

EXPLANATORY NOTE

The proposed new section 43A (1) provides that a Court may not sentence a person to imprisonment for less than six months unless, having regard to all the circumstances of the case, including the nature of the person's offence and his character and personal history, the Court has formed the opinion that no way of dealing with him other than imprisonment is appropriate. The section will apply to the treatment penalty prescribed for the offence of burglary which is a crime of violence.

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Supplementary Order Paper

HOUSE OF REPRESENTATIVES

Thursday, the 9th Day of November 1967

CRIMINAL JUSTICE AMENDMENT BILL

Proposed Amendment

Hon. Mr HANAN, in Committee, to move the following amendment:

New Clause

To add to the Bill the following new heading and clause:

Restrictions on Imprisonment

10. Restrictions on imprisonment—The principal Act is hereby further amended by inserting, after section 43, the following section:

“43A. (1) No Court shall sentence any person to imprisonment for a term of less than six months unless, having regard to all the circumstances of the case, including the nature of the person's offence and his character and personal history, the Court has formed the opinion that no way of dealing with him other than imprisonment is appropriate.

“(2) Subsection (1) of this section—

“(a) Is in addition to section 14 of this Act in relation to a person appearing to be under the age of twenty-one years:

“(b) Shall not apply in any case where, pursuant to the express provisions of any enactment, the Court is required to sentence a person to imprisonment.”

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The proposed new section 43A (1) provides that a Court may not sentence a person to imprisonment for less than six months unless, having regard to all the circumstances of the case, including the nature of the person's offence and his character and personal history, the Court has formed the opinion that no way of dealing with him other than imprisonment is appropriate. The section will apply whether the maximum penalty prescribed for the offence is six months or more, or less than six months.

Subsection (2) (a) of the new section makes it clear that the section is in addition to section 14 of the principal Act, which prohibits the imprisonment of a person under 21 unless, having regard to his character and personal history and all the circumstances of the case, the Court forms the opinion that he should be imprisoned notwithstanding his age.

Subsection (2) (b) provides that the new section does not apply where, pursuant to the express provisions of any other enactment, the Court is required to impose a sentence of imprisonment.