



An Bille um Fhoréigean Baile (Leasú), 2019
Domestic Violence (Amendment) Bill 2019

Meabhrán Mínitheach
Explanatory Memorandum



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DOMESTIC VIOLENCE (AMENDMENT) BILL 2019

EXPLANATORY MEMORANDUM

Background

In recent years serious crimes have been committed in domestic environments where women and/or their children have been killed by a male partner who then proceeds to commit suicide. These crimes are sometimes referred to as familicide or family annihilation.

As a result of the fact that the offender has died there is no criminal justice process that can give rise to the guilty person being held accountable before the law. Traditionally, these cases are promptly investigated by An Garda Síochána, a file is created and the only statutory response is the hearing of a Coroner's Inquest which determines where, when and how the victims died. No background circumstances pertaining to the killings are investigated and no report is provided so that victims' families and the State can learn from and be informed about these acts of violence.

The purpose of this Bill is to amend the Domestic Violence Act 2018 so that there is contained within it a mechanism for the establishment and conduct of domestic homicide reviews.

Section 1 of the Bill is the definition section.

Section 2 of the Bill seeks to insert a new Section 40A after Section 40 of the Domestic Violence Act 2018. Subsection (1) gives the Minister for Justice or the Garda Commissioner or the High Court, having completed any prosecution for murder and/or manslaughter, the power to order a Domestic Homicide Review which will be a review of the circumstances surrounding a person's death where the Minister is of the opinion that the death resulted from violence, abuse or neglect committed by a person to whom the deceased was related or with whom the deceased was in an intimate personal relationship or who shared the same household as the deceased. The Domestic Homicide Review is carried out for the purpose of identifying the circumstances surrounding and lessons to be learned from the death or deaths.

Subsection (2) provides that a Domestic Homicide Review shall be conducted by a person who shall be known as a reviewer.

Subsection (3) provides that a family member, as defined in the Criminal Justice (Victims of Crime) Act 2017 may make a submission or provide information to any Domestic Homicide Review.

Subsection (4) identifies six State entities that the Minister can direct to co-operate with or participate in a Domestic Homicide Review. These are:

- (a) the Commissioner of An Garda Síochána;

- (b) the Policing Authority;
- (c) the Probation Service;
- (d) Tusla;
- (e) the Health Service Executive,
- (f) a government department.

Subsection (5) provides that any of the aforementioned persons or bodies must have regard to the instructions issued by the Minister for Justice as to the establishment and conduct of such reviews.

Subsection (6) provides that any of the aforementioned persons or bodies in *subsection (4)* must contribute their knowledge and experience of the homicide being reviewed for the purpose of ensuring the conduct of a thorough and accurate review.

Subsection (7) provides that a Domestic Homicide Review shall not seek to apportion blame on any person who may not have carried out their functions in an appropriate or correct manner.

Subsection (8) empowers a Reviewer of a Domestic Homicide to seek and receive information from any person or legal entity that may have relevant information or documentation pertaining to a Domestic Homicide Review.

Subsection (9) provides that a Domestic Homicide Review shall not be permitted in any way to interfere with or prejudice any ongoing criminal investigation into a person who is being investigated for any offence associated with the death.

Subsection (10) provides protection for the Reviewer from any claim in damages.

Subsection (11) provides that the Minister shall furnish a copy of a report produced to any family member who made a submission under Subsection (3) and that the report will be published unless the publication would be inappropriate for reasons stated.

Subsection (12) mandates the Minister to make regulations.

Section 3 of the Bill is the citation and commencement section.

Jim O'Callaghan, TD,
Aibreán, 2019.