



SEANAD ÉIREANN

**AN BILLE UM THÚS ÁITE DO LEANAÍ, 2014
CHILDREN FIRST BILL 2014**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM THÚS ÁITE DO LEANAÍ, 2014 —AN COISTE

CHILDREN FIRST BILL 2014 —COMMITTEE STAGE

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

SECTION 2

1. In page 5, between lines 26 and 27, to insert the following:

“ “emotional abuse” means behaviour (including an omission to behave in a particular manner) that significantly and seriously deprives a child of his or her developmental need for affection, approval, consistency and security and, without prejudice to the generality of the foregoing, includes—

- (i) the imposition of negative attributes on a child, expressed by persistent criticism, sarcasm, hostility or blaming,
- (ii) conditional parenting in which the level of care shown to a child is made contingent on his or her behaviours or actions,
- (iii) emotional unavailability of the child’s parent or carer,
- (iv) unresponsiveness of the parent or carer or inconsistent or inappropriate expectations of the child,
- (v) premature imposition of responsibility on the child,
- (vi) unrealistic or inappropriate expectations of the child’s capacity to understand something or to behave and control himself or herself in a certain way,
- (vii) under or over-protection of the child,
- (viii) failure to show interest in, or provide age-appropriate opportunities for, the child’s cognitive and emotional development,
- (ix) use of unreasonable or over-harsh disciplinary measures,
- (x) exposure to domestic violence, and
- (xi) exposure to inappropriate or abusive material through new technology,

provided that such behaviour or omission to behave in a particular manner results in or is likely to result in significant and serious injury to the emotional, social or psychological welfare of the child.”.

—*Senator Jillian van Turnhout.*

[SECTION 2]

2. In page 6, to delete lines 12 and 13 and substitute the following:

“neglect” means, in relation to a child:

- (i) to deprive the child of adequate food, warmth, clothing, hygiene, supervision, safety or medical care; or
- (ii) to deprive the child of appropriate emotional and psychological support or to subject the child (or allow or cause the child to be subjected) to emotional abuse to the extent that the child’s physical, social, intellectual, psychological or emotional development is significantly and seriously affected;”.

—*Senator Jillian van Turnhout.*

SECTION 14

- *3. In page 14, line 8, to delete “mandated”.

NEW SECTIONS

4. In page 20, after line 21, to insert the following:

“PART 5

AMENDMENT OF THE GENDER RECOGNITION ACT 2015

28. The Gender Recognition Act 2015 is amended by the insertion of the following new Part immediately after section 38 of that Act—

“PART 6

INTERIM GENDER RECOGNITION CERTIFICATE

Definition

39. In this Part—

“child” is a person under the age of 18 in respect of whom a gender recognition certificate has not been issued;

“educational institution” means a school, college or other educational institution, including an institution providing pre-school services as defined by Part VI of the Child Care Act 1991;

“identified gender” means the gender with which the relevant child most strongly identifies;

“Minister” means the Minister for Children and Youth Affairs.

Interim Gender Recognition Certificate

40. (1) The parent or guardian of a child may, on behalf of that child, apply to the Minister for an interim gender recognition certificate.
- (2) The Minister shall grant an interim gender recognition certificate if satisfied that the child self-identifies as a person of a gender different from that listed in the relevant entry made in respect of that child in—

[NEW SECTIONS]

- (a) The register of births maintained under section 13 of the Civil Registration Act 2004,
 - (b) The Adopted Children Register maintained under section 84 of the Adoption Act 2010,
 - (c) A foreign births entry book or in the foreign births register, both of which are kept under section 27 of the Irish Nationality and Citizenship Act 1956, or
 - (d) The register of intercountry adoptions maintained under section 90 of the Adoption Act 2010.
- (3) In determining whether a child should be granted an interim gender recognition certificate, the Minister shall have regard, in so far as is practicable, to the wishes of that child and of his or her parent or parents and guardian or guardians.
- (4) Where the Minister has granted an interim gender recognition certificate in respect of a child, and where the child is a pupil at an educational institution, the educational institution shall permit (but not require) the child, if he or she wishes to do so, to—
- (a) be admitted to and attend an educational institution reserved to pupils of one gender only where that gender is the child's identified gender,
 - (b) use the name and gender designation listed on the child's interim gender recognition certificate,
 - (c) wear such uniform (or, where permitted not to wear a uniform, such other clothing) as is appropriate to the child's identified gender,
 - (d) use the bathroom and changing facilities at that school, college or educational institution appropriate to his or her identified gender, provided always that such facilities are as safe as can reasonably be expected for use by that child, and
 - (e) participate in sporting activities as a person of the identified gender.
- (5) For the avoidance of any doubt, this section does not prevent any person from taking steps to accommodate, assist or support a child where the child has not been issued with an interim gender recognition certificate.
- (6) The issue of an interim gender recognition certificate to a child in accordance with this section does not—
- (a) confer any right or entitlement on the child that is not connected with the purposes of this section, or
 - (b) affect any right, entitlement, duty or obligation arising under statute or otherwise.

[NEW SECTIONS]

- (7) Without prejudice to subsection 6, this Part is without prejudice to any rights or entitlements of any person under the Equal Status Act 2000.
- (8) An interim gender recognition certificate issued under this section shall continue to be legally effective notwithstanding the fact that the child to whom this section applies has reached the age of 18.
- (9) A child in respect of whom the Minister has issued an interim gender recognition certificate may, if otherwise eligible to do so, apply for a gender recognition certificate under this Act notwithstanding the fact that he or she holds an interim gender recognition certificate, provided that the interim gender recognition certificate shall cease to have legal effect on the granting to that person of a gender recognition certificate.
- (10) The fact that an interim gender recognition certificate has been issued in respect of a child shall not result in the child being excluded from or refused admission to an educational institution which he or she is otherwise eligible to attend.
- (11) The Minister, by regulations made under this Act, shall specify the particulars to be included in an interim gender recognition certificate.

Register of Interim Gender Recognition Certificates

- 41.** (1) The Minister shall maintain a Register of Interim Gender Recognition Certificates (known in this section as the ‘register’).
- (2) In the register, the Minister shall record such particulars as shall be designated by regulations made by the Minister for the purpose of this section.
 - (3) For the purpose of subsection 2, such particulars shall include—
 - (a) the full name, date of birth and sex of the child as recorded in the register of births (or other relevant register to which section 40(2) refers, as the case may be),
 - (b) where the child has changed his or her name by deed poll, that name,
 - (c) the name by which the child is normally known if different from both (a) and (b),
 - (d) the preferred name of the child if different from (a), (b) or (c),
 - (e) the identified gender of the child, and
 - (f) the home address of the child.
 - (4) The register shall not be open to public inspection and no information from that register shall be given to any person (other than the child to whom section 40 applies or a parent or guardian of that child, where the information relates specifically to that child) except by order of a court.

Revocation of an Interim Gender Recognition Certificate

42. (1) The Minister may revoke an interim gender recognition certificate issued under section 40 but only—
- (a) on receipt of a request from the parent or guardian of a child in respect of whom an interim gender recognition certificate has been issued,
 - (b) on receipt of a request from the child in respect of whom an interim gender recognition certificate has been issued, where the Minister is satisfied that the child is of sufficient age and understanding, or
 - (c) where the Minister is satisfied that he or she would not have issued the certificate under section 40 had he or she been aware of information or facts before deciding to issue the certificate which since that issue have been brought to his or her notice.
- (2) Where the Minister proposes to revoke an interim gender recognition certificate under subsection 1(c), the provisions of sections 14 and 17 of this Act shall apply to the proposed revocation and for this purpose any reference in sections 14 and 17 to a gender recognition certificate shall be taken as referring to an interim gender recognition certificate issued under section 40.
- (3) Where the Minister receives a request to revoke an interim gender recognition certificate under subsection 1(a) or (b), the provisions of sections 15 and 17 of this Act (with the exception of subsection 8 of section 15) shall apply to the proposed revocation and for this purpose any reference in sections 15 and 17 to a gender recognition certificate shall be taken as referring to an interim gender recognition certificate issued under section 40.
- (4) In determining whether to revoke an interim gender recognition certificate, the Minister shall have regard, in so far as is practicable, to the wishes of the child in respect of whom the certificate was issued and those of the child's parent, parents, guardian or guardians.
- (5) An interim gender recognition certificate revoked under subsection 1(a) or (b) shall be deemed to be valid up until the date of revocation but invalid and of no legal effect from that date forward.
- (6) An interim gender recognition certificate revoked under subsection 1(c) shall be deemed always to have been void and of no effect.
- (7) The Minister may, on request of the parent or guardian of a child, or on his own initiative, rectify any error in the interim gender recognition certificate, or in the register to which section 41 applies.””.

—*Senator Jillian van Turnhout.*

[NEW SECTIONS]

5. In page 20, after line 21, to insert the following:

“PART 5

MISCELLANEOUS

Amendment of the Child Trafficking and Pornography Act 1998

28. The Child Trafficking and Pornography Act 1998 is amended by substituting the words “child sexual abuse material” for “child pornography” in each place those words appear.”.

—*Senator Jillian van Turnhout.*

6. In page 20, after line 21, to insert the following:

- “28. The Non-Fatal Offences Against the Person Act 1997 is amended by the substitution for section 24 of the following—

“Abolition of common law rules in respect of immunity from criminal liability for punishing a child

24. Any rule of law under which any person is immune from criminal liability in respect of physical chastisement of a child, whether the person is a parent or guardian of the child, a person with custody of the child either temporarily or indefinitely, a teacher, or a person *in loco parentis* in respect of the child either temporarily or indefinitely, is hereby abolished.”.

—*Senator Jillian van Turnhout.*

SCHEDULE 2

7. In page 24, line 21, after “1991” to insert the following:

“including a person taking care of one or more children (other than that person’s own such children) in that person’s home, but not including any such person who is a relative of the child or children or the spouse of such relative.”.

—*Senators David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.*