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AN BILLE UM AN DLÍ TEAGHLAIGH (CÉILÍ AGUS LEANAÍ A  
CHOSAINT), 1981  
FAMILY LAW (PROTECTION OF SPOUSES AND CHILDREN)  
BILL, 1981

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*Mar a tionscnaíodh  
As initiated*

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ARRANGEMENT OF SECTIONS

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1. Definitions.
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  3. Protection order.
  4. Taking effect of orders.
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ACTS REFERRED TO

Adoption Acts, 1952 to 1974	
Courts Act, 1964	1964, No. 11
Courts Act, 1971	1971, No. 36
Criminal Justice Act, 1951	1951, No. 2
Criminal Law Act, 1976	1976, No. 32
Family Home Protection Act, 1976	1976, No. 27
Family Law (Maintenance of Spouses and Children) Act, 1976	1976, No. 11
Guardianship of Infants Act, 1964	1964, No. 7
Landlord and Tenant Acts, 1931 to 1978	
Rent Restrictions Acts, 1960 and 1967	
Statute of Limitations, 1957	1957, No. 6





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FAMILY LAW (PROTECTION OF SPOUSES AND CHILDREN)  
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# BILL

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*entitled*

AN ACT TO MAKE FURTHER PROVISION FOR THE PRO-  
TECTION OF A SPOUSE AND ANY CHILDREN WHOSE  
SAFETY OR WELFARE REQUIRES IT BECAUSE OF  
THE CONDUCT OF THE OTHER SPOUSE, AND TO PRO- 10  
VIDE FOR OTHER CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definitions.

1.—In this Act—

“applicant spouse” has the meaning assigned by *section 2* of this 15  
Act;

“barring order” has the meaning assigned by *section 2* of this  
Act;

“child” means any child of either the applicant spouse or the respond-  
ent spouse or of both of them or adopted by either or both of them  
under the Adoption Acts, 1952 to 1974, or in relation to whom either 20  
or both of them is or are *in loco parentis*, provided that he is under  
the age of eighteen years or, if over that age, is suffering from mental  
or physical disability;

“the Court” means the Circuit Court or the District Court;

“protection order” has the meaning assigned by *section 3* of this 25  
Act;

“respondent spouse” has the meaning assigned by *section 2* of this  
Act.

Barring order.

2.—(1) On application to it by a spouse (in this Act called the  
“applicant spouse”), the Court may, if it is of opinion that there are 30  
reasonable grounds for believing that the safety or welfare of that  
spouse or of any child so requires, by order (in this Act called a  
“barring order”)—

(a) direct the other spouse (in this Act called the “respondent  
spouse”), if residing at a place where the applicant spouse 35  
or the child resides, to leave that place, and



- (b) whether the respondent spouse is or is not residing at that place; prohibit that spouse from entering that place until further order by the Court or until such other time as the Court shall specify.
- 5 (2) A barring order may, if the Court thinks fit, prohibit the respondent spouse from using or threatening to use violence against, molesting or putting in fear the applicant spouse or any child and may be made subject to such exceptions and conditions as the Court may specify.
- 10 (3) A barring order, and any exceptions or conditions to which it was made subject, may be varied by the Court on the application of either spouse.
- (4) A barring order, if made by the District Court or by the Circuit Court on appeal from the District Court, shall, subject to *section 11* of this Act, expire twelve months after the date of its making.
- 15 (5) On or before the expiration of a barring order a further barring order may be made with effect from the expiration of the first-mentioned barring order.
- (6) For the purposes of *subsection (1)* of this section an applicant spouse or a child who would, but for the conduct of the respondent spouse, be residing at a place shall be treated as residing at that place.
- 20 3.—(1) If, between the making of an application for a barring order and its determination, the Court is of opinion that there are reasonable grounds for believing that the safety or welfare of the applicant spouse or of any child so requires, the Court may make an order (in this Act called a "protection order") that the respondent spouse shall not use or threaten to use violence against, molest or put in fear the applicant spouse or the child. Protection order.
- (2) A protection order may be made notwithstanding that the summons in relation to the application for a barring order has not been served on the respondent spouse.
- 30 (3) A protection order shall cease to have effect on the determination by the Court of the application for a barring order.
- 4.—(1) A barring order or a protection order shall take effect on notification of its making being given to the respondent spouse. Taking effect of orders.
- 35 (2) Oral communication to the respondent spouse by or on behalf of the applicant spouse of the fact that a barring order or a protection order has been made, together with production of a copy of the order, shall, without prejudice to the sufficiency of any other form of notification, be taken to be sufficient notification to the respondent spouse of the making of the order.
- 40 (3) If the respondent spouse is present at the sitting of the Court at which the barring order or protection order is made, that spouse shall be taken, for the purposes of *subsection (1)* of this section, to have been notified of its making.
- 45 (4) An order varying a barring order shall take effect on notification of its making being given to the spouse other than the spouse who applied for the variation, and for this purpose *subsections (2) and (3)* of this section shall apply with the necessary modifications.
- 50 5.—(1) The Court, on making, varying or discharging a barring order or a protection order, shall cause a copy of the order in question to be given or sent as soon as practicable to the applicant spouse, the respondent spouse and the member of the Garda Síochána in charge of the Garda Síochána station for the area in which is situate the place in relation to which the application for the barring order was made. Copies of orders to be given to spouses and Garda Síochána.
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(2) Non-compliance with *subsection (1)* of this section shall not affect the validity of the order.

Offences.

6.—(1) A respondent spouse who contravenes a barring order or a protection order or, while a barring order is in force, refuses to permit the applicant spouse or any child to enter and remain in the place to which the order relates or does any act for the purpose of preventing that spouse or child from doing so shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200 or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both. 10

(2) *Subsection (1)* of this section is without prejudice to the law as to contempt of court or any other liability, whether civil or criminal, that may be incurred by the respondent spouse.

Power of arrest.

7.—A member of the Garda Síochána may, on complaint being made to him by or on behalf of the applicant spouse, arrest the respondent spouse without warrant where the member has reasonable cause for believing that the respondent spouse is committing or has committed an offence under *section 6* of this Act. 15

Offences committed on bail.

8.—(1) Where a person charged with an offence under *section 6* of this Act is released on bail and commits an offence under that section while so released, any sentences of imprisonment passed on that person for offences under that section shall be consecutive. 20

(2) *Subsection (1)* of this section shall apply notwithstanding anything contained in *section 5* of the Criminal Justice Act, 1951, or *section 13* of the Criminal Law Act, 1976. 25

Application of section 9 (2) of Family Home Protection Act, 1976, to barring orders, etc.

9.—(1) *Section 9 (2)* of the Family Home Protection Act, 1976 (which restricts the right of a spouse to dispose of or remove household chattels pending the determination of matrimonial proceedings) shall apply between the making of an application for a barring order and its determination, and, if a barring order is made, while that order is in force, as it applies between the institution and final determination of matrimonial proceedings. 30

(2) For the avoidance of doubt, it is hereby declared that the court which is empowered under paragraph (b) of the said *section 9 (2)* to grant permission for any disposition or removal of household chattels is, notwithstanding anything in *section 10* of that Act, the court before which the proceedings (including any proceedings for a barring order) have been instituted. 35

Effect of appeal from orders.

10.—(1) An appeal from a barring order shall, if the court that made the order or the court to which the appeal is brought so determines (but not otherwise), stay the operation of the order on such terms (if any) as may be imposed by the court making the determination. 40

(2) An appeal from a protection order shall not stay the operation of the order. 45

Discharge of orders.

11.—(1) Either spouse may apply for the discharge of a barring order or a protection order to the court that made the order and thereupon the court shall discharge the order if it is satisfied that the safety or welfare of the spouse or child for whose protection the order was made does not require that the order should continue in force. 50



(2) On the determination of any matrimonial cause or matter between the spouses or of any proceedings between them under the Guardianship of Infants Act, 1964, the court determining any such cause, matter or proceedings may, if it thinks fit, discharge any barring order or protection order directed against one of them.

12.—The jurisdiction vested in the Court by this Act may be exercised—

Exercise of jurisdiction by Court.

(a) as regards the Circuit Court, by the judge of the circuit, and

10 (b) as regards the District Court, by the justice of the District Court for the time being assigned to the district,

where the applicant spouse resides or where there is situate the place in relation to which the application for a barring order was made.

13.—Rules of court may make provision for the expeditious hearing of an application for a barring order and for the service of documents otherwise than in accordance with section 7 of the Courts Act, 1964 (as amended by section 22 of the Courts Act, 1971).

Rules of court.

14.—(1) Proceedings under this Act shall be heard otherwise than in public.

Hearing of proceedings under this Act.

20 (2) Proceedings under this Act in the Circuit Court, and in the High Court on appeal from the Circuit Court, may be heard in chambers.

15.—The costs of any proceedings under this Act shall be in the discretion of the Court.

Costs.

16.—(1) Where, by reason only of a barring order, a person is not residing at a place during any period, he shall be deemed, for the purposes of any rights under the Landlord and Tenant Acts, 1931 to 1978, the Statute of Limitations, 1957, or the Rent Restrictions Acts, 1960 and 1967, to be residing at that place during that period.

Saving provisions.

30 (2) Except in so far as the exercise by a respondent spouse of a right to occupy the place to which a barring order relates is suspended by virtue of the order, the order shall not affect any estate or interest in that place of that spouse or any other person.

17.—(1) Section 22 of the Family Law (Maintenance of Spouses and Children) Act, 1976, and the words "or 22" in section 9 (3) of the Family Home Protection Act, 1976, are hereby repealed.

Repeals and transitional provisions.

(2) This Act (except section 5) shall apply to an order made under the said section 22 which is in force at the commencement of this Act as if it were a barring order which included the prohibition referred to in section 2 (2) of this Act.

40 (3) An application made to the High Court under the said section 22 and not determined before the commencement of this Act may be dealt with by that court under this Act.

45 (4) An application made otherwise than to the High Court under the said section 22 and not determined before the commencement of this Act shall be treated as if it had been made under section 2 of this Act.



(5) An order made by the High Court under the said section 22 which is in force at the commencement of this Act, or a barring order made by that court under *subsection (3)* of this section, shall, if due to expire more than twelve months after the date of its making, be treated as if it had been made by the Circuit Court and, in any other case, as if it had been made by the District Court.

Commencement.       **18.**—This Act shall come into operation one month after the date of its passing.

Short title.           **19.**—This Act may be cited as the Family Law (Protection of Spouses and Children) Act, 1981. 10



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(CÉILÍ AGUS LEANAÍ A CHOSAINT), 1981

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BILLE

(*mar a tionscnaíodh*)

*dá ngairtear*

Acht do dhéanamh socrú breise do chosaint céili agus aon leanaí a n-éilíonn a sábháilteacht nó a leas é de dheasca iompar an chéile eile, agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis na nithe sin.

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*An tAire Dlí agus Cirt a thólaic,  
1 Aibreán, 1981*

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BAILE ÁTHA CLIATH:  
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Le ceannach díreach ón Oifig Dhíolta Foilseachán Rialtais, An Stua, Ard Oifig an Phoist, Baile Átha Cliath, nó trí aon díoltóir leabhar.

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(*as initiated*)

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An Act to make further provision for the protection of a spouse and any children whose safety or welfare requires it because of the conduct of the other spouse, and to provide for other connected matters.

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*Presented by the Minister for Justice,  
1st April, 1981*

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