



Domestic Violence Survivors Protection Act 2019

*Mar a tionscnaíodh
As initiated*

BILL ENTITLED

This bill creates a right for domestic abuse survivors to benefit from flexible working arrangements where such are required in order to deal with an incident of domestic abuse.

Defining:

‘Employee’ shall be defined as a person of any age who has entered into or works under (or, where the employment has ceased, entered into or worked under) a contract of employment, and references, in relation to an employer, to an employee shall be construed as references to an employee employed by that employer; and for the purposes of this Act, a person holding office under, or in the service of, the State (including a member of the Garda Síochána or the Defence Forces or a civil servant within the meaning of the Civil Service Regulation Act, 1956) shall be deemed to be an employee employed by the head (within the meaning of the Freedom of Information Act, 1997), of the public body (within the meaning aforesaid) in which he or she is employed and an officer or servant of a local authority for the purposes of the Local Government Act, 1941, or of a harbour authority, health board or vocational education committee shall be deemed to be an employee employed by the authority, board or committee, as the case may be.

‘Employer’ shall be defined, in relation to employee as, the person with whom the employee has entered into or for whom the employee works under (or, where the employment has ceased, entered into or worked under) a contract of employment, subject to the qualification that the person who under a contract of employment referred to in paragraph (b) of the definition of “contract of employment” is liable to pay the remuneration of the individual concerned in respect of the work or service concerned shall be deemed to be the individual’s employer, including where appropriate, the successor or an associated employer of the employer.

‘Job’ shall be defined, in relation to an employee, as the nature of the work that the employee is employed to do in accordance with his or her contract of employment and the capacity and place in which he or she is employed.

‘Domestic violence’ shall be defined in accordance with the definition set out in Part 1.

'Domestic relationship' shall be defined where a person has a relationship with another person, where they are (1) a spouse or partner to that person, (2) a family member of that person, (3) ordinarily shares a household with that person, (4) has a close personal relationship with that person; the courts will have due regard for the nature and intensity of this relationship, the amount of time these persons spend together, the places where that time is ordinarily spent, and the manner in which that time is normally spent, and the duration of the relationship. It is not necessary for a sexual relationship to persist.

'Dependent person' shall be defined in accordance with the Domestic Violence Act 2018.

'Child' shall be defined in accordance with the Domestic Violence Act 2018.

'Persons affected by domestic violence' is a person whom any other person inflicts, or has inflicted, domestic violence, or a person who ordinarily resides with a child against whom another person inflicts, or has inflicted, domestic violence.

'Variation in working arrangements' shall be defined as a paid leave of absence of up to ten days and/or variation in the worker's working arrangements, such as flexible working hours.

Be it enacted by the Oireachtas as follows:

Part 1

1. Domestic violence shall refer to any act of violence inflicted against a person by another other person, who that person has a domestic relationship.
2. Violence shall mean:
 - a. Physical abuse,
 - b. Sexual abuse,
 - c. Psychological abuse including, but not limited to:
 - i. Intimidation,
 - ii. Harassment,
 - iii. Damage to property,
 - iv. Threats of physical abuse, sexual abuse, or psychological abuse,
 - v. Financial or economic abuse, including but not limited to:
 1. Denying or limiting access to financial resources,
 2. Preventing or restricting employment opportunities,
 3. Preventing or restricting access to education.
 - vi. In relation to a child, abuse set out in section 3.
3. Without limiting Section 2, a person psychologically abuses a child if:
 - a. That person causes or allows the child to see or hear the physical, sexual, or psychological abuse of a person with whom the child has a domestic relationship

- b. That person puts the child, or allows the child to be put, at real risk of seeing or hearing that abuse occurring.
4. A person who suffers abuse will not be considered as having allowed or caused a child to see or hear, or put the child at risk of seeing or hearing, physical, sexual or psychological abuse.
5. Without limiting Section 1 of this act,
 - a. A single act may amount to abuse for the purposes of that subsection
 - b. A number of acts that form part of a pattern of behaviour may amount to abuse for that purpose, even though some or all of those acts, when viewed in isolation, may appear to be minor or trivial.

Part 2

6. An employee who is a person affected by domestic violence shall, at any time, make a request for a variation in working arrangement for the purpose of the employee making efforts to deal with the effects of being a victim of domestic violence.
7. Section 6 applies irrespective of the amount of time which has elapsed since the incident of domestic violence, and irrespective of whether the employee was an employee when the incident of domestic violence took place.
8. Requests may be made either through writing or electronic document/messaging (such as email) and must state the employees name, and the date at which the request is being made; it must state the variation in working arrangements requested, the date of onset of these arrangements and the length of time (no greater than 3 months) where the variation in working arrangement shall occur.
9. Employers must deal with the request as soon as possible, taking no longer than five working days, and must notify the employee in writing as to whether the request has been accepted or refused.
10. Employers may ask for proof of an incident of domestic violence, but if and only if the employer files this request within three working days.

Part 3

11. Employees shall, during the period of leave, be still considered as engaged in employment and no right of there's associated with being in employment shall be affected.
12. Absence from employment relating to the provisions of this act shall not be considered to be a part of any leave of employment (including sick leave, annual leave, adoptive leave, maternity leave and parental leave).
13. Any dispute or difference between employer and employee emerging from the application of this Act shall be referred to the Rights Commissioner. The Rights Commissioner may be entitled to impose penalties of up to 5000euro on any employer who is found to have maliciously, or otherwise, denied the rights of a persons affected by domestic violence' as described in this Act.

Submitted by /u/inoticeromance on behalf of Fine Gael and the Official Opposition