



Northern Ireland  
Assembly

Committee for Justice

# OFFICIAL REPORT (Hansard)

Domestic Abuse and Family Proceedings  
Bill: Formal Clause-by-clause Consideration

1 October 2020

# NORTHERN IRELAND ASSEMBLY

## Committee for Justice

### Domestic Abuse and Family Proceedings Bill: Formal Clause-by-clause Consideration

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**Members present for all or part of the proceedings:**

Mr Paul Givan (Chairperson)  
Ms Linda Dillon (Deputy Chairperson)  
Mr Doug Beattie  
Ms Sinéad Bradley  
Ms Jemma Dolan  
Mr Gordon Dunne  
Mr Paul Frew  
Ms Emma Rogan  
Miss Rachel Woods

**The Chairperson (Mr Givan):** I refer members to the relevant papers in the meeting pack. Those include the Clerk's memo, which sets out the Committee's position following its deliberations on the clauses during meetings of 10, 17 and 24 September and the text of a range of amendments provided by the Department of Justice.

We will now go through the formal clause-by-clause consideration of the Domestic Abuse and Family Proceedings Bill and the proposed amendments. I will proceed through the clauses in the order that they appear and put the Questions formally. I advise members that, where there are amendments to a clause, I will put the Question on the amendment first. Where no amendments have been proposed and no issues highlighted, I will seek the agreement of the Committee to group those clauses when putting the Question. The Question on each amendment that introduces a new clause will be put at the relevant point. If members are clear on how we will go through this, I will proceed. Forgive me if I take a little bit of time to make sure that I get it right.

Clauses 1 to 4 are "The domestic abuse offence", "What amounts to abusive behaviour", "Impact of behaviour on victim" and "Meaning of behaviour" and how it can be carried out. Are members content to group clauses 1 to 4 for the purposes of putting the Question?

*Members indicated assent.*

*Question, That the Committee is content with clauses 1 to 4, put and agreed to.*

*Question, That the Committee is content with clause 5, put and agreed to.*

**The Chairperson (Mr Givan):** Clauses 6 and 7 are "Establishing connection by notice" and "How notice is to be served".

*Question, That the Committee is content with clauses 6 and 7, put and agreed to.*

### **Clause 8 (Aggravation where victim is under 18)**

**The Chairperson (Mr Givan):** The Department provided the text of a proposed amendment to tidy up the wording of this clause. Is the Committee content with the amendment proposed by the Minister to clause 8?

*Members indicated assent.*

*Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.*

### **Clause 9 (Aggravation where relevant child is involved)**

**The Chairperson (Mr Givan):** The Committee considered the proposed amendment by the Department to amend the child cruelty offence in section 20 of the Children and Young Persons Act (Northern Ireland) 1968 when considering this clause. The Question on that amendment will be put after the Question on clause 20. That is where it appears.

*Question, That the Committee is content with clause 9, put and agreed to.*

**The Chairperson (Mr Givan):** Rachel is indicating that she does not agree. Others are agreed.

**Mr Frew:** Of course, the caveat to that, Chair, is the amendment to the explanatory and financial memorandum.

**The Chairperson (Mr Givan):** yes.

### **Clause 10 (Behaviour occurring outside the UK)**

**The Chairperson (Mr Givan):** The Department provided the text of a proposed amendment to tidy up the wording of this clause. Is the Committee content with the amendment that was proposed by the Minister to clause 10?

*Members indicated assent.*

*Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.*

### **Clause 11 (Exception where responsibility for children)**

**The Chairperson (Mr Givan):** The Department has highlighted that the child cruelty offence in the Children and Young Persons Act (Northern Ireland) 1968 applies only to those under the age of 16. In order to ensure that non-physical abuse of 16- and 17-year-olds in a parent-child relationship is clearly provided for in legislation, the Department indicated that it would welcome the views of the Committee on possible amendments to clauses 11 and 17 to reduce the age threshold for the parental responsibility exclusion from under age 18 to under age 16. The Department outlined that, in the absence of this, it may not be possible to address the non-physical ill treatment of those aged 16 and 17 in this context.

Earlier in the meeting, members agreed that they had not had time to properly consider this proposed change or to clearly understand any implications or consequences of it. Therefore, the Committee agreed to note the potential amendments from the Minister.

*Question, That the Committee is content with clause 11, put and agreed to.*

*Question, That the Committee is content with clause 12, put and agreed to.*

### **Clause 13 (Alternative available for conviction)**

**The Chairperson (Mr Givan):** The Department provided the text of a proposed amendment that would insert provision, for the avoidance of doubt, as to the effect of the Criminal Law Act 1967 to make sure that there is no risk of implying that the provisions in the 1967 Act are ousted by what is

contained in clause 13. Is the Committee content with the amendment proposed by the Minister to clause 13?

*Members indicated assent.*

*Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.*

*Question, That the Committee is content with clause 14, put and agreed to.*

*Question, That the Committee is content with clauses 15 and 16, put and agreed to.*

### **Clause 17 (Exception regarding the aggravation)**

**The Chairperson (Mr Givan):** The circumstances relating to clause 11 also apply to clause 17, and the Committee has noted the potential amendments by the Minister.

*Question, That the Committee is content with clause 17, put and agreed to.*

*Question, That the Committee is content with clause 18, put and agreed to.*

*Question, That the Committee is content with clauses 19 and 20, put and agreed to.*

### **New Clause**

**The Chairperson (Mr Givan):** Members, next is the new provision to amend the Children and Young Persons Act (Northern Ireland) 1968. The Department has provided the text of a proposed amendment to amend the child cruelty offence in section 20 of the Children and Young Persons Act (Northern Ireland) 1968 to ensure that non-physical ill treatment of a child by someone with parental responsibility for them is criminalised. Is the Committee content with the amendment proposed by the Minister to insert a new clause to amend the child cruelty offence in section 20 of the Children and Young Persons Act (Northern Ireland) 1968?

*Members indicated assent.*

**The Chairperson (Mr Givan):** Members, when a new clause is added to a Bill, we need to recommend that to the Assembly. So, the Question is that the Committee recommend to the Assembly that the proposed new clause be added to the Bill.

*Question put and agreed to.*

*Question, That the Committee is content with clauses 21 to 24, put and agreed to.*

### **New Clause**

**The Chairperson (Mr Givan):** This is a new clause to provide powers for the Department for measures to protect and support the victim or alleged victim. The Committee has agreed to table an amendment to provide for the Department to make provision for measures to protect and support the victim or alleged victim by way of regulations within 24 months of commencement of the Act, similar to domestic abuse protection notices and orders. Is the Committee content with the amendment to insert a new clause to provide powers to the Department to make provision for such measures?

*Members indicated assent.*

**The Chairperson (Mr Givan):** Again, the Question is that the Committee recommend to the Assembly that the new clause be added to the Bill.

*Question put and agreed to.*

### **Clause 25 (Guidance about domestic abuse)**

**The Chairperson (Mr Givan):** The Department has provided the text of its proposed amendment to change the word "may" to "must", as requested by the Committee. The Committee has agreed to table

an amendment to enable the Department to make, by way of regulations, provision for informing the school of a child who saw, heard or was present during a domestic abuse incident. Is the Committee content with the proposed amendment by the Minister to clause 25?

*Members indicated assent.*

*Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.*

#### **New Clause**

**The Chairperson (Mr Givan):** This is the new provision to provide for the Department to issue guidance on the data to be collected. I remind members that the Committee agreed to table an amendment for the Department to issue guidance on the data to be collected. Is the Committee content with the amendment to insert a new clause regarding guidance on data collection?

*Members indicated assent.*

**The Chairperson (Mr Givan):** Once more, the Question is that the Committee recommend to the Assembly that the proposed new clause be added to the Bill.

*Question put and agreed to.*

#### **New Clause**

**The Chairperson (Mr Givan):** There is a new provision to place a duty on the Department regarding training. The Committee has agreed to bring forward an amendment to place a duty on the Department in relation to training for the effective operation of the legislation. Is the Committee content with the amendment to insert a new clause to place a duty on the Department regarding training for the effective operation of the Act?

*Members indicated assent.*

**The Chairperson (Mr Givan):** The Question is that the Committee recommend to the Assembly that the proposed new clause be added to the Bill.

*Question put and agreed to.*

#### **New Clause**

**The Chairperson (Mr Givan):** There is a new provision to provide for independent oversight of Part 1 of the Act. The Committee has agreed to bring forward an amendment to provide for the appointment of an independent person to oversee the implementation of Part 1 of the Act. Is the Committee content with the amendment to insert a new clause to make provision for the appointment of an independent person to review, report and make recommendations in relation to the operation of Part 1 of the Act as drafted.

*Members indicated assent.*

**The Chairperson (Mr Givan):** The Question is that the Committee recommend to the Assembly that the proposed new clause be added to the Bill.

*Question put and agreed to.*

#### **New Clause**

**The Chairperson (Mr Givan):** There is a new provision to require the Department of Justice to report on the operation of the Act. The Committee has agreed to table an amendment to require the Department of Justice to report on the operation of the Act at intervals of three years and to publish and lay the report in the Assembly. Is the Committee content with the amendment to insert a new clause to require the Department of Justice to report on the operation of the Act as drafted?

*Members indicated assent.*

**The Chairperson (Mr Givan):** The Question is that the Committee recommend to the Assembly that the proposed new clause be added to the Bill.

*Question put and agreed to.*

### **New Clause**

**The Chairperson (Mr Givan):** There is a new provision to amend Article 12A of the Children (Northern Ireland) Order 1995. The Department has provided the text of a proposed amendment to amend article 12A of the Children (Northern Ireland) Order 1995 so that a court considering an application for a contact or residency order will be specifically required to have regard to the conviction of the party applying for the order for the new domestic abuse offence where the child aggravator has been applied. Is the Committee content with the amendment proposed by the Minister to insert new clause A26 to amend article 12A of the Children (Northern Ireland) Order 1995 in relation to factors relevant to residents and contact orders?

*Members indicated assent.*

**The Chairperson (Mr Givan):** The Question is that the Committee recommend to the Assembly that the proposed new clause be added to the Bill.

*Question put and agreed to.*

### **Clause 26 (Prohibition of cross-examination in person)**

**The Chairperson (Mr Givan):** The Department has provided the text of a proposed amendment to correct a small error that occurred when the Bill was being processed prior to introduction. Is the Committee content with the amendment proposed by the Minister to clause 26?

*Members indicated assent.*

*Question, That the Committee is content with the clause, subject to the proposed amendment, put and agreed to.*

### **New Clause**

**The Chairperson (Mr Givan):** The Department has provided the text of a proposed amendment to insert a new clause to provide for court rules to make provision so that victims of domestic abuse are automatically eligible for consideration of special measures in family proceedings. Is the Committee content with the amendment proposed by the Minister to insert new clause 26A to provide for court rules for special measures in family proceedings?

*Members indicated assent.*

**The Chairperson (Mr Givan):** The Question is that the Committee recommend to the Assembly that proposed new clause 26A be added to the Bill.

*Question put and agreed to.*

**The Chairperson (Mr Givan):** There are new provisions for cross-examination in person in civil proceedings generally. The Department has provided the text of a proposed amendment to introduce a new provision to provide for a court hearing civil proceedings to have a discretionary power to prohibit cross-examination in person and to require a court considering whether to exercise its discretionary power to prohibit cross-examination in person to have regard to findings of fact made in civil or criminal proceedings as well as family proceedings. Is the Committee is content with the amendment proposed by the Minister to insert new clause 26B to provide for prohibition of cross-examination in person in civil proceedings generally?

*Members indicated assent.*

**The Chairperson (Mr Givan):** The Question is that the Committee recommend to the Assembly that proposed new clause 26B be added to the Bill.

*Question put and agreed to.*

### **New Clause**

**The Chairperson (Mr Givan):** There are new provisions to provide for court rules for special measures in civil proceedings. The Department has provided the text of a proposed amendment to insert a new clause to provide for court rules to make provision so that victims of domestic abuse are automatically eligible for consideration of special measures in civil proceedings. Is the Committee content with the amendment proposed by the Minister to insert new clause 26C to provide for court rules for special measures in family proceedings?

*Members indicated assent.*

**The Chairperson (Mr Givan):** The Question is that the Committee recommend to the Assembly that proposed new clause 26C be added to the Bill.

*Question put and agreed to.*

*Question, That the Committee is content with clause 27, put and agreed to.*

*Question, That the Committee is content with clause 28, put and agreed to.*

### **Long Title**

**The Chairperson (Mr Givan):** As this is the end of the clause-by-clause consideration, the Committee can now consider the long title.

*Question, That the Committee is content with the long title, put and agreed to.*

**The Chairperson (Mr Givan):** That concludes the formal clause-by-clause consideration of the Domestic Abuse and Family Proceedings Bill. Members, thank you for your cooperation and work on this.