



AN BILLE UM FHORÉIGEAN BAILE, 1995
DOMESTIC VIOLENCE BILL, 1995

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As initiated

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ACTS REFERRED TO

Adoption Acts, 1952 to 1991	
Adoption Act, 1991	No. 14 of 1991
Age of Majority Act, 1985	No. 2 of 1985
Child Care Act, 1991	No. 17 of 1991
Courts Act, 1964	No. 11 of 1964
Courts Act, 1971	No. 36 of 1971
Family Home Protection Act, 1976	No. 27 of 1976
Family Law (Maintenance of Spouses and Children) Act, 1976	No. 11 of 1976
Family Law (Protection of Spouses and Children) Act, 1981	No. 21 of 1981
Guardianship of Infants Act, 1964	No. 7 of 1964
Health Act, 1970	No. 1 of 1970
Housing (Private Rented Dwellings) Acts, 1982 and 1983	
Interpretation Act, 1937	No. 38 of 1937
Judicial Separation and Family Law Reform Act, 1989	No. 6 of 1989
Landlord and Tenant Acts, 1967 to 1994	
Offences against the Person Act, 1861	24 & 25 Vict. c. 100
Status of Children Act, 1987	No. 26 of 1987
Statutes of Limitation, 1957 and 1991	



AN BILLE UM FHORÉIGEAN BAILE, 1995
DOMESTIC VIOLENCE BILL, 1995

BILL

entitled

5 AN ACT TO MAKE PROVISION FOR THE PROTECTION OF
A SPOUSE AND ANY CHILDREN OR OTHER DEPENDENT PERSONS, AND OF PERSONS IN OTHER DOMESTIC RELATIONSHIPS, WHOSE SAFETY OR WELFARE REQUIRES IT BECAUSE OF THE CONDUCT OF
10 ANOTHER PERSON IN THE DOMESTIC RELATIONSHIP CONCERNED AND FOR THAT PURPOSE TO REPEAL AND RE-ENACT WITH AMENDMENTS THE PROVISIONS OF THE FAMILY LAW (PROTECTION OF SPOUSES AND CHILDREN) ACT, 1981, TO PROVIDE
15 FOR ARREST WITHOUT WARRANT IN CERTAIN CIRCUMSTANCES, TO PROVIDE FOR THE HEARING AT THE SAME TIME OF CERTAIN APPLICATIONS TO A COURT UNDER MORE THAN ONE ENACTMENT FOR ORDERS RELATING TO DOMESTIC RELATIONSHIPS
20 AND TO PROVIDE FOR OTHER CONNECTED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1.—(1) In this Act, except where the context otherwise requires— Interpretation.

25 “applicant”, where appropriate, has the meaning assigned by either section 2 or 3 or by both of those sections and where an interim barring order has been made the applicant for the barring order to which the interim barring order relates shall be deemed to be the applicant for the interim barring order and where a protection order has been made the applicant for the safety order or the barring order
30 to which the protection order relates shall be deemed to be the applicant for that protection order;

“barring order” has the meaning assigned by section 3;

“civil proceedings under this Act” means—

35 (a) proceedings for the making, variation or discharge of a safety order or a barring order,

(b) proceedings, consequent on the making of an application for a barring order, for the making, variation or discharge of an interim barring order which relates to the application,

(c) proceedings, consequent on the making of an application for a safety order or barring order, for the making, variation or discharge of a protection order which relates to the application,

(d) any proceedings by way of appeal or case stated which are related to proceedings to which *paragraph (a), (b) or (c)* applies; 5

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

“dependent person”, in relation to the applicant or the respondent or both of them, as the case may be, means any child— 10

(a) of the applicant and the respondent or adopted by both the applicant and the respondent under the Adoption Acts, 1952 to 1991, or under an adoption deemed to have been effected by a valid adoption order by virtue of section 2, 3, 4 or 5 of the Adoption Act, 1991, or in relation to whom both the applicant and the respondent are *in loco parentis*, or 15

(b) of the applicant or adopted by the applicant under the Adoption Acts, 1952 to 1991, or under an adoption deemed to have been effected by a valid adoption order by virtue of section 2, 3, 4 or 5 of the Adoption Act, 1991, or in relation to whom the applicant is *in loco parentis*, or 20

(c) of the respondent or adopted by the respondent under the Adoption Acts, 1952 to 1991, or under an adoption deemed to have been effected by a valid adoption order by virtue of section 2, 3, 4 or 5 of the Adoption Act, 1991, or in relation to whom the respondent is *in loco parentis*, and the applicant, while not in the same relationship to that child for the purposes of this paragraph as the respondent is in, is in respect of that child a person to whom *paragraph (b)* of this definition relates, 25 30

who is not of full age or if the child has attained full age has a physical or mental disability to such extent that it is not reasonably possible for the child to live independently of the applicant; 35

“full age” has the same meaning as it has in the Age of Majority Act, 1985;

“functions” includes powers and duties;

“health board” means a health board established under the Health Act, 1970; 40

“interim barring order” has the meaning assigned by *section 4*;

“protection order” has the meaning assigned by *section 5*;

“respondent”, where appropriate, has the meaning assigned by either *section 2* or *3* or by both of those sections and where an interim barring order has been made the respondent to the application for the barring order to which the interim barring order relates shall be deemed to be the respondent to the interim barring order and where a protection order has been made the respondent to the application for the safety order or the barring order to which the protection 45

order relates shall be deemed to be the respondent to that protection order;

“safety order” has the meaning assigned by *section 2*;

5 “welfare” includes the physical, emotional and mental welfare of the person in question.

(2) (a) A reference in this Act to a section is a reference to a section of this Act unless it is indicated that a reference to some other Act is intended.

10 (b) A reference in this Act to a subsection or to a paragraph is to the subsection or paragraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

2.—(1) (a) In this section—

Safety order.

15 “the applicant” means a person, other than a health board, who has applied or on whose behalf a health board has applied by virtue of *section 6* for a safety order against another person (in this section referred to as “the respondent”) and the person so applying or on whose behalf the health board has so applied—

20 (i) is the spouse of the respondent, or

(ii) is not the spouse of the respondent but has lived with the respondent as husband or wife for a period of at least six months in aggregate during the period of twelve months immediately prior to the application for the safety order, or

25 (iii) is a parent of the respondent and the respondent is a person of full age who is not, in relation to the parent, a dependent person, or

30 (iv) being of full age resides with the respondent in a relationship the basis of which is not primarily contractual;

35 “kindred”, in respect of two or more persons, means the relationship of each of those persons to the other person or to the rest of those persons by blood, adoption or marriage.

(b) In deciding whether or not a person is residing with another person in a relationship the basis of which is not primarily contractual, the court shall have regard to—

40 (i) the length of time those persons have been residing together,

(ii) the nature of any duties performed by either person for the other person or for any kindred person of that other person,

45 (iii) the absence of any profit or of any significant profit made by either person from any monetary

or other consideration given by the other person in respect of residing at the place concerned,

- (iv) such other matters as the court considers appropriate in the circumstances.

(2) Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the safety or welfare of the applicant or any dependent person so requires, it may, subject to *section 7*, by order (in this Act referred to as a "safety order") direct that the respondent to the application—

- (a) shall not use or threaten to use violence against, molest or put in fear the applicant or that dependent person, and
- (b) if he or she is residing at a place other than the place where the applicant or that dependent person resides, shall not watch or beset the place where the applicant or that dependent person resides,

and the court may make such order subject to such exceptions and conditions as it may specify.

(3) Where a safety order has been made, any of the following may apply to have it varied, that is to say:

- (a) if the application for the order was made by a health board in respect of any dependent person by virtue of *section 6*—
- (i) the health board,
- (ii) the person referred to in *subsection (1) (c)* of that section,
- (iii) a person of full age who was, but no longer is, such dependent person, or
- (iv) the respondent to that application;
- (b) if the applicant for the order was made by a health board in any other case by virtue of *section 6*—
- (i) the health board,
- (ii) the person who was the applicant for the order, or
- (iii) the respondent to that application;
- (c) in any other case—
- (i) the person who was the applicant for the order,
- (ii) the person who was the respondent to the application for the order, or
- (iii) any other person on whose behalf the order was made if such person is of full age and no longer is a dependent person to which the order relates,

and the court upon hearing any such application shall make such order as it considers appropriate in the circumstances.

(4) For the purposes of *subsection (3)*, a safety order made by a court on appeal from another court shall be treated as if it had been made by that other court.

5 (5) A safety order, if made by the District Court or by the Circuit Court on appeal from the District Court, shall, subject to *subsection (6) (a)* and *section 13*, expire five years after the date of its making or on the expiration of such shorter period as the court may provide for in the order.

10 (6) (a) On or before the expiration of a safety order to which *subsection (5)* relates, a further safety order may be made by the District Court or by the Circuit Court on appeal from the District Court for a period of five years, or such shorter period as the court may provide for in the order, with effect from the expiration of the first-mentioned order.

15 (b) On or before the expiration of a safety order to which *paragraph (a)* does not relate, a further safety order may be made with effect from the expiration of the first-mentioned safety order.

20 (7) The court shall not make a safety order on an application for a barring order unless there is also an application for a safety order before the court concerning the same matter.

25 3.—(1) In this section “the applicant” means a person, other than a health board, who has applied or on whose behalf a health board has applied by virtue of *section 6* for a barring order against another person (in this section referred to as “the respondent”) and the person so applying or on whose behalf the health board has so applied—

(a) is the spouse of the respondent, or

30 (b) is not the spouse of the respondent but has lived with the respondent as husband or wife for a continuous period of at least six months during the period of seven months immediately prior to the application for the barring order, or

35 (c) is a parent of the respondent and the respondent is a person of full age who is not, in relation to the parent, a dependent person.

40 (2) (a) Where the court, on application to it, is of the opinion that there are reasonable grounds for believing that the safety or welfare of the applicant or any dependent person so requires, it may, subject to *section 7* and having taken into account any order made or to be made to which *paragraph (a)* or *(d)* of *subsection (2)* of *section 9* relates, by order (in this Act referred to as a “barring order”)—

45 (i) direct the respondent, if residing at a place where the applicant or that dependent person resides, to leave such place, and

50 (ii) whether the respondent is or is not residing at a place where the applicant or that dependent person resides, prohibit that respondent from entering such place until further order of the court or until such other time as the court shall specify.

- (b) In deciding whether or not to grant a barring order the court shall have regard to the safety and welfare of any dependent person in respect of whom the respondent is a parent or *in loco parentis*, where such dependent person is residing at the place to which the order, if made, would relate. 5
- (3) A barring order may, if the court thinks fit, prohibit the respondent from doing one or more of the following, that is to say:
- (a) using or threatening to use violence against the applicant or any dependent person; 10
- (b) molesting or putting in fear the applicant or any dependent person;
- (c) attending at or in the vicinity of, or watching or besetting a place where, the applicant or any dependent person resides; 15
- and shall be subject to such exceptions and conditions as the court may specify.
- (4) In respect of a person who is an applicant by virtue of *paragraph (b) or (c) of subsection (1)*, the court shall not make a barring order in respect of the place where the applicant or dependent person resides where the respondent has a legal or beneficial interest in that place but— 20
- (a) the applicant has no such interest, or
- (b) the applicant's interest is, in the opinion of the court, less than that of the respondent. 25
- (5) Without prejudice to *section 21*, nothing in this Act shall be construed as affecting the rights of any person, other than the applicant or the respondent, who has a legal or beneficial interest in a place in respect of which the court has made an order under this section. 30
- (6) Where a barring order has been made, any of the following may apply to have it varied, that is to say:
- (a) if the application for the order was made by a health board in respect of any dependent person by virtue of *section 6—* 35
- (i) the health board,
- (ii) the person referred to in *subsection (1) (c) of that section,*
- (iii) a person of full age who was, but no longer is, such dependent person, or 40
- (iv) the respondent to that application;
- (b) if the application for the order was made by a health board in any other case by virtue of *section 6—*
- (i) the health board,
- (ii) the person who was the applicant for the order, or 45

(iii) the respondent to that application;

(c) in any other case—

(i) the person who was the applicant for the order,

5 (ii) the person who was the respondent to the application for the order, or

(iii) any other person on whose behalf the order was made if such person is of full age and no longer is a dependent person to which the order relates,

and the court upon hearing any such application shall make such order as it considers appropriate in the circumstances.

(7) For the purposes of *subsection (6)*, a barring order made by a court on appeal from another court shall be treated as if it had been made by that other court.

15 (8) A barring order, if made by the District Court or by the Circuit Court on appeal from the District Court, shall, subject to *subsection (9) (a)* and *section 13*, expire three years after the date of its making or on the expiration of such shorter period as the court may provide for in the order.

20 (9) (a) On or before the expiration of a barring order to which *subsection (8)* relates, a further barring order may be made by the District Court or by the Circuit Court on appeal from the District Court for a period of three years, or such shorter period as the court may provide for in the order, with effect from the expiration of the first-
25 mentioned order.

(b) On or before the expiration of a barring order to which *paragraph (a)* does not relate, a further barring order may be made with effect from the expiration of the first-mentioned barring order.

30 (10) The court shall not make a barring order on an application for a safety order unless there is also an application for a barring order before the court concerning the same matter.

35 (11) For the purposes of *subsections (2) and (3)*, an applicant or a dependent person who would, but for the conduct of the respondent, be residing at a place shall be treated as residing at such place.

4.—(1) If, on the making of an application for a barring order or between the making of such application and its determination, the court is of the opinion that there are reasonable grounds for believing that—

Interim barring order.

40 (a) there is an immediate and serious risk of significant harm to the applicant or any dependent person if the order is not made immediately,

(b) it is likely that the applicant will be deterred or prevented from pursuing or, where *section 6* applies, assisting the application if the order is not made immediately, and

(c) the granting of a protection order would not be sufficient to protect the applicant or any dependent person, 5

the court may, subject to *section 7* and having taken into account any order made or to be made to which *paragraph (a)* or *(d)* of *subsection (2)* of *section 9* relates, by order (in this Act referred to as an "interim barring order")—

(i) direct the respondent, if residing at a place where the applicant or that dependent person resides, to leave such place, and 10

(ii) whether the respondent is or is not residing at a place where the applicant or that dependent person resides, prohibit that respondent from entering such place until further order of the court or until such other time as the court shall specify. 15

(2) *Subsections (3), (4), (5), (6), (7) and (11)* of *section 3* shall apply to an interim barring order as they apply to a barring order.

(3) Where the court in exceptional cases considers it necessary or expedient in the interests of justice, an interim barring order may be made *ex parte* or notwithstanding the fact that the originating document or other notice of the application required to be duly served on the respondent to the application for a barring order has not been so served. 20 25

(4) An interim barring order shall cease to have effect on the determination by the court of the application for a barring order.

Protection order.

5.—(1) If, on the making of an application for a safety order or a barring order or between the making of such an application and its determination, the court is of the opinion that there are reasonable grounds for believing that the safety or welfare of the applicant for the order concerned or of any dependent person so requires, the court may by order (in this Act referred to as a "protection order") direct that the respondent to the application— 30

(a) shall not use or threaten to use violence against, molest or put in fear the applicant or that dependent person, and 35

(b) if he or she is residing at a place other than the place where the applicant or that dependent person resides, shall not watch or beset the place where the applicant or that dependent person resides, 40

and the court may make the protection order subject to such exceptions and conditions as it may specify.

(2) Where a protection order has been made, any of the following may apply to have it varied, that is to say:

(a) if the application for the order was made by a health board in respect of any dependent person by virtue of *section 6*— 45

(i) the health board,

- (ii) the person referred to in *subsection (1) (c)* of that section,
- (iii) a person of full age who was, but no longer is, such dependent person, or
- 5 (iv) the respondent to that application;
- (b) if the application for the order was made by a health board in any other case by virtue of *section 6*—
 - (i) the health board,
 - (ii) the person who was the applicant for the order, or
 - 10 (iii) the respondent to that application;
- (c) in any other case—
 - (i) the person who was the applicant for the order,
 - (ii) the person who was the respondent to the application for the order, or
 - 15 (iii) any other person on whose behalf the order was made if such person is of full age and no longer is a dependent person to which the order relates,

and the court upon hearing any such application shall make such order as it considers appropriate in the circumstances.

20 (3) For the purposes of *subsection (2)*, a protection order made by a court on appeal from another court shall be treated as if it had been made by that other court.

25 (4) A protection order may be made notwithstanding the fact that the originating document or other notice of the application required to be duly served on the respondent to the application for a safety order or a barring order has not been so served.

(5) A protection order shall cease to have effect on the determination by the court of the application for a safety order or a barring order.

30 (6) For the purposes of this section, an applicant or a dependent person who would, but for the conduct of the respondent, be residing at a place shall be treated as residing at such place.

6.—(1) Subject to *subsections (2), (3) and (4)*, this section shall apply where a health board—

Power of health board to apply for certain orders.

35 (a) becomes aware of an alleged incident or series of incidents which in its opinion puts into doubt the safety or welfare of a person (in this section referred to as the "aggrieved person"),

40 (b) has reasonable cause to believe that the aggrieved person has been subjected to molestation, violence or threatened violence or otherwise put in fear of his or her safety or welfare,

- (c) is of the opinion that there are reasonable grounds for believing that, where appropriate in the circumstances, a person would be deterred or prevented as a consequence of molestation, violence or threatened violence by the respondent or fear of the respondent from pursuing an application for a safety order or a barring order on his or her own behalf or on behalf of a dependent person, and 5
- (d) considers, having ascertained as far as is reasonably practicable the wishes of the aggrieved person or, where the aggrieved person is a dependent person, of the person to whom *paragraph (c)* relates in respect of such dependent person, that it is appropriate in all the circumstances to apply for a safety order or a barring order or both in accordance with this Act on behalf of the aggrieved person. 10 15
- (2) A health board may apply to the court on behalf of the aggrieved person for a safety order or a barring order for which the aggrieved person or, where the aggrieved person is a dependent person, the person to whom *subsection (1) (c)* relates in respect of such dependent person could have applied. 20
- (3) Where an application is made by a health board by virtue of this section, the court shall, in determining whether, and if so to what extent, to exercise any of its functions under *section 2, 3, 4, 5 or 13*, have regard to any wishes expressed by—
- (a) the aggrieved person, or 25
- (b) where the aggrieved person is a dependent person, the person to whom *subsection (1) (c)* relates in respect of such dependent person and, where the court considers it appropriate, such dependent person.
- (4) The provisions of *paragraphs (a) and (b) of subsection (1)* need not be complied with— 30
- (a) where the application relates to an aggrieved person who is a dependent person or,
- (b) in respect of so much of an application as relates to an aggrieved person where such person is a dependent person, 35
- if the court is of the opinion that there is reasonable cause to believe that—
- (i) such dependent person has been or is being assaulted, ill-treated, sexually abused or seriously neglected, or 40
- (ii) such dependent person's health, development or welfare has been, is being or is likely to be avoidably impaired or seriously neglected,
- and that if the order is made the likelihood of harm to such dependent person will not arise or will be materially diminished. 45
- (5) The court shall not make a barring order or an interim barring order where the aggrieved person is a dependent person unless the health board satisfies the court that the person to whom *subsection (1) (c)* relates in respect of such dependent person is willing and able to provide reasonable care for such dependent person. 50

(6) (a) The functions of a health board by virtue of this section shall be functions of the chief executive officer of the board.

5 (b) In this subsection "chief executive officer" includes a person acting as deputy chief executive officer in accordance with section 13 of the Health Act, 1970.

7.—(1) Where in proceedings for any order under this Act, other than proceedings to which *section 6* relates, it appears to the court that it may be appropriate for a care order or a supervision order to be made under the Child Care Act, 1991, with respect to a dependent person concerned in the proceedings, the court may, of its own motion or on the application of any person concerned, adjourn the proceedings and direct the health board for the area in which such dependent person resides or is for the time being to undertake an investigation or, as the case may be, further investigations of such dependent person's circumstances.

Power to make orders, etc., under Child Care Act, 1991.

20 (2) Where proceedings are adjourned and the court gives a direction under *subsection (1)*, the court may give such directions under the Child Care Act, 1991, as it sees fit as to the care and custody of, and may make a supervision order under that Act in respect of, the dependent person concerned pending the outcome of the investigation by the health board concerned.

25 (3) Where the court gives a direction under *subsection (1)* in respect of a dependent person, the health board concerned shall undertake an investigation of such dependent person's circumstances and shall consider if it should—

(a) apply for a care order or a supervision order under the Child Care Act, 1991,

30 (b) provide services or assistance for such dependent person's family, or

(c) take any other action in respect of such dependent person.

35 (4) Where a health board undertakes an investigation under this section and decides not to apply for a care order or supervision order under the Child Care Act, 1991, with respect to the dependent person concerned, it shall inform the court of—

(a) its reasons for so deciding,

(b) any service or assistance it has provided, or intends to provide, for such dependent person and his or her family, and

40 (c) any other action which it has taken, or proposes to take, with respect to such dependent person.

45 8.—(1) Subsection (2) of section 9 (which restricts the right of a spouse to dispose of or remove household chattels pending the determination of matrimonial proceedings) of the Family Home Protection Act, 1976, shall apply between the making of an application, against the spouse of the applicant, for a barring order or a safety order and its determination, and if an order is made, while such order

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

is in force, as it applies between the institution and final determination of matrimonial proceedings to which that section relates.

(2) For the avoidance of doubt, it is hereby declared that the court which is empowered under subsection (2) (b) of section 9 of the Family Home Protection Act, 1976, to grant permission for any disposition or removal of household chattels (being household chattels within the meaning of that section) is, notwithstanding anything in section 10 of that Act, the court before which the proceedings (including any proceedings for a barring order or a safety order) have been instituted. 5
10

Hearing of applications under various Acts together.

9.—(1) Where an application is made to the court for an order under this Act, the court may, on application to it in the same proceedings and without the institution of proceedings under the Act concerned, if it appears to the court to be proper to do so, make one or more of the orders referred to in subsection (2). 15

(2) The provisions to which subsection (1) relates are as follows, that is to say:

- (a) an order under section 11 (as amended by the Status of Children Act, 1987) of the Guardianship of Infants Act, 1964;
- (b) an order under section 5, 5A, 6, 7 or 21A of the Family Law (Maintenance of Spouses and Children) Act, 1976 (as amended by the Status of Children Act, 1987); 20
- (c) an order under section 5 or 9 of the Family Home Protection Act, 1976;
- (d) an order under the Child Care Act, 1991. 25

Taking effect of orders.

10.—(1) A safety order, barring order, interim barring order or protection order shall take effect on notification of its making being given to the respondent.

(2) Oral communication to the respondent by or on behalf of the applicant of the fact that a safety order, barring order, interim barring order or 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 of the making of the order. 30

(3) If the respondent is present at a sitting of the court at which the safety order, barring order, interim barring order or protection order is made, that respondent shall be taken for the purposes of subsection (1) to have been notified of its making. 35

(4) An order varying a safety order, barring order, interim barring order or protection order shall take effect on notification of its making being given to the person who was the other party in the proceedings for the making of the safety order or barring order and for this purpose subsections (2) and (3) shall apply with the necessary modifications. 40

Copies of orders to be given to certain persons.

11.—(1) The court, on making, varying or discharging a safety order or a protection order, shall cause a copy of the order in question to be given or sent as soon as practicable— 45

- (a) to the applicant for the safety order or, in respect of a protection order, the applicant for the safety order or barring order concerned,
- 5 (b) to the respondent to the application for the safety order or, in respect of a protection order, the respondent to the application for the safety order or barring order concerned,
- 10 (c) where a health board by virtue of *section 6* made the application for the safety order or, in respect of a protection order, for the safety order or barring order, to the health board,
- (d) to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which the applicant referred to in *paragraph (a)* resides, and
- 15 (e) where the order in question is a variation or discharge of a safety order or a protection order and the applicant referred to in *paragraph (a)* had previously resided elsewhere, to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which that applicant had so resided but only if that member had previously been sent under this subsection a copy of such safety order or protection order or any order relating thereto.
- 20

25 (2) The court on making, varying or discharging a barring order or an interim barring order shall cause a copy of the order in question to be given or sent as soon as practicable to—

- (a) the applicant for the barring order,
- (b) the respondent to the application for the barring order,
- 30 (c) where a health board by virtue of *section 6* made the application for the barring order concerned, the health board,
- (d) 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, and
- 35 (e) where the order in question is a variation or discharge of a barring order or an interim barring order and the place in respect of which the previous order was made is elsewhere, to the member of the Garda Síochána in charge of the Garda Síochána station for the area in which is situated that place but only if that member had previously
- 40 been sent under this subsection a copy of such barring order or interim barring order or any order relating thereto.

(3) The court—

- 45 (a) on making a barring order, a safety order, an interim barring order or a protection order on the application of, or on behalf of, a person who is not of full age, or
- (b) on varying or discharging an order to which *paragraph (a)* relates,

shall cause a copy of the order in question to be given or sent as soon as practicable to the health board for the area in which the person resides.

(4) The validity of any order to which this section relates shall not be affected by non-compliance with the other provisions of this section. 5

Effect of appeal from order.

12.—(1) An appeal from a safety order or 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. 10

(2) An appeal from a protection order or an interim barring order shall not stay the operation of the order.

Discharge of orders.

13.—(1) Where a safety order, barring order, interim barring order or protection order has been made, any of the following may apply to the court that made the order to have the order discharged, that is to say: 15

(a) if the application for the order was made by a health board in respect of any dependent person by virtue of section 6— 20

(i) the health board,

(ii) the person referred to in subsection (1) (c) of that section,

(iii) a person of full age who was, but no longer is, such dependent person, or 25

(iv) the respondent to that application;

(b) if the application for the order was made by a health board in any other case by virtue of section 6—

(i) the health board,

(ii) the person who was the applicant for the order, or 30

(iii) the respondent to that application;

(c) in any other case—

(i) the person who was the applicant for the order,

(ii) the person who was the respondent to the application for the order, or 35

(iii) any other person on whose behalf the order was made if such person is of full age and no longer is a dependent person to which the order relates,

and thereupon the court shall discharge the order if it is of the opinion that the safety and welfare of the applicant or such dependent person for whose protection the order was made does not require that the order should continue in force. 40

5 (2) On determination of any matrimonial cause or matter between the applicant and the respondent 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 safety order, barring order, interim barring order or protection order.

(3) For the purposes of this section, an order made by a court on appeal from another court shall be treated as if it had been made by that other court.

10 14.—(1) The jurisdiction of the court in respect of civil proceedings under this Act may be exercised— Exercise of jurisdiction by court.

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

15 (b) as regards the District Court, by the judge of the District Court for the time being assigned to the district court district,

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

20 (2) For the purposes of *subsection (1)*, the court may treat any person concerned as residing at a place where that person would, but for the conduct of the respondent, be residing at.

25 15.—(1) For the purpose of ensuring the expeditious hearing of applications under this Act, rules of court may make provision for the service of documents otherwise than under section 7 (as amended by section 22 of the Courts Act, 1971) of the Courts Act, 1964, in circumstances to which that section relates. Rules of court.

(2) This section is without prejudice to section 17 of the Interpretation Act, 1937, which provides for rules of court.

30 16.—(1) Civil proceedings under this Act shall be heard otherwise than in public. Hearing of civil proceedings, etc.

35 (2) Where under *section 9* the court hears together applications under several enactments, then the court shall as far as is practicable comply with the requirements relating to the hearing of applications under each of those enactments and the other relevant provisions of those Acts shall apply accordingly.

(3) (a) Civil proceedings under this Act before the District Court shall be as informal as is practicable and consistent with the administration of justice.

40 (b) District Court judges hearing and determining civil proceedings under this Act and barristers and solicitors appearing in such proceedings shall not wear wigs or gowns.

45 (4) Civil proceedings under this Act before the Circuit Court shall be heard by the Circuit Family Court and, accordingly, the provisions of section 32 and subsection (1) and (2) of section 33 of the Judicial Separation and Family Law Reform Act, 1989, shall apply to such proceedings.

(5) The proceedings to which subsections (3) and (4) of section 33 of the Judicial Separation and Family Law Reform Act, 1989, apply shall be deemed to include civil proceedings under this Act.

Offences.

17.—(1) A respondent who—

- (a) contravenes a safety order, a barring order, an interim barring order or a protection order, or 5
- (b) while a barring order or interim barring order is in force refuses to permit the applicant or any dependent person to enter in and remain in the place to which the order relates or does any act for the purpose of preventing the applicant or such dependent person from so doing, 10

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months, or to both.

(2) *Subsection (1)* 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 concerned. 15

Arrest without warrant.

18.—(1) (a) Where a member of the Garda Síochána has reasonable cause for believing that, in respect of an order under this Act, an offence is being or has been committed under *section 17* the member may, on complaint being made to him or her by or on behalf of the person who was the applicant to which the order relates, arrest the respondent concerned without warrant. 20

(b) For the purpose of arresting a respondent under *paragraph (a)*, a member of the Garda Síochána may enter, if need be by force, and search any place where the member, with reasonable cause, suspects the respondent to be. 25

(2) Where a member of the Garda Síochána has reasonable cause for believing that a person (in this section referred to as “the first-mentioned person”) is committing or has committed—

(a) an assault occasioning actual bodily harm, or

(b) an offence under *section 20* (which relates to unlawfully and maliciously wounding or inflicting any grievous bodily harm) of the Offences against the Person Act, 1861, 35

against a person (in this section referred to as “the second-mentioned person”) in circumstances which in the opinion of the member could give rise to the second-mentioned person applying for, or on whose behalf another person could in accordance with this Act apply for, a safety order or a barring order, then the member may— 40

(i) arrest the first-mentioned person without warrant, and 45

(ii) for the purpose of making such an arrest, enter, if need be by force, and search any place where the member, with reasonable cause, suspects the first-mentioned person to be.

19.—The costs of any civil proceedings under this Act shall be in the discretion of the court. Costs.

20.—The Judicial Separation and Family Law Reform Act, 1989, is hereby amended— Amendment of
Judicial Separation
and Family Law
Reform Act, 1989.

5 (a) in section 11, by the substitution of the following paragraph for paragraph (a):

10 “(a) a safety order, barring order, interim barring order or protection order pursuant to section 2, 3, 4 or 5, respectively, of the *Domestic Violence Act, 1995*”;

(b) in section 16, by the substitution of the following paragraph for paragraph (e):

“(e) an order under section 2, 3, 4 or 5 of the *Domestic Violence Act, 1995*”;

15 and

(c) in section 19, by the substitution of “the *Domestic Violence Act, 1995*” for “the Family Law (Protection of Spouses and Children) Act, 1981”.

20 21.—(1) Where, by reason only of an interim barring order or a barring order, a person is not residing at a place during any period, that person shall be deemed, for the purposes of any rights under the Statutes of Limitation, 1957 and 1991, the Landlord and Tenant Acts, 1967 to 1994, and the Housing (Private Rented Dwellings) Acts, 1982 and 1983, to be residing at that place during that period. Saving provisions.

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

30 22.—(1) The Family Law (Protection of Spouses and Children) Act, 1981 (in this section referred to as “the Act of 1981”), is hereby repealed. Repeal and
transitional
provisions.

35 (2) (a) Subject to paragraph (b), this Act shall apply to a barring order made under the Act of 1981 and which is in force, or stayed by virtue of section 10 of that Act, at the commencement of this Act as if it were an order made under section 3.

40 (b) For the purposes of a barring order to which paragraph (a) relates, the reference in section 3 (8) to the expiration of three years after the date of its making shall be construed as a reference to twelve months after the date of its making.

45 (3) An application made to the court under the Act of 1981 for a barring order and not determined before the commencement of this Act shall be treated as if it had been made under section 3.

(4) This Act shall apply to a protection order made under the Act of 1981 and which is in force at the commencement of this Act as if it were an order made under *section 5*.

- Expenses. **23.**—The expenses incurred by the Minister for Equality and Law Reform, the Minister for Health and the Minister for Justice in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas. **5**
- Commencement. **24.**—This Act shall come into operation one month after the date of its passing. **10**
- Short title. **25.**—This Act may be cited as the Domestic Violence Act, 1995.

BRIEF COMMUNICATIONS

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INSTRUCTIONS TO CONTRIBUTORS

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Editorial

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BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do dhéanamh socrú do chosaint céile agus aon leanaí nó daoine cleithiúnacha eile, agus daoine i ngaolmhaireachtaí baile eile, a n-éilíonn a sábháilteacht nó a leas é mar gheall ar iompar duine eile atá sa ghaolmhaireacht bhaile lena mbaineann agus chun na críche sin d'aisghairm, agus d'athachtú maille le leasuithe, fhorálacha an Achta um an Dlí Teaghlaigh (Céilí agus Leanaí a Chosaint), 1981, do dhéanamh socrú le haghaidh gabhála gan bharántas in imthosca áirithe, do dhéanamh socrú go n-éistfeair, ag an am céanna, iarratais áirithe chuig cúirt faoi níos mó ná achtachán amháin ar orduithe a bhaineann le gaolmhaireachtaí baile agus do dhéanamh socrú i dtaobh nithe eile a bhaineann leis na nithe sin.

*An tAire Comhionannais agus Athchóirithe Dlí a thíolaic,
20 Meitheamh, 1995*

BILL

(as initiated)

entitled

An Act to make provision for the protection of a spouse and any children or other dependent persons, and of persons in other domestic relationships, whose safety or welfare requires it because of the conduct of another person in the domestic relationship concerned and for that purpose to repeal and re-enact with amendments the provisions of the Family Law (Protection of Spouses and Children) Act, 1981, to provide for arrest without warrant in certain circumstances, to provide for the hearing at the same time of certain applications to a court under more than one enactment for orders relating to domestic relationships and to provide for other connected matters.

*Presented by the Minister for Equality and Law Reform,
20th June, 1995*

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

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