Scottish Parliament Information Centre
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Briefing for the Public Petitions Committee on petition PE2248: Stop prison overcrowding by changing how prisoners are released or sentenced, lodged by Joanne Phillips

Introduction

The petition calls on the Scottish Parliament to urge the Scottish Government to "reform sentencing guidelines and expand funding for community-based rehabilitation programmes to safely reduce prison overcrowding".

It expresses support for proposals set out in a Scottish Government consultation on the prison population and penal reform (closed 20 August 2026). In doing so, it highlights a proposal to reintroduce automatic early release for long-term prisoners after serving two-thirds of their sentence.

Background

The operation of prisons and the use of custody have been the subject of considerable debate and scrutiny. Key issues in recent years have included the size of the prison population, reaching record levels, and the associated problem of prison overcrowding.

In September 2025, the Chief Inspector of Prisons for Scotland wrote to the Scottish Government stating that overcrowding "is an invidious and all-pervading evil that affects every aspect of prison life".

In February 2026, the report of an independent Sentencing and Penal Policy Commission was published by the Scottish Government. The report is broad in its scope, covering the prevention of crime; alternatives to prosecution; bail and remand; community and custodial sentences; and release from custody.

In June 2026, the Scottish Government published the above-mentioned consultation on the prison population and penal reform (closed 20 August). The website noted that:

> "This consultation seeks views on a set of proposed reforms to the criminal justice system in Scotland, building on the recommendations of the Sentencing and Penal Policy Commission and seeking to reduce the demand for prison places where appropriate."

The consultation highlighted steps which had already been taken to mitigate a rising prison population but went on to say that they have been insufficient to deliver a sustainable prison population. It sought views on further potential reforms in the following areas:

- strengthening and supporting the use of the presumption against short sentences (e.g. by stating that short sentences should only be used in exceptional circumstances)
- extending the presumption against short sentences from 12 to 24 months
- enhancing and strengthening community sentences (e.g. to help ensure that community payback orders are seen as a credible alternative to custodial sentences)
- electronic monitoring (e.g. strengthening police powers to enforce exclusion zones)
- bail and remand (e.g. providing that a person should be released on bail unless there is a reasonable prospect that conviction will lead to a custodial sentence of at least 24 months)
- automatic early release for long-term prisoners (e.g. reinstating automatic early release after serving two-thirds of the sentence in custody)
- changing the definition of a short-term prisoner to include all those sentenced to less than five years (thus expanding the application of the short-term prisoner automatic early release provisions).

In an initial written response to the petition (October 2026) the Scottish Government comments that, now the consultation has closed, it is considering the submissions ahead of taking any next steps.

More general information on prisons is provided in a SPICe subject profile on prisons (June 2026).

Key organisations

- HM Inspectorate of Prisons for Scotland
- Howard League Scotland
- Scottish Prison Service
- Victim Support Scotland

Frazer McCallum
Senior Researcher
2 November 2026

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot.

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