

Domestic Abuse Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 20th January 2021, as follows –

Clauses 1 to 38	Schedule 2
Schedule 1	Clauses 69 to 80
Clauses 39 to 68	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 17

BARONESS HAMWEE
LORD PADDICK

- 55** Page 11, line 29, at end insert –
“(aa) the disclosure of any immigration information (see subsection (5A));”

Member’s explanatory statement

This amendment, along with the other amendment in the name of Baroness Hamwee to Clause 17, would ensure that the bill did not authorise the disclosure of any immigration information.

- 56** Page 11, line 43, at end insert –
“(5A) “Immigration information” means information (however recorded) which –
(a) relates to anything which is or may be subject to paragraph 4 of Schedule 2 to the Data Protection Act 2018, and
(b) identifies an individual or enables an individual to be identified (either by itself or in combination with other information).”

Member’s explanatory statement

This amendment, along with the other amendment in the name of Baroness Hamwee to Clause 17, would ensure that the bill did not authorise the disclosure of any immigration information.

Clause 21

LORD PADDICK
BARONESS HAMWEE

- 57 Page 13, line 21, leave out from “any” to end of line 22 and insert “specified premises in England and Wales.”

Member’s explanatory statement

This amendment would enable a notice to apply in respect of non-residential premises.

LORD KENNEDY OF SOUTHWARK
LORD HUNT OF KINGS HEATH

- 58 Page 13, line 22, after “lives” insert “or works”

Member’s explanatory statement

This amendment would ensure that those making Domestic Abuse Protection Orders have the discretion to consider the workplace as well as the home.

- 59 Page 13, line 24, after “lives” insert “or works”

Member’s explanatory statement

This amendment would ensure that those making Domestic Abuse Protection Orders have the discretion to consider the workplace as well as the home.

- 60 Page 13, line 25, after “lives” insert “or works”

Member’s explanatory statement

This amendment would ensure that those making Domestic Abuse Protection Orders have the discretion to consider the workplace as well as the home.

Clause 22

LORD PADDICK
BARONESS HAMWEE

- 61 Page 13, line 37, at end insert “and its provisions;”

Member’s explanatory statement

This amendment probes whether representations may be made about particular provisions of a notice.

BARONESS GREY-THOMPSON
LORD HUNT OF KINGS HEATH
BARONESS BUTLER-SLOSS

- 62 Page 13, line 40, at end insert –
“(e) the previous criminal history of P.”

Member's explanatory statement

This amendment would ensure that, when the need for handing out a DAPN is being considered, senior police officers can take into account any previous related criminality and convictions held by the alleged perpetrator.

Clause 23

LORD PONSONBY OF SHULBREDE

63 Page 14, line 21, at end insert –

“() Before notice is served on P, a risk assessment must be carried out, covering any additional risks to the person for whose protection the notice would be given following the giving of the notice.”

Member's explanatory statement

This would ensure that a risk assessment was carried out, considering any increased risks to a victim likely to occur due to the perpetrator being given a notice about receiving a DAPO, before notice is given.

LORD PADDICK
BARONESS HAMWEE

64 Page 14, line 23, leave out from “given” to the end of line 24 and insert “a notice of the hearing of any application for a domestic abuse protection order.”

Member's explanatory statement

This amendment is consequential on the amendment in the name of Lord Paddick to Clause 26(3).

Clause 24LORD PADDICK
BARONESS HAMWEE

65 Page 15, line 1, leave out “must” and insert “may”

Member's explanatory statement

This amendment would allow for discretion with regard to holding a person in custody.

66 Page 15, line 23, after “bail,” insert, “confirm the continued application of the notice and”

Member's explanatory statement

This amendment is to probe whether the DAPN continues.

67 Page 15, line 25, leave out “interfere with” and insert “directly or indirectly contact”

Member's explanatory statement

This amendment probes “interference” with a witness.

Clause 26

LORD PADDICK
BARONESS HAMWEE

68 Page 16, line 19, leave out “must” and insert “may”

Member’s explanatory statement

This amendment would allow for discretion with regard to applying for an order.

Clause 27

LORD PADDICK
BARONESS HAMWEE

69 Page 17, line 11, leave out from “police” to “for” in line 12 and insert “applies”

Member’s explanatory statement

This amendment is consequential on the amendment in the name of Lord Paddick to Clause 26(3).

Clause 28

LORD PADDICK
BARONESS HAMWEE

70 Page 18, line 18, leave out “interfere with” and insert “directly or indirectly contact”

Member’s explanatory statement

This amendment probes “interference” with a witness.

Clause 32

LORD PONSONBY OF SHULBREDE
LORD ANDERSON OF IPSWICH

71 Page 20, line 21, leave out “just and convenient” and insert “practical and within five working days”

Member’s explanatory statement

This would ensure there is a maximum time (within 5 working days) in which a contested DAPO which was made without notice is brought back to court.

Clause 33

LORD PONSONBY OF SHULBREDE
LORD ANDERSON OF IPSWICH
LORD MACKAY OF CLASHFERN

72 Page 20, line 27, after second “abuse” insert “with the exception of restrictions listed in subsection (1A).”

Clause 33 - continued

73 Page 20, line 28, at end insert—

“(1A) Where a domestic abuse protection order is made without notice, only prohibitions may be imposed on the recipient.”

Member’s explanatory statement

This would provide that only negative or prohibitive requirements can be included in DAPOs imposed without notice.

LORD KENNEDY OF SOUTHWARK
LORD HUNT OF KINGS HEATH

74 Page 20, line 39, after “lives” insert “or works”

Member’s explanatory statement

This amendment would ensure that those making Domestic Abuse Protection Orders have the discretion to consider the workplace as well as the home.

BARONESS WILLIAMS OF TRAFFORD

75 Page 20, line 39, at end insert—

“(c) may not come within a specified distance of any other specified premises, or any other premises of a specified description, in England or Wales.”

Member’s explanatory statement

This amendment enables a court making a domestic abuse protection order to prohibit the person against whom it is made from coming within a specified distance of other premises, in addition to those where the person to be protected by the order lives.

LORD KENNEDY OF SOUTHWARK
LORD HUNT OF KINGS HEATH

76 Page 20, line 41, after “lives” insert “or works”

Member’s explanatory statement

This amendment would ensure that those making Domestic Abuse Protection Orders have the discretion to consider the workplace as well as the home.

77 Page 20, line 42, after “lives” insert “or works”

Member’s explanatory statement

This amendment would ensure that those making Domestic Abuse Protection Orders have the discretion to consider the workplace as well as the home.

Clause 34

BARONESS WILLIAMS OF TRAFFORD

78 Page 21, line 12, leave out from “with” to “an” in line 13 and insert “the person’s work or with the person’s attendance at”

Member's explanatory statement

This amendment makes clear that requirements imposed on a person by a domestic abuse protection order (such as, for example, requirements prohibiting the person from coming within a specified distance of particular premises) must, so far as practicable, not interfere with the person's work or with the person's attendance at an educational establishment.

LORD KENNEDY OF SOUTHWARK
LORD HUNT OF KINGS HEATH

- 79 Page 21, line 13, after “establishment” insert “except in the case where the person against whom the order is made works in the same premises as the person for whose protection the order is made”

Member's explanatory statement

This amendment would ensure that those making Domestic Abuse Protection Orders have the discretion to consider the workplace as well as the home.

LORD PONSONBY OF SHULBREDE
LORD MACKAY OF CLASHFERN

- 80 Page 21, line 21, at end insert “and probation or youth offending teams, as appropriate.”

Member's explanatory statement

This would provide that evidence provided to courts includes evidence from probation or youth offending teams.

LORD PONSONBY OF SHULBREDE
LORD ANDERSON OF IPSWICH
LORD MACKAY OF CLASHFERN

- 81 Page 21, line 23, at end insert –
“(4A) Any requirement to attend drug, alcohol or mental health programmes may only be imposed where the recipient agrees to engage with the programme.”

Member's explanatory statement

This amendment would provide that drug, alcohol and mental health treatment should only be imposed as a requirement where the recipient has agreed to attend, which will maximise the effectiveness of any such programmes.

Clause 36

LORD PADDICK
BARONESS HAMWEE

- 82 Page 23, line 11, leave out “the previous order ceasing” and insert “such date as the court orders but not later than the date when the previous order ceases”

Member's explanatory statement

This amendment probes whether Clause 42 (variation and discharge of orders) would be used to apply the same provisions under both orders.

LORD PONSONBY OF SHULBREDE
LORD ANDERSON OF IPSWICH
LORD MACKAY OF CLASHFERN

83 Page 23, line 13, at end insert “for no more than two years”

84 Page 23, line 23, at end insert—

- “(8) A domestic abuse protection order may be extended for a period of two years on application by those persons set out in section 26(2) of this Act.
- (9) The court may order the recipient to attend one or more review hearings on a specified date or dates.”

Member’s explanatory statement

The changes proposed by Lord Ponsonby’s amendments to Clause 36 would prevent an indefinite DAPO being imposed, while providing for extensions to be made on application. It would also allow courts to put in place review hearings if appropriate.

Clause 37

LORD PADDICK
BARONESS HAMWEE

85 Page 23, line 26, leave out “without reasonable excuse the person fails” and insert “the court is satisfied beyond reasonable doubt that the person has without reasonable excuse failed”

Member’s explanatory statement

This amendment applies the criminal standard of proof.

86 Page 23, line 31, after “existence” insert “and requirements”

Member’s explanatory statement

This amendment would provide that an offence is committed if the person is aware of the detail of the order as well as its existence.

Clause 38

LORD PADDICK
BARONESS HAMWEE

87 Page 24, line 30, leave out “considers” and insert “reasonably believes”

Member’s explanatory statement

This amendment probes the provisions around a breach of a DAPO, given that the balance of probabilities that could result in criminality is a civil standard, not a criminal standard.

Clause 42

LORD PADDICK
BARONESS HAMWEE

88 Page 27, line 32, leave out paragraph (b) and insert—

- “(b) the person for whose protection the order was made and who wishes to be heard.”

Member's explanatory statement

This amendment would require the person for whose protection the order is made to be heard in any event.

Clause 55

LORD ROSSER
LORD WOOLLEY OF WOODFORD
LORD YOUNG OF COOKHAM
BARONESS HUSSEIN-ECE

89

Page 35, line 15, leave out paragraphs (a) to (c) and insert –

- “(a) assess, or make arrangements for the assessment of, the need for domestic abuse support in its area by all persons affected by domestic abuse regardless of status, duly taking into account the special situation of women and children, with reference to a national needs assessment,
 - (b) prepare and publish a strategy for the commissioning and provision of sufficient support to meet the needs identified in its area by the assessment referred to in paragraph (a), including sufficient specialist support for all persons affected by domestic abuse regardless of status, and
 - (c) monitor and evaluate the effectiveness of the strategy and publish such evaluation in accordance with regulations issued under subsection (8).
- (1A) In preparing and adopting any strategy under subsection (1)(b), each relevant local authority must take account of any strategy to end violence against women and girls adopted by a Minister or Ministers.
- (1B) The assessment and strategy referred to in subsection (1)(a) and (b) must include, but is not limited to, the following –
- (a) the prevalence of and trends in domestic abuse and other forms of violence including that against women and girls, and the demographic of all persons in the area affected by domestic abuse and other forms of violence including violence against women and girls;
 - (b) the needs for support, protection and safety of those who are affected by domestic abuse in the local population;
 - (c) the nature and extent of the need for and provision of specialist support in respect of those persons affected by domestic abuse with presenting characteristics including sex, gender, race, colour, language, religion, national or social origin, association with a national minority, sexual orientation, gender identity, age, state of health, disability, or such other relevant status;
 - (d) the nature and extent of the need for and provision of specialist support to women who are affected by domestic abuse and their children;
 - (e) the need for and provision of refuge services in sufficient numbers to provide safe accommodation for victims, especially women and their children, regardless of status;
 - (f) how refuge services work in collaboration with a whole housing approach in the area that responds to the specific housing needs of victims of domestic abuse and provides a range of housing options for people experiencing domestic abuse that enables them or, where preferred by the victim, the person causing the abuse, to relocate.

Clause 55 - continued

(1C) The relevant local authority shall allocate appropriate financial and human resources for the implementation of the strategy under subsection (1)(b), including the arrangement of such specialist support as is set out in the strategy.”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. These would clarify what factors authorities must consider when assessing need and preparing a strategy, define refuge services and ensure wide consultation.

LORD RAMSBOTHAM
BARONESS ANDREWS
BARONESS FINLAY OF LLANDAFF
BARONESS BURT OF SOLIHULL

90 Page 35, line 18, after “area” insert “, ensuring that all information and communication relating to support is provided in an accessible and inclusive format,”

BARONESS FINLAY OF LLANDAFF
BARONESS MCINTOSH OF PICKERING
LORD PONSONBY OF SHULBREDE
BARONESS BURT OF SOLIHULL

91 Page 35, line 19, at end insert –
“(d) ensure all Child Contact Centres and organisations that offer facilities or services for child contact are accredited, to ensure domestic abuse and safeguarding protections for children and families.”

LORD RAMSBOTHAM
BARONESS ANDREWS
BARONESS FINLAY OF LLANDAFF
LORD SHINKWIN

92 Page 35, line 19, at end insert –
“(d) ensure that the strategy details how the local authority will identify and respond to speech, language and communication needs.”

LORD ROSSER
LORD WOOLLEY OF WOODFORD
BARONESS HUSSEIN-ECE

93 Page 35, leave out lines 21 to 25 and insert –
““domestic abuse support” means specialist support, in relation to domestic abuse, provided to victims of domestic abuse or their children, who reside in relevant accommodation, by organisations whose organisational purpose is to support victims and/or children and young people impacted by domestic abuse and other forms of violence against women and girls;

Clause 55 - continued

“relevant accommodation” means accommodation which is safe for victims and their children of a description specified by the Secretary of State in regulations, which must include refuge services, which are provided in separate or single-sex services within the meaning given in Part 7 of Schedule 3 to the Equality Act 2010 and the address of which cannot be made publicly available or disclosed;

“status” includes a status for the purpose of Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic violence, and combined forms of such status;

“national needs assessment” means the needs assessment prepared by the national oversight group referred to in section (*national oversight group*).”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. These would clarify what factors authorities must consider when assessing need and preparing a strategy, define refuge services and ensure wide consultation.

BARONESS FINLAY OF LLANDAFF
LORD BROOKE OF ALVERTHORPE
BARONESS BURT OF SOLIHULL
LORD HUNT OF KINGS HEATH

- 94 Page 35, line 21, at end insert “including, where necessary, substance use, addictions and mental health support,”

Member’s explanatory statement

This amendment puts an obligation on local authorities to provide substance use and mental health support to victims of domestic abuse, where necessary.

LORD ROSSER
LORD WOOLLEY OF WOODFORD

- 95 Page 35, line 34, leave out paragraph (c) and insert –
- “(c) any person, group or organisation providing support and services to those affected by domestic abuse and other forms of violence against women and girls in the local authority’s area, whether or not they are commissioned by the local authority, and
 - (d) such other person as the relevant local authority considers appropriate to ensure equal representation and meet their equalities duties.”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. These would clarify what factors authorities must consider when assessing need and preparing a strategy, define refuge services and ensure wide consultation.

96 Page 35, line 39, at end insert –

“(5A) Before a relevant local authority alters or replaces a strategy under subsection (5)(b) they must carry out a consultation under subsection (4) and include relevant service providers in the consultation and review of the strategy.”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. These would clarify what factors authorities must consider when assessing need and preparing a strategy, define refuge services and ensure wide consultation.

97 Page 36, line 7, at end insert “and consulting on”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. These would clarify what factors authorities must consider when assessing need and preparing a strategy, define refuge services and ensure wide consultation.

98 Page 36, line 10, at end insert “in addition to those identified in subsection (1A);”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. These would clarify what factors authorities must consider when assessing need and preparing a strategy, define refuge services and ensure wide consultation.

99 Page 36, line 15, at end insert –

“(f) how complaints about a local authority strategy will be handled.”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. These would clarify what factors authorities must consider when assessing need and preparing a strategy, define refuge services and ensure wide consultation.

100 Page 36, line 18, at end insert –

- “() persons, groups and organisations providing support and services with those affected by domestic abuse and other forms of violence against women and girls locally, regionally and nationally,
- () organisations representing the interests of services providing specialist support for women and children affected by domestic abuse and other forms of violence, and”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. These would clarify what factors authorities must consider when assessing need and preparing a strategy, define refuge services and ensure wide consultation.

After Clause 55

BARONESS BURT OF SOLIHULL
BARONESS BUTLER-SLOSS
BARONESS LISTER OF BURTERSETT

101 Insert the following new Clause—

“Local Welfare Provision schemes

- (1) Every local authority in England must deliver a Local Welfare Provision scheme which provides financial assistance to victims of domestic abuse.
- (2) The Secretary of State must issue guidance on the nature and scope of Local Welfare Provision schemes and review this twice each year in consultation with the Domestic Abuse Commissioner and other such individuals and agencies as the Secretary of State deems appropriate.
- (3) The Chancellor of the Exchequer must provide local authorities with additional funding designated for Local Welfare Provision, to increase per year with inflation.”

Member’s explanatory statement

This new Clause would allow victims of domestic abuse to access a local welfare assistance scheme in any locality across England.

Clause 56

LORD ROSSER
LORD WOOLLEY OF WOODFORD

102 Page 36, line 25, leave out subsection (2) and insert—

- “(2) The purpose of the board is to establish an equitable partnership that reflects the needs of those affected by domestic abuse in the local area and to deliver quality services that meet the needs of victims in the area identified in the assessment and strategy referred to in section 55(1)(a) and (b).
- (2A) The members of the domestic abuse local partnership board must include—
 - (a) a representative of the relevant local authority;
 - (b) at least one person appearing to the authority to represent the interests of local authorities for areas within its area;
 - (c) persons appearing to the authority to represent the interests of victims of domestic abuse and their children;
 - (d) persons appearing to the authority to represent the interests of charities and other voluntary organisations whose organisational purpose is to support victims of domestic abuse and other forms of violence, including that against women and girls, including those who have protected characteristics;
 - (e) persons appearing to the authority to represent the interests of persons who provide, or have functions relating to housing, health care services, policing and criminal justice in its area.

Clause 56 - continued

- (2B) The domestic abuse local partnership board must establish a reference group of organisations delivering specialist support services to victims of domestic abuse and their children, including those with protected characteristics, and respond to recommendations made by the reference group in their decision making.”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. This would strengthen the function of a local partnership board, and increase representation of the interests of victims, including children, and specialist services and professionals on a board.

BARONESS MEACHER

103 Page 36, line 41, at end insert –

“(h) at least one person appearing to the authority to represent psychological therapy services for couples experiencing conflict and potential domestic abuse.”

Member’s explanatory statement

This amendment ensures a focus by the local partnership boards upon prevention of domestic abuse as a top priority.

BARONESS FINLAY OF LLANDAFF

LORD HUNT OF KINGS HEATH

104 Page 36, line 41, at end insert –

“(h) at least one person appearing to the authority to have expertise in relation to substance use, addictions and mental health.”

Member’s explanatory statement

This amendment adds a requirement that the domestic abuse local partnership board include at least one person with expertise of substance use, addictions and mental health.

LORD RAMSBOTHAM

BARONESS ANDREWS

BARONESS FINLAY OF LLANDAFF

LORD SHINKWIN

105 Page 36, line 41, at end insert –

“() The members of the domestic abuse local partnership board must also include a speech and language therapist, who may also be the member fulfilling the requirement of subsection (2)(f).”

Clause 58

LORD ROSSER

LORD WOOLLEY OF WOODFORD

106 Page 37, line 15, at end insert –

“(1A) Guidance under subsection (1) must take account of any strategy to end violence against women and girls adopted by a Minister or Ministers.”

Member's explanatory statement

Part of a group of amendments aiming to strengthen the Government's existing statutory duty on local authorities to fund support in accommodation-based services. This would ensure that guidance under this section takes into account any Government strategy to end violence against women and girls.

107 Page 37, line 18, leave out subsections (3) to (5) and insert –

- “(3) Before issuing guidance under this section the Secretary of State must lay a draft of the guidance before both Houses of Parliament.
- (4) Guidance under this section comes into force in accordance with regulations made by the Secretary of State.
- (5) The Secretary of State may from time to time review and revise any guidance issued under this section and may re-issue it upon revision.
- (5A) Before issuing or revising guidance under this section, the Secretary of State must consult –
 - (a) the Domestic Abuse Commissioner,
 - (b) local authorities, and
 - (c) persons, groups and organisations providing support and services with those affected by domestic abuse locally, regionally and nationally, and in particular those working with or providing specialist support services to affected women and children,
 - (d) such other persons as the Secretary of State considers appropriate.”

Member's explanatory statement

Part of a group of amendments aiming to strengthen the Government's existing statutory duty on local authorities to fund support in accommodation-based services. This would ensure that a draft of guidance under this section is laid before parliament, and that the Secretary of State must consult with specialist services providers when issuing or revising guidance on the duty in this part.

After Clause 58

LORD ROSSER
LORD WOOLLEY OF WOODFORD

108 Insert the following new Clause –

“National Oversight Group

- (1) The Secretary of State must establish a national oversight group to monitor the exercise of local authority functions under section 55.
- (2) The members of the national oversight group must include –
 - (a) the Domestic Abuse Commissioner;
 - (b) organisations representing providers of specialist support for women and children affected by domestic abuse and other forms of violence;
 - (c) organisations representing providers of specialist support for women and children affected by domestic abuse and other forms of violence with protected characteristics;
 - (d) representatives of local authorities.
- (3) The national oversight group must –

After Clause 58 - continued

- (a) undertake a regular national needs assessment for refuge services, including provision for victims and their children with protected characteristics;
 - (b) undertake ongoing assessment of whether local authorities and local partnership boards are effectively discharging functions under this Part, including monitoring compliance with the Public Sector Equality Duty and implementation of Equality Impact Assessments for relevant commissioning and procurement processes;
 - (c) ensure that local authorities and local partnership boards are sufficiently and equitably funding services that meet the needs of victims and their children as identified in the national needs assessment, including those with protected characteristics;
 - (d) provide oversight of local authorities and local partnership boards in funding services that meet quality standards developed by organisations representing providers of specialist support for women and children affected by domestic abuse and other forms of violence;
 - (e) sanction ineffective or inadequate provision and practice by local authorities and local partnership boards as required;
 - (f) assess compliance with the Council of Europe Convention on preventing and combating violence against women and domestic violence and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.
 - (g) consult with relevant monitoring bodies including, but not limited to, the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence and the United Nations Special Rapporteur on Violence Against Women;
 - (h) undertake other duties as appropriate.
- (4) The Secretary of State must ensure sufficient funding is provided annually to ensure that national need identified in subsection (3)(a) can be met.”

Member’s explanatory statement

Part of a group of amendments aiming to strengthen the Government’s existing statutory duty on local authorities to fund support in accommodation-based services. This would put a national oversight mechanism on the face of the bill.

Clause 62**LORD MARKS OF HENLEY-ON-THAMES****109**

Page 39, line 18, leave out from “person” to end of line 19 and insert “(“P”) is, or is at risk of being, a victim of domestic abuse carried out by a person listed in subsection (1A).

- (1A) A person referred to in this subsection is –
- (a) a party to the proceedings;
 - (b) a relative of a party to the proceedings (other than P); or
 - (c) a witness in the proceedings.”

Member's explanatory statement

This amendment and the other amendments to Clause 62 in the name of Lord Marks of Henley-on-Thames would apply the same special measures to parties or witnesses who are victims or at risk of being victims of domestic abuse in civil proceedings as apply in family proceedings.

LORD RAMSBOTHAM
BARONESS ANDREWS
BARONESS FINLAY OF LLANDAFF
LORD SHINKWIN

110 Page 39, line 28, at end insert –

“() Rules of court made by virtue of subsection (1) must include the provision of appropriate support for those with speech, language and communication needs.”

LORD MARKS OF HENLEY-ON-THAMES

111 Page 39, line 29, leave out subsection (3) and insert –

“(3) Rules made by virtue of subsection (1) must, in particular, provide for the court –

(a) to consider whether it is necessary to make one or more special measures directions in relation to P, and

(b) when considering whether it is necessary to make one or more special measures directions in relation to P, to assume that the following matters are likely to be diminished by reason of P's vulnerability –

(i) the quality of P's evidence, and

(ii) where P is a party to the proceedings, P's participation in the proceedings.

(4) Rules of court may provide for an exception to the provision made by virtue of subsection (3) where P does not wish to be deemed to be eligible for the making of a special measures direction by virtue of that subsection.”

Member's explanatory statement

See explanatory statement to amendment in the name of Lord Marks of Henley-on-Thames to page 39, line 18.

112 Page 39, line 44, at end insert –

““relative” has the meaning given by section 63(1) of the Family Law Act 1996;”

Member's explanatory statement

See explanatory statement to amendment in the name of Lord Marks of Henley-on-Thames to page 39, line 18.

113 Page 40, leave out lines 3 and 4

Member's explanatory statement

See explanatory statement to amendment in the name of Lord Marks of Henley-on-Thames to page 39, line 18.

Clause 63

LORD PONSONBY OF SHULBREDE
BARONESS NEWLOVE

114 Page 40, leave out lines 31 to 35

Member's explanatory statement

This is to probe that in the family court, where a perpetrator's conviction is spent, other protections will be in place to protect a victim of abuse from being cross-examined by the perpetrator.

BARONESS WILLIAMS OF TRAFFORD

115 Page 41, line 20, after "conviction" insert "by or"

Member's explanatory statement

This amendment makes a minor drafting change.

116 Page 41, line 24, at end insert " , including—

- (i) in the case of proceedings in respect of a service offence, anything that under section 376(1) and (2) of the Armed Forces Act 2006 (which relates to summary hearings and the Summary Appeal Court) is to be treated as a conviction for the purposes of that Act, and
- (ii) in the case of any other service disciplinary proceedings, a finding of guilt in those proceedings;"

Member's explanatory statement

This amendment provides that "conviction", in relation to service disciplinary proceedings, includes a finding of guilt and a finding in summary proceedings before an officer that a charge has been proved.

117 Page 41, line 32, leave out from "offence" to "(except" in line 33

Member's explanatory statement

This amendment and the Minister's amendment at page 41, line 41 expand the definition of "service disciplinary proceedings" to include proceedings in respect of offences under previous armed forces legislation.

118 Page 41, line 34, leave out "that Act" and insert "the Armed Forces Act 2006"

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 41, line 32.

119 Page 41, line 41, at end insert—

““service offence” means—

- (a) a service offence within the meaning of the Armed Forces Act 2006, or
- (b) an SDA offence within the meaning of the Armed Forces Act 2006 (Transitional Provisions etc) Order 2009 (S.I. 2009/1059);”

Member's explanatory statement

See the explanatory statement for the Minister's amendment at page 41, line 32.

120 Page 42, line 1, leave out "80" and insert "82"

Member's explanatory statement

This amendment corrects an incorrect cross-reference.

LORD PONSONBY OF SHULBREDE
LORD MACKAY OF CLASHFERN

121 Page 44, line 29, at end insert –

"31VA Direction to prohibit direct or indirect engagement: evidence of domestic abuse

- (1) In family proceedings, where specified evidence is adduced that a person who is a party to the proceedings has been the victim of domestic abuse carried out by another party, the court may give a direction prohibiting the latter party from directly or indirectly engaging with the victim during proceedings, if the court deems any such engagement is causing significant distress to the victim.
- (2) In this section –
 - "domestic abuse" has the meaning given by section 1 of the Domestic Abuse Act 2021;
 - "specified evidence" means evidence specified, or of a description specified, in regulations made by the Lord Chancellor.
- (3) Regulations under subsection (2) may provide that any evidence which satisfies the court that domestic abuse, or domestic abuse of a specified description, has occurred is specified evidence for the purposes of this section.
- (4) A direction under this section may be made by the court –
 - (a) on an application made by a party to the proceedings, or
 - (b) of its own motion.
- (5) In determining whether the significant distress condition is met in the case of a party, the court must have regard to, among other things –
 - (a) any views expressed by the victim;
 - (b) any views expressed by the other party;
 - (c) any behaviour by the party in relation to the victim in respect of which the court is aware that a finding of fact has been made in the proceedings or in any other proceedings;
 - (d) any behaviour by the party at any stage of the proceedings, both generally and in relation to the victim;
 - (e) any behaviour by the victim at any stage of the proceedings, both generally and in relation to the party;
 - (f) any relationship (of whatever nature) between the victim and the party.
- (6) If the court decides that there are no alternative measures to prevent engagement which causes distress, the court must –
 - (a) invite the party to the proceedings to arrange for a qualified legal representative to act for the party during the court proceedings, and

Clause 63 - continued

- (b) require the party to the proceedings to notify the court, by the end of a period specified by the court, of whether a qualified legal representative is to act for the party for that purpose.
- (7) Subsection (8) applies if, by the end of the period specified under subsection (6)(b), either –
 - (a) the party has notified the court that no qualified legal representative is to act for the party during the court proceedings, or
 - (b) no notification has been received by the court and it appears to the court that no qualified legal representative is to act for the party during the court proceedings.
- (8) The court must consider whether it is necessary in the interests of justice for the party to be represented by a qualified legal representative appointed by the court to represent the interests of the party.
- (9) If the court decides that it is, the court must appoint a qualified legal representative (chosen by the court) to represent the party.
- (10) If the court appoints a qualified legal representative to represent one party, and the other party to proceedings is not represented, the court must consider whether it is necessary in the interests of justice for the other party also to be represented by a qualified legal representative to ensure a fair process.
- (11) If the court decides that it is necessary to appoint representation under subsection (10), the court must choose and appoint a qualified legal representative to represent the other party.”

Member’s explanatory statement

These changes would give courts the discretion to prevent a perpetrator directly or indirectly engaging with a victim during family court proceedings, where such engagement is causing distress, and to appoint a legal representative to represent the perpetrator in court, if that is necessary to prevent distress to the victim.

LORD MARKS OF HENLEY-ON-THAMES

122

Page 45, leave out lines 16 and 17 and insert –

- “(7) A qualified legal representative appointed by the court under subsection (6) is responsible to the party, but must cross-examine the witness having regard to such directions as the Court may give to protect the witness from significant distress or to prevent the quality of the witness’s evidence from being diminished.”

Member’s explanatory statement

This amendment is intended to maintain the responsibility of the legally qualified representative to the party in whose interests the cross-examination is conducted while ensuring it is conducted with proper regard for risk of distress to the witness and risk that the quality of the witness’s evidence might be diminished.

123 Page 45, line 40, at end insert –

- “(4) In particular the regulations may provide for the appointment of a qualified legal representative appointed under section 31W(6) to extend to stages in the proceedings other than the cross-examination for which the appointment was made.
- (5) The regulations may also provide for legal aid to be granted to any party or parties for all or any part of the proceedings in which a qualified representative has been appointed under section 31W(6), notwithstanding that the requirements of regulations made by the Lord Chancellor from time to time in exercise of the powers conferred by section 12(2), section (3)(a), (b), (e) and (g), and section 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 may not have been met.”

Member’s explanatory statement

This amendment would allow regulations to provide that legal assistance or legal aid is available any parties to a case in which a legally qualified representative is appointed by the court for a cross-examination and that such assistance may extend beyond the cross examination for which it was originally ordered.

Clause 64

LORD MARKS OF HENLEY-ON-THAMES

124 Page 46, line 39, at end insert –

“85EA Prohibition of cross-examination in person: victims of offences

- (1) In civil proceedings, no party to the proceedings who has been convicted of or given a caution for, or is charged with, a specified offence may cross-examine in person a witness who is the victim, or alleged victim, of that offence.
- (2) In civil proceedings, no party to the proceedings who is the victim, or alleged victim, of a specified offence may cross-examine in person a witness who has been convicted of or given a caution for, or is charged with, that offence.
- (3) Subsections (1) and (2) do not apply to a conviction or caution that is spent for the purposes of the Rehabilitation of Offenders Act 1974, unless evidence in relation to the conviction or caution is admissible in, or may be required in, the proceedings by virtue of section 7(2), (3) or (4) of that Act.
- (4) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the conviction, caution or charge when the cross-examination took place.
- (5) In this section –
- “caution” means –
- (a) in the case of England and Wales –
- (i) a conditional caution given under section 22 of the Criminal Justice Act 2003,
- (ii) a youth conditional caution given under section 66A of the Crime and Disorder Act 1998, or

Clause 64 - *continued*

- (iii) any other caution given to a person in England and Wales in respect of an offence which, at the time the caution is given, the person has admitted;
- (b) in the case of Scotland, anything corresponding to a caution falling within paragraph (a) (however described) which is given to a person in respect of an offence under the law of Scotland;
- (c) in the case of Northern Ireland –
 - (i) a conditional caution given under section 71 of the Justice Act (Northern Ireland) 2011, or
 - (ii) any other caution given to a person in Northern Ireland in respect of an offence which, at the time the caution is given, the person has admitted;

“conviction” means –

- (a) a conviction before a court in England and Wales, Scotland or Northern Ireland;
- (b) a conviction in service disciplinary proceedings (in England and Wales, Scotland, Northern Ireland, or elsewhere);
- (c) a finding in any criminal proceedings (including a finding linked with a finding of insanity) that the person concerned has committed an offence or done the act or made the omission charged;

and “convicted” is to be read accordingly;

“service disciplinary proceedings” means –

- (a) any proceedings (whether or not before a court) in respect of a service offence within the meaning of the Armed Forces Act 2006 (except proceedings before a civilian court within the meaning of that Act);
- (b) any proceedings under the Army Act 1955, the Air Force Act 1955, or the Naval Discipline Act 1957 (whether before a court-martial or before any other court or person authorised under any of those Acts to award a punishment in respect of an offence);
- (c) any proceedings before a Standing Civilian Court established under the Armed Forces Act 1976;

“specified offence” means an offence which is specified, or of a description specified, in regulations made by the Lord Chancellor.

- (6) The following provisions (which deem a conviction of a person discharged not to be a conviction) do not apply for the purposes of this section to a conviction of a person for an offence in respect of which an order has been made discharging the person absolutely or conditionally –
 - (a) section 14 of the Powers of Criminal Courts (Sentencing) Act 2000;
 - (b) section 80 of the Sentencing Code;
 - (c) section 187 of the Armed Forces Act 2006 or any corresponding earlier enactment.

Clause 64 - continued

- (7) For the purposes of this section “offence” includes an offence under a law that is no longer in force.

85EB Prohibition of cross-examination in person: persons protected by injunctions etc

- (1) In civil proceedings, no party to the proceedings against whom an on-notice protective injunction is in force may cross-examine in person a witness who is protected by the injunction.
- (2) In civil proceedings, no party to the proceedings who is protected by an on-notice protective injunction may cross-examine in person a witness against whom the injunction is in force.
- (3) Cross-examination in breach of subsection (1) or (2) does not affect the validity of a decision of the court in the proceedings if the court was not aware of the protective injunction when the cross-examination took place.
- (4) In this section “protective injunction” means an order, injunction or interdict specified, or of a description specified, in regulations made by the Lord Chancellor.
- (5) For the purposes of this section, a protective injunction is an “on-notice” protective injunction if –
- (a) the court is satisfied that there has been a hearing at which the person against whom the protective injunction is in force asked, or could have asked, for the injunction to be set aside or varied; or
 - (b) the protective injunction was made at a hearing of which the court is satisfied that both the person who applied for it and the person against whom it is in force had notice.

85EC Prohibition of cross-examination in person: evidence of domestic abuse

- (1) In civil proceedings, where specified evidence is adduced that a person who is a witness has been the victim of domestic abuse carried out by a party to the proceedings, that party to the proceedings may not cross-examine the witness in person.
- (2) In civil proceedings, where specified evidence is adduced that a person who is a party to the proceedings has been the victim of domestic abuse carried out by a witness, that party may not cross-examine the witness in person.
- (3) In this section –
- “domestic abuse” has the meaning given by sections 1 and 3 of the Domestic Abuse Act 2021;
 - “specified evidence” means evidence specified, or of a description specified, in regulations made by the Lord Chancellor.
- (4) Regulations under subsection (3) may provide that any evidence which satisfies the court that domestic abuse, or domestic abuse of a specified description, has occurred is specified evidence for the purposes of this section.”

Member's explanatory statement

This amendment and the other amendments to Clause 64 in the name of Lord Marks of Henley-on-Thames would allow for the same prohibition of direct cross-examination in civil proceedings as that which is available in family proceedings.

125 Page 47, leave out lines 32 and 33

Member's explanatory statement

This amendment and the other amendments to Clause 64 in the name of Lord Marks of Henley-on-Thames would allow for the same prohibition of direct cross-examination in civil proceedings as that which is available in family proceedings.

126 Page 48, line 28, leave out “a direction under section 85F” and insert “any of sections 85F to 85I”

Member's explanatory statement

This amendment and the other amendments to Clause 64 in the name of Lord Marks of Henley-on-Thames would allow for the same prohibition of direct cross-examination in civil proceedings as that which is available in family proceedings.

127 Page 49, leave out lines 11 and 12 and insert –

“(7) A qualified legal representative appointed by the court under subsection (6) is responsible to the party but must cross-examine the witness having regard to such directions as the Court may give to protect the witness from significant distress or to prevent the quality of the witness’s evidence from being diminished.”

Member's explanatory statement

This amendment is intended to maintain the responsibility of the legally qualified representative to the party in whose interests the cross-examination is conducted while ensuring it is conducted with proper regard for risk of distress to the witness and risk that the quality of the witness’s evidence might be diminished.

128 Page 49, line 35, at end insert –

“(3A) In particular the regulations may provide for the appointment of a qualified legal representative appointed under section 85H(6) to extend to stages in the proceedings other than the cross-examination for which the appointment was made.

(3B) The regulations may also provide for legal aid to be granted to any party or parties for all or any part of the proceedings in which a qualified representative has been appointed under section 85H(6), notwithstanding that the requirements of regulations made by the Lord Chancellor from time to time in exercise of the powers conferred by sections 12(2), (3)(a), (b), (e) and (g) and 41(1) to (3) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 may not have been met.”

Member's explanatory statement

This amendment would allow regulations to provide that legal assistance / legal aid is available any parties to a case in which a legally qualified representative is appointed by the court for a cross-examination and that such assistance may extend beyond the cross examination for which it was originally ordered.

129 Page 50, line 5, at end insert –

“85K Regulations under Part 7A

- (1) Any power of the Lord Chancellor to make regulations under this Part –
 - (a) is exercisable by statutory instrument,
 - (b) includes power to make different provision for different purposes, and
 - (c) includes power to make supplementary, incidental, consequential, transitional, transitory or saving provision.
- (2) A statutory instrument containing regulations under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.”

After Clause 64

LORD ROSSER
BARONESS GARDNER OF PARKES
BARONESS JONES OF MOULSECOOMB
BARONESS MEACHER

130 Insert the following new Clause –

“Proceedings under the Children Act 1989

- (1) Part I of the Children Act 1989 is amended as follows.
- (2) In section 1 (welfare of the child) after subsection (2B) insert –
 - “(2C) Subsection (2A) shall not apply in relation to a parent where there has been domestic abuse which has affected the child or other parent.
 - (2D) Evidence of domestic abuse may be provided in one or more of the forms set out in regulation 33(2) of the Civil Legal Aid (Procedure) Regulations 2012.”
- (3) Part II of the Children Act 1989 is amended as follows.
- (4) In section 9 (restrictions on making section 8 orders) after subsection (7) insert –
 - “(8) No court shall make a section 8 order for a child to spend unsupervised time with or have unsupervised contact with a parent who is –
 - (a) awaiting trial, or on bail for, a domestic abuse offence, or
 - (b) involved in ongoing criminal proceedings for a domestic abuse offence.
 - (8A) In subsection (8) –

“unsupervised” means where a court approved third party is not present at all times during contact with the parent to ensure the physical safety and emotional wellbeing of a child;
“domestic abuse offence” means an offence which the Crown Prosecution Service alleges to have involved domestic abuse.””

Member's explanatory statement

This new Clause seeks to change the presumption that parental involvement furthers the child's welfare when there has been domestic abuse. It also prohibits unsupervised contact for a parent awaiting trial or on bail for domestic abuse offences, or where there are ongoing criminal proceedings for domestic abuse.

BARONESS JONES OF MOULSECOOMB

As an amendment to Amendment 130

- 130A★ In subsection (4) after inserted text (8)(b) insert –
- “(c) pending a fact finding hearing or has been found to have committed domestic abuse in a previous fact-finding hearing; or who has a criminal conviction for a domestic abuse offence.”

Member's explanatory statement

This new Clause seeks to change the presumption that parental involvement furthers the child's welfare when there has been domestic abuse. It also prohibits unsupervised contact for a parent awaiting trial or on bail for domestic abuse offences, or where there are ongoing criminal proceedings for domestic abuse.

BARONESS BERTIN

LORD PONSONBY OF SHULBREDE

- 131 Insert the following new Clause –
- “Confidentiality of refuge addresses**
- (1) In family proceedings, where a person (“P”) is –
- (a) witness or party to the proceedings; and
 - (b) has been subject to domestic abuse as defined under section 1 of this Act; and
 - (c) is residing at a refuge;
- the provisions in this section apply.
- (2) The court must not share the residential address of the refuge with any individual or third party.
- (3) A court order must not be served on P at the residential address of the refuge.
- (4) A court order may be served on P at the refuge's office address or by an alternative method or at an alternative place, in accordance with Part 6 of the Family Procedure Rules 2010.
- (5) The residential address of the refuge must be redacted from any court documentation.”

Member's explanatory statement

This would prevent the residential address of a refuge being shared as part of court proceedings.

LORD PONSONBY OF SHULBREDE

BARONESS NEWLOVE

- 132 Insert the following new Clause –
- “Duty on courts to share information**
- (1) Where a person (“P”) is –

After Clause 64 - continued

- (a) a party or witness in court proceedings; and
- (b) a victim, or at risk of being a victim, of domestic abuse carried out by a person under subsection (2);

there is a duty on any court hearing those proceedings to share information regarding P.

- (2) The persons referred to in subsection (2) are –
 - (a) a party to the proceedings;
 - (b) a relative of a party to the proceedings (other than P); or
 - (c) a witness in the proceedings.
- (3) In family proceedings, where information shared under this section identifies that court proceedings may be being used by a person under subsection (2) to continue abusive behaviour towards P, the court must consider making an order under section 91(14) of the Children Act 1989 (effect and duration of orders etc.).”

Member’s explanatory statement

This would provide for a duty on courts to share information on cases involving the same victim of domestic abuse. Where it appears that court cases are being brought by a perpetrator of abuse as a means to carry on abusive behaviour, the court must consider making a “barring” order to prevent further cases.

BARONESS HELIC
LORD PONSONBY OF SHULBREDE

133

Insert the following new Clause –

“Training for Judiciary and professionals in family court

- (1) Any person who is working in a professional capacity in family proceedings must undergo mandatory training on domestic abuse, as defined under section 1 of this Act.
- (2) A person to whom subsection 1 applies includes, but is not limited to –
 - (a) a member of the Judiciary,
 - (b) an employee of the Children and Family Court Advisory and Support Service,
 - (c) a social worker,
 - (d) an appointed expert advising the family court.
- (3) Training under this section must include –
 - (a) the definition of domestic abuse, as provided under section 1 of this Act,
 - (b) the impact of domestic abuse on both adults and children affected by it,
 - (c) how to identify and respond to a vulnerable victim of domestic abuse,
 - (d) the need for the court to assess any risks for a victim and children throughout court proceedings,
 - (e) the impact of trauma from domestic abuse.
- (4) Training under this section must be established in consultation with the Domestic Abuse Commissioner.”

Member's explanatory statement

This would require judges and professionals in the family court to undergo mandatory training on understanding and identifying domestic abuse.

LORD PONSONBY OF SHULBREDE

134 Insert the following new Clause—

“The impact of trauma on the quality of evidence in family law proceedings

- (1) In family proceedings, where a witness or party to the proceedings is a victim of domestic abuse, the court shall consider—
 - (a) the vulnerability of the witness or party as a result of such abuse,
 - (b) the impact of trauma, as a result of such abuse, on the quality of evidence provided by the witness or party,
 when assessing the evidence provided to the court.
- (2) In this section “domestic abuse” has the same meaning as in section 1 of this Act.”

Member's explanatory statement

This would require the court to consider the impact of trauma, from domestic abuse, on the quality of evidence that a victim may provide to the court.

LORD PONSONBY OF SHULBREDE
BARONESS NEWLOVE

135 Insert the following new Clause—

“Transparency of court arrangements: appeals process

- (1) The Secretary of State must by regulations amend the Family Procedure Rules 2010 to provide for the duty under subsection (2).
- (2) In family proceedings, where a party to the proceedings is, or is at risk of being, a victim of domestic abuse carried out by a person listed in subsection (4), the judge must include information on the appeals process as part of their ruling.
- (3) Information on the appeals process included under subsection (2) must include—
 - (a) permissible grounds for appeal,
 - (b) the timeframe and relevant deadlines, and
 - (c) details of support services that may provide legal support for appeals.
- (4) The persons referred to in subsection (2) are—
 - (a) a party to the proceedings; or
 - (b) a witness in the proceedings.”

Member's explanatory statement

This would require a judge in the family court to clearly lay out details of how the appeals process works when giving a ruling in a case involving a domestic abuse victim.

LORD PONSONBY OF SHULBREDE

136 Insert the following new Clause—

“Child contact costs in domestic abuse cases

In section 11 of the Children Act 1989 (general principles and supplementary provisions) after subsection (7) insert—

- “(8) A section 8 order may not contain a direction for a complainant of domestic abuse or victim of domestic abuse to pay the costs of contact between a child and a person who has been convicted for, charged for or is awaiting trial for a domestic abuse offence.”

Member’s explanatory statement

This is to probe the issue of a victim of domestic abuse being required to pay for contact arrangements between a child and a perpetrator of domestic abuse.

After Clause 65

BARONESS NEWLOVE
BARONESS WILCOX OF NEWPORT
BARONESS MEACHER
THE LORD BISHOP OF LONDON

137 Insert the following new Clause—

“Offence of non-fatal strangulation or suffocation

- (1) A person (“A”) commits an offence if that person intentionally strangles or suffocates another person (“B”), where the strangulation or suffocation does not result in B’s death.
- (2) A strangles or suffocates B if A impedes B’s breathing, blood circulation, or both, by doing any of the following (manually or using any aid)—
 - (a) blocking B’s nose, mouth, or both; or
 - (b) applying pressure on, or to, B’s throat, neck, chest or more than one of these.
- (3) A person guilty of an offence under this section is liable—
 - (a) on summary conviction—
 - (i) to imprisonment for a term not exceeding 12 months (or six months, if the offence was committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020), or
 - (ii) to a fine, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years, or to a fine, or both.”

138 Insert the following new Clause—

“Offence of non-fatal strangulation or suffocation in domestic abuse context

- (1) A person (“A”) commits an offence if that person intentionally strangles or suffocates another person (“B”) to whom they are personally connected as defined in section 2 of this Act, where the strangulation or suffocation does not result in B’s death.

After Clause 65 - continued

- (2) A strangles or suffocates B if A impedes B’s breathing, blood circulation, or both, by doing any of the following (manually or using any aid) –
 - (a) blocking B’s nose, mouth, or both; or
 - (b) applying pressure on, or to, B’s throat, neck, chest or more than one of these.
- (3) A person guilty of an offence under this section is liable –
 - (a) on summary conviction –
 - (i) to imprisonment for a term not exceeding 12 months (or six months, if the offence was committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020), or
 - (ii) to a fine, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years, or to a fine, or both.”

Member’s explanatory statement

This amendment presents an alternative to the proposed new Clause with a similar title in the name of Baroness Newlove. This version specifies in subsection (1) that person A is personally connected to person B, as defined in section 2.

After Clause 68

BARONESS KENNEDY OF THE SHAWS
 BARONESS HAMWEE
 BARONESS JONES OF MOULSECOOMB
 THE LORD BISHOP OF GLOUCESTER

139

Insert the following new Clause –

“Reasonable force in domestic abuse cases

- (1) Section 76 of the Criminal Justice and Immigration Act 2008 (reasonable force for purposes of self-defence etc.) is amended as follows.
- (2) In subsection (5A) after “In a householder case” insert “or a domestic abuse case”.
- (3) In subsection (6) after “In a case other than a householder case” insert “or a domestic abuse case”.
- (4) After subsection (8F) insert –

“(8G) For the purposes of this section “a domestic abuse case” is a case where –

 - (a) the defence concerned is the common law defence of self-defence,
 - (b) D is, or has been, a victim of domestic abuse, and
 - (c) the force concerned is force used by D against the person who has perpetrated the abusive behaviour referred to in paragraph (b).

After Clause 68 - continued

(8H) Subsection (8G)(b) will only be established if the behaviour concerned is, or is part of, conduct which constitutes domestic abuse as defined in sections 1 and 2 of the Domestic Abuse Act 2021, including but not limited to conduct which constitutes the offence of controlling or coercive behaviour in an intimate or family relationship as defined in section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship).”

(5) In subsection (9) after “householder cases” insert “and domestic abuse cases”.

Member’s explanatory statement

This Clause seeks to clarify the degree of force which is reasonable under the common law of self-defence where the defendant is a survivor of domestic abuse alleged to have used force against their abuser.

BARONESS KENNEDY OF THE SHAWS
THE LORD BISHOP OF GLOUCESTER
BARONESS HAMWEE

140 Insert the following new Clause –

“Defence for victims of domestic abuse who commit an offence

- (1) A person is not guilty of an offence if –
 - (a) the person is aged 18 or over when the person does the act which constitutes the offence,
 - (b) the person does that act because the person is compelled to do it,
 - (c) the compulsion is attributable to their being a victim of domestic abuse, and
 - (d) a reasonable person in the same situation as the person and having the person’s relevant characteristics would have no realistic alternative to doing that act.
- (2) A person may be compelled to do something by another person or by the person’s circumstances.
- (3) Compulsion is attributable to domestic abuse only if –
 - (a) it is, or is part of, conduct which constitutes domestic abuse as defined in sections 1 and 2 of this Act, including but not limited to conduct which constitutes the offence of controlling or coercive behaviour in an intimate or family relationship as defined in section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship), or
 - (b) it is a direct consequence of a person being, or having been, a victim of such abuse.
- (4) A person is not guilty of an offence if –
 - (a) the person is under the age of 18 when the person does the act which constitutes the offence,
 - (b) the person does that act as a direct consequence of the person being, or having been, a victim of domestic abuse as defined at subsection (3)(a) above, and

After Clause 68 - continued

- (c) a reasonable person in the same situation as the person and having the person's relevant characteristics would do that act.
- (5) For the purposes of this section "relevant characteristics" means age, sex, any physical or mental illness or disability and any experience of domestic abuse.
- (6) In this section references to an act include an omission.
- (7) Subsections (1) and (4) do not apply to an offence listed in Schedule (*Offences to which the defence for victims of domestic abuse who commit an offence does not apply*).
- (8) The Secretary of State may by regulations amend Schedule (*Offences to which the defence for victims of domestic abuse who commit an offence does not apply*).
- (9) The Secretary of State must make arrangements for monitoring of the types of offence for which victims of domestic abuse are prosecuted and use this evidence to inform an annual review of the offences listed in Schedule (*Offences to which the defence for victims of domestic abuse who commit an offence does not apply*) and any amendment to Schedule (*Offences to which the defence for victims of domestic abuse who commit an offence does not apply*)."

Member's explanatory statement

This new Clause would provide a statutory defence for survivors of domestic abuse, in some circumstances, who commit an offence. It is closely modelled on section 45 of the Modern Slavery Act 2015.

LORD MARKS OF HENLEY-ON-THAMES
BARONESS JOLLY
LORD GARNIER

141 Insert the following new Clause—

“Controlling or coercive behaviour by persons providing psychotherapy or counselling services

- (1) A person (“A”) commits an offence if—
- (a) A is a person providing or purporting to provide psychotherapy or counselling services to another person (“B”),
 - (b) A repeatedly or continuously engages in behaviour towards B that is controlling or coercive,
 - (c) the behaviour has a serious effect on B, and
 - (d) A knows or ought to know that the behaviour will or may have a serious effect on B.
- (2) A’s behaviour has a “serious effect” on B if—
- (a) it causes B to fear, on at least two occasions, that violence will be used against B, or
 - (b) it causes B psychological harm which has a substantial adverse effect on B's usual day-to-day activities.
- (3) For the purposes of subsection (1)(d) A “ought to know” that which a reasonable person in possession of the same information would know.
- (4) In proceedings for an offence under this section it is a defence for A to show that—

After Clause 68 - continued

- (a) in engaging in the behaviour in question, A believed that he or she was acting in B's best interests, and
 - (b) the behaviour was in all the circumstances reasonable.
- (5) A is to be taken to have shown the facts mentioned in subsection (4) if—
- (a) sufficient evidence of the facts is adduced to raise an issue with respect to them, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (6) The defence in subsection (4) is not available to A in relation to behaviour that causes B to fear that violence will be used against B.
- (7) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding five years, or a fine, or both;
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or a fine, or both.”

Schedule 2

BARONESS BERTIN

142 Page 64, line 37, leave out paragraph (b)**143** Page 65, leave out lines 12 and 13**144** Page 65, leave out lines 20 to 25 and insert—

“(c) after paragraph 1(d)(ii), insert—

“(e) an offence under any of sections 1 to 4 where the victim of the offence was 18 or over at the time of the offence.””

After Schedule 2

BARONESS KENNEDY OF THE SHAWS

BARONESS HAMWEE

145 Insert the following new Schedule—

“OFFENCES TO WHICH THE DEFENCE FOR VICTIMS OF DOMESTIC ABUSE WHO COMMIT AN
OFFENCE DOES NOT APPLY

Common law offences

- 1 False imprisonment.
- 2 Kidnapping.
- 3 Manslaughter.
- 4 Murder.
- 5 Perverting the course of justice.
- 6 Piracy.

Offences against the Person Act 1861

After Schedule 2 - continued

- 7 An offence under any of the following provisions of the Offences Against the Person Act 1861 –
- (a) section 4 (soliciting murder);
 - (b) section 16 (threats to kill);
 - (c) section 18 (wounding with intent to cause grievous bodily harm);
 - (d) section 20 (malicious wounding);
 - (e) section 21 (attempting to choke, suffocate or strangle in order to commit or assist in committing an indictable offence);
 - (f) section 22 (using drugs etc to commit or assist in the committing of an indictable offence);
 - (g) section 23 (maliciously administering poison etc so as to endanger life or inflict grievous bodily harm);
 - (h) section 27 (abandoning children);
 - (i) section 28 (causing bodily injury by explosives);
 - (j) section 29 (using explosives with intent to do grievous bodily harm);
 - (k) section 30 (placing explosives with intent to do bodily injury);
 - (l) section 31 (setting spring guns etc with intent to do grievous bodily harm);
 - (m) section 32 (endangering safety of railway passengers);
 - (n) section 35 (injuring persons by furious driving);
 - (o) section 37 (assaulting officer preserving wreck);
 - (p) section 38 (assault with intent to resist arrest).

Explosive Substances Act 1883

- 8 An offence under any of the following provisions of the Explosive Substances Act 1883 –
- (a) section 2 (causing explosion likely to endanger life or property);
 - (b) section 3 (attempt to cause explosion, or making or keeping explosive with intent to endanger life or property);
 - (c) section 4 (making or possession of explosives under suspicious circumstances).

Infant Life (Preservation) Act 1929

- 9 An offence under section 1 of the Infant Life (Preservation) Act 1929 (child destruction).

Children and Young Persons Act 1933

- 10 An offence under section 1 of the Children and Young Persons Act 1933 (cruelty to children).

Public Order Act 1936

- 11 An offence under section 2 of the Public Order Act 1936 (control etc of quasi-military organisation).

Infanticide Act 1938

- 12 An offence under section 1 of the Infanticide Act 1938 (infanticide).

Firearms Act 1968

After Schedule 2 - continued

- 13 An offence under any of the following provisions of the Firearms Act 1968 –
- (a) section 5 (possession of prohibited firearms);
 - (b) section 16 (possession of firearm with intent to endanger life);
 - (c) section 16A (possession of firearm with intent to cause fear of violence);
 - (d) section 17(1) (use of firearm to resist arrest);
 - (e) section 17(2) (possession of firearm at time of committing or being arrested for specified offence);
 - (f) section 18 (carrying firearm with criminal intent).

Theft Act 1968

- 14 An offence under any of the following provisions of the Theft Act 1968 –
- (a) section 8 (robbery or assault with intent to rob);
 - (b) section 9 (burglary), where the offence is committed with intent to inflict grievous bodily harm on a person, or to do unlawful damage to a building or anything in it;
 - (c) section 10 (aggravated burglary);
 - (d) section 12A (aggravated vehicle-taking), where the offence involves an accident which causes the death of any person;
 - (e) section 21 (blackmail).

Criminal Damage Act 1971

- 15 The following offences under the Criminal Damage Act 1971 –
- (a) an offence of arson under section 1;
 - (b) an offence under section 1(2) (destroying or damaging property) other than an offence of arson.

Immigration Act 1971

- 16 An offence under section 25 of the Immigration Act 1971 (assisting unlawful immigration to member state).

Customs and Excise Management Act 1979

- 17 An offence under section 170 of the Customs and Excise Management Act 1979 (penalty for fraudulent evasion of duty etc) in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (indecent or obscene articles).

Taking of Hostages Act 1982

- 18 An offence under section 1 of the Taking of Hostages Act 1982 (hostage-taking).

Aviation Security Act 1982

- 19 An offence under any of the following provisions of the Aviation Security Act 1982 –
- (a) section 1 (hijacking);
 - (b) section 2 (destroying, damaging or endangering safety of aircraft);
 - (c) section 3 (other acts endangering or likely to endanger safety of aircraft);
 - (d) section 4 (offences in relation to certain dangerous articles).

After Schedule 2 - continued*Mental Health Act 1983*

- 20 An offence under section 127 of the Mental Health Act 1983 (ill-treatment of patients).

Child Abduction Act 1984

- 21 An offence under any of the following provisions of the Child Abduction Act 1984 –
- (a) section 1 (abduction of child by parent etc);
 - (b) section 2 (abduction of child by other persons).

Public Order Act 1986

- 22 An offence under any of the following provisions of the Public Order Act 1986 –
- (a) section 1 (riot);
 - (b) section 2 (violent disorder).

Criminal Justice Act 1988

- 23 An offence under section 134 of the Criminal Justice Act 1988 (torture).

Road Traffic Act 1988

- 24 An offence under any of the following provisions of the Road Traffic Act 1988 –
- (a) section 1 (causing death by dangerous driving);
 - (b) section 3A (causing death by careless driving when under the influence of drink or drugs).

Aviation and Maritime Security Act 1990

- 25 An offence under any of the following provisions of the Aviation and Maritime Security Act 1990 –
- (a) section 1 (endangering safety at aerodromes);
 - (b) section 9 (hijacking of ships);
 - (c) section 10 (seizing or exercising control of fixed platforms);
 - (d) section 11 (destroying fixed platforms or endangering their safety);
 - (e) section 12 (other acts endangering or likely to endanger safe navigation);
 - (f) section 13 (offences involving threats).

Channel Tunnel (Security) Order 1994 (S.I. 1994/570)

- 26 An offence under Part 2 of the Channel Tunnel (Security) Order 1994 (SI 1994/570) (offences relating to Channel Tunnel trains and the tunnel system).

Protection from Harassment Act 1997

- 27 An offence under any of the following provisions of the Protection from Harassment Act 1997 –
- (a) section 4 (putting people in fear of violence);
 - (b) section 4A (stalking involving fear of violence or serious alarm or distress).

Crime and Disorder Act 1998

After Schedule 2 - continued

- 28 An offence under any of the following provisions of the Crime and Disorder Act 1998 –
- (a) section 29 (racially or religiously aggravated assaults);
 - (b) section 31(1)(a) or (b) (racially or religiously aggravated offences under section 4 or 4A of the Public Order Act 1986).

Terrorism Act 2000

- 29 An offence under any of the following provisions of the Terrorism Act 2000 –
- (a) section 54 (weapons training);
 - (b) section 56 (directing terrorist organisation);
 - (c) section 57 (possession of article for terrorist purposes);
 - (d) section 59 (inciting terrorism overseas).

International Criminal Court Act 2001

- 30 An offence under any of the following provisions of the International Criminal Court Act 2001 –
- (a) section 51 (genocide, crimes against humanity and war crimes);
 - (b) section 52 (ancillary conduct).

Anti-terrorism, Crime and Security Act 2001

- 31 An offence under any of the following provisions of the Anti-terrorism, Crime and Security Act 2001 –
- (a) section 47 (use of nuclear weapons);
 - (b) section 50 (assisting or inducing certain weapons-related acts overseas);
 - (c) section 113 (use of noxious substance or thing to cause harm or intimidate).

Female Genital Mutilation Act 2003

- 32 An offence under any of the following provisions of the Female Genital Mutilation Act 2003 –
- (a) section 1 (female genital mutilation);
 - (b) section 2 (assisting a girl to mutilate her own genitalia);
 - (c) section 3 (assisting a non-UK person to mutilate overseas a girl's genitalia).

Sexual Offences Act 2003

- 33 An offence under any of the following provisions of the Sexual Offences Act 2003 –
- (a) section 1 (rape);
 - (b) section 2 (assault by penetration);
 - (c) section 3 (sexual assault);
 - (d) section 4 (causing person to engage in sexual activity without consent);
 - (e) section 5 (rape of child under 13);
 - (f) section 6 (assault of child under 13 by penetration);
 - (g) section 7 (sexual assault of child under 13);
 - (h) section 8 (causing or inciting child under 13 to engage in sexual activity);

After Schedule 2 - continued

- (i) section 9 (sexual activity with a child);
- (j) section 10 (causing or inciting a child to engage in sexual activity);
- (k) section 13 (child sex offences committed by children or young persons);
- (l) section 14 (arranging or facilitating commission of child sex offence);
- (m) section 15 (meeting a child following sexual grooming);
- (n) section 16 (abuse of position of trust: sexual activity with a child);
- (o) section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity);
- (p) section 18 (abuse of position of trust: sexual activity in presence of child);
- (q) section 19 (abuse of position of trust: causing a child to watch a sexual act);
- (r) section 25 (sexual activity with a child family member);
- (s) section 26 (inciting a child family member to engage in sexual activity);
- (t) section 30 (sexual activity with a person with a mental disorder impeding choice);
- (u) section 31 (causing or inciting a person with a mental disorder impeding choice to engage in sexual activity);
- (v) section 32 (engaging in sexual activity in the presence of a person with a mental disorder impeding choice);
- (w) section 33 (causing a person with a mental disorder impeding choice to watch a sexual act);
- (x) section 34 (inducement, threat or deception to procure sexual activity with a person with a mental disorder);
- (y) section 35 (causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception);
- (z) section 36 (engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder);
- (aa) section 37 (causing a person with a mental disorder to watch a sexual act by inducement, threat or deception);
- (ab) section 38 (care workers: sexual activity with a person with a mental disorder);
- (ac) section 39 (care workers: causing or inciting sexual activity);
- (ad) section 40 (care workers: sexual activity in the presence of a person with a mental disorder);
- (ae) section 41 (care workers: causing a person with a mental disorder to watch a sexual act);
- (af) section 47 (paying for sexual services of a child);
- (ag) section 48 (causing or inciting child prostitution or pornography);
- (ah) section 49 (controlling a child prostitute or a child involved in pornography);
- (ai) section 50 (arranging or facilitating child prostitution or pornography);
- (aj) section 61 (administering a substance with intent);
- (ak) section 62 (committing offence with intent to commit sexual offence);

After Schedule 2 - continued

- (al) section 63 (trespass with intent to commit sexual offence);
- (am) section 64 (sex with an adult relative: penetration);
- (an) section 65 (sex with an adult relative: consenting to penetration);
- (ao) section 66 (exposure);
- (ap) section 67 (voyeurism);
- (aq) section 70 (sexual penetration of a corpse).

Domestic Violence, Crime and Victims Act 2004

- 34 An offence under section 5 of the Domestic Violence, Crime and Victims Act 2004 (causing or allowing a child or vulnerable adult to die or suffer serious physical harm).

Terrorism Act 2006

- 35 An offence under any of the following provisions of the Terrorism Act 2006—
- (a) section 5 (preparation of terrorist acts);
 - (b) section 6 (training for terrorism);
 - (c) section 9 (making or possession of radioactive device or material);
 - (d) section 10 (use of radioactive device or material for terrorist purposes);
 - (e) section 11 (terrorist threats relating to radioactive devices etc).

Modern Slavery Act 2015

- 36 An offence under any of the following provisions of the Modern Slavery Act 2015—
- (a) section 1 (slavery, servitude and forced or compulsory labour);
 - (b) section 2 (human trafficking).

Ancillary offences

- 37 (1) An offence of attempting or conspiring to commit an offence listed in this Schedule.
- (2) An offence committed by aiding, abetting, counselling or procuring an offence listed in this Schedule.
- (3) An offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting) where the offence (or one of the offences) which the person in question intends or believes would be committed is an offence listed in this Schedule.”

Clause 69

LORD MARKS OF HENLEY-ON-THAMES
BARONESS HAMWEE

The above named Lords give notice of their intention to oppose the Question that Clause 69 stand part of the Bill.

Clause 70

LORD RUSSELL OF LIVERPOOL
LORD YOUNG OF COOKHAM
BARONESS BULL
BARONESS JONES OF MOULSECOOMB

146 Page 54, line 8, at end insert –

“(2A) The Secretary of State must issue guidance under this section which takes account of evidence about the relationship between domestic abuse and offences involving hostility based on sex.

(2B) In preparing guidance under subsection (2A) the Secretary of State must require the chief officer of police of any police force to provide information relating to –

- (a) the number of relevant crimes reported to the police force; and
- (b) the number of relevant crimes reported to the police force which, in the opinion of the chief officer of police, have also involved domestic abuse.

(2C) In this section –

“relevant crime” means a reported crime in which –

- (a) the victim or any other person perceived the alleged offender, at the time of or immediately before or after the offence, to demonstrate hostility or prejudice based on sex, or
- (b) the victim or any other person perceived the crime to be motivated (wholly or partly) by hostility or prejudice towards persons who are of a particular sex;

“sex” has the same meaning as in section 11 of the Equality Act 2010 (sex).”

Clause 71

LORD YOUNG OF COOKHAM

146A Page 55, line 15, after “abuse” insert “, or

- (ii) resides or might reasonably be expected to reside with a person who falls within sub-paragraph (i) and is not the abuser”

Member’s explanatory statement

This amendment allows the applicant for homelessness assistance to be either the survivor or someone who resides with the survivor or might reasonably be expected to reside with the survivor. However, the applicant cannot be the abuser.

LORD RANDALL OF UXBRIDGE
LORD KENNEDY OF SOUTHWARK

147 Page 55, line 33, at end insert –

“() In section 199 (local connection), after subsection (1) insert –

“(1A) A person who is, or is likely to become, a victim of domestic abuse is deemed to have a local connection to any authority for the purposes of an application to that authority under section 183.””

After Clause 72

LORD ROSSER
BARONESS HAMWEE
BARONESS BUTLER-SLOSS
BARONESS BENNETT OF MANOR CASTLE

148 Insert the following new Clause—

“Recourse to public funds for domestic abuse survivors

- (1) The Immigration Acts are amended as follows.
- (2) In section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) after subsection (10) insert—
 - “(11) This section does not apply to a person who is a victim of domestic abuse in the United Kingdom who provides evidence in one or more of the forms set out in section (*Recourse to public funds for domestic abuse survivors*) of the Domestic Abuse Act 2021.”
- (3) In paragraph 2(1) of Schedule 3 to the Nationality, Immigration and Asylum Act 2002 after sub-paragraph (b) insert—
 - “(ba) to a person who is a victim of domestic abuse in the United Kingdom who provides evidence in one or more of the forms set out in section (*Recourse to public funds for domestic abuse survivors*) of the Domestic Abuse Act 2021, or”.
- (4) In section 21 of the Immigration Act 2014 (persons disqualified by immigration status or with limited right to rent) at the end of subsection (3) insert “or if P is a victim of domestic abuse”.
- (5) In section 3 of the Immigration Act 1971 (general provisions for regulation and control) after subsection (1) insert—
 - “(1A) The Secretary of State may not make or maintain a condition under subsection (1)(c)(ii) on leave granted to a victim of domestic abuse in the United Kingdom who provides evidence in one or more of the forms set out in section (*Recourse to public funds for domestic abuse survivors*) of the Domestic Abuse Act 2021; and it is not a breach of the immigration laws or rules for such a victim to have recourse to public funds.”
- (6) For the purposes of this section, evidence that a person is a victim of domestic abuse may consist of one or more of the following—
 - (a) a relevant conviction, police caution or protection notice;
 - (b) a relevant court order (including without notice, *ex parte*, interim or final orders), including a non-molestation undertaking or order, occupation order, domestic abuse protection order, forced marriage protection order or other protective injunction;
 - (c) evidence of relevant criminal proceedings for an offence concerning domestic violence or a police report confirming attendance at an incident resulting from domestic abuse;
 - (d) evidence that a victim has been referred to a multi-agency risk assessment conference;
 - (e) a finding of fact in the family courts of domestic abuse;

After Clause 72 - continued

- (f) a medical report from a doctor at a UK hospital confirming injuries or a condition consistent with being a victim of domestic abuse;
 - (g) a letter from a General Medical Council registered general practitioner confirming that he or she is satisfied on the basis of an examination that a person had injuries or a condition consistent with those of a victim of domestic abuse;
 - (h) an undertaking given to a court by the alleged perpetrator of domestic abuse that he or she will not approach the applicant who is the victim of the abuse;
 - (i) a letter from a social services department confirming its involvement in providing services to a person in respect of allegations of domestic abuse;
 - (j) a letter of support or a report from a domestic abuse support organisation; or
 - (k) other evidence of domestic abuse, including from a counsellor, midwife, school, witness or the victim.
- (7) For the purposes of this section –
 “domestic abuse” has the same meaning as in section 1 of the Domestic Abuse Act 2021;
 “victim” includes the dependent child of a person who is a victim of domestic abuse.
- (8) Within 12 months of this Act being passed, the Secretary of State must commission a review into the operation of the provisions in this section.
- (9) The Secretary of State must lay before Parliament a report setting out the findings of the review.”

Member’s explanatory statement

This new Clause seeks to ensure that certain provisions under the Immigration Acts – including exclusion from public funds, certain types of support and assistance and the right to rent – do not apply to survivors of domestic abuse. There will be a review into the operation of this provision.

BARONESS LISTER OF BURTERSETT
 LORD HARRIES OF PENTREGARTH
 BARONESS BERTIN
 LORD ROSSER

149

Insert the following new Clause –

“Controlling or coercive behaviour offence: post-separation abuse

- (1) Section 76 (controlling or coercive behaviour in an intimate or family relationship) of the Serious Crime Act 2015 is amended as follows.
- (2) Leave out subsection (2) and insert –
 “(2) “personally connected” has the meaning as set out in section 2 of the Domestic Abuse Act 2021.”
- (3) Leave out subsections (6) and (7).”

Member's explanatory statement

This new Clause would ensure that those who were previously personally connected are protected from any coercive and controlling behaviour (including economic abuse) that occurs post-separation.

BARONESS LISTER OF BURTERSETT
 BARONESS MEACHER
 BARONESS PRIMAROLO
 BARONESS BURT OF SOLIHULL

150 Insert the following new Clause—

“Repayment of universal credit advances

- (1) The Social Security (Payments on Account of Benefit) Regulations 2013 are amended as follows.
- (2) In article 12 (Conditions for payment of budgeting advances), after paragraph (2) insert—
 - “(2A) Where B is or has recently been a victim of domestic abuse, paragraph (1)(c), (d) and (e) shall not apply.
 - (2B) B has recently been a victim of domestic abuse if—
 - (a) a period of 12 months has not expired since the domestic abuse was inflicted or threatened, and
 - (b) B is able to provide evidence of the domestic abuse in one of more of the forms set out in regulation 33(2) of the Civil Legal Aid (Procedure) Regulations 2012.
 - (2C) For the purposes of this section—

“domestic abuse” has the meaning set out in section 1 of the Domestic Abuse Act 2021;

“victim of domestic abuse” means a person on or against whom domestic abuse is inflicted or threatened.””

Member's explanatory statement

This Clause would exempt domestic abuse survivors from having to repay any benefit advance made to mitigate the effects of waiting at least 5 weeks for a first universal credit payment.

THE LORD BISHOP OF GLOUCESTER
 LORD ROSSER
 BARONESS HAMWEE
 LORD ALTON OF LIVERPOOL

151 Insert the following new Clause—

“Victims of domestic abuse: leave to remain and the DDVC

- (1) The Secretary of State must, within 3 months of this Act being passed, lay a statement of changes in rules made under section 3(2) of the Immigration Act 1971 (“the immigration rules”) to make provision for leave to remain to be granted to any person subject to immigration control who is a victim of domestic abuse in the United Kingdom.
- (2) The statement laid under subsection (1) must—
 - (a) set out rules for the granting of indefinite leave to remain to any person subject to immigration control who is a victim of domestic abuse in the United Kingdom; and

After Clause 72 - continued

- (b) provide for those rules to be commenced no later than one month after the laying of the statement.
- (3) The Secretary of State must make provision for granting limited leave to remain for a period of no less than six months to any person eligible to make an application under the immigration rules for the purposes of subsection (2); such leave must include no condition under section 3(1)(c)(i), (ia), (ii) or (v) of the Immigration Act 1971.
- (4) The Secretary of State must make provision for extending limited leave to remain granted in accordance with subsection (3) to ensure that leave continues throughout the period during which an application made under the immigration rules for the purposes of subsection (2) remains pending.
- (5) Where subsection (6) applies, notwithstanding any statutory or other provision, no services shall be withheld from a victim of domestic abuse solely by reason of that person not having leave to remain or having leave to remain subject to a condition under section 3(1)(c) of the Immigration Act 1971.
- (6) This subsection applies where a provider of services is satisfied that the victim of domestic abuse is eligible to make an application to which subsection (3) refers.
- (7) The Secretary of State must, for the purposes of subsection (5), issue guidance to providers of services about the assessment of eligibility to make an application to which subsection (3) refers.
- (8) In this section—
- (a) an application is pending during the period—
- (i) beginning when it is made,
 - (ii) ending when it is finally decided, withdrawn or abandoned, and
- (b) an application is not finally decided while an application for review or appeal could be made within the period permitted for either or while any such review or appeal remains pending (meaning that review or appeal has not been finally decided, withdrawn or abandoned).
- “person subject to immigration control” means a person in the United Kingdom who does not have the right of abode;
- “provider of services” includes both public and private bodies;
- “services” includes accommodation, education, employment, financial assistance, healthcare and any service provided exclusively or particularly to survivors of domestic abuse.”

Member’s explanatory statement

This would make provision in the immigration rules for the granting of indefinite leave to remain to migrant survivors of domestic abuse. It would provide for limited leave to remain, and access to services, for a survivor who is eligible to apply for indefinite leave to remain.

BARONESS LISTER OF BURTERSETT
 THE LORD BISHOP OF MANCHESTER
 LORD BEST
 BARONESS PRIMAROLO

152 Insert the following new Clause—

“Benefit cap: domestic abuse

- (1) Section 96 of the Welfare Reform Act 2012 (benefit cap) is amended in accordance with subsection (2).
- (2) After subsection (9) insert—
 - “(9A) Regulations made under subsection (4)(c) must provide for an exception where—
 - (a) the behaviour of a person (“A”) towards another person (“B”) constitutes domestic abuse within the meaning of section 1 of the Domestic Abuse Act 2021;
 - (b) A and B are personally connected within the meaning of section 2 of that Act;
 - (c) B claims a welfare benefit as a single person; and
 - (d) B’s claim for benefit as a single person was necessitated by A’s behaviour towards them, regardless of whether B had been part of a joint claim with A or not.
 - (9B) Regulations made under subsection (9A) must provide for exceptions as follows—
 - (a) where person B would fall within the grace period at article 82(1)(b) and (2) of the Universal Credit Regulations 2013, SI 2013/376, for a period of not less than 3 months from the end of that grace period; or
 - (b) where person B would not fall within the grace period at article 82(1)(b) and (2) of the Universal Credit Regulations 2013, SI 2013/376, for a period of not less than 12 months beginning with the date B first received a welfare benefit which included a housing costs element within the award of universal credit, or housing benefit not falling within Regulations 75F and 75H of the Housing Benefit Regulations 2006.
 - (9C) Regulations made under subsections (9A) and (9B) must provide that where person B falls within paragraphs 3(h) and 3A(4) of Schedule 1 of the Universal Credit Regulations 2013, SI 2013/376, the grace period at article 82(1)(b) and (2) and/or the exception at (9B) above commence from the date when she ceases to fall within those paragraphs.””

Member’s explanatory statement

This amendment provides for the benefit cap to be dis-applied for 12 months for a person (B) making a new universal credit claim in her own name where she has separated from a partner (A) who has subjected her to domestic abuse.

BARONESS LISTER OF BURTERSETT
 BARONESS BURT OF SOLIHULL
 BARONESS MEACHER
 BARONESS SHERLOCK

153 Insert the following new Clause—

“Duty to assess impact of social security reforms on victims of domestic abuse

- (1) When developing social security reform policies, the relevant government department must assess the impact of such policies on individuals who are, or are likely to become, victims of domestic abuse within the meaning of section 1 of this Act, and promote their wellbeing through those policies.
- (2) For the purposes of subsection (1) “wellbeing”, relates to any of the following—
 - (a) physical and mental health and emotional wellbeing;
 - (b) protection from abuse and neglect;
 - (c) control over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
 - (d) participation in work, education, training or recreation;
 - (e) social and economic wellbeing; and
 - (f) suitability of living accommodation.
- (3) In exercising the duty under subsection (1), the appropriate authority must have regard to the following matters in particular—
 - (a) the importance of individuals who are, or are likely to become, victims of domestic abuse being able to escape abusive relationships;
 - (b) the importance of individuals who are, or are likely to become, victims of domestic abuse being able to become economically independent of the perpetrator(s) of abuse; and
 - (c) the importance of individuals who are or are likely to become victims of domestic abuse being able to rebuild their lives.”

Member’s explanatory statement

This new Clause would place a duty on the relevant government department to assess the impact of any social security reforms on the victims or potential victims of domestic abuse.

BARONESS MEACHER
 BARONESS WILCOX OF NEWPORT
 THE LORD BISHOP OF LONDON
 BARONESS HAMWEE

154 Insert the following new Clause—

“Victims of domestic abuse: data-sharing for immigration purposes

- (1) The Secretary of State must make arrangements to ensure that personal data of a victim of a domestic abuse in the United Kingdom that is processed for the purpose of that person requesting or receiving support or assistance related to domestic abuse is not used for any immigration control purpose.

After Clause 72 - continued

- (2) The Secretary of State must make arrangements to ensure that the personal data of a witness to domestic abuse in the United Kingdom that is processed for the purpose of that person giving information or evidence to assist the investigation or prosecution of that abuse, or to assist the victim of that abuse in any legal proceedings, is not used for any immigration control purpose.
- (3) Paragraph 4 of Schedule 2 to the Data Protection Act 2018 shall not apply to the personal data to which subsection (1) or (2) applies.
- (4) For the purposes of this section, the Secretary of State must issue guidance to—
 - (a) persons from whom support or assistance may be requested or received by a victim of domestic abuse in the United Kingdom;
 - (b) persons exercising any function of the Secretary of State in relation to immigration, asylum or nationality; and
 - (c) persons exercising any function conferred by or by virtue of the Immigration Acts on an immigration officer.
- (5) For the purposes of this section—

“immigration control purpose” means any purpose of the functions to which subsection (4)(b) and (c) refers;

“support or assistance” includes the provision of accommodation, banking services, education, employment, financial or social assistance, healthcare and policing services; and any function of a court or prosecuting authority;

“victim” includes any dependent of a person, at whom the domestic abuse is directed, where that dependent is affected by that abuse.”

Member’s explanatory statement

This new Clause would require the Secretary of State to make arrangements to ensure that the personal data of migrant survivors of domestic abuse that is given or used for the purpose of their seeking or receiving support and assistance is not used for immigration control purposes.

LORD RAMSBOTHAM

155

Insert the following new Clause—

“Screening for acquired brain injury in domestic abuse cases

- (1) A woman who has been the subject of domestic abuse shall, with her consent, be screened for traumatic brain injury, and other forms of brain injury, including concussion.
- (2) For the purposes of this section a woman has been the subject of domestic abuse if—
 - (a) she is the person for whose protection a domestic abuse protection notice or a domestic abuse protection order has been issued, or
 - (b) she is the person against whom it is alleged the domestic abuse has been perpetrated, when the accused is charged with an offence that amounts to domestic abuse within the meaning of section 1 of this Act.
- (3) In the case of subsection (2)(a), the screening shall take place within two weeks of a domestic abuse protection notice or a domestic abuse protection order being issued.

After Clause 72 - continued

- (4) In the case of subsection (2)(b) the screening shall take place within two weeks of a charge being made for an offence, where the behaviour of the accused amounts to domestic abuse within the meaning of section 1 of this Act.”

156 Insert the following new Clause –

“Acquired brain injury screening for female prisoners

- (1) All female prisoners must be screened for traumatic brain injury, and other forms of acquired brain injury, including concussion, within two weeks of starting their sentence.
- (2) A purpose of the screening will be to assist in a determination as to whether a prisoner has been the subject of domestic abuse.
- (3) If the screening shows that there is an acquired brain injury –
- (a) an assessment must be made of whether such an injury has been acquired as a result of domestic abuse, and
- (b) the prisoner must be given appropriate rehabilitation treatment and advice.”

LORD HUNT OF KINGS HEATH
BARONESS GREENGROSS
BARONESS BURT OF SOLIHULL
BARONESS MANZOOR

157 Insert the following new Clause –

“Controlling or coercive behaviour: England and Wales

- (1) Section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship) is amended as follows.
- (2) In subsection (2), for paragraph (b) substitute –
- “(b) A and B are members of the same family, or
- (c) A and B live together and have previously been in an intimate personal relationship with each other.”
- (3) In subsection (6), for “(2)(b)(i)” substitute “(2)(b)”.”

Member’s explanatory statement

The purpose of this new Clause is to ensure that, where controlling or coercive behaviour is being carried out by a relative, as already defined in section 76(7) of the Serious Crime Act 2015, the offence under section 76 applies irrespective of whether that relative shares accommodation with the victim.

BARONESS BURT OF SOLIHULL
BARONESS JONES OF MOULSECOOMB

158 Insert the following new Clause –

“Guidance: child maintenance

- (1) The Secretary of State must issue guidance relating to the payment of child maintenance where the person with care of the child is a victim of domestic abuse.

After Clause 72 - continued

- (2) Guidance issued under this section must take account of—
 - (a) the potential for the withholding or reducing of child maintenance to constitute economic abuse under section 1(4) of this Act;
 - (b) the need for enforcement action to prevent non-payment; and
 - (c) the difficulties faced by victims of domestic abuse in obtaining evidence to support an application for a variation of a child maintenance calculation.
- (3) The Child Maintenance Service must have regard to any guidance issued under this section when exercising a function to which the guidance relates.
- (4) Before issuing guidance under this section, the Secretary of State must consult—
 - (a) the Domestic Abuse Commissioner, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (5) The Secretary of State must publish any guidance issued under this section.”

Member’s explanatory statement

This new Clause would require the Secretary of State to issue guidance to the Child Maintenance Service to tackle the problem of abusers continuing economic abuse by withholding or reducing child maintenance payments.

BARONESS JONES OF MOULSECOOMB

159

Insert the following new Clause —

“Anonymity of domestic abuse survivors in criminal proceedings

- (1) Where an allegation has been made that a relevant offence has been committed against a person, no matter relating to that person shall during that person’s lifetime be included in any publication if it is likely to lead members of the public to identify that person as the survivor.
- (2) Where a person is accused of a relevant offence, no matter likely to lead members of the public to identify the person against whom the offence is alleged to have been committed as the survivor shall during the survivor’s lifetime be included in any publication.
- (3) This section does not apply in relation to a person by virtue of subsection (1) at any time after a person has been accused of the offence.
- (4) The matters relating to a survivor in relation to which the restrictions imposed by subsection (1) or (2) apply (if their inclusion in any publication is likely to have the result mentioned in the relevant subsection) include —
 - (a) the survivor’s name,
 - (b) the survivor’s address,
 - (c) the identity of any school or other educational establishment the survivor attended,
 - (d) the identity of any place where the survivor worked,
 - (e) any still or moving pictures of the survivor, and
 - (f) any other matter that might lead to the identification of the survivor.

After Clause 72 - continued

- (5) At the commencement of a trial at which a person is charged with a relevant offence, the judge may issue a direction for lifting the restrictions only following an application by or on behalf of the survivor.
- (6) Any matter that is included in a publication in contravention of this section must be deleted from that publication and no further reference to the matter may be made in any publication.
- (7) If any matter is included in a publication in contravention of this section, the following persons shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale—
- (a) where the publication is a newspaper or periodical, any proprietor, any editor and any publisher of the newspaper or periodical;
 - (b) where the publication is a relevant programme—
 - (i) any body corporate or Scottish partnership engaged in providing the programme service in which the programme is included; and
 - (ii) any person having functions in relation to the programme corresponding to those of an editor of a newspaper;
 - (c) in the case of any other publication, any person publishing it.
- (8) For the purposes of this section—
- “publication” means any material published online or in physical form as well as any speech, writing, website, online news outlet, social media posting, relevant programme or other communication in whatever form which is addressed to the public at large or any section of the public;
- “relevant offence” means any offence where it is alleged by the survivor that the behaviour of the accused amounted to domestic abuse;
- “survivor” means the person against whom the offence is alleged to have been committed.”

BARONESS HELIC
BARONESS WILCOX OF NEWPORT
BARONESS HUSSEIN-ECE
BARONESS BUTLER-SLOSS

160

Insert the following new Clause—

“Effective protection and support for all victims of domestic abuse

- (1) The Secretary of State must take steps to ensure that all victims of domestic abuse, irrespective of their status, receive—
- (a) equally effective protection against domestic abuse, and
 - (b) equally effective support.
- (2) In this section—
- “status” includes a status for the purpose of Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic violence and any combined forms of such status;
- “victims of domestic abuse” includes persons who are reasonably believed to be at risk of domestic abuse.”

Member's explanatory statement

This new Clause ensures all victims of domestic abuse are protected, regardless of their status, in line with Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).

LORD KENNEDY OF SOUTHWARK
BARONESS BULL
BARONESS BURT OF SOLIHULL
THE LORD BISHOP OF LONDON

161 Insert the following new Clause—

“Evidence of domestic abuse for the purposes of legal aid: restriction of fees

- (1) Where a healthcare professional has examined a person in the course of providing services under a general medical services contract, the healthcare professional may not impose a fee upon that person for providing a letter or report for the purposes of regulation 33(2)(h) of the Civil Legal Aid (Procedure) Regulations 2012 (S.I. 2012/3098) (supporting documents: domestic violence).
- (2) In this section, “general medical services contract” has the meaning given by section 84 of the National Health Service Act 2006.”

Member's explanatory statement

This amendment aims to prevent GPs who have a contract with the NHS from charging victims of domestic abuse for letters confirming their injuries so that they can seek access to legal aid.

BARONESS MORGAN OF COTES
BARONESS CRAWLEY
BARONESS HODGSON OF ABINGER
BARONESS GREY-THOMPSON

162 Insert the following new Clause—

“Threats to disclose private sexual photographs and films with intent to cause distress

- (1) Section 33 of the Criminal Justice and Courts Act 2015 is amended as follows.
- (2) After subsection (1) insert—
 - “(1A) It is an offence for a person to threaten to disclose a private sexual photograph or film if the threat is made—
 - (a) without the consent to the threatened disclosure of an individual who appears, or is stated to appear, in the photograph or film, and
 - (b) with the intention of causing that individual distress.”
- (3) In subsection (2), for “subsection (1)(a) and (b)” substitute “subsections (1)(a) and (b) and (1A)(a) and (b)”.
- (4) In subsection (3), after “disclosure” insert “or threat to disclose”.
- (5) In subsection (4)(a), after “disclosure” insert “or threat to disclose”.
- (6) In subsection (5), for “this section” substitute “subsection (1)”.
- (7) In subsection (8)—
 - (a) after “disclosed” insert “or threatened to disclose”;

After Clause 72 - continued

- (b) after “disclosure” insert “or threat to disclose”.”

Member’s explanatory statement

This Clause will make the threat to disclose private sexual photographs and films with intent to cause distress a criminal offence.

BARONESS BURT OF SOLIHULL
LORD YOUNG OF COOKHAM
BARONESS DEECH
LORD KENNEDY OF SOUTHWARK

163

Insert the following new Clause—

“Transfer of joint tenancies and survivors of domestic abuse

- (1) This section applies where there are two or more joint tenants under a secure or assured tenancy and the landlord is a local housing authority or a private registered provider of social housing.
- (2) If one joint tenant (“A”) has experienced domestic abuse from another joint tenant (“B”) then A may apply to the county court for an order that B is removed as a joint tenant.
- (3) For the purposes of subsection (2) it is sufficient that the domestic abuse was directed at A or to anyone who might reasonably be expected to reside with A.
- (4) On such an application, the court must take the following approach—
 - (a) the court must be satisfied that the tenancy is affordable for A, or will be so within a reasonable period of time;
 - (b) if the court is so satisfied, then—
 - (i) if B has been convicted of an offence related to domestic abuse against A or anyone who might reasonably be expected to reside with A, the court must make an order under this section;
 - (ii) if B has been given a domestic abuse protection notice under section 20, or a domestic abuse protection order has been made against B under section 26, or B is currently subject to an injunction or restraining order in relation to A, or a person who might be reasonably expected to reside with A, the court may make an order under this section;
 - (iii) if the application does not fall within sub-paragraph (i) or (ii), then the court may make such an order if it thinks it fit to do so;
 - (c) for the purposes of subsection (4)(b)(ii), the court must adopt the following approach—
 - (i) if B does not oppose the making of such an order, then the court must make it;
 - (ii) if B does oppose the making of such an order then it is for B to satisfy the court that, as at the date of the hearing, there are exceptional circumstances which mean that the only way to do justice between A and B is for the order to be refused.
- (5) Where A has made such an application to the court, any notice to quit served by B shall be of no effect until determination of A’s application or any subsequent appeal.

After Clause 72 - continued

- (6) Notwithstanding any rule of common law to the contrary, the effect of an order under this section is that the tenancy continues for all purposes as if B had never been a joint tenant.
- (7) For the purposes of this section, an offence related to domestic abuse includes, as against A or anyone who might be reasonably expected to reside with A, an offence of violence, threats of violence, criminal damage to property, rape, other offences of sexual violence or harassment, coercive control, breach of injunction, breach of restraining order, or breach of domestic abuse protection order.
- (8) In section 88(2) of the Housing Act 1985, after “section 17(1) of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce, &c.)” insert “, or section (*Transfer of joint tenancies and survivors of domestic abuse*) of the Domestic Abuse Act 2021,”.
- (9) In section 91(3)(b) of the Housing Act 1985, after sub-paragraph (iv), insert—
 - “(v) section (*Transfer of joint tenancies and survivors of domestic abuse*) of the Domestic Abuse Act 2021;”.
- (10) In section 99B(2)(e) of the Housing Act 1985 (persons qualifying for compensation for improvements), after sub-paragraph (iv) insert—
 - “(v) section (*Transfer of joint tenancies and survivors of domestic abuse*) of the Domestic Abuse Act 2021;”.

BARONESS ROYALL OF BLAISDON
 BARONESS JONES OF MOULSECOOMB
 BARONESS BRINTON
 LORD HUNT OF KINGS HEATH

164

Insert the following new Clause—

“Monitoring of serial and serious harm domestic abuse and stalking perpetrators under multi-agency public protection arrangements

- (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 325 (arrangements for assessing etc risk posed by certain offenders)—
 - (a) in subsection (1), after ““relevant sexual or violent offender” has the meaning given by section 327” insert—
 - ““relevant domestic abuse or stalking perpetrator” has the meaning given in section 327ZA;”;
 - (b) in subsection (2)(a), after “offenders” insert—
 - “(aa) relevant domestic abuse or stalking perpetrators,”.
- (3) After section 327 (section 325: interpretation) insert—

“327ZA Section 325: interpretation of relevant domestic abuse or stalking perpetrator

 - (1) For the purposes of section 325, a person (“P”) is a “relevant domestic abuse or stalking perpetrator” if P has been convicted of a specified offence and meets either the condition in subsection (2)(a) or the condition in subsection (2)(b).
 - (2) For the purposes of subsection (1), the conditions are—
 - (a) P is a relevant serial offender, or

After Clause 72 - continued

- (b) a risk of serious harm assessment has identified P as presenting a high or very high risk of serious harm.
- (3) An offence is a “specified offence” for the purposes of this section if it is a specified domestic abuse offence or a specified stalking offence.
- (4) In this section—
 “relevant serial offender” means a person convicted on more than one occasion for the same specified offence, or a person convicted of more than one specified offence;
 “specified domestic abuse offence” means an offence where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning of section 1 of the Domestic Abuse Act 2021;
 “specified stalking offence” means an offence contrary to section 2A or section 4A of the Protection from Harassment Act 1997.
- (5) Within six months of the commencement of this section, a Minister of the Crown must lay a report before both Houses of Parliament reviewing the interpretation of the term “relevant domestic abuse or stalking perpetrator” for the purposes of section 325.
- (6) A report under subsection (5) must give specific consideration to arrangements for assessing and managing the risks of domestic abuse or stalking posed by perpetrators convicted of offences other than a specified offence.
- (7) Subject to a report under subsection (5) being laid before both Houses of Parliament, a Minister of the Crown may by regulations amend this section.””

Member’s explanatory statement

This new Clause amends the Criminal Justice Act 2003, which provides for the establishment of Multi-Agency Public Protection Arrangements (“MAPPA”), to make arrangements for serial domestic abuse or stalking perpetrators to be registered on VISOR (the Violent and Sex Offender Register) and be subjected to supervision, monitoring and management through MAPPA.

BARONESS GREENGROSS
 LORD HUNT OF KINGS HEATH
 LORD RANDALL OF UXBRIDGE

165

Insert the following new Clause—

“Duty to report suspected abuse

A local authority must ensure that, where any of its employees suspects in the course of carrying out a financial assessment for adult social care that a person is the victim of domestic abuse, the employee reports the suspected abuse to a relevant social worker or the police.”

After Clause 72 - continued

166 Insert the following new Clause—

“Social workers: powers of entry

- (1) A magistrate’s court may make an order permitting a registered social worker to enter premises specified in the order by force for the purposes of identifying and supporting victims of domestic abuse on an application made to it in accordance with this section.
- (2) A registered social worker may make an application if the social worker—
 - (a) has reason to believe that any of the occupants of the premises are at risk of being victims of domestic abuse, and
 - (b) has been refused entry by any of the occupants of the premises.”

BARONESS BERTIN
 BARONESS BURT OF SOLIHULL
 LORD KENNEDY OF SOUTHWARK
 LORD STRASBURGER

167 Insert the following new Clause—

“Strategic plan for perpetrators of domestic abuse

Within one year of the passing of this Act, the Secretary of State must lay before Parliament a comprehensive prevention and perpetrator strategy for domestic abuse for the purposes of—

- (a) improving the identification and assessment of perpetrators,
- (b) increasing the number of rehabilitation programmes, and
- (c) increasing specialist work to tackle abusive attitudes and behaviour.”

Member’s explanatory statement

This amendment would require the Government to provide a comprehensive perpetrator strategy for domestic abuse, within one year of the Act being passed.

BARONESS ALTMANN
 BARONESS DEECH
 LORD MENDELSON
 LORD PALMER OF CHILDS HILL

168 Insert the following new Clause—

“Controlling or coercive behaviour: parties to a Jewish religious marriage

In section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship), after subsection (5) insert—

- “(5A) For the purposes of subsection (2)(a), if A and B remain parties to a Jewish religious marriage (notwithstanding the dissolution of any civil marriage) they are regarded as being connected in an intimate personal relationship.”

Member's explanatory statement

This proposal ensures that partners in a Jewish religious marriage which has not been dissolved can be considered under the definition of an "intimate personal relationship" within the Serious Crime Act 2015, whether or not they continue to be married under civil law or live together.

169 Insert the following new Clause –

“Controlling or coercive behaviour unreasonably preventing dissolution of a religious Jewish marriage

Any guidance issued by the Secretary of State with the intention of defining “controlling or coercive” behaviour for the purposes of section 1 of this Act, or section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship), must recognise as “controlling or coercive” any behaviour whereby a person unreasonably prevents the dissolution of a Jewish religious marriage to which they are a party and where the other party to the Jewish religious marriage wishes to bring about that dissolution.”

170 Insert the following new Clause –

“Unreasonably preventing dissolution of a religious Jewish marriage

- (1) If a person (“A”) unreasonably prevents a religious Jewish marriage being dissolved, this must be regarded as a significant factor to be taken into account when any determination is being made as to whether –
 - (a) the behaviour of A towards the person to whom A is married under Jewish law (“B”) is domestic abuse;
 - (b) an offence has been committed by A under section 76 (controlling or coercive behaviour in an intimate or family relationship) or section 76A (offences under section 76 committed outside the United Kingdom) of the Serious Crime Act 2015;
 - (c) a court should make a domestic abuse protection order under section 26 or 29 of this Act; or
 - (d) domestic abuse support should be provided under section 55 of this Act.
- (2) “Unreasonably preventing a religious Jewish marriage being dissolved” may include behaviour whereby A unreasonably imposes conditions, including as a condition that the get be provided on terms that are substantially less favourable than those ordered by a court.”

Member's explanatory statement

This new Clause ensures the specific issue of prevention of dissolution of Jewish religious marriage with a ‘get’ falls under the Bill and is considered “domestic abuse” and is subject to domestic abuse protections and support, and threatening to impede the dissolution of the marriage to improve civil divorce terms is classified as “unreasonable”. It also provides protection through the courts by being able to obtain a Domestic Abuse Protection Order in such cases.

LORD PONSONBY OF SHULBREDE
BARONESS GREY-THOMPSON

171 Insert the following new Clause—

“Repeal of provisions about defence for controlling or coercive behaviour offence

In section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship), leave out subsections (8) to (10).”

Member’s explanatory statement

This new Clause seeks to repeal the ‘carers’ defence’ for the offence of controlling or coercive behaviour in intimate or family relationships.

BARONESS STROUD
BARONESS ARMSTRONG OF HILL TOP
BARONESS WATKINS OF TAVISTOCK
LORD MACKAY OF CLASHFERN

172 Insert the following new Clause—

“Babies affected by domestic abuse

The Secretary of State must make provision for publicly-funded trauma-informed and attachment-focussed therapeutic work to be made available to all parents of children aged under two years old where those children are victims of or otherwise affected by domestic abuse.”

BARONESS GALE

173 Insert the following new Clause—

“Duty of the Secretary of State to take account of matters relating to gender

It is a duty of the Secretary of State in performing functions under this Act to take account of the evidence that domestic abuse affects women disproportionately and is a subset of violence against women and girls.”

Member’s explanatory statement

This new Clause establishes the gendered nature of domestic abuse in statute.

BARONESS BURT OF SOLIHULL

174 Insert the following new Clause—

“Code of practice: employer’s duty of care

(1) In this section—

- (a) “worker” means an individual who has entered into or works under a contract of employment or any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual; and
- (b) “employer” means the person to whom the worker undertakes to perform the work or services in question.

After Clause 72 - continued

- (2) The Secretary of State must issue a code of practice (a “code”) containing provision designed to ensure that persons affected by domestic abuse who are workers receive appropriate care and support from their employer in relation to their work.
- (3) A code may include provision requiring an employer to make reasonable adjustments for the purpose of ensuring that persons affected by domestic abuse are not, by reason of being so affected, placed at a substantial disadvantage in relation to their work in comparison with persons who are not so affected.
- (4) The Secretary of State may revoke or amend a code.
- (5) Before issuing, revoking or amending a code the Secretary of State must –
 - (a) issue proposals, and
 - (b) consult the Commissioner and such other persons as the Secretary of State thinks appropriate.
- (6) Failure to comply with a provision of a code does not of itself make a person liable to civil or criminal proceedings; but a code shall be –
 - (a) admissible in evidence in criminal or civil proceedings, and
 - (b) taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant, including (in particular) any case in which a question arises as to whether an employer is in breach of a duty of care owed to a worker.”

Member’s explanatory statement

This amendment would require the Secretary of State to issue a code of practice containing provision designed to ensure that persons affected by domestic abuse who are workers receive appropriate care and support from their employer.

175

Insert the following new Clause –

“School admissions code: duty of Secretary of State

- (1) The Secretary of State must, within six months after this section comes into force, secure that the school admissions code issued for England under section 84 of the Schools Standards and Framework Act 1998 (“1998 Act”) contains such provision as the Secretary of State considers necessary to achieve the objective set out in subsection (5).
- (2) The Secretary of State must secure that the Commissioner is consulted about any proposed provision under subsection (1).
- (3) The Welsh Ministers must, within six months after this section comes into force, secure that the Welsh Government school admissions code issued under section 84 of the 1998 Act contains such provision as the Welsh Ministers consider necessary to achieve the objective set out in subsection (5).
- (4) The Welsh Ministers must secure that the Commissioner is consulted about any proposed provision under subsection (3).
- (5) The objective is that –

After Clause 72 - continued

- (a) oversubscription criteria for admission to any school to which the school admissions code applies give the same priority to children falling within subsection (6) as to looked-after children (within the meaning of section 22(1) of the Children Act 1989), and
 - (b) the Code contains appropriate guidance about admission of children who have moved home to avoid domestic abuse or who are otherwise affected by domestic abuse.
- (6) A child falls within this subsection if the child –
- (a) is in the care of, or provided with accommodation by, a body exercising a function which, if the body were a local authority, would be a social services function of the kind mentioned in section 22(1)(b) of the Children Act 1989, or
 - (b) has moved home as a result of being affected by domestic abuse.”

Member’s explanatory statement

This amendment would extend the duty on local authorities to provide school places for “looked after children” to children who are forced to change schools as a result of domestic abuse.

LORD POLAK
THE LORD BISHOP OF DERBY
LORD ROSSER
LORD RUSSELL OF LIVERPOOL

176

Insert the following new Clause –

“Provision of sufficient specialist domestic abuse services

- (1) Each relevant public authority must in exercising its functions take all reasonable steps to secure the provision within each of its areas of sufficient specialist domestic abuse services to meet the needs of relevant persons within that area.
- (2) Each relevant public authority must co-operate with another relevant public authority insofar as it is necessary for it to do so in order to secure the provision of –
 - (a) sufficient specialist domestic abuse services within each of its areas to meet the needs of relevant persons within that area; and
 - (b) sufficient specialist domestic abuse services within each of that other relevant public authority’s areas to meet the needs of relevant persons within that area.
- (3) For the purposes of this section, specialist domestic abuse services are only sufficient to meet the needs of relevant persons within the area of a relevant public authority if they are sufficient to meet the particular needs of any group of such relevant persons who share a particular status that arise by reason of the fact that those persons share that status.
- (4) When performing its duties under this section, a relevant public authority must have regard to –
 - (a) any guidance issued by the Secretary of State under subsection (6), and

After Clause 72 - continued

- (b) any strategy published under section 55(1) which relates to any of its areas.
- (5) The duties imposed by this section are without prejudice to the duties imposed by section 55.
- (6) The Secretary of State may issue guidance to relevant public authorities on their duties under this section.
- (7) Guidance issued by the Secretary of State under subsection (6) may, in particular, give guidance on—
- (a) what constitutes sufficient specialist domestic abuse services, and
 - (b) what constitutes reasonable steps to secure the provision of sufficient specialist domestic abuse services.
- (8) The Secretary of State may make regulations providing for the resolution of any disputes that might arise between relevant public authorities in relation to the performance of their duties under this section.
- (9) The Secretary of State may by regulation amend this section as follows—
- (a) to add a public authority as a relevant public authority for the purposes of this section,
 - (b) to remove a public authority added by virtue of paragraph (a),
 - (c) to vary any description of a public authority.
- (10) Regulations under subsection (9) may not contain a provision adding a devolved Welsh authority as a relevant public authority for the purposes of this section.
- (11) In this section—
- “devolved Welsh authority” has the meaning given by section 157A of the Government of Wales Act 2006 (“devolved Welsh authority”);
 - “local authority area” means the area of a district council in England, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
 - “needs” means such needs of a relevant person that arise by reason of the fact that the person is a relevant person;
 - “perpetrator of domestic abuse” means a person who is or has been abusive towards another person;
 - “relevant person” means—
 - (a) a victim or a person who is at risk of domestic abuse,
 - (b) a perpetrator of domestic abuse,
 - (c) a child aged under 16 who, if he or she were aged 16 or over, would be a victim of domestic abuse,
 - (d) a child aged under 16 who, if he or she were aged 16 or over, would be a perpetrator of domestic abuse, regardless of status;
 - “relevant public authority” means—
 - (a) an English local authority within the meaning of section 15(7),
 - (b) a local policing body within the meaning of section 101(1) of the Police Act 1996,
 - (c) a clinical commissioning group established under section 14D of the National Health Service Act 2006;

After Clause 72 - continued

“specialist domestic abuse services” means services designed to meet the needs of relevant persons, and may include (but are not limited to) –

- (a) protective measures and action taken to protect persons against domestic abuse,
- (b) residential accommodation, including refuge services and other relevant accommodation and support as defined in section 54(2) and including communal accommodation within the meaning of paragraph 3(5) of Schedule 23 to the Equality Act 2010,
- (c) counselling and psychological support,
- (d) advice and advocacy support in relation to welfare benefits, debt, and access to financial support,
- (e) perpetrator programmes,
- (f) legal services,
- (g) helplines,
- (h) services designed to meet the particular needs of victims of sexual violence,
- (i) services designed to meet the particular needs of a group of relevant persons who share a particular status;

“status” means a status within the meaning of Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic violence, and any combination of such statuses.

a reference to the “areas” of a relevant public authority means –

- (a) in the case of a district council in England, a London borough council, the Common Council of the City of London and the Council of the Isles of Scilly, that council’s local authority area;
- (b) in relation to a police and crime commissioner for a police area in England, each local authority area that falls wholly or partly within that police area;
- (c) in relation to the Mayor’s Office for Policing and Crime, each local authority area that falls wholly or partly within the metropolitan police district;
- (d) in relation to a clinical commissioning group established under section 14D of the National Health Service Act 2006, each local authority area that falls wholly or partly within the area specified in that clinical commissioning group’s constitution.”

Member’s explanatory statement

This new Clause requires local authorities, police and crime commissioners and clinical commissioning groups to take reasonable steps to ensure sufficient provision of specialist domestic abuse support services in their local areas, in both the community and in refuges. This must include sufficient provision, where need arises, of services for children and young people, survivors with protected characteristics and migrant survivors, as well as perpetrator programmes.

LORD POLAK
LORD ROSSER
LORD RUSSELL OF LIVERPOOL

177 Insert the following new Clause—

“Duty on police and crime commissioners to co-operate in relation to local strategies under the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015

- (1) This section applies where a relevant body requests that a relevant police and crime commissioner co-operate with the relevant body for the purpose of facilitating the discharge by the relevant body of any of its relevant functions.
- (2) The relevant police and crime commissioner must take all reasonable steps to comply with the request.
- (3) In this section—
 - “relevant body” means:
 - (a) a “local authority” within the meaning of section 24(1) of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015; or
 - (b) a “Local Health Board” within the meaning of section 24(1) of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015;

“relevant functions” means the functions of a relevant body under sections 5 to 8 of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 in so far as those functions relate to “domestic abuse” within the meaning of section 24 of that Act;

“relevant police and crime commissioner” means a police and crime commissioner for a police area listed in Schedule 1 to the Police Act 1996 that is located wholly or partly in Wales.”

Member’s explanatory statement

This Clause will require police and crime commissioners in Wales to take reasonable steps to comply with co-operation requests from local authorities or health boards in Wales with respect to preparation and implementation of local strategies prepared under the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 (VAWDASV Act). This aims to ensure co-operation in Wales of the key bodies with responsibility for domestic abuse support service provision.

BARONESS BENJAMIN
LORD ALTON OF LIVERPOOL
LORD MCCOLL OF DULWICH

177A★ Insert the following new Clause—

“Impact of online pornography on domestic abuse

- (1) Within three months of the day on which this Act is passed, the Secretary of State must commission a person appointed by the Secretary of State to investigate the impact of access to online pornography by children on domestic abuse.
- (2) Within three months of their appointment, the appointed person must publish a report on the investigation which may include recommendations for the Secretary of State.

After Clause 72 - continued

- (3) As part of the investigation, the appointed person must consider the extent to which the implementation of Part 3 of the Digital Economy Act 2017 (online pornography) would prevent domestic abuse, and may make recommendations to the Secretary of State accordingly.
- (4) Within three months of receiving the report, the Secretary of State must publish a response to the recommendations of the appointed person.
- (5) If the appointed person recommends that Part 3 of the Digital Economy Act 2017 should be commenced, the Secretary of State must appoint a day for the coming into force of that Part under section 118(6) of the Act within the timeframe recommended by the appointed person.”

Member’s explanatory statement

This amendment would require an investigation into any link between online pornography and domestic abuse with a view to implementing recommendations to bring into effect the age verification regime in the Digital Economy Act 2017 as a means of preventing domestic abuse.

Clause 73

BARONESS WILLIAMS OF TRAFFORD

- 178 Page 57, line 44, leave out “in England and Wales” and insert “–
 (i) in England, and
 (ii) so far as not relating to Welsh devolved matters, in Wales.”

Member’s explanatory statement

This amendment and the Minister’s amendment at page 58, line 28 would ensure that guidance issued by the Secretary of State under clause 73(1)(b) about matters relating to domestic abuse in Wales does not relate to matters that are devolved in relation to Wales.

BARONESS STROUD

BARONESS ARMSTRONG OF HILL TOP
 LORD MACKAY OF CLASHFERN

- 179 Page 58, line 5, at end insert “and in particular on babies who were in utero at the time of the abuse, and on babies and young children aged under two years old”

BARONESS MEACHER

BARONESS FEATHERSTONE
 BARONESS BUTLER-SLOSS

- 180 Page 58, line 5, at end insert –
 “(c) ensuring the provision of services to every primary school –
 (i) to identify and treat children who are identified as unusually aggressive or manipulative, and
 (ii) to involve parents in the treatment wherever possible;
 (d) ensuring the provision of compulsory relationship and sex education and preparation for marriage classes in the final two years at school of every student.”

Clause 73 - continued

BARONESS FINLAY OF LLANDAFF
BARONESS WATKINS OF TAVISTOCK
LORD HUNT OF KINGS HEATH

- 181 Page 58, line 5, at end insert –
“(c) the relationship between domestic abuse and substance use.”

Member’s explanatory statement

This amendment would ensure that guidance issued by the Secretary of State must cover the link between domestic abuse and substance use.

LORD KENNEDY OF SOUTHWARK
LORD HUNT OF KINGS HEATH

- 182 Page 58, line 5, at end insert –
“(c) the support employers should provide to victims of domestic abuse, including through the provision of paid leave.”

Member’s explanatory statement

This amendment would ensure that employers are provided with guidance about the support they should provide to victims of domestic abuse, including provision of paid leave.

LORD FARMER

- 183 Page 58, line 5, at end insert –
“(c) typologies of domestic abuse and the intentions and objectives underlying different types.”

Member’s explanatory statement

This amendment would require the Government to provide information on the evidence-based differences between the motivational drivers of different types of abuse.

BARONESS BURT OF SOLIHULL
BARONESS MASSEY OF DARWEN
BARONESS BENNETT OF MANOR CASTLE

- 184 Page 58, line 5, at end insert –
“(2A) The Secretary of State must issue separate statutory guidance on domestic abuse that also constitutes teenage relationship abuse and such guidance must address how to ensure there are –
(a) sufficient levels of local authority service provision for both victims and perpetrators of such abuse,
(b) child safeguarding referral pathways for both victims and perpetrators of such abuse.
(2B) The guidance in subsection (2A) must be published within three months of the passing of this Act, and must be reviewed twice in each year.

Clause 73 - continued

- (2C) For the purposes of subsection (2A), “teenage relationship abuse” is defined as any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse, which can encompass, but is not limited to, psychological, physical, sexual, economic and emotional abuse, including through the use of technology, between those aged 18 or under who are, or have been, in a romantic relationship regardless of gender or sexual orientation.”

Member’s explanatory statement

This amendment would place a duty on the Secretary of State to publish separate statutory guidance on teenage relationship abuse. The statutory guidance would not just cover victims of teenage domestic abuse but extend to those who perpetrate abuse within their own teenage relationships.

BARONESS LISTER OF BURTERSETT
BARONESS HODGSON OF ABINGER
THE LORD BISHOP OF GLOUCESTER

- 185 Page 58, line 8, at end insert “and any strategy to end violence against women and girls adopted by a Minister of the Crown.”

Member’s explanatory statement

This amendment ensures that statutory guidance issued alongside the Domestic Abuse Bill takes into account any violence against women and girls (VAWG) strategy adopted by the Government, so that efforts to prevent and address domestic abuse are linked to integrated and coordinated responses to tackle VAWG.

LORD PADDICK
BARONESS FEATHERSTONE

- 186 Page 58, line 8, at end insert “, that one third are male, and that some are in same sex relationships”

Member’s explanatory statement

This amendment seeks to ensure that guidance meets the needs of male victims and those in same sex relationships.

LORD RAMSBOTHAM
BARONESS ANDREWS
BARONESS FINLAY OF LLANDAFF
LORD SHINKWIN

- 187 Page 58, line 8, at end insert –

- “() Any guidance issued under this section must include information on –
- (a) the links between –
 - (i) domestic abuse, and
 - (ii) speech, language and communication needs;
 - (b) the impact of witnessing domestic abuse on children’s speech, language and communication needs.”

Clause 73 - continued

BARONESS WILLIAMS OF TRAFFORD

188 Page 58, line 28, at end insert –

- “() For the purposes of this section something relates to Welsh devolved matters so far as it relates to –
- (a) any matter provision about which would be within the legislative competence of Senedd Cymru if it were contained in an Act of Senedd Cymru, or
 - (b) (so far as it is not within paragraph (a)), any matter functions with respect to which are exercisable by the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government or the Senedd Commission.”

Member’s explanatory statement

See the explanatory statement for the Minister’s amendment at page 57, line 44.

Clause 76BARONESS HAMWEE
BARONESS BURT OF SOLIHULL

189 Page 59, line 38, after “under” insert “section 15(4)(b) or”

Member’s explanatory statement

This amendment would require regulations removing a specified authority under section 15 to be done using the affirmative resolution procedure.

Clause 78BARONESS LISTER OF BURTERSETT
LORD BEST
BARONESS PRIMAROLO
BARONESS CHAKRABARTI

190 Page 60, line 16, after “sections” insert “(Benefit cap: domestic abuse), and”

Member’s explanatory statement

This amendment is consequential to the new Clause in the name of Baroness Lister of Burtersett “Benefit cap: domestic abuse”.

Clause 79

LORD MARKS OF HENLEY-ON-THAMES

191 Page 61, line 14, at end insert –

- “() Regulations under this section bringing section 69 permanently into force may not be made unless –
- (a) the Secretary of State has laid before Parliament a report evaluating –
 - (i) the application and effect of the polygraph condition under the Offender Management Act 2007, and

Clause 79 - continued

- (ii) the results of any pilot of the application of the polygraph condition under section 69, as provided for by subsections (7) and (8), and
- (b) both Houses of Parliament have debated the report and agreed a resolution that the Secretary of State may make regulations in accordance with this section.”

Member’s explanatory statement

This amendment would require that the polygraph condition be piloted and the results of such pilot considered by Parliament before Clause 69 could be implemented on a permanent basis.

Domestic Abuse Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

27 January 2021
