



DÁIL ÉIREANN

**AN BILLE UM CHEARTAS COIRIÚIL (FAISNÉIS FAOI
CHIONTA IN AGHAIDH LEANAÍ AGUS AOSAIGH
SHOGHONTA A CHOIMEÁD SIAR), 2012 [SEANAD]**

**CRIMINAL JUSTICE (WITHHOLDING OF INFORMATION
ON OFFENCES AGAINST CHILDREN AND VULNERABLE
PERSONS) BILL 2012 [SEANAD]**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

DÁIL ÉIREANN

**AN BILLE UM CHEARTAS COIRIÚIL (FAISNÉIS FAOI CHIONTA IN
AGHAIDH LEANAÍ AGUS AOSAIGH SHOGHONTAA CHOIMEÁD
SIAR), 2012 [SEANAD]
—ROGHCHOISTE**

**CRIMINAL JUSTICE (WITHHOLDING OF INFORMATION ON
OFFENCES AGAINST CHILDREN AND VULNERABLE PERSONS) BILL
2012 [SEANAD]
—SELECT COMMITTEE**

*Leasuithe
Amendments*

SECTION 1

1. In page 3, subsection (1), between lines 30 and 31, to insert the following:

“ “reasonable excuse” shall include for the purposes of this Act consensual, non-exploitative sexual activity where there is an age difference of not greater than two years between the parties;”.

—Jonathan O'Brien.

2. In page 3, subsection (1), between lines 30 and 31, to insert the following:

“ “sacerdotal communications” means communications between a person and a member of the clergy of any religious faith, including but not limited to communications in a confessional setting and counselling;”.

—Jonathan O'Brien.

SECTION 2

3. In page 4, subsection (1), lines 36 to 42, to delete paragraphs (a) and (b) and substitute the following:

“(a) he or she knows or honestly and in good faith believes that an offence, that is a Schedule 1 offence, has been committed by another person against a child, and

(b) he or she has information which he or she knows or honestly and in good faith believes might be of material assistance in securing the apprehension, prosecution or conviction of that other person for that offence;”.

—Jonathan O'Brien.

4. In page 5, between lines 5 and 6, to insert the following subsection:

“(4) A child to which information concerning the commission of an offence against a child or vulnerable person specified in *Schedule 1* or *Schedule 2* is disclosed, shall not be guilty of an offence under this Act.”.

—Jonathan O'Brien.

5. In page 5, between lines 16 and 17, to insert the following subsection:

[SECTION 2]

“(6) For the avoidance of doubt—

- (a) notwithstanding Section 7(a) of the Judicial Separation and Family Law Reform Act 1989 and section 9 of the Family Law (Divorce) Act 1996, *section 2* of this Act will override the statutory privilege of mediators;
- (b) notwithstanding section 16 of the Ombudsman for Children Act 2002 and section 9 of the Ombudsman Act 1980, *section 2* of this Act will override the statutory privilege of the Ombudsman for Children;
- (c) *section 2* of this Act, alongside the amendment of the Criminal Law (Evidence) Act 1992, to section 3 of the Evidence (Amendment) Act 1853, will override marital privilege;
- (d) Notwithstanding the provisions of *section 4* of this Act, sacerdotal communications shall not in and of themselves be legally privileged for the purposes of this Act.”.

—Jonathan O'Brien.

SECTION 3

6. In page 5, subsection (1), lines 19 to 25, to delete paragraphs (a) and (b) and substitute the following:

- “(a) he or she knows or honestly and in good faith believes that an offence, that is a Schedule 2 offence, has been committed by another person against a vulnerable person, and
- (b) he or she has information which he or she knows or honestly and in good faith believes might be of material assistance in securing the apprehension, prosecution or conviction of that other person for that offence,”.

—Jonathan O'Brien.

7. In page 5, between lines 27 and 28, to insert the following subsection:

“(2) Subject to this section, a person shall be guilty of an offence if he or she without reasonable excuse instructs a person to withhold information from reporting to a member of An Garda Síochána.”.

—Jonathan O'Brien.

SECTION 4

8. In page 6, between lines 9 and 10, to insert the following subsection:

“(2) Subject to this section, in any proceedings for an offence under *section 2* or *3*, it shall be a defence for the accused person to show that he or she (the accused person) made a referral in accordance with *Children First* and the threshold for referring under both *Children First* and this Act have been met.”.

—Jonathan O'Brien.

9. In page 6, between lines 9 and 10, to insert the following subsection:

[SECTION 4]

“(2) Subject to this section, in any proceedings for an offence under *section 2* or *3*, it shall be a defence for the accused person to show that he or she (the accused person) honestly and reasonably believed that the consequences of reporting an offence would pose a real and substantial risk to the health life of the child or vulnerable adult whom the offence was committed against from the alleged perpetrator of the offence.”.

—Jonathan O'Brien.

10. In page 8, between lines 44 and 45, to insert the following subsection:

“(14) Payment of compensation to a child or vulnerable adult whom an offence under *Schedule 1* or *Schedule 2* of this Act was committed against, shall not be considered a “reasonable excuse” or a defence for the purposes of this Act.”.

—Jonathan O'Brien.

SECTION 10

11. In page 14, before section 10, to insert the following new section:

“10.—(1) It shall be the responsibility of the Minister for Justice and Equality to ensure that the provisions of this Act are implemented in full alongside the provisions of *Children First*.

(2) A joint report from the Commissioner of An Garda Síochána and the Director of Child and Family Services of the Health Services Executive on the operation of this Act shall be laid before the Houses of the Oireachtas.

(3) The main provisions of this Act and the offences listed under *Schedules 1* and *2* of this Act, and further details including methods of reporting, shall be made available on the websites of the Department of Justice and Equality, the Department of Children and Youth Affairs, the Health Service Executive and An Garda Síochána.”.

—Jonathan O'Brien.

SECTION 12

12. In page 14, before section 12, to insert the following new section:

“12.—The Minister for Justice in co-operation with the Minister for Health and the Minister for Children and Youth Affairs shall ensure the provision of appropriate support services for children and vulnerable adults who offences under *Schedule 1* and *Schedule 2* have been committed against.”.

—Jonathan O'Brien.