



An Bille um Chaomhnóireacht Naíon (Leasú), 2026
Guardianship of Infants (Amendment) Bill 2026

Mar a tionscnaíodh

As initiated



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Data Protection Act 2018 (No. 7)

Guardianship of Infants Act 1964 (No. 7)



AN BILLE UM CHAOMHNÓIREACHT NAÍON (LEASÚ), 2026
GUARDIANSHIP OF INFANTS (AMENDMENT) BILL 2026

Bill

entitled

An Act to amend the Guardianship of Infants Act 1964 to provide for the restriction or removal of guardianship of a child in certain circumstances by order of a court in proceedings for that purpose, in the resolution of which the court shall regard the best interests of the child as the paramount consideration; and to provide for related matters. 5

Be it enacted by the Oireachtas as follows:

Definition

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1. In this Act “Principal Act” means the Guardianship of Infants Act 1964.

Restriction or removal of guardianship in certain circumstances

2. The Principal Act is amended by the insertion of the following Part after PART II:

“PART IIA

RESTRICTION OR REMOVAL OF GUARDIANSHIP IN CERTAIN CIRCUMSTANCES 15

Definitions for Part IIA

12B. In this Part—

‘Act of 1991’ means the Child Care Act 1991;

‘interim care order’, ‘care order’, ‘interim special care order’ and ‘special care order’ have the respective meanings they have in the Act of 1991; 20

‘child concerned’, in relation to proceedings under section 12C, 12D, 12E or 12J, means the child whose guardianship is the subject of those proceedings;

‘convicted guardian’, other than in sections 12C, 12D and 12J, means a convicted guardian within the meaning of section 12C, 12D or 12J. 25

Power of court to restrict or remove guardianship in certain circumstances

12C. (1) Where—

- (a) a person (in this section referred to as the ‘convicted guardian’) who is a guardian of a child is convicted in the State of the murder

or manslaughter of a person who was, at the time of the commission of the offence concerned, another guardian of the child concerned, and

- (b) the Child and Family Agency has reasonable cause to believe that the convicted guardian has failed in his or her duty towards the child concerned to such extent that the safety or welfare of that child is likely to be prejudicially affected if an order under subsection (3) is not made by the court, 5

the Child and Family Agency shall, as soon as practicable but not later than 6 months after the conviction or any extension of that period under subsection (2), apply to the court in that behalf for an order under subsection (3). 10

- (2) The court may extend the period for the making of an application under subsection (1) only where it is satisfied that—

- (a) there is good and sufficient reason for doing so, and 15
- (b) it is in the best interests of the child concerned to do so.

- (3) Subject to subsection (4), on an application under subsection (1), the court may, having regard to the extent of the failure of duty on the part of the convicted guardian towards the child concerned—

- (a) make an order restricting the powers and duties of the convicted guardian as guardian of the child concerned in such manner as the court considers appropriate, or 20
- (b) make an order removing from office the convicted guardian as guardian of the child concerned.

- (4) The court may make an order under paragraph (a) or (b) of subsection (3) only where— 25

- (a) the court is satisfied that the convicted guardian has failed in his or her duty towards the child concerned to such extent that the safety or welfare of that child is likely to be prejudicially affected if an order under the said paragraph (a) or (b), as may be appropriate, is not made, 30

- (b) the court is satisfied that it is in the best interests of the child concerned for the order concerned to be made, and

- (c) subject to subsection (5), either—

- (i) there is another guardian (other than the convicted guardian) of the child concerned in place who is able and willing to exercise the powers and duties as such guardian, or 35
- (ii) an interim care order, a care order, an interim special care order or a special care order has been made and has effect in respect of the child concerned. 40

- (5) (a) If, upon the determination of an application under subsection (1), subparagraph (i) or (ii) of subsection (4)(c) is not satisfied in respect of the child concerned, the court may nevertheless make an order under paragraph (a) or (b) of subsection (3) in respect of that child if it considers that it is appropriate to do so, but that order shall not have effect until subparagraph (i) or (ii), as may be appropriate, of subsection (4)(c) has been so satisfied. 5
- (b) The Child and Family Agency shall, as soon as may be after the coming into effect, by virtue of paragraph (a), of an order under paragraph (a) or (b) of subsection (3), inform the convicted guardian and the child concerned thereof. 10
- (6) An order under subsection (3) may—
- (a) specify the period for which it shall remain in effect, and
- (b) impose such conditions relating to a review by the court of the order as the court considers necessary in the best interests of the child concerned. 15
- (7) If, and for so long as—
- (a) the powers and duties of the convicted guardian as guardian of the child concerned are restricted under subsection (3)(a), or
- (b) the convicted guardian is removed from office as guardian of the child concerned under subsection (3)(b), 20
- the convicted guardian shall be precluded from making an application or, as may be appropriate, being the subject of an order, under section 6A, 6C, 6E, 6F or 8 in respect of that child.

Power of court to restrict or remove guardianship in certain other circumstances 25

12D. (1) Where—

- (a) a person (in this section referred to as the ‘convicted guardian’) who is a guardian of a child is convicted on indictment in the State of a serious offence the victim of which is a person who was, at the time of the commission of the offence, another guardian of the child concerned (in this section referred to as the ‘victim guardian’), 30
- (b) the commission of the serious offence referred to in paragraph (a) against the victim guardian has affected the safety or welfare of the child concerned thereby requiring a change to his or her care or guardianship, namely, that— 35
- (i) another guardian (other than the convicted guardian or the victim guardian) has been appointed for the child concerned,
- (ii) the child concerned has been taken into the care of the Child and Family Agency under section 4 of the Act of 1991 or the 40

child concerned is the subject of a private foster care arrangement under Part IVB of the Act of 1991, or

- (iii) an interim care order, a care order, an interim special care order or a special care order has been made and has effect in respect of the child concerned,

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and

- (c) the Child and Family Agency has reasonable cause to believe that the convicted guardian has failed in his or her duty towards the child concerned to such extent that the safety or welfare of that child is likely to be prejudicially affected if an order under subsection (3) is not made by the court,

10

the Child and Family Agency may, if it considers it appropriate to do so, as soon as practicable but not later than 6 months after the conviction or any extension of that period under subsection (2), apply to the court in that behalf for an order under subsection (3).

15

- (2) The court may extend the period for the making of an application under subsection (1) only where it is satisfied that—

- (a) there is good and sufficient reason for doing so, and

- (b) it is in the best interests of the child concerned to do so.

- (3) Subject to subsection (4), on an application under subsection (1), the court may, having regard to the extent of the failure of duty of the convicted guardian towards the child concerned—

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- (a) make an order restricting the powers and duties of the convicted guardian as guardian of the child concerned in such manner as the court considers appropriate, or

25

- (b) make an order removing from office the convicted guardian as guardian of the child concerned.

- (4) The court may make an order under paragraph (a) or (b) of subsection (3) only where—

- (a) the court is satisfied that the convicted guardian has failed in his or her duty towards the child concerned to such extent that the safety or welfare of that child is likely to be prejudicially affected if an order under the said paragraph (a) or (b), as may be appropriate, is not made,

30

- (b) the court is satisfied that it is in the best interests of the child concerned for the order concerned to be made, and

35

- (c) subject to subsection (5), either—

- (i) there is a guardian (other than the convicted guardian) of the child concerned in place who is able and willing to exercise the powers and duties as such guardian, or

40

- (ii) an interim care order, a care order, an interim special care order or a special care order has been made and has effect in respect of the child concerned.
- (5) (a) If, upon the determination of an application under subsection (1), subparagraph (i) or (ii) of subsection (4)(c) is not satisfied in respect of the child concerned, the court may nevertheless make an order under paragraph (a) or (b) of subsection (3) in respect of that child if it considers that it is appropriate to do so, but that order shall not have effect until subparagraph (i) or (ii), as may be appropriate, of subsection (4)(c) has been so satisfied.
- (b) The Child and Family Agency shall, as soon as may be after the coming into effect, by virtue of paragraph (a), of an order under paragraph (a) or (b) of subsection (3), inform the convicted guardian and the child concerned thereof.
- (6) An order under subsection (3) may—
- (a) specify the period for which it shall remain in effect, and
 - (b) impose such conditions relating to a review by the court of the order as the court considers necessary in the best interests of the child concerned.
- (7) If, and for so long as—
- (a) the powers and duties of the convicted guardian as guardian of the child concerned are restricted under subsection (3)(a), or
 - (b) the convicted guardian is removed from office as guardian of the child concerned under subsection (3)(b),
- the convicted guardian shall be precluded from making an application or, as may be appropriate, being the subject of an order, under section 6A, 6C, 6E, 6F or 8 in respect of that child.
- (8) In this section ‘serious offence’ means any offence—
- (a) which involves the causing of serious harm to the victim guardian, and
 - (b) for which a person of full age and capacity and not previously convicted may, under or by virtue of any enactment or the common law, be punished by imprisonment for a term of not less than 10 years or by a more severe penalty.
- Review of court orders under this Part**
- 12E.** (1) The court may, on an application in that behalf by—
- (a) the Child and Family Agency,
 - (b) the convicted guardian,
 - (c) another guardian of the child concerned, or
 - (d) the child concerned,

review an order made under section 12C(3) or 12D(3), as the case may be, where there has been a significant change in the circumstances of the child concerned affecting, or capable of affecting, his or her welfare since the making of the order.

- (2) Where the conviction of the convicted guardian for the offence referred to in section 12C(1)(a) or 12D(1)(a), as the case may be, is quashed or set aside by a court (whether or not a retrial for the offence concerned is ordered), the Child and Family Agency shall as soon as practicable apply to the court, and the convicted guardian may so apply, to review an order under section 12C(3) or 12D(3), as the case may be, and the court shall review the order in accordance with this section. 5 10
- (3) Subject to subsection (4), the court may, in determining an application under subsection (1) or (2), make such order as it considers appropriate regarding the powers and duties of the convicted guardian as guardian of the child concerned, or the appointment or re-appointment of the convicted guardian as guardian of that child, or both. 15
- (4) In determining an application under subsection (2), the court may, notwithstanding the quashing or setting aside of the conviction concerned, determine that the order under section 12C(3) or 12D(3), as the case may be, being reviewed shall remain in effect, if the court is satisfied that for exceptional reasons having regard to the best interests of the child concerned it is appropriate to do so. 20
- (5) Where the court makes a determination under subsection (4), it shall give reasons for its determination in writing. 25

Appointment of guardian *ad litem* for child concerned

- 12F.** Part VA of the Act of 1991 shall apply to proceedings under this Part as it applies to proceedings under Part IV, IVB or VI of the Act of 1991, subject to the following and any other necessary modifications: 30
- (a) references in Part VA of the Act of 1991 to a child, in relation to a guardian *ad litem*, shall be construed as references to the child concerned for whom the guardian *ad litem* is, or is to be, appointed in proceedings under this Part;
- (b) references in Part VA of the Act of 1991 to proceedings under Part IV, IVB or VI of that Act shall be construed as references to proceedings under this Part; 35
- (c) section 35H of the Act of 1991 shall apply—
- (i) as if the following subsection was substituted for subsection (2) of that section: 40
- ‘(2) Subject to subsections (3) and (4), an order under section 35B(3) and any appointment under section 35C(1) pursuant to such order ceases to have effect on the earliest of the following occurring:

(a) upon a determination by the court of an application for an order under section 12C or 12D, as the case may be, of the Guardianship of Infants Act 1964;

(b) by direction of the court;

(c) when the child concerned attains the age of 18 years.’, 5

and

(ii) subsection (3) of that section shall apply to—

(I) a review of an order of the court under section 12C or 12D, as the case may be, of that Act of 1964 imposed by the court as a condition of the order concerned, or 10

(II) a review of the order concerned under section 12E of that Act of 1964;

(d) references in Part VA of the Act of 1991 to the performance by guardians *ad litem* of their functions by or under that Act shall be construed as including references to the performance by guardians *ad litem* of their functions under this Part. 15

Jurisdiction and conduct of proceedings (Part IIA)

12G. (1) The District Court or the Family District Court, and the Circuit Court or the Family Circuit Court on appeal from the District Court or the Family District Court, as may be appropriate, shall have jurisdiction to hear and determine proceedings under this Part. 20

(2) Proceedings under this Part may be brought, heard and determined before and by a judge of the District Court for the time being assigned to the District Court district in which the convicted guardian resides or is for the time being or in which the child concerned resides or, as may be appropriate, by a judge of the Family District Court for the time being assigned to the Family District Court district in which the convicted guardian resides or is for the time being or in which the child concerned resides. 25

Data protection and data sharing for purposes of this Part 30

12H. (1) Subject to any requirements in regulations made under subsection (3) (if any), a relevant body may share information with another relevant body for the purpose of the performance of the functions under this Part of the relevant body or of the other relevant body concerned, where to do so is in accordance with law and to the extent that it is necessary and proportionate for that purpose. 35

(2) A relevant body may, subject to the taking of suitable and specific measures, process special categories of personal data in accordance with this section only where the relevant body considers that the processing is necessary and proportionate in accordance with the Data Protection Regulation and the Data Protection Act 2018. 40

- (3) The Minister may, after consultation with the Minister for Children, Disability and Equality, make regulations in relation to the sharing of information under this section, including in relation to—
- (a) the nature of the information that may be shared under this section,
 - (b) the manner in which information shared under this section may be used, and 5
 - (c) the measures to be taken by a relevant body to ensure that information shared under this section is shared only to the extent that is necessary and proportionate for the performance of the functions of the relevant body or of the other relevant body concerned under this Part. 10
- (4) In making regulations under subsection (3), the Minister shall have regard to the need to safeguard the fundamental rights and freedoms of data subjects in the sharing of personal data (including special categories of personal data and Article 10 data) for the purpose of the performance of the functions of relevant bodies under this Part. 15
- (5) This section is without prejudice to any other legal basis for the sharing of information between relevant bodies.
- (6) In this section—
- ‘Article 10 data’ means personal data referred to in Article 10 of the Data Protection Regulation; 20
 - ‘Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation); 25
 - ‘information’ includes personal data (including special categories of personal data and Article 10 data);
 - ‘personal data’ has the same meaning as it has in the Data Protection Regulation; 30
 - ‘processing’, in relation to personal data, has the same meaning as it has in the Data Protection Regulation;
 - ‘relevant body’ means—
 - (a) the Director of Public Prosecutions,
 - (b) the Child and Family Agency, 35
 - (c) An Garda Síochána,
 - (d) the Courts Service,
 - (e) the Minister, or
 - (f) the Minister for Children, Disability and Equality;

¹ OJ No. L 119, 4.5.2016, p. 1

‘special categories of personal data’ has the same meaning as it has in the Data Protection Act 2018;

‘suitable and specific measures’ means measures to safeguard the fundamental rights and freedoms of data subjects (within the meaning of the Data Protection Regulation) in processing the personal data of those subjects and may include measures referred to in section 36(1) of the Data Protection Act 2018. 5

Notice parties to proceedings under this Part

- 12I.** (1) An application to the court for an order under this Part shall not be made in relation to the child concerned other than on notice to each guardian of that child (including a victim guardian within the meaning of section 12D). 10
- (2) A relative of the child concerned may seek leave to be joined as a notice party to proceedings under this Part.
- (3) In subsection (2) ‘relative’, in relation to the child concerned, means a grandparent, brother, sister, uncle or aunt, whether of the whole blood, half blood or by affinity, and includes the spouse of any such person and any person cohabiting with any such person. 15

Application of Part in cases of convictions for certain offences before its commencement 20

- 12J.** (1) Subject to subsection (2), where—
- (a) a person (in this section referred to as the ‘convicted guardian’) who is a guardian of a child was convicted in the State, before the coming into operation of the *Guardianship of Infants (Amendment) Act 2026*, of the murder or manslaughter of a person who was, at the time of the commission of the offence concerned, another guardian of the child, and 25
- (b) the Child and Family Agency has reasonable cause to believe that the convicted guardian has failed in his or her duty towards the child to such extent that the safety or welfare of the child is likely to be prejudicially affected if an order under section 12C(3) (as applied by subsection (2)) is not made by the court, 30
- the Child and Family Agency may, if it considers it appropriate to do so, apply to the court in that behalf for such an order.
- (2) Subsections (3) to (7) of section 12C and sections 12F, 12G, 12H and 12I shall, with any necessary modifications, apply to— 35
- (a) an application to the court referred to in subsection (1), and
- (b) the determination by the court of the application.
- (3) Section 12E shall, with any necessary modifications, apply to an order made under this section.”. 40

Amendment of section 8A of Principal Act

3. Section 8A of the Principal Act is amended by the substitution of “Subject to section 8 and Part IIA” for “Subject to section 8”.

Short title and commencement

4. (1) This Act may be cited as the Guardianship of Infants (Amendment) Act 2026. 5
- (2) This Act shall come into operation on such day or days as the Minister for Justice, Home Affairs and Migration, after consultation with the Minister for Children, Disability and Equality, may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 10

An Bille um Chaomhnóireacht Naíon
(Leasú), 2026

BILLE

(mar a tionscnaíodh)

dá ngairtear

Acht do leasú an Achta um Chaomhnóireacht Naíon, 1964 chun socrú a dhéanamh maidir le caomhnóireacht linbh a shrianadh nó a bhaint in imthosca áirithe le hordú ó chúirt in imeachtaí chun na críche sin, agus le linn na n-imeachtaí sin a réiteach is é leas an linbh an ní is tábhachtaí ar a dtabharfaidh an chúirt aird; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

An tAire Dlí agus Cirt, Gnóthaí Baile agus Imirce a
thíolaic,

15 Bealtaine, 2026

Guardianship of Infants (Amendment) Bill
2026

BILL

(as initiated)

entitled

An Act to amend the Guardianship of Infants Act 1964 to provide for the restriction or removal of guardianship of a child in certain circumstances by order of a court in proceedings for that purpose, in the resolution of which the court shall regard the best interests of the child as the paramount consideration; and to provide for related matters.

Presented by the Minister for Justice, Home Affairs
and Migration,

15th May, 2026

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN, CILL MHAIGHNEANN,
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