

Press release

Minister McEntee secures government approval for legislative amendments to better support victims

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The Minister for Justice Helen McEntee has secured government approval to make amendments to the Criminal Justice (Miscellaneous Provisions) Bill that will fulfil a number of commitments to better support victims of sensitive crimes.

The most significant Seanad committee stage amendments will fulfil commitments made under 'Supporting a Victim's Journey' and the Zero Tolerance Strategy on domestic, sexual and gender-based violence to better support victims.

The amendments include:

- an extension of the restriction on cross-examination of the alleged victim by the accused to a broader range of offences
- protection of the identity of alleged victims of harassment and stalking
- provisions for making civil orders restraining stalking on an urgent basis

Minister McEntee said:

"I launched Zero Tolerance, our national Strategy on domestic, sexual and gender-based violence last June and a key aspect is reforming criminal law in this area, and this legislation is timely and important.

“These amendments will address several outstanding issues and, importantly, will reassure victims of these awful crimes that they will be listened to, that they will be treated with respect and dignity, and that they will be protected.

“The new system of civil orders is important as these target stalking at an early stage. They will restrain stalking behaviour and protect victims. These orders allow earlier intervention and do not require a criminal prosecution.

“The new orders also go further than what is possible under domestic violence legislation in terms of who an order can be made against (that is, not just close relationships) and the kind of conduct that can be prohibited by the court.

“The aim of the Strategy is to bring about changes in attitudes and in systems to ensure there is zero tolerance in Irish society for domestic, sexual and gender-based violence, and I believe this legislation is a significant step.

“The wide-ranging Bill will also increase the maximum sentence for assault causing harm from five years to 10 years, allow life sentences for conspiracy to murder, make stalking and non-fatal strangulation standalone offences, and expand the existing harassment offence. It is a vital piece of criminal justice legislation which I am determined to see enacted.”

To prevent re-traumatisation of victims, courts may prevent an accused in a sexual offence case from cross-examining the alleged victim themselves. The Minister today announced that she would propose legislation to extend this restriction on alleged perpetrators carrying out their own cross-examinations to a broader range of offences, including those involving violence, and offences such as coercive control, stalking and harassment.

Minister McEntee has also announced that she will introduce amendments to provide for the making of new civil restraining orders against stalking and harassment on an emergency basis where there may be an immediate risk to the safety and welfare of the

applicant.

Other amendments provide for the protection of the identity of the alleged victim in stalking and harassment prosecutions.

Minister of State James Browne, welcoming introduction of these amendments, added:

“In order to ensure that we have zero tolerance for domestic, sexual and gender-based violence in Ireland, we have to make sure that victims feel protected throughout the entire criminal justice process.

“We know that historically, many people may not have felt able to come forward because they did not have confidence that the system would support and protect them.

“I hope that the amendments announced today will allow victims to have confidence in the criminal justice system and feel supported when making reports to An Garda Síochána.”

The wide-ranging Bill will increase the maximum sentence for assault causing harm from five years to 10 years, allow life sentences for conspiracy to murder, make stalking and non-fatal strangulation standalone offences, and expand the existing harassment offence. The Bill is currently making its way through the Houses of the Oireachtas.

The Minister indicated that her intention is that this important legislation would be enacted in July.

Notes

Urgent reliefs in civil stalking restraining order

We will provide for the making of civil orders restraining stalking on an urgent basis. Usually orders are made by the affected person on notice to the other person. The making of a short-term order would be permitted without such notice where there may be an immediate risk to the safety and welfare of the applicant.

If, after an application is made on notice, the court hasn't yet decided whether to make an order, it can make a temporary order under pending a final determination under this proposal.

Restriction on publication of identity

We will provide for restrictions on the publication of the identity of the alleged victim (in relation to prosecutions for stalking and harassment), and both the alleged victim and the defendant (in relation to prosecutions for breaches of a civil restraining order). Such restrictions may be waived by the alleged victim in both cases, and may be disapplied by the court where appropriate.

Restrictions on the publication of the identity are in place in relation to sexual offences, and a number of other offences (notably under the Harassment, Harmful Communications and Related Offences Act 2020, and the Domestic Violence Act 2018). While not all cases prosecuted under section 10 will be of a comparably sensitive nature, such offences tend to involve a serious invasion of the alleged victim's life, and there is a high risk that publication of the alleged victim's identity may subject the person to a further invasion of their privacy, and discourage the reporting of such offences.

Provision is made for the alleged victim to waive the restrictions, and for the court to disapply or modify the restrictions where appropriate.

Restriction of cross-examination by the accused in person

Section 14C(2) of the Criminal Evidence Act 1992 provides that where a person is accused of a sexual offence and the alleged (adult) victim of the offence is to give evidence, the court may direct that the accused may not personally cross-examine the

witness unless the court is of the opinion that the interests of justice require the accused to conduct the cross-examination personally. The rationale for this provision (inserted in 2017) was to protect sexual offence complainants from re-traumatisation and intimidation; this protection also encourages the reporting of sexual offences.

We will now provide for the broadening of the scope of this protection to ‘relevant offences’ within the meaning of the 1992 Act.

‘Relevant offence’ encompasses sexual offences, offences involving violence or the threat of violence, domestic violence offences (including coercive control) and certain other offences, and will be expanded under the Bill to include stalking and harassment offences and breaches of the new civil order system. This will allow for strengthened protections to safeguard victims from repeat victimisation, intimidation or retaliation for offences which by their nature, are likely to be traumatic for victims. The amendment will also provide additional guidance for the court in determining whether to direct that the accused may not cross-examine in person.

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