

June 2025

**Submission to the Justice,
Home Affairs and Migration
Committee on the Draft
General Scheme of the
Guardianship of Infants
(Amendment) Bill 2025**



Women's  Aid

About Women's Aid

Women's Aid is a national, feminist organisation working to prevent and address the impact of domestic violence and abuse (hereafter DVA) including coercive control, in Ireland since 1974.

We do this by advocating, influencing, training, and campaigning for effective responses to reduce the scale and impact of domestic violence and abuse on women and children in Ireland and providing high quality, specialised, integrated, support services. More information on Women's Aid is available on our website www.womensaid.ie.

Recommendations About the General Scheme of the Bill

While Women's Aid welcomes this Bill as a significant step to protect children who have lost one parent to domestic homicide, recognise the very significant risk to their welfare posed by the parent who committed the homicide and ensure the perpetrator of such harm is not in a position to continue controlling their lives, we would like to make the following recommendations about the General Scheme of the Bill:

Head 2 6G (1), timeframes

- Head 2 of the General Scheme provides that Child and Family Agency shall apply for an order to remove or confirm Guardianship of a child within six months of a parent being convicted of murder, manslaughter or a serious offence resulting in the incapacitation of the other parent.
- The times from killing to verdict can take years, for example five years in the case of Valerie French.

- We note there are no timeframes in relation to how quickly the Court will decide on the Child and Family Agency application or any indication it needs to be determined urgently.
- Therefore, there may be quite a significant time between charging and conviction, a further six months can pass until the Child and Family Agency applies for an order, and more time until the application is determined. **In all this time, which can last years, the parent who killed the other parent retains Guardianship rights on the child.** This means that they can actively hinder the recovery of the child and make it difficult for the people who are taking care of the child to do so, for example by not consenting to the child having therapeutic counselling, changing schools, having a passport.
- Women's Aid notes that a similar Bill by the Social Democrats provides for an interim order to be made **immediately** on conviction, which would last three months, while an application for a full order is considered. In this Bill if the conviction is for murder, the Court *shall* order the interim suspension, whereas the Court has more discretion if the conviction is for manslaughter. Women's Aid believes there is merit to this two-stage process, which protects the child immediately upon conviction.
- It is not clear whether an appeal against the conviction will or will not have the effect of staying the application.
- It is also not clear whether an appeal against the removal of Guardianship order will or will not have the effect of staying the order.

Women's Aid believes that the time in which a child who has lost a parent due to intimate partner homicide remains under the Guardianship of the parent who committed the homicide needs to be minimised to give the child the best chance of recovery and healing. We propose that there are mechanisms by which this can be achieved which bear consideration to minimise harm to children, and also additional trauma to bereaved families pending trials, where guardianship forces contact with the accused.

In 2024 the Department of Justice undertook a review of the recommendations contained in the *Study on Familicide & Domestic and Family Violence Death Reviews*¹. Women's Aid was among several specialist organisations along with several bereaved family members supporting this review. Several of this report's recommendations related to the guardianship of children. An interim report detailing potential next steps to implement the Study's recommendations was produced by the Department, which is not yet in the public domain but may be relevant to the Committee's considerations of this issue. One key proposal is set out below.

Suspension of Guardianship pending a trial.

In the first instance the mechanisms already available to Tusla under child welfare concerns and child protection obligations should be examined to determine if there is a legitimate basis to suspend guardianship once a parent/guardian is arrested and charged with the killing of their other parent/guardian. Women's Aid is provisionally advised that legislation ought not be required to enable the agency to act in this manner pending a trial where it is in the child's best interests for psychological and physical safety. The right to contact a child **should not supersede** the welfare of the child.

Should legal review and opinion determine that suspension under current authority of Tusla would **not** permit a temporary suspension of Guardianship, then section 16 of the Child Care Act 1991 should be amended, requiring Tusla to initiate proceedings to secure a section 18 care order in circumstances where a child is in voluntary care or subject to an interim care order, and his or her parent is **in custody accused of** the murder or manslaughter of the child's other parent.

¹ <https://www.gov.ie/en/department-of-justice-home-affairs-and-migration/publications/study-on-familicide-domestic-and-family-violence-death-reviews/>

A customised expert risk assessment should be implemented and include the presence of coercive control when the parent who perpetrated the violence wishes to exercise custody, guardianship or access rights. The guardianship should pass to the deceased parent's next of kin (other than the perpetrator), subject to the overriding consideration being the best interests of the child as expressed by the children concerned where this is possible and appropriate.

In relation to all recommendations made as part of this review regarding guardianship rights, the court should hear and consider the views of the child/children concerned.

Women's Aid fully supports action regarding children whereby measures must be taken to immediately suspend guardianship rights on the part of an accused killer, and consideration of the formal removal of such rights on a permanent basis following a conviction for the killing of the child/ren's other parent/guardian.

Women's Aid further recognises that there may be rare but possible circumstances - for example, manslaughter where factors of self-defense in the context of a history of domestic abuse towards the alleged perpetrator may be a factor. It is for this reason that an appropriate risk assessment which is child centered and screens for coercive control is important when considering suspension of guardianship, and also why automatic and permanent removal of guardianship may not be appropriate in all cases.

Recommendations

1. Add to this Head an interim order, which would temporarily remove guardianship immediately upon conviction, until the full order application is resolved.
2. If no interim order is included, include in Head 2 6G (1) strict timeframes for processing of applications.
3. Clarify that an appeal does not stay the order. 414634

4. Ensure appropriate child centered 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.

Head 2 6G (6) (a) and (b)

Head 2 6G (6) (a) and (b) provide that when making an order to remove Guardianship rights, the Court can also specify its duration and conditions for periodic reviews. The aforementioned *Study on Familicide & Domestic and Family Violence Death Reviews* recommends that restoration of Guardianship in these cases should “be contingent on successful completion of an effective rehabilitation programme”²; Women’s Aid believes this should be reflected in legislation.

Recommendation

5. Include a provision in Head 2 6G (6) to the effect that any termination of the order will be contingent on successful completion of an effective rehabilitation programme as well as in the child’s best interest.

Head 2 6G (10)

Women’s Aid welcomes the provision regarding the appointment of a Guardian ad Litem (GAL) in certain circumstances. We note the Social Democrats bill had similar provisions, but this bill Section 12E (4) is more detailed in regard to the GAL functions, including the GAL’s role in **conveying the views of the child and informing the child on recommendations and outcome of proceedings**. In the interest of the child having a voice in proceedings, Women’s Aid would support the inclusion of the these functions in the government bill.

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6. Include a provision in Head 2 6G (6) to the effect that any termination of the order will be contingent on successful completion of an effective rehabilitation programme as well as in the child's best interest.

Women's Aid thanks the committee for their consideration of this submission and its recommendations and would welcome the opportunity to further discuss with members at their convenience.

ENDS