



An Bille um Chaomhnóireacht Naíon agus um Chúram Leanaí (Leasú), 2026
Guardianship of Infants and Child Care (Amendment) Bill 2026

athraithe ó
changed from

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

Mar a leasaíodh sa Roghchoiste um Dhlí agus Ceart, Gnóthaí Baile agus Imirce

As amended in the Select Committee on Justice, Home Affairs and Migration



**AN BILLE UM CHAOMHNÓIREACHT NAÍON AGUS UM CHÚRAM LEANAÍ
(LEASÚ), 2026
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AN BILLE UM CHAOMHNÓIREACHT NAÍON AGUS UM CHÚRAM LEANAÍ
(LEASÚ), 2026
GUARDIANSHIP OF INFANTS AND CHILD CARE (AMENDMENT) BILL 2026

Bill

entitled

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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; to amend certain provisions of Part VA of the Child Care Act 1991 in relation to the appointment of, and legal representation for, guardians *ad litem*; and to provide for related matters.

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Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citation and commencement

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1. (1) This Act may be cited as the Guardianship of Infants and Child Care (Amendment) Act 2026.
- (2) The Child Care Acts 1991 to 2024 and *Part 3* may be cited together as the Child Care Acts 1991 to 2026.
- (3) This Act, other than *Part 3*, 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.

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Definitions

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2. In this Act—

“Act of 1964” means the Guardianship of Infants Act 1964;

“Act of 1991” means the Child Care Act 1991.

PART 2

AMENDMENTS TO GUARDIANSHIP OF INFANTS ACT 1964

Restriction or removal of guardianship in certain circumstances

3. The Act of 1964 is amended by the insertion of the following Part after PART II:

“PART IIA 5

RESTRICTION OR REMOVAL OF GUARDIANSHIP IN CERTAIN CIRCUMSTANCES

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; 10

‘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. 15

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 20

(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, 25

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). 30

(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 35

(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 5
 - (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— 10
- (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, 15
 - (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 20
 - (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. 25 30
- (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. 35
- (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. 40
- (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. 5

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

12D. (1) Where— 10

- (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’), 15

- (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— 20

- (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 child concerned is the subject of a private foster care arrangement under Part IVB of the Act of 1991, or 25

- (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,

and 30

- (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, 35

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).

- (2) The court may extend the period for the making of an application under subsection (1) only where it is satisfied that— 40

- (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—
 - (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 5
 - (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— 10
 - (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, 15
 - (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 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 20
 - (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. 25
- (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. 30
- (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. 35
- (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. 40

- (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), 5
- 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 10
 - (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. 15

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 20
 - (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. 25
- (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 30
- 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.
- (3) Subject to subsection (4), the court may, in determining an application under subsection (1) or (2), make such order as it considers 35
- 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.
- (4) In determining an application under subsection (2), the court may, 40
- 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.

- (5) Where the court makes a determination under subsection (4), it shall give reasons for its determination in writing. 5

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: 10

- (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; 15

- (c) section 35H of the Act of 1991 shall apply—

- (i) as if the following subsection was substituted for subsection (2) of that section: 20

‘(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; 25

- (b) by direction of the court;

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

and 30

- (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

- (II) a review of the order concerned under section 12E of that Act of 1964; 35

- (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. 40

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. 5
- (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. 10

Data protection and data sharing for purposes of this Part

- 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. 15 20
- (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. 25
- (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 30
- (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. 35 40
- (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.
- (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;

‘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);

‘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;

‘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,
- (c) An Garda Síochána,
- (d) the Courts Service,
- (e) the Minister, or
- (f) the Minister for Children, Disability and Equality;

‘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.

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).
- (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.

¹ OJ No. L 119, 4.5.2016, p. 1

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

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 and Child Care (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 5
 - (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, 10
- 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. 15

(2) Subsections (3) to (7) of section 12C and sections 12F, 12G, 12H and 12I shall, with any necessary modifications, apply to—

- (a) an application to the court referred to in subsection (1), and
 - (b) the determination by the court of the application. 20
- (3) Section 12E shall, with any necessary modifications, apply to an order made under this section.”. 25

Amendment of section 8A of Act of 1964

4. Section 8A of the Act of 1964 is amended by the substitution of “Subject to section 8 and Part IIA” for “Subject to section 8”. 25

PART 3

AMENDMENTS TO CHILD CARE ACT 1991

Amendment of section 35C of Act of 1991

5. Section 35C of the Act of 1991 is amended by the substitution of the following subsection for subsection (3): 30

- “(3) The power to appoint a guardian *ad litem* under subsection (1) includes the power to appoint a guardian *ad litem* for the child concerned in place of—
- (a) a person who stood appointed for the child and whose appointment in relation to that child ceased in accordance with section 35O(2), 35
 - (b) a person who was deemed under section 35Q(1) to be appointed for the child and the order pursuant to which he or she was appointed

ceased to have effect under paragraph (b)(ii) or (c)(ii) of section 35Q(2),

- (c) a guardian *ad litem* who stands appointed for the child and is unable to perform his or her functions in respect of that child due to the absence or incapacity of the guardian *ad litem*, or 5
- (d) a guardian *ad litem* who stands appointed for the child (in this paragraph referred to as the ‘relevant guardian *ad litem*’) where it appears to the Minister that there are good and sufficient grounds to so appoint for one or more of the following reasons:
 - (i) a complaint that relates to the performance by the relevant guardian *ad litem* of his or her functions under this Act is the subject of an ongoing investigation; 10
 - (ii) child safeguarding concerns arise in relation to the relevant guardian *ad litem* where there has been a report, under section 14 of the Children First Act 2015 or otherwise, of harm (within the meaning of that Act), or the risk of harm, being caused, or having been caused, to a child; 15
 - (iii) the child has requested that a different guardian *ad litem* be appointed for him or her;
 - (iv) the relevant guardian *ad litem* has requested that a different guardian *ad litem* be appointed for the child; 20
 - (v) the relevant guardian *ad litem*, having regard, in particular, to his or her obligations under section 35E(5), agrees that a different guardian *ad litem* be appointed for the child.”.

Amendment of section 35D of Act of 1991

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6. Section 35D of the Act of 1991 is amended—

(a) in subsection (2)—

- (i) in paragraph (a), by the deletion of “and”,
- (ii) by the substitution of the following paragraph for paragraph (b):

“(b) shall provide, or arrange for the provision of, legal representation to the guardian *ad litem*— 30

- (i) where the court making the order under section 35B(3) or 35H(3)(b) expresses the view—

(I) at the time that order is made, or

(II) at any time after that order is made,

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having regard to the nature of the case, that it is necessary and in the best interests of the child and in the interests of justice that such representation be provided,

- (ii) for the purposes of the guardian *ad litem* making an application under this Act in relation to the child, or
 - (iii) where an order has been made under section 35E(11), and”,
- and
- (iii) by the insertion of the following paragraph after paragraph (b): 5
 - “(c) may provide, or arrange for the provision of, such legal representation as the Minister considers appropriate to the guardian *ad litem*, having regard to all of the circumstances of the case, including the matters set out in subsection (3).”,
- (b) by the substitution of the following subsection for subsection (3): 10
 - “(3) Without prejudice to the generality of paragraph (c) of subsection (2), the matters referred to in that paragraph to which the Minister shall have regard include:
 - (a) the views of the guardian *ad litem* having regard, in particular, to his or her obligations under section 35E(5); 15
 - (b) the nature of additional functions (if any) that the court, under section 35E(2)(d), has directed the guardian *ad litem* to perform;
 - (c) the nature and complexity of the evidence that the guardian *ad litem* may be required to give in the case;
 - (d) whether the court has made an order under section 25(2) appointing a solicitor to represent the child in the proceedings; 20
 - (e) whether the proceedings relate to an application on consent or otherwise;
 - (f) the nature and complexity of the proceedings.”,
- and 25
- (c) by the insertion of the following subsection after subsection (3):
 - “(4) Where under subsection (2)(b)(i) the court expresses the view that legal representation be provided to the guardian *ad litem* that view shall—
 - (a) where clause (I) of that subsection applies, be recorded in the order under section 35B(3) or 35H(3)(b), as the case may be, and 30
 - (b) where clause (II) of that subsection applies, be recorded in an appropriate form.”.

An Bille um Chaomhnóireacht Naíon agus
um Chúram Leanaí (Leasú), 2026

athraithe ó

An Bille um Chaomhnóireacht Naíon
(Leasú), 2026

BILLE

*(mar a leasaíodh sa Roghchoiste um Dhlí agus
Ceart, Gnóthaí Baile agus Imirce)*

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 himeachtaí sin a réiteach is é leas an linbh an ní is tábhachtaí ar a dtabharfaidh an chúirt aird; do leasú forálacha áirithe de Chuid VA den Acht um Chúram Leanaí, 1991 i ndáil le caomhnóirí *ad litem* a cheapadh agus i ndáil le hionadaíocht dhlíthiúil dóibh; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

*Ordaíodh ag an Roghchoiste a chlóbhualadh,
9 Meitheamh, 2026*

Guardianship of Infants and Child Care
(Amendment) Bill 2026

changed from

Guardianship of Infants (Amendment) Bill
2026

BILL

*(as amended in the Select Committee on Justice,
Home Affairs and Migration)*

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; to amend certain provisions of Part VA of the Child Care Act 1991 in relation to the appointment of, and legal representation for, guardians *ad litem*; and to provide for related matters.

*Ordered by the Select Committee to be printed,
9th June, 2026*

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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