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Bill Digest

Guardianship of Infants (Amendment) Bill 2026

Dr Emily Heery
Senior Parliamentary Researcher (Social Science)

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Abstract

The Guardianship of Infants (Amendment) Bill 2026 (also known as Valerie's Law) aims to provide for the restriction or removal of guardianship rights in certain circumstances. The Bill seeks to empower the court to restrict or remove guardianship of a child, in certain circumstances, from a person convicted of murder, manslaughter, or a serious offence for which another guardian of the child is the victim. The best interest of the child will be the paramount consideration in such court proceedings. This *Bill Digest* presents the principal provisions of the Guardianship of Infants (Amendment) Bill 2026 and examines how the recommendations from Pre-legislative Scrutiny by the Joint Oireachtas Committee on Justice, Home Affairs, and Migration have been addressed in the Bill.

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Library & Research Service

Email: library.and.research@oireachtas.ie

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Contact

Houses of the Oireachtas
Leinster House
Kildare Street
Dublin 2
D02 XR20

Tel: +353 (0)1 6183000
Twitter/X: @OireachtasNews

www.oireachtas.ie



Summary

The Guardianship of Infants (Amendment) Bill 2026 (the Bill) and the Explanatory Memorandum were published on 15th May 2026. The second stage debate on the Bill is scheduled for Thursday 21st May 2026 in Dáil Éireann. The Bill seeks to amend the Guardianship of Infants Act 1964 (the 1964 Act), which is the main piece of legislation governing issues of guardianship in Ireland.

The Bill aims to provide for the removal or restriction of guardianship by the court from a guardian of a child convicted of murder, manslaughter, or a serious offence where the victim of the offence is another guardian of the child. The Bill provides that the best interest of the child concerned is the paramount consideration in such court proceedings. It also provides for the appointment by the court of a guardian *ad litem* to represent the views of the child concerned in the proceedings. A key provision of the Bill is that it imposes a statutory duty on Tusla to apply for an order removing or restricting guardianship where there has been a failure of duty on the part of a convicted guardian to the extent that the child's safety or welfare is likely to be prejudicially affected. Tulsa must apply to the court for such an order within 6 months of the guardian's conviction.

A key implication of the Bill is that it helps support fulfilment of Ireland's obligations under international law on combatting domestic violence and protecting children, particularly Article 31 of the Istanbul Convention. Another implication of the Bill is that it only appears to apply to victims of the specified offences who are guardians. As such, it appears that the guardianship rights of a convicted guardian of a child may *not* be removed or restricted under this Bill if the victim was the perpetrator's partner but not a guardian of the child (e.g., a co-habitant, or stepparent).

The Guardianship of Infants (Amendment) Bill 2026 is also known as Valerie's Law, in memory of Valerie French, who was murdered by her husband, James Kilroy, seven years ago.

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Introduction

The Guardianship of Infants (Amendment) Bill 2026 was published on 15th May 2026 and is scheduled for Thursday 21st May in Dáil Éireann.

The General Scheme of the Bill was published by the Department of Justice, Home Affairs and Migration on 1st April 2025. It was referred to the Joint Oireachtas Committee on Justice, Home Affairs and Migration for pre-legislative scrutiny (PLS) on 19 May 2025. The Committee's PLS report was published in September 2025. It contains 30 recommendations based on the Committee's engagement with the witness (David French, brother of Valerie French who was murdered by her husband in 2019), Department representatives and nine written submissions received from stakeholders.

The current (2025) Programme for Government[1] includes a commitment to "examine proposals to remove guardianship rights from those convicted of killing their partners or a parent of their child" (p. 121). The Bill is also part of ongoing work to implement appropriate recommendations from the Study on Familicide and Domestic and Family Violence Death Reviews which was commissioned by the Department of Justice.[2]

Following Cabinet approval of the Bill on 6th May 2026, Minister for Justice, Home Affairs and Migration, Jim O'Callaghan T.D., stated the following regarding guardianship rights following intimate partner homicide:[3]

> *"Guardianship when one guardian kills another, should not be regarded as a matter of private law to be determined between the families concerned, but must be regarded as a child protection and welfare issue."*

[1] Government of Ireland (2025) 'Programme for Government 2025 - Securing Ireland's Future' Available here.

[2] Butler, M. and Study Team (2023) 'A Study on Familicide & Domestic and Family Violence Death Reviews' Department of Justice. Available here.

[3] Department of Justice, Home Affairs and Migration press release (6 May 2026) 'Minister Jim O'Callaghan secures Cabinet approval to publish 'Valerie's Law' to remove guardianship rights from one guardian/parent convicted of killing the other guardian/parent.' Available here.

Before publication of the Bill, the Library and Research Service (L&RS) published a Policy and Legislative Briefing Paper on the General Scheme of the Guardianship of Infants (Amendment) Bill 2025. The paper examined the draft heads of the bill and outlined the policy and legislative context; this is not reproduced here.

This Digest examines the Bill's principal provisions and the extent to which they reflect the recommendations arising from the Committee's PLS of the General Scheme and considers implications of the Bill.

Background

Guardianship refers to the legal responsibility to perform duties for a child's upbringing and welfare. Guardianship differs from custody, which is about a child's child day-to-day care. It also differs from access, which is the legal right of a child and an adult to have contact when they do not live together.

On approval of the Bill by Cabinet, Minister O'Callaghan commended David French and his family who advocated for a change to the law on guardianship in memory of his sister Valerie who was murdered by her husband, James Kilroy in 2019. Despite his conviction for Valerie's murder, James Kilroy still retains full guardianship rights over their three children, which David describes as inflicting immense trauma on the victim's family. David has actively campaigned to remove automatic child guardianship rights from those convicted of killing a partner or the other parent similar to legislation introduced in the UK, known as 'Jades Law'. The proposed Irish legislation will be known as 'Valerie's Law' in memory of Valerie.[4,5,6]

On 24 November 2025, the L&RS published a Policy and Legislative Briefing Paper which reviews the policy and legal context to the General Scheme of the Bill and considers the legislative changes proposed by it. Key areas examined in the Briefing Paper include:

- Trends in intimate partner homicide
- Domestic and international laws and standards relating to domestic violence
- Custody laws and practices following intimate partner homicide

The Briefing Paper also includes key implications of the General Scheme identified from the review of the legal and policy context. It is recommended to read this *Policy and Legislative Briefing Paper* in conjunction with this Bill Digest where the reader is looking for further policy and legislative context.

Overview of the policy background

It is clear from the literature and global prevalence rates, that intimate partner homicide is a gendered phenomenon. When looking at global rates of homicide in general, most homicide victims are male (81%). However, when examining global rates of intimate partner homicide,

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[4] Department of Justice, Home Affairs and Migration press release (6 May 2026) 'Minister Jim O'Callaghan secures Cabinet approval to publish 'Valerie's Law' to remove guardianship rights from one guardian/parent convicted of killing the other guardian/parent.' Available here.

[5] *RTÉ News* (5 May 2026) 'Legislation on Valerie's Law to be brought to Cabinet' Available here.

[6] *The Journal* (29 July 2024) 'Family of Valerie French call for legal changes to restrict killers' parental rights' Available here.

the vast majority of victims are female (82%).[7] There has been insufficient data collected to assess trends in intimate partner homicide in Ireland. However, the available crime data displays striking gender differences. For example, of all female homicide victims in Ireland between 2013 and 2021, the majority were killed by a current or former intimate partner (55%). While, of all male homicide victims over this time, only a small minority were killed by a current or former partner (4%).[8,9]

In the global and European context, several key instruments guide countries' policies and regulatory frameworks for addressing domestic violence and violence against women including protecting the children of victims. Of particular relevance, Article 31 of the Istanbul Convention governs custody and visitation rights in the context of gender-based violence and sets out the obligations of parties to the Convention (which includes Ireland).[10] Also, Article 69 of the EU Directive on combating violence against women and domestic violence states that Member States should ensure that children whose parent has been killed as a result of domestic violence or violence against women can fully benefit from the Directive, in particular through targeted protection and support measures, including during any relevant judicial proceedings (Directive (EU) 2024/1385). Lastly, the EU Charter of Fundamental Rights does not explicitly refer to domestic violence, but Article 24 emphasises that the child's best interest must be the primary consideration in decisions about them and that every child has the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

In the United States, each state has its own laws governing custody arrangements after one parent commits violence. The best interest of the child is the guiding principle underpinning custody decisions under state laws. A history of violence against one of the parents is usually one of the key factors considered in child custody and visitation arrangements. In some states, there are specific laws governing custody and/or visitation arrangements in the case of one parent intentionally killing the other parent (e.g., New York and Wisconsin).[11,12]

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[7] United Nations Office on Drugs and Crime (UNODC) (2019) 'Global study on homicide Gender-related killing of women and girls 2019' Available here.

[8] An Garda Síochána (2022) 'Domestic, sexual and gender based violence: A Report on Crime Levels and Garda Operational Responses' Available here.

[9] The homicide data presented here includes murder/manslaughter/infanticide, but excludes dangerous driving causing death

[10] Council of Europe webpage 'The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)' Gender Matters. Available here.

[11] Cornell Law School Legal Information Institute 'best interests of the child' (last accessed 13/05/26) Available here.

[12] WomensLaw.org website 'Legal Information' provides state-specific information regarding violence against women. Available here.

Within the EU, research commissioned by the European Institute for Gender Equality found that Member States deal with the issue of custody following femicide differently. Of the five EU Member States examined, Spain has the most comprehensive approach to femicide, viewing it as the extreme end of a continuum of violence against women.[13]

In addition, GREVIO, an independent human rights body of experts mandated to monitor the implementation of the Istanbul Convention, reported that the Spanish legal system offers judges a wide range of measures to suspend, limit or otherwise regulate the exercise of parental rights of parents who have abused their spouses (including for convictions for offences most relevant to intimate partner violence, for *alleged* intimate partner violence offences; and for custodial sentences of 10 year or more for *any* offence).[14]

In England and Wales, Section 18 of the Victims and Prisoners Act 2024 (known as 'Jade's Law') places a mandatory duty on the Crown Court to make a Prohibited Steps Order (PSO) suspending the parental responsibility of a parent who is convicted of the murder or manslaughter of a partner or ex-partner with whom they have children.[15]

In 2022, the Department of Justice published Ireland's third national strategy on domestic, sexual and gender-based violence (DSGBV).[16] The strategy particularly focuses on meeting the needs of women and girls (as the primary victims) and creating a society where there is zero tolerance for the culture and conditions that promote DSGBV.[17] On launching the 2025 progress report on the implementation of the third national strategy, the Minister for Justice noted that bringing in new legislation on domestic violence, which includes the guardianship Bill, is being prioritised in the 'final phase' of the government's Zero Tolerance strategy.[18,19]

Further analysis of the background to the Bill is available in the Policy and Legislative Briefing Paper on the General Scheme.

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[13] European Institute for Gender Equality (2023) 'Improving legal responses to counter femicide in the European Union: Perspectives from victims and professionals' Available **here.**

[14] GREVIO (2020) 'Spain V. A. 3. Custody and visitation rights and safety (Article 31)' in: *Spain Round Baseline Evaluation GREVIO/Inf(2020)19.* Available **here**.

[15] Newby, A. (2025). Drawing the line - suspension of parental responsibility: a consideration of s18 of the Victims and Prisoners Act 2024. *Family Law*, *2025* (April), 459-467. Available **here**.

[16] Department of Justice (2022) 'Zero Tolerance: Third National Strategy on Domestic, Sexual and Gender-Based Violence 2022-2026' Available here.

[17] As above

[18] *Irish Legal News* (1 Apr 2026) 'Domestic violence legislation prioritised in 'final phase' of strategy' Available here.

[19] Department of Justice, Home Affairs and Migration press release (31 Mar 2026) 'Minister Jim O'Callaghan publishes report detailing progress made in combatting domestic, sexual and gender-based violence' Available here.

Previous legislation related to the current Bill

Guardianship of Infants Act, 1964

The Guardianship of Infants Act, 1964 is the Principal Act which the Bill proposes to amend. It provides a framework for resolving disputes regarding child custody, access, and guardianship, with the welfare of the child being the primary consideration in such decisions. It defines the rights of guardians regarding a child's upbringing and welfare including decisions about their religious upbringing, education, medical treatment and where they live. Eligible persons who do not have automatic rights may apply to the District Court for guardianship.[20]

Children and Family Relationships Act 2015

The Children and Family Relationships Act 2015 amended the 1964 Act to modernise guardianship, access and custody law to recognise diverse family forms with the child's best interests prioritised. It broadened who can apply to the court for guardianship (including stepparents and those co-habiting with the biological parent) and introduced automatic guardianship for unmarried fathers who lived with the child's mother for at least 12 consecutive months, including at least 3 months with the mother and child following the birth.

Guardianship of Infants (Amendment) Bill 2025

This is a Private Member's Bill with similar aims which was initiated in the Dáil in April 2025.[21]

Pre-legislative scrutiny of the General Scheme of the Bill

The Joint Oireachtas Committee on Justice, Home Affairs, and Migration undertook pre-legislative scrutiny of the General Scheme of the Bill. The Committee heard the views of David French at a PLS hearing on 1st July 2025[22] and received nine written submissions. The Committee published their Report on Pre-legislative Scrutiny of the Guardianship of Infants (Amendment) Bill, 2025 on 24 September 2025, with 30 recommendations identified. Key areas in the General Scheme identified by the Committee for further examination included:

- Concerns about designating Tusla as the sole entity that can submit an application to the Court to remove or suspend guardianship.
- Whether guardianship should be suspended under such Court orders, as opposed to removed.

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[20] Citizens Information (17 Jan 2025) 'Guardianship' Available here.

[21] Dáil Éireann debate (29 Apr 2025) 'Guardianship of Infants (Amendment) Bill 2025: First Stage' Available here.

[22] Joint Committee on Justice, Home Affairs and Migration debate (1 Jul 2025) 'General Scheme of the Guardianship of Infants (Amendment) Bill 2025: Discussion' Available here.

- Allowing the discretion of the Court in certain cases, such as manslaughter, following domestic abuse to ensure they are handled in the best interests of the child.

A key issue for stakeholders in their submissions on the General Scheme was the intention to remove guardianship rights from a parent and/or guardian. Stakeholders were concerned with the constitutionality of removing guardianship status, particularly in the case of mothers and married parents as their guardianship rights are protected in the Constitution.[23] Another key theme in the submissions was the need for any amending legislation to take into account the views and best interests of the child, and stakeholders welcomed reference to this in the General Scheme. Stakeholders raised concerns however about *how* the views and best interests of the child, and the damage caused to the child's welfare due to the violence, would be assessed ahead of an application under Head 2, 6(G).

In the PLS report, the Members raised concerns about placing a statutory onus on a single agency (Tusla) to apply to the Court to remove or suspend guardianship as the agency has not been engaged in this type of role before. In response to such concerns during the public hearing, a Department representative stated that Tusla is considered to be the best placed agency to make an application from a neutral perspective, but also stated that there would be further engagement with Tusla as part of drafting. During the hearing, the Members also asked David French about the rationale behind his recommendation that an independent unit is established within Tusla that submits the application to the court to remove or suspend guardianship. In reply, the witness pointed out that perpetrators of domestic homicide are typically manipulative and that a specialist unit would have experience of the process and dynamics involved in domestic homicide cases.[24]

L&RS traffic light analysis of PLS recommendations versus published Bill

This section seeks to assess the extent to which the Committee's recommendations have been addressed in the Bill, as presented for Second Stage. To do this, a traffic light system is used by the L&RS to indicate the extent to which each recommendation has been accepted and is reflected in the Bill. This traffic light approach represents the L&RS's own, independent analysis of the Bill, and a key to this dashboard is shown in Table 1 below. The L&RS is grateful to the Department for providing their response to the Committee's recommendations and this is included verbatim in Table 2 below.

[23] Article 41 and Article 42A

[24] Joint Committee on Justice, Home Affairs and Migration debate (1 Jul 2025) 'General Scheme of the Guardianship of Infants (Amendment) Bill 2025: Discussion' Available here.

Table 1 Key to traffic light dashboard comparing the Bill as published with Committee PLS recommendations

L&RS categorisation of the Department's response in the Bill to the Committee's key issue	Traffic light dashboard used in Table summary of PLS recommendations to highlight impact of the Committee's PLS conclusion
Key issue has clearly been accepted and is reflected in the Bill	
The Bill may be described as adopting an approach consistent with the key issue or the impact of the key issue is unclear	
Key issue has not been accepted or implemented in the Bill	

Table 2 Traffic light dashboard comparing the Bill as published with Committee PLS recommendations.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(1) The Committee acknowledges that the child's best interests are paramount. Recognising the impact that custody and access rights can have on a child's overall wellbeing, the Committee recommends that decisions be guided by the voice of the child and their best interests. Further, it is recommended that Head 2 provides clarity as to how children's views will be ascertained, considered and given due weight.	 Addressed in full in the Bill. The Bill, as set out in the long title, places the best interests of the child as paramount consideration in proceedings. Before making an order, the court must be satisfied both as to the convicted guardian's failure of duty and that the order is in the best interests of the child (sections 12C(4) and 12D(4)). The voice of the child is provided for through section 12F, which applies the robust provisions of the Child Care (Amendment) Act 2022 in full with the necessary modifications. The child also has standing in their own right to apply for review under section 12E(1)(d).
(2) The Committee recommends that the definition of a child under the General Scheme is amended so that it aligns with that of other legislative acts such as the Assisted Decision-Making (Capacity) Act 2015.	 Addressed in full in the Bill. Part IIA does not contain a separate definition of a child. The definition of child is the same as used in the principal Act (1964 Act).

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(3) The Committee recommends that this legislation allows other parties, such as the child's relatives, or other public bodies with expertise in the area, to submit any application to the Court to remove or suspend guardianship following a conviction, and not restrict this role to Tusla.	Not possible to address this in the Bill. The Bill provides that the Child and Family Agency is the sole body that may bring an application. Given the Constitutional rights engaged by the provisions of this Bill there is a requirement that the CFA consider the failure of duty standard prior to making an application. Section 12J allows a relative of the child to seek leave to be joined as a notice party. Section 12E permits applications for review by the Agency, the convicted guardian, another guardian of the child, or the child.
(4) The Committee recommends the establishment of a register of guardians to aid State bodies, such as Tusla, in their implementation of the proposed legislative changes.	Not possible to address this in the Bill. The establishment of a register of guardians is outside the scope of this Bill. The implementation need the Committee identifies, in the more limited context of the new Part, is met through section 12H, which allows the Director of Public Prosecutions, the Child and Family Agency, An Garda Síochána, the Courts Service, the Minister, and the Minister for Children, Disability and Equality to share information with each other for the purposes of the new Part.
(5) The Committee wishes to highlight concerns raised regarding both a potential conflict of interest for Tusla in taking on responsibility under this legislation given its role in preserving the family and the capacity of Tusla, which is already overstretched, to take on these additional responsibilities.	The Child and Family Agency as the body charged with promoting the welfare and protection of children is the most appropriate applicant under this Part and is typically already engaged with the children in such cases through its existing functions. The role for the CFA under this Bill is in alignment with its statutory functions.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(6) The Committee recommends that consideration is given to establishing a specialist unit, within or involving Tusla, that would submit any application to the Court to remove or suspend guardianship, following a conviction, and/or provide expertise to any related Court process.	 Not implemented in the Bill – this is a matter for the Child and Family Agency. The internal organisation of the Child and Family Agency in carrying out its functions under this Part are properly a matter for the Agency itself. It would not be appropriate to set this out in legislation.
(7) The Committee recommends that consideration is given to inserting a provision in the General Scheme to explicitly exclude from the suspension of guardianship rights victims of domestic violence convicted of manslaughter when found to be acting in self-defence, or where there has been a history of domestic abuse towards the alleged perpetrator.	 Addressed in the Bill. A conviction alone does not, of itself, give rise to an order to remove guardianship. The Agency retains must be satisfied that there is reasonable cause to believe the convicted guardian has failed in his or her duty to such extent that the safety or welfare of the child is likely to be prejudicially affected, and the court, before making any order, must be satisfied both of that failure of duty and that the order is in the best interests of the child.
(8) The Committee recommends that the bereaved family is made a notice party to any Court case on such matters.	 Fully implemented in the Bill Section 12J(1) requires the Agency to give notice of any application to each guardian of the child, including a victim guardian. Section 12J(2) permits a relative of the child to seek leave of the court to be joined as a notice party. "Relative" is defined as a brother, sister, uncle or aunt, or a spouse of the brother, sister, uncle or aunt, or a grandparent or step-parent, of the child.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(9) The Committee recommends that consideration is given under Head 2 to ensure that the length of time it takes to charge and convict, the six months period imposed on Tusla and the time it takes until the application is determined do not hinder the recovery of the child, the child's best interests are at the heart of the decision, and that accommodations are made to ensure the child can access necessary social and therapeutic supports.	– Substantively addressed. The best interests of the child is the paramount consideration in the resolution of proceedings, and the court must be satisfied of this before making any order (section 12C(4)(b)). The 6-month period under section 12C(1) is a maximum within which the Agency must apply, with extension by the court only for good and sufficient reason and where doing so is in the best interests of the child (section 12C(2)). Continuity of care for the child is secured by the requirement that no order take effect until an alternative guardianship arrangement is in place, either another willing guardian, a kinship arrangement, or a care order under the Child Care Act 1991. The child's access to social and therapeutic supports is supported through the Agency's central role in proceedings.
(10) The Committee recommends that consideration be given to amend Head 2, section 6G to include timeframes for the processing of applications by the Court.	– Not implemented in the Bill The Bill addresses the underlying concern regarding delay through the strict 6-month period is imposed on the Agency under section 12C(1), extendable by the court only for good and sufficient reason and where in the best interests of the child (section 12C(2)). Jurisdiction is conferred on the District Court under section 12G which is the routine forum for guardianship proceedings under the 1964 Act and well placed to deal with applications expeditiously. Timeframes for the court's processing of applications are otherwise appropriately a matter for the rules of court rather than primary legislation.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(11) The Committee recommends that consideration is given under Head 2 to ensure that in the aftermath of a parent's death the child is not prevented from staying with other family members or accessing certain forms of support during the process of appointing a guardian.	 Addressed in the Bill The Bill does not prevent the child from staying with other family members in a kinship arrangement in the period before or after an order is made, or from accessing supports through the Agency's existing functions under the Child Care Act 1991. Section 12C further ensures that no order affecting guardianship takes effect until an alternative care arrangement is in place. That is another guardian able and willing to act, or a relevant order under the Child Care Act 1991.
(12) The Committee recommends that a legal review is undertaken to examine the mechanisms available to Tusla under child welfare concerns and child protection obligation to determine if there is a legitimate basis to suspend guardianship once a parent/guardian is arrested and charged with the death of the other parent/guardian.	 Not addressed in the Bill following legal advice received on this matter. The CFA has a range of existing child welfare and protection functions available throughout the period prior to conviction. These include the power under section 12 of the Child Care Act 1991 to take a child into care without warrant where there is an immediate and serious risk to the child, and the discretion to apply for emergency, interim, care, and special care orders under that Act. However the removal or restriction of guardianship requires that there be a failure of parental duty. The Bill has been drafted with the benefit of legal advice to provide for a mechanism to remove or restrict guardianship which is constitutionally robust.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(13) The Committee recommends that consideration is given to amending Head 2, Section 6G (7) to provide for the appointment of a guardian ad litem for a child where a parent has been charged with, but not yet tried for, the offences listed.	Not addressed in the Bill. The function of a guardian ad litem is to represent the voice of the child in proceedings. Where the Agency brings proceedings under that Act, a guardian ad litem may be appointed in respect of the child. The Bill itself operates following conviction, with section 12F applying guardian ad litem framework under the Child Care Act 1991 as amended to proceedings under this new Part.
(14) The Committee recommends that consideration is given to ensuring there is no conflict between Head 2, Section 6G of the General Scheme, and Section 6C of the Guardianship of Infants Act, 1964.	Addressed in the Bill. The new provisions are inserted as a discrete Part IIA of the 1964 Act, separate from Part II, which contains section 6C. The separation maintains the distinction between public-law applications under the new Part and private-law applications under Part II. The Bill itself does not provide for the appointment of a new guardian. Where a new guardian is required, the existing routes under Part II of the 1964 Act and under the Child Care Act 1991 apply.
(15) The Committee recommends that consideration is given to amending Head 2, Section 6G (1, 2) by stipulating ‘guardian’ throughout instead of ‘guardian or parent’, as this will encompass any parent who is a guardian.	Addressed in the Bill. Sections 12C and 12D refer throughout to a "guardian" and to a "convicted guardian". The references to "parent" in the General Scheme have not been carried into the Bill.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(16) The Committee recommends that consideration is given to amending Head 2, Section 6G to replace references to 'remove/removed/removing', which may be unconstitutional, with 'restrict/restricted/restricting', 'prohibit/prohibited/prohibiting' or 'suspend/suspended/suspending'.	Addressed in the Bill Sections 12C(3) and 12D(3) give the court a choice between restricting the powers and duties of the convicted guardian and removing the convicted guardian from office, having regard to the extent of the failure of parental duty. On the basis of legal advice received the Department are satisfied that removal of guardianship is constitutionally permissible where there has been a failure of duty on the part of the guardian, and accordingly remains available where the court considers it warranted in the best interests of the child.
(17) The Committee recommends that consideration is given to appointing the Ombudsman for Children's Office as a more neutral child-centric statutory body which could fulfil the function of making the application for an order to remove or suspend guardianship in the Court following a conviction for murder or manslaughter.	Not addressed in the Bill. The Bill retains the Child and Family Agency as the body responsible for bringing applications under the new Part. This is aligned with the Agency's statutory functions and role as the agency responsible for the child protection and welfare.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(18) The Committee recommends that child impact assessments are undertaken ahead of any application to the Court seeking an order to remove guardianship rights, and that this assessment should inform the decision of whether to make an application, that the court be required to consider this child impact assessment, and that this should be an additional procedure to be completed separate to the appointment of a guardian ad litem, and prior to an application under Head 2, Section 6G (10, 11).	– Not addressed in the Bill Child impact assessments are not appropriately a statutory procedure – although they may be used by practitioners working with children whose family members are engaged in the criminal justice system to facilitate conversations with such children and determine their views. This has not been implemented in the Bill which, in recognition of the serious child protection and welfare concerns raised by the circumstances addressed by the bill, imposes a statutory duty for the Child and Family Agency to make an application where there has been a failure of duty on the part of a convicted guardian. The Bill provides for a robust mechanism to ensure that the voice of the child is heard in proceedings and that the court makes its decisions in granting an order based on the best interests of the Child. The court has the power to procure expert reports under section 32 of the principal Act and consider the totality of matters in making the appropriate order.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(19) The Committee recommends that consideration is given to including a provision which sets out a formal procedure for reviewing an order, which removes the convicted guardian from office, with due regard given to the best interests and voice of the child in line with their evolving capacity.	Addressed in the Bill. Section 12E provides a standalone procedure for the review of an order made under the new Part, where there has been a significant change in circumstances affecting the welfare of the child, or the conviction has been quashed or set aside. The best interests of the child remain the paramount consideration on review. The voice of the child is provided for through the child's standing to bring a review application and through the application by section 12F of the guardian ad litem framework in Part VA of the Child Care Act 1991.
(20) The Committee recommends that consideration is given to whether there should be a provision through which the guardian whose rights are sought to be suspended should be made a party to the proceedings, and whether provision should be made for civil legal aid to be made available to the convicted guardian if they do not have the means to engage their own legal representation.	Addressed in the Bill. The convicted guardian will be the respondent to proceedings. Section 12E allows the convicted guardian to apply for review of any order, including where the conviction has been quashed or set aside. Civil legal aid is governed by the Civil Legal Aid Act 1995 and will be available on the same basis as in other guardianship proceedings.
(21) The Committee recommends that consideration is given to ensuring that all children, regardless of circumstance, are afforded the same access to a guardian ad litem in situations where guardianship may be altered.	Addressed in the Bill. Section 12F applies Part VA of the Child Care Act 1991 to proceedings under the new Part. A child whose guardianship is the subject of proceedings under the Bill will therefore have access to a guardian ad litem on the same statutory basis as a child in other child welfare proceedings.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(22) The Committee recommends, given the similarities between the General Scheme and the Victims and Prisoners Act 2024 (England and Wales), that consideration is given to adopting a formal review process which can accommodate situations where a person is later acquitted.	Addressed in the Bill. If a conviction is later overturned, the Agency must apply to the court to review the order, and the convicted guardian may also do so. The court must review the order, and can leave it in place only for exceptional reasons relating to the best interests of the child, with reasons given in writing. This is provided for in section 12E.
(23) The Committee recommends that consideration is given to adding to Head 2 an interim order, which would temporarily remove guardianship immediately upon conviction, until the full order application is resolved, or if no interim order is included, that consideration is given to including in Head 2, Section 6G (1) strict timeframes for processing of applications.	Recommendation not addressed in the Bill The Bill is designed to bring matters to a full hearing as quickly as possible while protecting the child's care arrangements in the meantime, rather than to operate through an interim order. Suspension of guardianship through an interim order would still require the court to be satisfied that there has been a failure of duty on the part of the convicted guardian. This is appropriately determined in the family law proceedings and not a matter appropriate for the consideration of the convicting court. The Agency must apply to the court as soon as is practicable and at most within 6 months of the conviction, with extension only for good and sufficient reason and where it is in the best interests of the child.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(24) The Committee recommends that Head 2 is amended to clarify that an appeal does not result in a stay in any order to remove or suspend guardianship.	Addressed in the Bill. An appeal does not automatically stay an order made under the new Part. The order remains in force from when it is made. On application by the convicted guardian, the court can suspend the order pending the appeal, but only after weighing the merits of the appeal against the best interests of the child.
(25) The Committee recommends that consideration is given to ensuring appropriate child centred assessments and mechanisms for temporary suspension of Guardianship are also considered and applied when appropriate to minimise harm to children, during the lengthy period pending a trial.	Not addressed in the Bill. While the possibility of temporary suspension of guardianship was considered this would be constitutionally vulnerable. However, the Agency's existing child welfare and protection functions provide for child-centred assessment and protective intervention throughout the pre-trial period.
(26) The Committee recommends that consideration is given to including a provision in Head 2, Section 6G (6) to the effect that any termination of the order removing guardianship will be contingent on successful completion of an effective rehabilitation programme as well as in the child's best interest and the completion of an updated child impact assessment.	Not addressed in the Bill. The Bill does not provide for the lifting of an order to be conditional on the convicted guardian's completion of a rehabilitation programme. Such a condition would shift the focus of any review away from the welfare of the child to the rehabilitation status of the convicted guardian, and would not be consistent the child focused nature of the Bill. The court's review under section 12E remains anchored to the best interests of the child, and the court can take into account whatever evidence is relevant to the child's welfare on review, including the convicted guardian's circumstances insofar as these are relevant to that consideration.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(27) The Committee recommends when determining whether the parent who perpetrated the violence should exercise custody, guardianship or access rights, a customised expert assessment is undertaken. The assessment should account for individual family circumstances, the child's wishes and best interests as well as risk elements such as the presence of coercive control.	This assessment is appropriately carried out by the court in advance of making an order. The court may itself procure an expert reports or appoint a child's views expert under section 32 of the Principal Act. A guardian ad litem appointed under section 12F may procure further reports on the welfare of the child. The court has broad powers to consider the totality of circumstances in determining that an order is in the best interests of the child before making an order.
(28) The Committee recommends that consideration is given to including a provision under which a guardian ad litem would be empowered to convey the views of the child and inform the child on recommendations and outcome of proceedings.	Addressed in the Bill. Section 12F applies Part VA of the Child Care Act 1991 to proceedings under the new Part. The functions of the guardian ad litem under that framework expressly include ascertaining and conveying the views of the child to the court, and informing the child of the recommendations made and the outcome of the proceedings in an age appropriate manner.
(29) The Committee recommends that the legislation be drafted in such a manner, to take account of the evolving nature of society, to avoid any potential conflict between Article 41 and any proposal to remove guardianship.	The Department is satisfied that the legislation has been drafted in such a manner, and with the benefit of legal advice, that it is in keeping with all constitutional requirements.

PLS recommendation as per Committee report	Whether addressed (either in whole or in part) in the Bill
(30) The Committee recommends that the revocation of guardianship should never be used as a form of punishment, and that a rights-based approach taking into account the views of the child, should recognise the rights of the child, including the right to family life.	 Addressed in the Bill. The Bill is not designed to punish the convicted guardian. The court's response is not fixed by the conviction. The court has discretion between restricting and removing guardianship, shaped by the child's circumstances rather than the offence. Orders can be reviewed, including on the child's own application, so the position can change as the child grows. Where contact with the convicted guardian serves the child's welfare, restriction allows it to continue.

Principal provisions of the Bill

This section of the Bill Digest examines the principal provisions of the Bill, which contains four Sections. The Bill proposes to amend the Guardianship of Infants Act, 1964, the Childcare Act 1991 and the Data Protection Act 2018.

Part 1 defines the "Principal Act", for the purposes of the Bill, as the Guardianship of Infants Act, 1964. This Digest focuses on the provisions in Section 2 of the Bill which seeks to provide for the removal of guardianship in certain circumstances by inserting a new Part IIA into the 1964 Act. Part II of the Principal Act provides for the statutory regulation of guardianship.

Section 2: Restriction or removal of guardianship in certain circumstances

This Section amends the Principal Act by inserting a new Part IIA after Part II. Part IIA empowers the court to restrict or remove, in certain circumstances, guardianship of a child from a person convicted of murder, manslaughter or a serious offence for which another guardian of the child is the victim of the offence.

Section 12B provides the definitions for Part IIA, including defining the 'child concerned' as a child whose guardianship is the subject of proceedings under sections 12C to 12E or 12J of the new Part IIA.

Section 12C defines the powers of the court to restrict or remove guardianship of child from a guardian convicted of the murder or manslaughter of another guardian of that child.

This section refers to a 'convicted guardian' as a guardian of a child who has been convicted in the State of the murder or manslaughter of a person who was, at the time of the commission of the offence, another guardian of the child concerned. Under section 12C, where Tusla has reasonable cause to believe that the convicted guardian has failed in his or her duty towards the child to the extent that their safety or welfare is likely to be prejudicially affected if an order is not made by the court, Tusla must apply for an order restricting or removing guardianship. They must apply for the order within 6 months of the conviction (or within any extension of that period granted by the court). It provides that the court may make an order restricting the guardianship powers and duties of the convicted guardian in relation to the child concerned or removing guardianship of the child from the convicted guardian, where 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 the welfare of that child is likely to be prejudicially affected if an order is not made, and
- It is in the best interests of the child concerned for the order to be made.

In addition, the court may only make such an order removing or restricting guardianship where either:

- 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 of a guardian, or

- 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.

Nevertheless, if neither of the criteria above are met, the Court may still make an order removing or restricting guardianship, if it considers it appropriate to do so, but that order will not take effect until a willing and able guardian is in place, or one of the specified care orders is in place.

The order may specify how long the order will remain in effect and impose conditions relating to a review of the order as the court considers necessary in the best interest of the child.

Section 12D empowers the court to restrict or remove guardianship over a child from a person convicted of a *serious offence*[25] for which another guardian of that child is the victim of the offence. In this section, the 'convicted guardian' refers to a guardian of a child and who is convicted of a serious offence in the State where the victim was, at the time of the commission of the offence, another guardian of the child concerned (the 'victim guardian'). Under section 12D, Tusla may, if it considers it appropriate, apply for an order restricting or removing guardianship from the convicted guardian where:

- the commission of the serious offence against the victim guardian has affected the safety or welfare of the child concerned which has required a change to his or her care or guardianship, and
- Tusla has reasonable cause to believe that the convicted guardian has failed in his or her duty towards the child to the extent that their safety or welfare is likely to be prejudicially affected if an order is not made.

Where it is considered appropriate to apply for an order, Tusla must apply to the court for the order within 6 months of the conviction (or within any extension of that period granted by the court).

Having regard to the extent of the failure of duty of the convicted guardian towards the child concerned, section 12D(3) provides that the court may make an order restricting the guardianship powers and duties of the convicted guardian in relation to the child concerned or removing guardianship of the child from the convicted guardian.

The court may only make such an order removing or restricting guardianship, where it is satisfied that:

[25] Section 12D(8) defines "serious offence" for the purpose of this Part as 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.

- The convicted guardian has failed in their duty towards the child to the extent that their safety or welfare is likely to be detrimentally affected unless an such order is made.
- The court is satisfied that it is in the best interests of the child concerned for the order to be made.

In addition, the court can only make such an order removing or restricting guardianship, where either:

- 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 of a guardian, or
- 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.

If neither of the criteria above are met, the court may still make an order removing or restricting guardianship, if it considers it appropriate to do so, but that order will not take effect until a willing and able guardian is in place, or one of the care orders specified is in effect.

An order under section 12D(3) may specify how long the order will remain in effect and impose conditions relating to a review of the order as the court deems necessary in the best interest of the child.

Where the convicted guardian has been removed from office of guardian, or their powers and duties as guardian have been restricted under section 12D(3), the guardian shall be precluded from making certain guardianship appointment applications under the Principal Act in respect of that child.

Section 12E provides for a review of court orders under this Part. Tusla, the convicted guardian, another guardian, or the child concerned may apply for a review where, since the making of the order, there has been a significant change in the circumstances of the child concerned affecting, or capable of affecting, the child's welfare.

Where the conviction of the convicted guardian has been quashed or set aside, Tusla must, as soon as practicable, apply to the court to review the order made. The convicted guardian may also apply for a review.

The court may make an 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.

The court may also determine that, notwithstanding the guardian's conviction being quashed, the relevant order may remain in effect.

Section 12F provides for the appointment of a guardian *ad litem* to represent the views and best interests of the child concerned in proceedings under this Part as applied by the Childcare Act 1991 (as amended). This provides for the appointment of a guardian *ad litem* under the new Part on the same statutory basis as other child welfare proceedings.

Section 12G sets out which courts have jurisdiction to hear and determine proceedings under this Part (District Court or the Family District Court at first instance, and the Circuit Court or the Family Circuit Court on appeal).

Section 12H provides for data sharing for the purpose of the new Part. It provides that a relevant body may share information with another relevant body for the purpose of the performance of the functions under this Part in accordance with the law and to the extent that it is necessary and proportionate for that purpose. The Minister may make regulations in relation to the sharing of information under this section. The relevant bodies referred to under this section are the Director of Public Prosecutions, Tusla, An Garda Síochána, the Courts Service, the Minister for Justice, or the Minister for Children.

Section 12I sets out that, where an application is made to the court for an order under this Part, the application must be made on notice to each guardian of the child concerned. It also provides that a relative (grandparent, brother, sister, uncle or aunt, or a spouse or cohabitant of such relatives) of the child concerned may seek leave to be joined as a notice party to proceedings under this Part.

Section 12J deals with convictions for murder or manslaughter before the proposed Act comes into operation. It allows Tusla to apply for an order, if it considers it appropriate to do so, for the restriction or removal of guardianship of a child from a person convicted (before the commencement of the Act) of the murder or manslaughter of a person who was another guardian of the child at the time the offence was committed. To apply for such an order, Tusla must have 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) is not made.

Implications and implementation issues

The Bill as published continues to allow for removal of guardianship which was one of the key issues raised during PLS. The Department's response (see Table 2) to recommendation 16 in the PLS report highlights that Sections 12C(3) and 12D(3) give the court a choice between restricting versus full removal of guardianship rights, having regard to the extent of the failure of parental duty. Also, based on legal advice received, the Department is satisfied that the removal of guardianship is constitutionally permissible where there has been a failure of duty on the part of the guardian, and thus removal of guardianship remains available where the court considers it warranted in the best interests of the child.

If enacted, the measures would support fulfilment of Ireland's obligations under international law on combatting domestic violence, particularly Article 31 of the Istanbul Convention.[26] The Bill is also compatible with Article 24 of the EU Charter of Fundamental Rights which emphasises that every child has the right to maintain on a regular basis a personal relationship and direct contact with both parents, unless that is contrary to his or her interests. The Bill also supports continued implementation of the recommendations of the Study on Familicide and Domestic and Family Violence Death Reviews. Additionally, the provision for data sharing among relevant bodies in the Bill aligns with the requirement of the EU Directive on combating violence against women and domestic violence regarding access to relevant information.[27] Namely, the Bill is compatible with the Directive's requirement that competent authorities have access to information regarding violence against women, or domestic violence involving children, so it can be considered when assessing the best interests of the child in civil proceedings concerning such children.

The Bill also helps to support Ireland's fulfilment of Article 69 of the EU Directive which states that Member States should ensure that children whose parent has been killed as a result of domestic violence or violence against women can fully benefit from the Directive, in particular through targeted protection and support measures, including during any relevant judicial proceedings. Several of the Committee's PLS recommendations related to the provision of support and protective measures for the child concerned before and during court proceedings under this Bill. Measures in the Bill which support the Directive include having access to a guardian *ad litem* on the same statutory basis as a child in other child welfare proceedings, allowing a relative of the child to seek leave to be joined as a notice party to the proceedings, and putting the child's best interest as the paramount consideration in the court's decision-making. In response to PLS recommendation 12 (see Table 2), the Department noted that Tusla has a range of existing child welfare and protection functions available throughout the period prior to conviction. These include the power under the Child Care Act 1991 to take a

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[26] Council of Europe (2011) 'Council of Europe Convention on preventing and combating violence against women and domestic violence' *Council of Europe Treaty Series - No. 210*. Available here.

[27] Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on combating violence against women and domestic violence

child into care without a warrant where there is an immediate and serious risk to the child, and the discretion to apply for special care orders under that Act.

In the PLS report, the Committee highlighted concerns regarding both a potential conflict of interest for Tusla in taking on responsibility under this legislation given its role in preserving the family and the capacity of Tusla, which is already overstretched, to take on these additional responsibilities. The Department highlighted that Tulsa as the body charged with promoting the welfare and protection of children is the most appropriate applicant under this Part and is typically already engaged with the children in such cases through its existing functions. The requirement of the EU Directive for supports and protective measures for children and the Committee's concerns about Tulsa's capacity and potential conflicts of interest for them highlights that implementation of the proposed legislation may require specialist training/supports for any professionals involved, which includes understanding of the impact on children of witnessing abuse and the gendered dynamics of intimate partner homicide to ensure children are adequately supported before and during proceedings under Valerie's Law.

The Bill only appears to apply to victims of the specified offences who are guardians. As such, it appears that the guardianship rights of a convicted guardian may not be removed or restricted under this Bill if the victim of one of the specified offences was the perpetrator's partner (e.g., a co-habitant, or stepparent) who is not a guardian, but may have been acting in a parental-type role towards the child. Similarly, Senator Anne Rabbitte raised the question of what happens in the case of stepparents during the PLS hearing.[28]

[28] Joint Committee on Justice, Home Affairs and Migration debate (1 Jul 2025) 'General Scheme of the Guardianship of Infants (Amendment) Bill 2025: Discussion' Available here.