



SEANAD ÉIREANN

**AN BILLE UM FHORÉIGEAN BAILE, 2017
DOMESTIC VIOLENCE BILL 2017**

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

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AN BILLE UM FHORÉIGEAN BAILE, 2017 —AN TUARASCÁIL

DOMESTIC VIOLENCE BILL 2017 —REPORT

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

*1. In page 8, to delete lines 4 to 39, and in page 9, to delete lines 1 to 24 and substitute the following:

“Factors or circumstances to which court shall have regard in determining applications for specified orders

5. (1) Nothing in *subsection (2)* shall be construed as limiting the power of a court to make a specified order under this Act.

(2) In determining an application for a specified order, the court shall have regard to all the factors or circumstances that it considers may have a bearing on the application including where relevant:

- (a) any history of violence inflicted by the respondent on the applicant or a dependent person;
- (b) any conviction of the respondent for an offence under the Criminal Justice (Theft and Fraud Offences) Act 2001 that involves loss to, or is to the prejudice of, the applicant or a dependent person;
- (c) any conviction of the respondent for an offence that involves violence or the threat of violence to any person;
- (d) whether any violence inflicted by the respondent on the applicant or a dependent person is increasing, or has increased, in severity or frequency over time;
- (e) any exposure of any dependent person to violence inflicted by the respondent on the applicant or any other dependent person;
- (f) any previous order under this Act or the Act of 1996 made against the respondent with regard to any person;
- (g) any history of animal cruelty by the respondent;
- (h) any destruction or damage caused by the respondent to —
 - (i) the personal property of the applicant, the respondent or a dependent person,
or
 - (ii) any place where the applicant or a dependent person resides;

- (i) any action of the respondent, not being a criminal offence, which puts the applicant or a dependent person in fear for his or her own safety or welfare;
- (j) any recent separation between the applicant and the respondent;
- (k) substance abuse, including abuse of alcohol, by the respondent, the applicant or a dependent person;
- (l) access to weapons by the respondent, the applicant or a dependent person;
- (m) the applicant's perception of the risk to his or her own safety or welfare due to the behaviour of the respondent;
- (n) the age and state of health (including pregnancy) of the applicant or any dependent person;
- (o) any evidence of deterioration in the physical, psychological or emotional welfare of the applicant or a dependent person which is caused directly by fear of the behaviour of the respondent;
- (p) whether the applicant is economically dependent on the respondent;
- (q) any matter required to be considered by the court under, and in accordance with, *subsections (2) and (3) of section 25*;
- (r) any other matter which appears to the court to be relevant to the safety or welfare of the applicant and any dependent person.”.”.

2. In page 18, line 10, after “justice” to insert the following:

“and where necessary out of hours where the applicant and any dependent children are at risk of immediate harm if the order is not made in this way, such an application may be made by telephone or other secure electronic means, subject to the applicant's undertaking to swear an affidavit or information before the next available ordinary sitting of the court”.

—*Senators David Norris, Colette Kelleher, Victor Boyhan.*

3. In page 18, line 27, to delete “8 working days” and substitute “28 working days”.

—*Senators David Norris, Victor Boyhan.*

4. In page 23, between lines 14 and 15, to insert the following:

- “17. (1) In any application for an order in this Part, the court shall not regard any failure by the respondent to secure legal representation as a reasonable ground on which to adjourn the application, save where it finds based on the evidence available that there are compelling reasons to do so.
- (2) In any application for an order in this Part, the court shall have power to make directions to ensure the timely, fair and efficient conduct of proceedings.
- (3) The court shall not allow any application or applications to be determined by accepting undertakings, including cross-undertakings, in any case in which it is satisfied that—

- (a) the respondent has used any form of violence against the applicant or any dependent child already,
 - (b) there is a real risk that the respondent may use violence against the applicant or any dependent child in the future,
 - (c) there is evidence that the respondent has not complied with court orders restraining their behaviour towards the applicant or any dependent children, whether made in civil or criminal proceedings, in the past, or
 - (d) it has not been proved that the applicant has ever used any violence against the respondent.
- (4) The court shall not allow any application or applications to be determined by making cross-orders against both the respondent and the applicant, in any case in which it is satisfied that—
- (a) the respondent has used any form of violence against the applicant or any dependent child already,
 - (b) there is a real risk that the respondent may use violence against the applicant or any dependent child in the future,
 - (c) there is evidence that the respondent has not complied with court orders restraining their behaviour towards the applicant or any dependent children, whether made in civil or criminal proceedings, in the past, or
 - (d) it has not been proved that the applicant has ever used any violence against the respondent.”.

—*Senators David Norris, Victor Boyhan.*

5. In page 31, between lines 28 and 29, to insert the following:

“(3) The Bail Act 1997 is amended in section 1 by substituting the following for the definition of “serious offence”:

“ ‘serious offence’ means—

- (a) an offence specified in the Schedule for which a person of full capacity and not previously convicted may be punished by a term of imprisonment for a term of 5 years or by a more severe penalty, or
- (b) an offence under *section 29* of the *Domestic Violence Act 2017*.”.

—*Senators Ivana Bacik, Kevin Humphreys, Gerald Nash, Aodhán Ó Ríordáin.*