

Domestic Abuse Bill

AMENDMENTS TO BE MOVED ON REPORT

Clause 1

BARONESS ALTMANN
LORD PALMER OF CHILDS HILL
BARONESS DEECH
LORD MENDELSON

Page 2, line 3, at end insert –

“(f) unreasonable prevention or threat of prevention of dissolution of a religious Jewish marriage via a religious bill of divorce (a “get”);”

Member’s explanatory statement

This specifically itemises one spouse unreasonably preventing the dissolution of a Jewish religious marriage with a “get” as being within the scope of the Bill by bringing it under the definition of abusive behaviour.

Page 2, line 12, at end insert –

“() Prevention of dissolution of a religious Jewish marriage occurs when one spouse impedes a get being obtained by acting in a manner, to prevent the other spouse obtaining it, which is controlling, coercing or threatening, or abusing the partner by rendering the other spouse unable to remarry or have children in accordance with religious Jewish law.”

Member’s explanatory statement

This ensures a spouse who unreasonably prevents the dissolution of a Jewish religious marriage with a “get” is included within the scope of the Bill under the definition of abusive behaviour.

Clause 3

BARONESS STROUD

Page 3, line 3, after “abuse,” insert “including in utero exposure,”

Clause 7

BARONESS STROUD

Page 4, line 18, leave out “children” and insert “all children and babies in utero”

Page 4, line 19, after “people” insert “and babies in utero”

After Clause 16

BARONESS WILLIAMS OF TRAFFORD

Insert the following new Clause—

“Duty to send conclusions of domestic homicide review to Commissioner

- (1) Section 9 of the Domestic Violence, Crime and Victims Act 2004 (establishment and conduct of domestic homicide reviews) is amended as follows.
- (2) After subsection (3A) insert—
 - “(3B) A person or body within subsection (4)(a) that establishes a domestic homicide review (whether or not held pursuant to a direction under subsection (2)) must send a copy of any report setting out the conclusions of the review to the Domestic Abuse Commissioner.
 - (3C) The copy must be sent as soon as reasonably practicable after the report is completed.”

Member’s explanatory statement

This new Clause requires a person or body carrying out a domestic homicide review in England and Wales to send a copy of the report of the review to the Domestic Abuse Commissioner.

After Clause 18

BARONESS WILLIAMS OF TRAFFORD

Insert the following new Clause—

“Duty to report on domestic abuse services in England

- (1) The Commissioner must, before the end of the relevant period, prepare and publish a report under section 8 on—
 - (a) the need for domestic abuse services in England, and
 - (b) the provision of such services.
- (2) But subsection (1) does not require the Commissioner to report on the need for, or provision of, services provided to people who reside in relevant accommodation (within the meaning of section 55(2)).
- (3) In subsection (1)—
 - “domestic abuse services” means any advice, advocacy or counselling services provided, in relation to domestic abuse, to victims of domestic abuse or their children;
 - “the relevant period” means the period of 12 months beginning with the day on which this section comes into force (but see subsection (4)).
- (4) The Secretary of State, with the agreement of the Commissioner, may by regulations extend the relevant period for a further period of up to 6 months.

After Clause 18 - continued

(5) The power conferred by subsection (4) may be exercised only once.”

Member’s explanatory statement

This new Clause requires the Domestic Abuse Commissioner to prepare and publish a report on the need for certain domestic abuse services in England and the provision of such services. The report must be published no later than 12 months after this new Clause comes into force.

Clause 55

BARONESS WILLIAMS OF TRAFFORD

Page 35, line 25, leave out “domestic abuse” and insert “accommodation-based”

Member’s explanatory statement

This amendment, and the Minister’s amendment at page 35, line 30, would change the current label of “domestic abuse support” in Clause 55 to “accommodation-based support” and are consequential on the Minister’s other amendments to Clauses 55 and 56 relating to “other local authority support”.

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

Page 35, line 28, at end insert –

“() ensure all child contact centres and organisations that offer child contact services are accredited in accordance with national standards in relation to safeguarding and preventing domestic abuse as specified in regulations made by the Secretary of State.”

BARONESS WILLIAMS OF TRAFFORD

Page 35, line 30, leave out first “domestic abuse” and insert “accommodation-based”

Member’s explanatory statement

See the explanatory statement to the Minister’s amendment at page 35, line 25.

Page 36, line 2, at end insert –

“(aa) must keep under review any effect of the strategy on the provision of other local authority support in its area,”

Member’s explanatory statement

This amendment would require a relevant local authority that publishes a strategy under Clause 55 to keep under review the effect of that strategy on the provision by the local authority of domestic abuse support to people in the community as opposed to those residing in relevant accommodation.

Page 36, line 4, at end insert –

“() In this section “other local authority support”, in relation to a local authority, means support, in relation to domestic abuse, that –

Clause 55 - continued

- (a) is provided to victims of domestic abuse or their children, and
 - (b) is provided or funded by the local authority,
- other than accommodation-based support (within the meaning of subsection (2)).”

Member’s explanatory statement

This amendment would define “other local authority support” for the purposes of Clause 55.

Page 36, line 23, at end insert “or any effect of the strategy on the provision of other local authority support in its area”

Member’s explanatory statement

This amendment would provide that regulations under Clause 55(8) can make provision about the frequency with which a relevant local authority must review the effect of its strategy on the provision of other local authority support in its area.

Clause 56

BARONESS WILLIAMS OF TRAFFORD

Page 36, line 31, after “about” insert “ –
(a) ”

Member’s explanatory statement

See the explanatory statement accompanying the Minister’s amendment at page 36, line 32.

Page 36, line 32, at end insert “, and

- (b) the provision of other local authority support in the authority’s area.”

Member’s explanatory statement

This amendment would provide for a domestic abuse local partnership board to also advise a relevant local authority about the provision of other local authority support in the authority’s area.

Page 37, line 5, at end insert –

““other local authority support” has the same meaning as in section 55.”

Member’s explanatory statement

This amendment would define “other local authority support” for the purposes of Clause 56 (by reference to the definition that would be inserted into Clause 55 by the Minister’s amendment at page 36, line 4).

After Clause 57

LORD HUNT OF KINGS HEATH

Insert the following new Clause –

“Duty of public authorities providing domestic abuse services

- (1) This section applies to the provision of services to people affected by domestic abuse by a public authority as defined in section 7(6).
- (2) For the purposes of implementing the Public Sector Equality Duty under section 149 of the Equality Act 2010, and when arranging provision of services to persons who share a protected characteristic, a public authority may not give priority to services involving domestic abuse support as defined in section 55(2) over other services, or vice versa, except to the extent that such priority is warranted by the differential needs of those persons, as referred to in section 149(3)(b) of the Equality Act, for those respective services.”

Member’s explanatory statement

This amendment makes clear, for the avoidance of any doubt, that when applying the Public Sector Equality Duty, a public authority may not (for example) prioritise accommodation-based support services for persons with a protected characteristic (such as children or migrants) over other support services for the same persons, except insofar as those persons have a greater need for accommodation-based than for other support services.

Clause 62

LORD WOLFSON OF TREDEGAR

Page 39, line 23, after “person” insert “–

- (a) is, or is at risk of being, a victim of domestic abuse;
- (b) ”

Member’s explanatory statement

This amendment ensures that rules of court made by virtue of subsection (1) of Clause 62 must make provision which enables the court to make a special measures direction in respect of a party or witness in civil proceedings who is a victim, or is at risk of becoming a victim, of domestic abuse.

Clause 64

LORD WOLFSON OF TREDEGAR

Page 47, line 21, 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, a specified offence may cross-examine in person a witness who is the victim of that offence.
- (2) In civil proceedings, no party to the proceedings who is the victim of a specified offence may cross-examine in person a witness who has been convicted of, or given a caution for, that offence.

Clause 64 - *continued*

- (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 or caution 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
 - (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 by or 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), 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;
 - (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;

Clause 64 - *continued*

“service disciplinary proceedings” means –

- (a) any proceedings (whether or not before a court) in respect of a service offence (except proceedings before a civilian court within the meaning of the Armed Forces Act 2006);
- (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;

“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);

“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 82 of the Sentencing Code;
 - (c) section 187 of the Armed Forces Act 2006 or any corresponding earlier enactment.
- (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.

Clause 64 - continued

- (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 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.
- (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 provides for an automatic prohibition in civil proceedings on the cross-examination of witnesses in person in certain cases, similar to the provisions in clause 63. For example, it prohibits a party who has been convicted of a specified offence from cross-examining in person a witness who is the victim of that offence. “Specified” here means specified in regulations made by the Lord Chancellor.

Page 47, line 25, after “if” insert “—

- (a) none of sections 85EA to 85EC operates to prevent the party from cross-examining the witness, and
- (b) ”

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 47, line 21.

Page 48, line 9, at end insert –

- “(ca) any charge of which the court is aware in respect of a specified offence alleged to have been committed by the party in relation to the witness;
- (cb) any charge of which the court is aware in respect of a specified offence alleged to have been committed by the witness in relation to the party;”

Member’s explanatory statement

This amendment, and the Minister’s amendment at page 48, line 25, provide that, in deciding whether to make a direction under new section 85F of the Courts Act 2003 prohibiting a party from cross-examining a witness in person, the court must have regard to the fact that the party has been charged with a specified offence alleged to have been committed in relation to the witness (or vice versa).

Page 48, leave out lines 10 to 13

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 47, line 21.

Page 48, line 25, at end insert –

- “() In subsection (5)(ca) and (cb) “specified offence” means an offence that is a specified offence for the purposes of section 85EA.”

Member’s explanatory statement

See the explanatory statement for the Minister’s amendment at page 48, line 9.

Page 49, line 7, leave out “a direction under section” and insert “any of sections 85EA to”

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 47, line 21.

Page 50, leave out lines 16 and 17

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 50, line 30.

Page 50, line 30, at end insert –

“85K Regulations under Part 7A

Regulations under this Part may make different provision for different purposes.””

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 47, line 21.

After Clause 64

LORD WOLFSON OF TREDEGAR

Insert the following new Clause –

“Orders under section 91(14) of the Children Act 1989

Orders under section 91(14) of the Children Act 1989

- (1) The Children Act 1989 is amended as follows.
- (2) In section 91 (effect and duration of orders etc.), at the end of subsection (14) insert –

“For further provision about orders under this subsection, see section 91A (section 91(14) orders: further provision).”
- (3) After section 91 insert –

“91A Section 91(14) orders: further provision

 - (1) This section makes further provision about orders under section 91(14) (referred to in this section as “section 91(14) orders”).
 - (2) The circumstances in which the court may make a section 91(14) order include, among others, where the court is satisfied that the making of an application for an order under this Act of a specified kind by any person who is to be named in the section 91(14) order would put –
 - (a) the child concerned, or
 - (b) another individual (“the relevant individual”),
 at risk of harm.
 - (3) In the case of a child or other individual who has reached the age of eighteen, the reference in subsection (2) to “harm” is to be read as a reference to ill-treatment or the impairment of physical or mental health.
 - (4) Where a person who is named in a section 91(14) order applies for leave to make an application of a specified kind, the court must, in determining whether to grant leave, consider whether there has been a material change of circumstances since the order was made.
 - (5) A section 91(14) order may be made by the court –
 - (a) on an application made –
 - (i) by the relevant individual;
 - (ii) by or on behalf of the child concerned;
 - (iii) by any other person who is a party to the application being disposed of by the court;
 - (b) of its own motion.
 - (6) In this section, “the child concerned” means the child referred to in section 91(14).””

Member’s explanatory statement

This amendment inserts a new section 91A into the Children Act 1989 which makes further provision about the circumstances in which the court may make an order under section 91(14) of that Act (also known as a barring order), including where the court is satisfied that the making of a further application for an order under that Act, by any person to be named in the order, would put the child concerned, or another individual, at risk of harm.

Before Clause 65

BARONESS LISTER OF BURTERSETT
 BARONESS WILLIAMS OF TRAFFORD
 BARONESS BERTIN
 BARONESS SANDERSON OF WELTON

Insert the following new Clause—

“Controlling or coercive behaviour

Controlling or coercive behaviour in an intimate or family relationship

- (1) Section 76 of the Serious Crime Act 2015 (offence of controlling or coercive behaviour in an intimate or family relationship) is amended as follows.
- (2) In subsection (1)(b), after “personally connected” insert “(see subsection (6))”.
- (3) Omit subsection (2).
- (4) For subsection (6) substitute—
 - “(6) A and B are “personally connected” if any of the following applies—
 - (a) they are, or have been, married to each other;
 - (b) they are, or have been, civil partners of each other;
 - (c) they have agreed to marry one another (whether or not the agreement has been terminated);
 - (d) they have entered into a civil partnership agreement (whether or not the agreement has been terminated);
 - (e) they are, or have been, in an intimate personal relationship with each other;
 - (f) they each have, or there has been a time when they each have had, a parental relationship in relation to the same child (see subsection (6A));
 - (g) they are relatives.
 - (6A) For the purposes of subsection (6)(f) a person has a parental relationship in relation to a child if—
 - (a) the person is a parent of the child, or
 - (b) the person has parental responsibility for the child.”
- (5) In subsection (7), for “subsection (6)” substitute “subsections (6) and (6A)”.

Member’s explanatory statement

This new Clause would align the definition of “personally connected” in section 76 of the Serious Crime Act 2015 with that in Clause 2 of the Bill. The result is that the offence under that section of engaging in controlling or coercive behaviour would apply in relation to members of the same family, or people who have been in an intimate relationship, whether or not they live together.

BARONESS MORGAN OF COTES
 LORD WOLFSON OF TREDEGAR

Insert the following new Clause—

“Disclosure of private sexual photographs and films

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

Before Clause 65 - continued

- (1) Section 33 of the Criminal Justice and Courts Act 2015 (disclosing private sexual photographs and films with intent to cause distress) is amended as follows.
- (2) In the heading, after “Disclosing” insert “, or threatening to disclose,”.
- (3) For subsection (1) substitute—
 - “(1) A person commits an offence if—
 - (a) the person discloses, or threatens to disclose, a private sexual photograph or film in which another individual (“the relevant individual”) appears,
 - (b) by so doing, the person intends to cause distress to that individual, and
 - (c) the disclosure is, or would be, made without the consent of that individual.”
- (4) In subsection (2)—
 - (a) after “disclose” insert “, or threaten to disclose,”;
 - (b) for “the individual mentioned in subsection (1)(a) and (b)” substitute “the relevant individual”.
- (5) After subsection (2) insert—
 - “(2A) Where a person is charged with an offence under this section of threatening to disclose a private sexual photograph or film, it is not necessary for the prosecution to prove—
 - (a) that the photograph or film referred to in the threat exists, or
 - (b) if it does exist, that it is in fact a private sexual photograph or film.”
- (6) In subsection (4)(a), after “disclosure” insert “, or threat to disclose,”.
- (7) In subsection (5)—
 - (a) in paragraph (a), for “the individual mentioned in subsection (1)(a) and (b)” substitute “the relevant individual”;
 - (b) in paragraph (b), for “the individual mentioned in subsection (1)(a) and (b)” substitute “the relevant individual”.
- (8) For subsection (8) substitute—
 - “(8) A person charged with an offence under this section is not to be taken to have intended to cause distress by disclosing, or threatening to disclose, a photograph or film merely because that was a natural and probable consequence of the disclosure or threat.”
- (9) In section 35 of that Act (meaning of “private” and “sexual”), in subsection (5)(c), for “the person mentioned in section 33(1)(a) and (b)” substitute “the relevant individual (within the meaning of section 33)”.
- (10) In Schedule 8 to that Act (disclosing private sexual photographs or films: providers of information society services)—
 - (a) in the heading, after “Disclosing” insert “, or threatening to disclose,”;
 - (b) in paragraph 5 (exception for hosting)—
 - (i) in sub-paragraph (1), after “sub-paragraph (2)” insert “, (2A)”;

Before Clause 65 - continued

- (ii) in sub-paragraph (2), in the words before paragraph (a), after “if” insert “, in the case of information which consists of or includes a private sexual photograph or film,”;
- (iii) after sub-paragraph (2) insert—
 - “(2A) This sub-paragraph is satisfied if, in the case of information which consists of or includes a threat to disclose a private sexual photograph or film, the service provider had no actual knowledge when the information was provided—
 - (a) that it consisted of or included a threat to disclose a private sexual photograph or film in which another individual appears,
 - (b) that the threat was made with the intention of causing distress to that individual, or
 - (c) that the disclosure would be made without the consent of that individual.””

Member’s explanatory statement

This new Clause would amend the offence under section 33 of the Criminal Justice and Courts Act 2015, of disclosing a private sexual photograph or film with intent to cause distress to an individual who appears in the photograph or film, so as to include threats to disclose private sexual photographs and films.

BARONESS NEWLOVE
LORD WOLFSON OF TREDEGAR

Insert the following new Clause—

“Strangulation or suffocation

- (1) In Part 5 of the Serious Crime Act 2015 (protection of children and others), after section 75 insert—

“Strangulation or suffocation

75A Strangulation or suffocation

- (1) A person (“A”) commits an offence if—
 - (a) A intentionally strangles another person (“B”), or
 - (b) A does any other act to B that—
 - (i) affects B’s ability to breathe, and
 - (ii) constitutes battery of B.
- (2) It is a defence to an offence under this section for A to show that B consented to the strangulation or other act.
- (3) But subsection (2) does not apply if—
 - (a) B suffers serious harm as a result of the strangulation or other act, and
 - (b) A either—
 - (i) intended to cause B serious harm, or
 - (ii) was reckless as to whether B would suffer serious harm.
- (4) A is to be taken to have shown the fact mentioned in subsection (2) if—
 - (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and

Before Clause 65 - continued

- (b) the contrary is not proved beyond reasonable doubt.
- (5) 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 6 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 5 years or to a fine, or both.
- (6) In this section “serious harm” means—
 - (a) grievous bodily harm, within the meaning of section 18 of the Offences Against the Person Act 1861,
 - (b) wounding, within the meaning of that section, or
 - (c) actual bodily harm, within the meaning of section 47 of that Act.

75B Offences under section 75A committed outside the United Kingdom

- (1) If—
 - (a) a person does an act in a country outside the United Kingdom,
 - (b) the act, if done in England and Wales, would constitute an offence under section 75A, and
 - (c) the person is a United Kingdom national or is habitually resident in England and Wales,
 the person is guilty in England and Wales of that offence.
- (2) In this section—
 - “country” includes territory;
 - “United Kingdom national” means an individual who is—
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who under the British Nationality Act 1981 is a British subject, or
 - (c) a British protected person within the meaning of that Act.”
- (2) Schedule (*Strangulation or suffocation: consequential amendments*) contains consequential amendments.”

Member’s explanatory statement

This amendment provides that it is an offence for a person to strangle another person, or to commit any other kind of battery against a person that affects the person’s ability to breathe (such as covering the person’s mouth or nose or sitting on the person’s chest). The maximum penalty for the offence is 5 years’ imprisonment.

After Clause 72

BARONESS ROYALL OF BLAISDON
 BARONESS BRINTON
 LORD RUSSELL OF LIVERPOOL
 LORD HUNT OF KINGS HEATH

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), after paragraph (a) 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
 - (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 defined in 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 12 months of this Act being passed the Secretary of State must commission a review into the operation of the provisions of this section.
- (6) The Secretary of State must lay before Parliament a report setting out the findings of the review under subsection (5) which must include a comprehensive prevention and perpetrator strategy for domestic abusers and stalkers for the purposes of—
 - (a) improving the early identification, assessment and management of perpetrators;

After Clause 72 - continued

- (b) increasing the number of rehabilitation programmes;
- (c) increasing specialist work to tackle abusive attitudes and behaviour; and
- (d) ensuring a co-ordinated approach to data collection and management of perpetrators across England and Wales.””

Member’s explanatory statement

This amendment amends the Criminal Justice Act 2003, which provides for the establishment of MAPPAs, to make arrangements for serial domestic abuse or stalking perpetrators to be registered on VISOR and be subjected to supervision, monitoring and management through MAPPAs. It would require the Government to provide a comprehensive perpetrator strategy for domestic abusers and stalkers within one year of the Act being passed.

BARONESS ALTMANN
LORD PALMER OF CHILDS HILL
BARONESS DEECH
LORD MENDELSON

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.

BARONESS BURT OF SOLIHULL
BARONESS MEACHER

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.

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 (the “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 RAMSBOTHAM

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, including female prisoners and those awarded community sentences under probation supervision, must, with her consent, be screened for traumatic brain injury, and other forms of acquired 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 has been alleged that domestic abuse has been perpetrated when the accused is charged with an offence within the meaning of section 1 of this Act.
- (3) The purpose of screening under subsection (1) is to assist in the determination of whether a woman has been the subject of domestic abuse.
- (4) If screening under subsection (1) 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 woman must be given appropriate rehabilitation treatment and advice.”

After Clause 72 - continued

BARONESS STROUD

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 expectant parents and parents of children aged under two years old where those children are victims of or otherwise affected by domestic abuse.”

Clause 73

BARONESS LISTER OF BURTERSETT
BARONESS WILLIAMS OF TRAFFORD
BARONESS BERTIN
BARONESS SANDERSON OF WELTON

Page 58, line 19, at end insert –

“() section (*Controlling or coercive behaviour in an intimate or family relationship*),”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Lister of Burtersett that amends section 76 of the Serious Crime Act 2015.

BARONESS NEWLOVE
LORD WOLFSON OF TREDEGAR

Page 58, line 19, at end insert –

“() section (*Strangulation or suffocation*),”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Newlove that provides for an offence of strangulation or suffocation.

BARONESS STROUD

Page 58, line 29, at end insert “including babies and young children aged under two years old, and babies who were in utero at the time of the abuse.”

Clause 74

BARONESS LISTER OF BURTERSETT
BARONESS WILLIAMS OF TRAFFORD
BARONESS BERTIN
BARONESS SANDERSON OF WELTON

Page 59, line 23, after “section” insert “(*Controlling or coercive behaviour in an intimate or family relationship*) or”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Lister of Burtersett that amends section 76 of the Serious Crime Act 2015.

BARONESS MORGAN OF COTES
LORD WOLFSON OF TREDEGAR

Page 59, line 23, after “section” insert “(*Threats to disclose private sexual photographs and films with intent to cause distress*) or”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Morgan of Cotes, which extends the offence under section 33 of the Criminal Justice and Courts Act 2015 to threats to disclose private sexual photographs and films.

BARONESS NEWLOVE
LORD WOLFSON OF TREDEGAR

Page 59, line 23, after “section” insert “(*Strangulation or suffocation*) or”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Newlove that provides for an offence of strangulation or suffocation.

Clause 75

BARONESS LISTER OF BURTERSETT
BARONESS WILLIAMS OF TRAFFORD
BARONESS BERTIN
BARONESS SANDERSON OF WELTON

Page 59, line 35, after “section” insert “(*Controlling or coercive behaviour in an intimate or family relationship*) or”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Lister of Burtersett that amends section 76 of the Serious Crime Act 2015.

BARONESS MORGAN OF COTES
LORD WOLFSON OF TREDEGAR

Page 59, line 35, after “section” insert “(*Threats to disclose private sexual photographs and films with intent to cause distress*) or”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Morgan of Cotes, which extends the offence under section 33 of the Criminal Justice and Courts Act 2015 to threats to disclose private sexual photographs and films.

BARONESS NEWLOVE
LORD WOLFSON OF TREDEGAR

Page 59, line 35, after “section” insert “(*Strangulation or suffocation*) or”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Newlove that provides for an offence of strangulation or suffocation.

Clause 76

BARONESS WILLIAMS OF TRAFFORD

Page 60, line 22, after “section” insert “(Duty to report on domestic abuse services in England)(4),”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Williams of Trafford imposing a duty to report on domestic abuse services in England, and provides that regulations made by the Secretary of State to extend the 12-month period for making the report are not subject to Parliamentary procedure.

Clause 78BARONESS NEWLOVE
LORD WOLFSON OF TREDEGAR

Page 60, line 36, after “3” insert “or Schedule (Strangulation or suffocation: consequential amendments)”

Member’s explanatory statement

This amendment is consequential on the proposed new Schedule in the name of Baroness Newlove relating to the proposed new offence of strangulation or suffocation.

Page 60, line 36, after “extent” insert “within the United Kingdom”

Member’s explanatory statement

This amendment is consequential on the proposed new Schedule in the name of Baroness Newlove relating to the proposed new offence of strangulation or suffocation.

Clause 79BARONESS MORGAN OF COTES
LORD WOLFSON OF TREDEGAR

Page 61, line 23, after “Sections” insert “(Threats to disclose private sexual photographs and films with intent to cause distress),”

Member’s explanatory statement

This amendment provides for the proposed new clause in the name of Baroness Morgan of Cotes, which extends the offence under section 33 of the Criminal Justice and Courts Act 2015 to threats to disclose private sexual photographs and films, to come into force two months after Royal Assent.

After Schedule 1BARONESS NEWLOVE
LORD WOLFSON OF TREDEGAR

Insert the following new Schedule—

“SCHEDULE

STRANGULATION OR SUFFOCATION: CONSEQUENTIAL AMENDMENTS

After Schedule 1 - continued

Police and Criminal Evidence Act 1984

- 1 In section 65A of the Police and Criminal Evidence Act 1984 (qualifying offences for the purposes of Part 5 of that Act), in subsection (2), after paragraph (r) insert—
- “(ra) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).”

Housing Act 1985

- 2 In Schedule 2A to the Housing Act 1985 (absolute ground for possession for anti-social behaviour: serious offences), after paragraph 14 insert—
- “14A An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).”

Criminal Justice and Public Order Act 1994

- 3 In Part 1 of Schedule 7A to the Criminal Justice and Public Order Act 1994 (offences in England and Wales for which cross-border powers of arrest available), for paragraph 24 substitute—
- “24 An offence under either of the following provisions of the Serious Crime Act 2015—
- (a) section 45 (participating in activities of organised crime group);
- (b) section 75A (strangulation or suffocation).”

Crime and Disorder Act 1998

- 4 (1) Section 29 of the Crime and Disorder Act 1998 (racially or religiously aggravated assaults) is amended as follows.
- (2) In subsection (1), after paragraph (b) (but before the “or” following it) insert—
- “(ba) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation);”.
- (3) In subsection (2), for “or (b)” substitute “, (b) or (ba)”.

Youth Justice and Criminal Evidence Act 1999

- 5 (1) Schedule 1A to the Youth Justice and Criminal Evidence Act 1999 (proceedings in which witnesses are automatically eligible for assistance on grounds of fear or distress about testifying) is amended as follows.
- (2) After paragraph 29 insert—
- “Serious Crime Act 2015*
- 29A An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation) in a case where it is alleged that—
- (a) the accused was carrying a firearm or knife at any time during the commission of the offence, and
- (b) a person other than the accused knew or believed at any time during the commission of the offence that the accused was carrying a firearm or knife.”
- (3) In paragraph 30, after “paragraphs 1 to 8” insert “or 29A”.

Sexual Offences Act 2003

- 6 In Schedule 5 to the Sexual Offences Act 2003 (cases where sexual harm prevention orders may be made), after paragraph 63B insert—

After Schedule 1 - continued

“63C An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).”

Criminal Justice Act 2003

7 In Part 1 of Schedule 15 to the Criminal Justice Act 2003 (violent offences specified for purposes of certain custodial sentences), before paragraph 63G insert—

“63FA An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).”

Domestic Violence, Crime and Victims Act 2004

8 In section 6A of the Domestic Violence, Crime and Victims Act 2004 (evidence and procedure in cases of serious physical harm: England and Wales), in subsection (2), at the end insert—

“(c) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).”

Children Act 2004

9 In section 58 of the Children Act 2004 (reasonable punishment: England), in subsection (2), after paragraph (c) insert—

“(d) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).”

Criminal Justice and Immigration Act 2008

10 In section 98 of the Criminal Justice and Immigration Act 2008 (violent offender orders), in subsection (3), after paragraph (d) insert—

“(da) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation);”.

Modern Slavery Act 2015

11 In Schedule 4 to the Modern Slavery Act 2015 (offences to which defence for slavery or trafficking victims under section 45 of that Act does not apply), after paragraph 35 insert—

“Serious Crime Act 2015

35A An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).”

Sentencing Act 2020

12 (1) The Sentencing Act 2020 is amended as follows.

(2) In section 67 (assaults on emergency workers), in subsection (3), after paragraph (a) insert—

“(aa) an offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation);”.

(3) In Part 1 of Schedule 18 (violent offences for which extended sentence of imprisonment available), after paragraph 25 insert—

“Serious Crime Act 2015

25A An offence under section 75A of the Serious Crime Act 2015 (strangulation or suffocation).”

Member's explanatory statement

The new Schedule amends other legislation in consequence of the proposed new Clause in the name of Baroness Newlove that provides for an offence of strangulation or suffocation.

Schedule 2**LORD WOLFSON OF TREDEGAR**

Page 65, line 37, leave out from beginning to end of line 10 on page 66

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 66, line 21.

Page 66, leave out lines 12 and 13

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 66, line 21.

Page 66, line 21, leave out from "Wales," to "an" in line 22 and insert "subsections (1) and (2) of section 72 also apply to"

Member's explanatory statement

The effect of this amendment is that, for a UK national to be guilty in England and Wales of rape or sexual assault as a result of an act in a country outside the UK where the victim was 18 or over, it is not necessary for the act also to be an offence in that country.

Page 67, line 17, at end insert –

- “(2AA) For the purposes of subsection (2A)(a), an act punishable under the law in force in the country is an offence under that law however it is described in that law.
- (2AB) The condition specified in subsection (2A)(a) is to be taken as satisfied unless, not later than such time as may be prescribed by Act of Adjournal, the accused serves on the prosecutor a notice –
 - (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the accused's opinion satisfied,
 - (b) setting out the grounds for the accused's opinion, and
 - (c) requiring the prosecutor to prove that the condition is satisfied.
- (2AC) But the court, if it thinks fit, may permit the accused to require the prosecutor to prove that the condition is satisfied without the prior service of a notice under subsection (2AB).
- (2AD) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.”

Member's explanatory statement

This amendment provides, in section 11 of the Criminal Procedure (Scotland) Act 1995, for a rebuttable presumption that an act committed in a country outside the UK, which would be an assault if committed in Scotland, is an offence in that country.

Page 67, line 18, leave out “(2A)” and insert “(2AA)”

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 67, line 17.

Page 67, line 35, leave out "or is habitually resident in Scotland"

Member's explanatory statement

This amendment would limit section 54D(1) of the Sexual Offences (Scotland) Act 2009 (being inserted by this Bill) to UK nationals only (and not also those habitually resident in Scotland) and is linked with the Minister's amendments at page 67, lines 38 and 42.

Page 67, leave out lines 38 and 39

Member's explanatory statement

This amendment removes the condition in section 54D(1) of the Sexual Offences (Scotland) Act 2009 that, for a UK national to commit an offence in Scotland in relation to an act in a country outside the UK, the act must also be an offence in that country.

Page 67, line 42, at end insert –

“(1A) If –

- (a) a person who is habitually resident in Scotland does an act in a country outside the United Kingdom,
 - (b) the act constitutes an offence under the law in force in that country, and
 - (c) the act, if done in Scotland, would constitute an offence to which this subsection applies,
- then the person commits that offence.”

Member's explanatory statement

This amendment means that, for a person habitually resident in Scotland to commit an offence in Scotland in respect of an act in a country outside the UK, it remains a condition under section 54D of the Sexual Offences (Scotland) Act 2009 that the act is an offence in that country.

Page 68, line 1, leave out “subsection (1) applies” and insert “subsections (1) and (1A) apply”

Member's explanatory statement

This amendment is consequential on the Minister's amendment at page 67, line 42.

Page 68, line 3, at end insert –

- “(2A) For the purposes of subsection (1A)(b), an act punishable under the law in force in the country is an offence under that law however it is described in that law.
- (2B) The condition specified in subsection (1A)(b) is to be taken as satisfied unless, not later than such time as may be prescribed by Act of Adjournal, the accused serves on the prosecutor a notice –
 - (a) stating that, on the facts as alleged with respect to the act in question, the condition is not in the accused's opinion satisfied,
 - (b) setting out the grounds for the accused's opinion, and

Schedule 2 - continued

- (c) requiring the prosecutor to prove that the condition is satisfied.
- (2C) But the court, if it thinks fit, may permit the accused to require the prosecutor to prove that the condition is satisfied without the prior service of a notice under subsection (2B).
- (2D) In proceedings on indictment, the question whether the condition is satisfied is to be determined by the judge alone.”

Member’s explanatory statement

This amendment provides, in section 54D of the Sexual Offences (Scotland) Act 2009, for a rebuttable presumption that an act committed in a country outside the UK, which would be an offence if committed in Scotland, is an offence in that country.

Page 70, leave out lines 5 to 15

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 70, line 22.

Page 70, leave out lines 17 and 18

Member’s explanatory statement

This amendment is consequential on the Minister’s amendment at page 70, line 22.

Page 70, line 22, leave out from beginning to “an offence” and insert “Paragraphs (1) and (2) also apply to”

Member’s explanatory statement

The effect of this amendment is that, for a UK national to be guilty in Northern Ireland of rape or sexual assault as a result of an act in a country outside the UK where the victim was 18 or over, it is not necessary for the act also to be an offence in that country.

In the Title

LORD WOLFSON OF TREDEGAR

Line 6, after “circumstances;” insert “to make further provision about orders under section 91(14) of the Children Act 1989;”

Member’s explanatory statement

This amendment is consequential on the proposed new Clause in the name of Lord Wolfson of Tredegar, which makes further provision about orders under section 91(14) of the Children Act 1989.

BARONESS MORGAN OF COTES
LORD WOLFSON OF TREDEGAR

Line 6, after “circumstances;” insert “to provide for an offence of threatening to disclose private sexual photographs and films with intent to cause distress;”

Member's explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Morgan of Cotes, which extends the offence under section 33 of the Criminal Justice and Courts Act 2015 to threats to disclose private sexual photographs and films.

BARONESS NEWLOVE
LORD WOLFSON OF TREDEGAR

Line 6, after “circumstances;” insert “to provide for an offence of strangulation or suffocation;”

Member's explanatory statement

This amendment is consequential on the proposed new Clause in the name of Baroness Newlove that provides for an offence of strangulation or suffocation.

Domestic Abuse Bill

AMENDMENTS
TO BE MOVED
ON REPORT

1 March 2021
