |
| 8 May 2025 | A non-binding trade deal was agreed by between the US and UK Governments. The general terms of the new trade deal where subsequently published in the UK-US Economic Prosperity Deal (EPD); the deal non-binding, meaning on-going further negotiations to work through the detail of the deal. |
| 24 June 2025 | The DoF published its 2025-26 Budget Factsheet , setting out the Executive's spending plans for the one-year period from 1 April 2025 to 31 March 2026. |
| 3 October 2025 | The Executive's Finance Minister provided a Written Ministerial Statement detailing Treasury Funding Available 2026-2029/30 . |
| 26 November 2025 | The Chancellor's Autumn Budget 2025 detailed the United Kingdom Government's resource spending plans up to 2028/29 and capital plans up to 2029/30. |

| | |
|--------------------------------|--|
| <p>6 January 2026</p> | <p>The Finance Minister published the Draft Budget 2026-2029/30 (not Executive agreed) and announced an eight-week public consultation on the proposals.</p> <p>The Education Minister responded to the Draft Budget 2026-2029/30, stating:</p> <p><i>While I acknowledge the significant challenges involved in setting a budget, it is important to be clear: even if I was prepared to accept the devastating cuts implicit in this draft, as a practical matter, such a budget would be undeliverable. A budget must be more than figures on paper; it must be deliverable in reality.</i></p> <p>The Minister continued:</p> <p><i>Under the proposed allocations, my Department would be required to make savings of approximately £826 million in 2026-27, £1.01 billion in 2027-28, and £1.15 billion in 2028-29. These levels of reduction are simply not achievable.</i></p> |
| <p>11 February 2026</p> | <p>HM Treasury agreed a reserve claim for the Northern Ireland Executive, to provide £400 million for 2025/25, which is to be repaid over three years.</p> <p>The Finance Minister confirmed in a written statement that same day that the £400 million would be allocated as follows, as agreed by Executive:</p> <ul style="list-style-type: none"> - Department of Education - £214.6 million - Department of Health - £185.4 million |
| <p>March 2026</p> | <ul style="list-style-type: none"> • On 3 March 2026, the Chancellor delivered her Spring Forecast 2026 <p>Later that day, in an Oral Statement to the Assembly, the Finance Minister confirmed additional £390 million Barnett consequentials over the next three-year period, comprising: Resource DEL - £380 million; and, Capital DEL - £9 million.</p> |

3.3 DoJ allocations in the Finance Minister's January 2026 [Draft Budget](#)

The Draft Budget 2026-2029/30 public consultation document - published by the Northern Ireland Finance Minister on 6 January 2026 - closed on 3 March 2026. That document outlined Departmental proposed allocations, including DoJ's, for the specified period, in terms of RDEL and CDEL, as well as previous Executive commitments and Executive earmarked, as detailed below in Tables 2-4.

Table 2. Draft Budget 2026-2029/30 – DoJ RDEL allocation

| £millions | | | |
|------------|---------|---------|---------|
| Department | 2026-27 | 2027-28 | 2028-29 |
| Justice | 1,575.4 | 1,497.2 | 1,525.7 |

Source: [DoF Draft Budget 2026-2029/30](#)

Table 3. Draft Budget 2026-2029/30 – DoJ CDEL allocations

| £millions | | | | |
|------------|---------|---------|---------|---------|
| Department | 2026-27 | 2027-28 | 2028-29 | 2029-30 |
| Justice | 117.7 | 116.0 | 113.0 | 121.8 |

Source: [DoF Draft Budget 2026-2029/30](#)

Table 4. Draft Budget 2026-2029/30 – DoJ RDEL allocation: Previous Executive Commitments and Additional Executive Earmarked

| £millions | | | |
|---|---------|---------|---------|
| DoJ | 2026-27 | 2027-28 | 2028-29 |
| Previous Executive Commitments | | | |
| Executive Programme on Paramilitarism and Organised Crime | 8.0 | | |
| Statutory Salaries | 3.3 | 3.7 | 4.2 |

| Additional Executive Earmarked | | | |
|---------------------------------------|-------|------|------|
| PSNI Data Breach | 119.0 | - | - |
| PSNI Workforce Recovery | 25.8 | 48.1 | 59.4 |

Source: [DoF Draft Budget 2026-2029/30](#)

Potential scrutiny points:

1. Facing serious budgetary challenges and competing pressures, how would the Minister of Justice ensure there would be appropriate resourcing to ensure the Bill's full implementation?
2. How did the DoJ factor the potential costs arising from this Bill, as introduced, into its return for the Department of Finance's Budget 2025-28 Information Gathering Exercise?
3. Did the DoJ factor into that consideration requirements/conditions arising from the Executive's agreed Budget Improvement and Sustainability Plans?

4 Key potential public purse considerations

To address key potential public purse considerations about the Bill, this section draws on the Bill as introduced, its accompanying EFM,¹⁰ and the related consultation on the policy proposals, as well as a Committee for Justice evidence session with DoJ officials and the Bill's Second Stage debate in the Assembly. It also highlights some "knowns" and apparent "unknowns" at the

¹⁰ Paragraph 90 to 92

time writing, from which reasonably foreseeable potential financial implications arise if the Bill would be enacted as introduced.

4.1 EFM

The financial effects of the introduced Bill are considered at paragraphs 90 to 92 of its accompanying EFM. Paragraph 90 states:

In terms of financial effects, the Bill as a whole will primarily be delivered within existing resources.¹¹

However, paragraph 91 explains:

Some provisions will be the subject of individual costs and benefits analysis and subsequent proportionate business case requiring appropriate approvals, which will be requested from the Department of Finance as required as and where appropriate.¹²

Finally, paragraph 92 further details:

Introduction of community requirements as an option for inclusion with suspended sentences is expected to have significant cost implications for the Probation Board for Northern Ireland. These will be reviewed and subject to a full and up to date costing exercise ahead of implementation.¹³

The EFM, however, also states that “some provisions will be subject to individual cost”. However, those are not detailed. RaISe-PFSU therefore contacted the DoJ, as follows:

...detail the relevant provisions referenced in this paragraph and any initial costing which has been carried out to date on each.

The following sub-sections set out DoJ’s responses to RaISe-PFSU’s request.

¹¹ Criminal Justice (Sentencing etc) Bill [EFM - As Introduced](#) (accessed 8 April 2026)

¹² See footnote 11 immediately above

¹³ See footnote 2

4.2 General costs associated with the Bill

In response to RaISe-PFSU questions, the DoJ addressed anticipated costs arising from the Bill, which if enacted as introduced, would impact not only the Department, but also other bodies, including the Police Service of Northern Ireland (PSNI) and Public Prosecution Service Northern Ireland (PPSNI). The DoJ noted those costs would not be Bill provision specific, but rather would be incurred by the DoJ and other bodies, stating those would include:

- **IT costs** – *There are likely to be IT costs associated with the new recording provisions of the statutory aggravators introduced by the Bill for hate crime, vulnerable victims and assaults on public workers, and also for the recording of victims' occupations in the new public worker offence.*¹⁴
- **Training and/or awareness-raising** - *There will be training and/or awareness-raising requirements across the provisions of the Bill to ensure PSNI, the PPSNI, the courts and the legal professions understand and can comply with the new provisions upon their implementation. We have engaged with stakeholders on these requirements and these are under early consideration. As yet we do not have an indication of likely costs, but these are considered to be normal line of business changes which will be subsumed within resource without additional allocation. A programme of awareness raising will be carried out by the Department as part of its normal implementation work within resource.*¹⁵

As noted, the DoJ considers the above costs to be “normal line of business changes”.¹⁶ However, it is important to note that such costs would need to be accounted for in Departmental budget planning and resource allocated to such IT updates and training programmes and note that the funding needed to meet

¹⁴ Correspondence between RaISe and Department of Justice – 9 April 2026

¹⁵ Correspondence between RaISe and Department of Justice – 9 April 2026

¹⁶ Correspondence between RaISe and Department of Justice – 9 April 2026

those requirements then would be unavailable for other projects that the DoJ would wish to undertake. These would be “opportunity costs”.

4.3 Costs associated with specific provisions of the introduced Bill

The following sub-section details potential costs arising from specific Parts or provisions of the introduced Bill. As noted in the EFM:

Some provisions will be the subject of individual costs and benefits analysis and subsequent proportionate business case requiring appropriate approvals, which will be requested from the Department of Finance as required as and where appropriate.¹⁷

RaISe-PFSU asked the DoJ to identify the provisions noted in its above statement and to detail any assessment that already has been carried out in relation to any potential costs that could arise. In response, the DoJ specified a number of provisions and related potential costs, as follows:

- [Suspended sentences](#)
- [Unduly lenient sentencing](#)
- [“Charlotte’s Law”](#)
- [Statutory aggravators](#)
- [Offence of assaulting a public worker](#)
- [Increased maximum penalty for causing death by driving offences](#)

4.3.1 Suspended sentences

Part 2 of the introduced Bill creates a new suspended sentence order for adult offenders. The Department details:

The aim of the provisions within Part 2 of the Bill is to make the suspended sentence a more impactful, flexible and targeted disposal, with a view to addressing offending behaviour and reducing re-offending.

¹⁷ See footnote 2

The Department considers:

This will be achieved by enabling the courts to attach appropriate community requirements to suspended sentences in appropriate cases. The community requirements proposed by the Bill mirror the community service and probation order requirements that can be imposed in community sentences at present.¹⁸

However, to achieve this stated aim, the Department notes costs would arise, in particular to the Probation Board Northern Ireland (PBNI). The DoJ stated:

It is anticipated that implementation of these provisions will necessitate significant investment in PBNI, who will be tasked with the operational provision and supervision of any community requirements attached by the courts to suspended sentences.

PBNI's current caseload is in the region of just under 4,000 cases per year. Looking at the number of suspended sentences that are imposed each year in the NI courts (also around the 4,000 mark), it becomes clear that full implementation could almost double the demands placed on PBNI.¹⁹

Based on this potential increase in caseload for the PBNI, the Department provided information to give an indication of what potential costs could arise, based on a number of uptake scenarios, suggesting:

It is impossible at this stage to anticipate the level of uptake of these new provisions by the courts, which will dictate the costs of roll-out. However, using the current unit costs for a probation order as a guide, a provisional costing exercise by the Department identified approximate indicative costs could range from:

¹⁸ Correspondence between RaISe and Department of Justice – 9 April 2026

¹⁹ Correspondence between RaISe and Department of Justice – 9 April 2026

- £3.13m if applied in 50% of cases, to £6.25m if applied in all cases²⁰.

Potential scrutiny points:

4. Please detail DoJ's method for calculating potential costs that could arise from the potential PBNI's increased workload, if the Bill would be enacted as introduced?
5. Does that DoJ calculation include additional resource within the PBNI to manage a potential doubling of workload that could arise from the enacted Bill?

In addition:

There would be additional set-up costs, and further costs associated with breaches of orders. The overall cost of implementing the provisions, therefore, will be heavily dependent on the extent to which community elements are applied to suspended sentences by the judiciary.²¹

Potential scrutiny points:

6. Could the Department provide further detail on what these "additional set-up" and "further costs" would be?
7. Has the Department carried out any analysis of such costs based on a variety of potential levels of uptake that could occur?

The Department has considered a "phased roll-out" to implement the Bill, if enacted as introduced. It advised RaISe-PFSU that:

²⁰ Correspondence between RaISe and Department of Justice – 9 April 2026

²¹ Correspondence between RaISe and Department of Justice – 9 April 2026

Some consideration has been given to the possibility of a phased roll-out for particular types of case initially, or pilots in sample court areas to assess the likely uptake. These considerations, along with more detailed analysis of the costs of each type of community requirement will be developed along with funding bids once the provisions have been confirmed when the legislative process is complete.²²

The Department's underlying rationale is not fully detailed. It could be seeking to ensure resource is available to implement the provisions of the Bill in an efficient and effective manner. However, from a funding and cost perspective, the proposed DoJ phased roll-out could ensure, as suggested in the DoJ response, that funding bids would align more closely with the cost of each type of community requirement. Additionally, in a time of constrained departmental budgets, the proposed phased roll-out could allow the Department to absorb the associated costs across a multi-year period, rather than a single lump sum request that could be more difficult to bid for in a time of competing demands across Executive Departments.

Potential scrutiny points:

8. The Committee may wish to ask the Department what planning it has been carried out in relation to a phased roll-out? Over how long a period would such a roll-out take place?
9. If, as suggested, costs would be developed along with funding bids, what impact would there be on community requirement if the Department were unsuccessful in the bidding process?

Despite the increased funding requirements, the Department also considers potential cost savings could arise, if the new sentencing arrangements would be

²² Correspondence between RaISe and Department of Justice – 9 April 2026

implemented and the intended reductions in reoffending would be achieved, explaining:

It is also important to note that, based on analysis conducted by the Department in February 2024, there will potentially be a net economic benefit associated with introducing these new sentencing arrangements, linked to reductions in re-offending and consequent reduced prison costs. By way of illustration, in the event of a full roll-out at the Crown Court, it is estimated that implementing community requirements as an additional element to suspended sentences could have a net economic benefit of between £165,092 (lower estimate) and £1,996,559 (higher estimate). In the event of a full roll-out at the magistrates' court, there is potential for a net economic benefit of between £1,475,444 (lower estimate) and £17,862,507 (higher estimate).²³

DoJ advises RaISe-PFSU that further benefits to the Prison Service could also be achieved, even if those would be considered minimal. The Department contends that:

A further benefit for the prison population may be realised. There may be cases where the court currently considers that only an immediate custodial sentence is suitable; but where a suspended sentence with community requirements may be considered a more effective solution. This is unlikely to translate to a particular saving to the NIPS estate, as it may only transpire in a small proportion of cases; but nonetheless, some reductions in immediate custodial sentences and the associated administrative costs may be possible.

However, as outlined above, there will need to be significant investment in PBNi for these benefits to be realised.²⁴

²³ Correspondence between RaISe and Department of Justice – 9 April 2026

²⁴ Correspondence between RaISe and Department of Justice – 9 April 2026

The Department has detailed these potential economic benefits, a number of considerations arise about them. If enacted as introduced, the costs of implementing the Bill would need to be assumed by the Department and other bodies upfront no matter the level of economic benefit achieved after implementation. Those economic benefits could or could not translate to cost recovery of implementation in whole or in part – for example, the potential net benefits could range significantly between the lower and higher estimates. Finally, the DoJ response suggests those identified would be future benefits for the Department and other bodies. Its response, however, provides little detail on when such benefits could be realised.

Potential scrutiny points:

10. In terms of the potential economic benefits identified by the DoJ in this area, if the Bill would be enacted as introduced, when would the Department anticipate those benefits to be achieved? Please specify.

11. Would those benefits be anticipated by the Department on an annual basis, or would they represent cumulative benefits over a certain period?

4.3.2 Unduly lenient sentencing

Part 4 of the introduced Bill extends the current power of the DPPNI to refer a sentence to the Court of Appeal on the grounds that that DPPNI considers it to be unduly lenient. In response to RaISe-PFSU, the DoJ identified that the potential costs arising from this Part of the Bill and its related provisions could include:

Around 2/3 of the Crown Court's sentences can be referred under existing provisions, so this change will increase the potential numbers of referrals by approximately 50%. The threshold for what can be considered 'unduly lenient' is high, it is not simply that the sentence imposed was lower than that which the Court of Appeal would have imposed. The Court of Appeal has stated that to be

unduly lenient the sentence must fall “outside the range of sentences which the judge, applying his mind to all the relevant factors, could reasonably consider appropriate”.

As a result, very small numbers of referrals are approved by the DPP - on average there are around 5 per year (out of around 750 immediate Crown Court custodial sentences), of which just over half are granted by the Court of Appeal.

The potential cost implications of this change are restricted to four possible areas:

- Firstly, some awareness-raising will be needed. As mentioned above, this will form part of overall awareness-raising associated with the Bill and will be a normal part of the Department’s implementation business expectation.*
- Secondly, the change has been discussed with PPSNI in terms of additional referrals for the DPP to consider. PPS were unable to provide recorded numbers of referrals, but it is fair to assume the numbers will increase.*
- Thirdly, we considered the possible impact on prison spaces on the assumption that potentially 2 or 3 additional sentences each year may be increased on appeal. (although it should be remembered that the Court of Appeal’s power to review sentences does not always mean an increase. Some may be unchanged, while in other cases an unlikely but still possible outcome is that a sentence may be reduced.) While any increases may result in some additional provision in terms of keeping a prisoner for longer, such additional prison days would not amount to a requirement for additional prison estate provision. The vast majority of prison costs relate to the provision and maintenance of prison buildings and staffing costs. Typically these costs are not influenced by the addition or reduction of small numbers of prisoners. We therefore do*

not consider this change will impact more than minimally on prison costs.

- *Finally this change is expected to have a small impact on the legal aid budget. A very preliminary analysis suggests that the change may have cost implications in the region of £200k pa for the legal aid fund, based on an estimate of two to three additional ULS applications per year. Work is ongoing to refine this estimate as part of the legal aid impact assessment process.²⁵*

While the Department considers the number of cases could be low, the potential costs identified by DoJ have not been quantified, apart from estimating an increase of £200,000 per year for the Legal Aid Fund. While training may be assumed into a wider training programme resulting from the Bill as a whole, it should be considered that such training would have costs associated with it in terms of departmental resource. In addition, an increase in workload for PPSNI also could require additional resource (for example additional staff) to handle any increase in workload. While the Department contends that increased sentences would impact minimally on prison costs, those would be on-going costs each year for each prisoner.

It therefore appears from the previous paragraphs that a cumulative cost could arise from this part of the introduced Bill. At present, however, this seems to be an unknown, and costs would be determined by the number of cases each year. In addition, as ULS would become part of the legal system, most of its related costs would be on-going each year, if the Bill would be enacted as introduced.

4.3.3 “Charlotte’s Law”

Part 5 of the Bill introduces Charlotte’s Law, with provisions requiring the court to increase the offender’s custodial sentence by a factor of at least 30% where the location of the victim’s remains have not been disclosed by the time of sentence. It also allows for a reduction if a disclosure is made post-sentence or

²⁵ Correspondence between RalSe and Department of Justice – 9 April 2026

at the parole stage. In response to RaISe-PFSU, the DoJ identified the potential costs that could arise from this Part of the Bill and its related provisions: those include:

It is not considered that any particular costs will arise given the exceptional occurrence of 'no-body' cases: To date there is only one person serving a sentence for a 'no body' killing. This is Johnny Miller who was convicted of and sentenced for Charlotte Murray's murder in 2020. The numbers are likely to remain extremely low.

In terms of impact on prison spaces, it is difficult to predict whether Charlotte's Law will result in significantly different custodial sentences being imposed. In Charlotte's case the sentence was aggravated under existing sentencing guidance to take account of the non-disclosure, and while the exact amount of aggravation was not stated by the Court, it could be extrapolated as reflecting around a 30% increase.

The benefit of the provisions will be the certainty of such an increase; and the prospect of a reduction if a disclosure is made. In effect, therefore, these provisions could result in a slight saving in terms of prison time.²⁶

Based on current analysis from the Northern Ireland Prison Service the current annual cost of holding a prisoner is £57,180²⁷ annually. While initial understanding of this provision would suggest there would be an increase in prison sentence length, which would incur additional cost in holding a prisoner for a longer period, the DoJ response suggests this impact could be limited. As noted, potential cost savings could occur if the provision would increase the number of disclosures that would be made. That in turn could reduce costs relating to prison time, as suggested by DoJ, but also in terms of costs

²⁶ Correspondence between RaISe and Department of Justice – 9 April 2026

²⁷ [NIPS 2024-25 Annual Report and Accounts](#)

associated with post-conviction investigations by the PSNI in terms of continuing searches for remains in “no body” cases.

4.3.4 Statutory aggravators

Part 6 of the Bill introduces statutory aggravators in relation to offences aggravated by hostility by reason of vulnerability and where an offence is committed against a public worker. In response to RaISe-PFSU, the DoJ identified the potential costs that could arise from this Part of the Bill and its related provisions as including:

... associated IT costs along with training and awareness-raising requirements which will be subsumed within existing resource.

The Department does not consider that the implementation of these statutory aggravators will result in significant increases in sentences. Rather they provide a statutory requirement to treat the specified offences more seriously for the purpose of sentencing in place of current sentencing guidance.

The benefit of placing these aggravators in statute is the resultant transparency, acknowledgement, public messaging and recording capabilities that are created.²⁸

While DoJ contends those provisions would “not result in significant increases in sentences”, it, however, should be noted that Clause 36(4)(c) and (d) of the Bill state:

(c) in determining the appropriate sentence, treat the fact that the offence is so aggravated as a factor that increases the seriousness of the offence, and;

(d) in imposing sentence, explain how the fact that the offence is so aggravated affects the sentence imposed²⁹

²⁸ Correspondence between RaISe and Department of Justice – 9 April 2026

²⁹ [Criminal Justice \(Sentencing etc\) Bill \(as introduced\)](#)

The above provisions imply they would increase the sentence, while the length of sentence would not increase by a “significant” amount. The impact on the public purse inevitably would be determined based on the number of convictions and extra months or perhaps years.

4.3.5 Offence of assaulting a public worker

Part 6 also provides for the creation of the new hybrid offence of assaulting a public worker in the course of their work, with a maximum 12-month sentence available in the Magistrates’ Courts – an increase from the current 6-month maximum available at that court tier for assault offences and a 2-year maximum in the Crown Court. In response to RalSe-PFSU, the DoJ identified the potential costs that could arise from this Part of the Bill and its related provisions as including:

As with the other provisions of the Bill, some training requirement does arise to make PSNI, PPS, courts and the legal profession aware of the scope of the new offence – but this is expected to form part of the overall training associated with the Bill and will be absorbed without further cost.

It is not possible to predict how many lengthier custodial sentences will be imposed under this new offence, but it is clear that the new offence will not result in additional convictions (as it will be used as an alternative to existing offences). Any increased custodial sentences for these offences will be limited to relatively short additional periods.

The Department will work with the NI Prison Service to assess and refine any costing figures. The increased maximum penalty of 12 months on summary conviction may result in decisions by PPSNI to prosecute in the magistrates’ court a proportion of cases that would currently be taken in the Crown Court. A small saving in court costs

*could result, but numbers are hard to predict and will not be evident until the provisions have been in operation for a period.*³⁰

4.3.6 Increased maximum penalty for causing death by driving offences

Part 7 of the Bill provides for an increase in the maximum sentence for a range of offences of causing death driving. In response to RaISe-PFSU, the DoJ identified the potential costs arising from this Part of the Bill and its related provisions as including:

*The impact of this increase is intended to result in lengthier custodial sentences for these particular offences. Awareness-raising for courts/judiciary and the legal profession will be required and potential additional prison time may result, however, similar to other areas of the Bill, given the small numbers of convictions for these offences, any costs are expected to be absorbed within existing resource. By way of illustration, in the period 2020 to 2024, there were an average of just over 3 convictions per year for the offence of causing death by dangerous driving. The impact of longer sentences on prison spaces and resultant costs is therefore expected to be negligible.*³¹

Here, it is worth noting the Northern Ireland Prison Service [Annual Report and Accounts 2024-25](#), which state:

*The Cost per Prisoner Place (CPPP), which excludes exceptional payments and the cost of the Prisoner Escorting and Court Custody Services, was £57,180 in 2024-25 (2023-24: £54,024).*³²

The CCCP was reaffirmed by DoJ - in a response to an [Assembly Written Question](#) (AQW) dated 14/04/2026 - confirming the cost of £57,180 in 2024/25, but also noting:

³⁰ Correspondence between RaISe and Department of Justice – 9 April 2026

³¹ Correspondence between RaISe and Department of Justice – 9 April 2026

³² [Northern Ireland Prison Service Annual Report and Accounts 2024-25](#)

Northern Ireland Prison Service costs have increased due to the need to re-open and provide staff for previously closed accommodation to house the increasing numbers of prisoners, in addition to pay and price increases. The trend in recent years suggests that further increases are likely, and the Prison Service is planning on that basis, within the funding it has available.³³

The same AQW detailed that in 2021/22 the CPPP was £44,868. That in turn means over the four years between 2021/22 and 2024/25, the CPPP had risen by just over £12,000 in that time. It seems that such an increase and a continuing trend of increasing CPPP over the coming years should be considered when in terms of the public purse impact of the Bill, if enacted as introduced, on both the DoJ and Executive ongoing budgetary pressures.

4.4 Other potential costs arising

Table 5 below provides analysis of other potential costs arising from the Bill, if enacted as introduced, which had not been included in the DoJ's response to RaISe-PFSU.

Table 5: Other potential costs arising from the Criminal Justice (Sentencing etc) Bill, as introduced

| Areas of potential Cost (Provision of the Bill in which the potential cost applies) | Potential cost pressures identified | Issues for further consideration |
|---|--|---|
| Probation Board and community sentencing (Part 2, Schedules 1 and 2) | <ul style="list-style-type: none"> • Delivery of unpaid work and treatment programmes | <ul style="list-style-type: none"> • Delivery of unpaid work and treatment requirements would incur administration costs. • In addition, treatment programmes could involve the Health Service, which in turn |

³³ <https://aims.niassembly.gov.uk/questions/printquestionssummary.aspx?docid=479669>

| | | |
|--|---|---|
| | | would need additional resource to meet additional demand for services arising from the Bill, if enacted as introduced |
| Prison and custody-related costs (Parts 3, 5 and 7) | <ul style="list-style-type: none"> • Mandatory minimum 30% sentence uplift in “failure to disclose remains” cases • Increased maximum sentences for serious road traffic offences | <ul style="list-style-type: none"> • Longer average periods in custody which would increase the cost to DoJ and Prison Service of holding a prisoner (2024/25 Cost per Prisoner Place £57,180) • Greater pressure on Prison Service resources; therefore the potential need for additional resource within Prison Service would arise |
| Courts, prosecution and legal aid (Part 4 and Schedule 4) | <ul style="list-style-type: none"> • Expansion of the unduly lenient sentence referral scheme. This has the potential to increase the number of Court of Appeal cases and potential Supreme Court involvement. The Bill requires the Director of Public Prosecutions Northern Ireland (DPPNI) to refer a case. This may increase the workload and resource requirements of PPSNI | <ul style="list-style-type: none"> • Legal aid costs for offenders where their sentences have been referred by the DPPNI is explicitly provided for in Schedule 4 of the introduced Bill. Therefore, this could see an increase in legal aid costs which would have a public purse impact |

5 Use of secondary legislation

If enacted, a number of provisions in the Bill would rely on secondary legislation to introduce rules and regulations that would transpose and implement those provisions. In total, those provisions concern the following clauses, as set out in Table 6 below:

Table 6. Clauses relying on secondary legislation

| Clause | Provision | Secondary legislation | How considered by the Assembly under its Standing Orders |
|---|---|------------------------------|---|
| Clause 10(7) | Regulations relating to pre-sentence reports | Regulations | Negative Resolution |
| Clause 15 | Regulations relating to suspended sentence orders | Regulations | Negative Resolution |
| Clause 19(2) and Schedule 3 | New Schedule A1 into the Life Sentence (Northern Ireland) Order 2001): Power to amend provision relating to starting points | Regulations | Draft Affirmative Resolution |
| Clause 20(3)(b) | Unduly lenient sentences – summary trial offences | Regulations | Negative Resolution |
| Clause 23 and paragraph (3) of Schedule 4 | Unduly lenient sentences – Rules of Court | Rules | Negative Resolution |

| | | | |
|----------------------|--|-------------|------------------------------|
| Clause 28(5) and (6) | Relevant disclosures where there has been a failure to disclose victim's remains | Regulations | Draft Affirmative Resolution |
| Clause 35 | Power to add further kinds of hostility | Regulations | Draft Affirmative Resolution |
| Clause 42 | Period of imprisonment for certain repeat offences | Orders | Negative Resolution |
| Clause 46 | Further Provision | Regulations | Draft Affirmative Resolution |

Source: [Delegated Powers Memorandum](#)

The Delegated Powers Memorandum prepared by the DoJ can be found [here](#). In addition, further detail on the secondary legislation can be found in Section 10.1 of RalSe Bill Paper [NIAR 65-2026](#) (dated 11 May 2026).

Potential Scrutiny Points:

12. If the Bill would be enacted as introduced, the Committee for Justice may wish to ask the DoJ for regular updates regarding any costings compiled by the Department when drafting the new rules, regulations or orders.
13. If the Bill would be enacted as introduced, the Committee for Justice may wish to ask DoJ for a briefing on any responses received to any consultations undertaken in relation to the drafting of the noted rules, regulations and order, prior to laying them in the Assembly?

It is important to be aware of the amount of secondary legislation that subsequently would be enacted under this Bill. It also is important to be aware

of the type of resolutions under which the Bill specifies that those secondary legislation would be laid. The type of resolution naturally would impact how Assembly scrutiny would be undertaken, as each type of resolution procedurally requires different things, as highlighted in Table 6 above. That is relevant when scrutinising this Bill in terms of both its potential policy and financial implications. .

As the publication entitled “Deconstructing Legislation: A practical guide to legislative scrutiny” (February 2015) observes::

Given the practical realities of the allocation of Assembly Business...it should be remembered that if the opportunity is not taken at the time of passing the Bill to scrutinise the policy completely and effectively, it may be difficult or impossible to take that opportunity later.³⁴

That publication further advises that while the “affirmative resolution” procedure offers greater opportunity to scrutinise secondary legislation than the “negative resolution” procedure, it recommends use of the former for “potentially controversial powers”, but adds that a debate on an “affirmative resolution” motion:

...is significantly less effective as a method of scrutiny than consideration of provisions of a Bill.³⁵

In this context is the 2021 report of the House of Lords’ Secondary Legislation Scrutiny Committee. Outlining that Committee’s findings, after having reviewed the United Kingdom Government’s use of secondary legislation, rather than primary legislation, to “set out its legislative intent”, that Report stated:

Over recent years, bills – which become Acts of Parliament and which are subject to robust scrutiny in their passage through Parliament – have often provided only the broadest outlines of the direction of policy travel, with all

³⁴ Greenberg, D, Northern Ireland Assembly, Deconstructing Legislation: A practical guide to legislative scrutiny

³⁵ Greenberg, D, Northern Ireland Assembly, Deconstructing Legislation: A practical guide to legislative scrutiny

the details that will have a direct impact on individual members of public left to secondary legislation. And the more that is left to secondary legislation, the greater the democratic deficit because, in contrast to primary legislation, there is relatively scant effective parliamentary scrutiny of secondary legislation; it cannot be amended; in some cases, it may become law without any parliamentary debate; and, because the decision to accept or reject is all or nothing, very rarely will the Houses reject it.³⁶

6 Concluding remarks

The Criminal Justice (Sentencing etc) Bill, as introduced, legislates across a number of policy areas within Northern Ireland's justice system. As noted in the EFM, the Bill, if enacted as introduced:

...[would] make provision in relation to the policy issues arising from the Department's Sentencing Policy Review; offenders who fail to disclose information about victims' remains; and a statutory aggravator model for hate crime offences.³⁷

If enacted, the Bill's implications for the public purse would be mixed and would remain uncertain in some areas for reasons noted in the Paper. In many cases, they would be demand-led. They, however, also would include those that would require a number of up-front costs, notably to train and educate on new the requirements for the justice system and to ensure technology (IT systems) would be able to meet the recording provisions of the Bill.

The DoJ has stated that the introduced Bill would "primarily be delivered within existing resources".³⁸ However, this Review of Costs provides an analysis that evidences some of the Bill proposals indeed would be likely to have minimal or absorbable costs, others - most notably the reforms to suspended sentences involving community requirements. They also would carry potentially significant

³⁶ [Delegated powers and the impact on parliamentary scrutiny: Debate on two committee reports - House of Lords Library](#)

³⁷ [EFM - Criminal justice \(sentencing etc\) bill ,as introduced](#)

³⁸ See footnote 33 immediately above

and recurring resource implications - in particular, the anticipated impact on the Probation Board for Northern Ireland could be substantial, with indicative costs ranging from just over £3 million (m) to more than £6m annually, depending on judicial uptake. Those costs would arise at a time when departmental budgets, and Executive resources more broadly, remain under pressure.

In several areas, the DoJ highlighted for RaISe-PFSU potential long-term economic or societal benefits, including reductions in re-offending and possible downstream savings to the prison system. While such benefits would be relevant to overall value-for-money considerations, they would not negate the need for upfront funding to support implementation, nor would they necessarily translate into direct or immediate savings for the public purse. In this context, the timing, scale and distribution of both costs and benefits would remain critical considerations for Assembly scrutiny of this Bill.

Other provisions of the Bill - such as the extension of the unduly lenient sentence referral scheme, the introduction of Charlotte's Law, statutory aggravators, and increased maximum penalties for certain offences – they would be expected to have more modest financial impacts. Nevertheless, the DoJ noted even small increases in sentence length or case volumes could carry cumulative cost implications over time, particularly against a backdrop of rising CPPP.

A number of provisions in the Bill rely on secondary legislation, which may have costs associated with them. The type of resolutions under which the Bill specifies that those secondary legislation would be laid will impact how Assembly scrutiny would be undertaken, as each type of resolution procedurally requires different things. That is relevant when scrutinising this Bill in terms of both its potential policy and financial implications.

Overall, the Bill sits within an exceptionally challenging financial and budgetary context – both at the central and the devolved government levels. Ongoing pressures arise from pay, inflation, service demand and wider budget improvement and sustainability commitments. Against that backdrop, effective implementation of the Bill would likely depend on effective DoJ prioritisation and planning of its resources and, as indicated by the Department, would include

consideration of phased or targeted roll-out for higher-cost provisions. The degree to which the Department has identified, quantified and or planned for those financial implications therefore needs careful consideration as the Bill progresses through its legislative stages.