

Domestic Abuse Bill

REVISED
SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 3rd March 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.

After Clause 18

BARONESS WILLIAMS OF TRAFFORD

17 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.
- (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 37

LORD PADDICK
BARONESS HAMWEE

- 18 Page 23, line 28, 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 to a breach of a domestic abuse protection order.

After Schedule 1

BARONESS NEWLOVE
LORD WOLFSON OF TREDEGAR
BARONESS JONES OF MOULSECOOMB

- 19 Insert the following new Schedule—

“SCHEDULE**STRANGULATION OR SUFFOCATION: CONSEQUENTIAL AMENDMENTS***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.

After Schedule 1 - continued

- (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 –
“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 –

After Schedule 1 - continued

“(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.

Clause 55

BARONESS WILLIAMS OF TRAFFORD

20 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

21 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.”

Clause 55 - continued

BARONESS WILLIAMS OF TRAFFORD

- 22 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.

BARONESS FINLAY OF LLANDAFF
LORD BROOKE OF ALVERTHORPE
BARONESS BURT OF SOLIHULL
LORD RIBEIRO

- 23 Page 35, line 30, at end insert “including, where necessary, alcohol and mental health support,”

BARONESS WILLIAMS OF TRAFFORD

- 24 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.

- 25 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 –
(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.

- 26 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

- 27 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.

- 28 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.

- 29 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

- 30 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.

After Clause 58

LORD HUNT OF KINGS HEATH
 BARONESS GOUDIE
 BARONESS FINLAY OF LLANDAFF
 BARONESS HOLLINS

31 Insert the following new Clause—

“Application of this Part to community services

- (1) The Secretary of State may by regulations make provision to extend the scope of the functions of local authorities under this Part, and the definition of “domestic abuse support”, to provision of community services, and to remove the restriction to victims or children of victims who reside in relevant accommodation.
- (2) In this section “community services” means services provided in people’s own homes, community clinics, community centres, schools and GP surgeries, and includes NHS community health services, public health services, adult social care, pharmacies, hospices, nursing homes, home care agencies, voluntary sector services and carers.”

Clause 62

LORD WOLFSON OF TREDEGAR
 LORD MARKS OF HENLEY-ON-THAMES

32 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
 LORD MARKS OF HENLEY-ON-THAMES

33 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.

34

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.

- 35 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).

- 36 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.

- 37 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.

- 38 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.

- 39 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.

- 40 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

41 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.

BARONESS JONES OF MOULSECOOMB

42 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 accepted as evidence for legal aid, as per guidance issued by the Ministry of Justice.”
- (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;
 - (b) involved in ongoing criminal proceedings for a domestic abuse offence;
 - (c) is pending a fact finding hearing or has been found to have committed domestic abuse in a previous fact-finding hearing; or
 - (d) has a criminal conviction 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 amendment seeks to prevent domestic abusers from being granted unsupervised contact with children in family law proceedings.

BARONESS BERTIN
BARONESS HAMWEE

43 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.

After Clause 64 - continued

- (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.

BARONESS HELIC
LORD MARKS OF HENLEY-ON-THAMES

44 Insert the following new Clause—

“Training

- (1) The Secretary of State shall within six months of the passing of this Act publish—
 - (a) a strategy for providing specialist training for all magistrates and judges hearing cases in family proceedings in the Family Courts concerning rape, sexual and domestic abuse and coercive control; and
 - (b) a timetable for the delivery of the training mentioned in subsection (1)(a), to include the training of all judges and magistrates, who are already hearing or who are to be appointed to hear Family cases and to include continuing professional development training for all such judges and magistrates.
- (2) The training mentioned in subsection (1)(a) must include but is not limited to training concerning—
 - (a) the impact upon victims and witnesses, both adults and children, of the trauma of rape, sexual and domestic abuse and coercive control;
 - (b) the risks and difficulties for victims and witnesses in giving evidence and taking part in proceedings concerning rape, sexual, domestic abuse and coercive control; and
 - (c) the risks and difficulties for victims and witnesses of being involved in proceedings where one or more other parties may be the perpetrators of rape, sexual and domestic abuse and coercive control or persons connected to such perpetrators.
- (3) Before publishing the strategy and timetable mentioned in subsection (1) the Secretary of State must consult—
 - (a) the Chairman of the Board of the Judicial College;
 - (b) the President of the Family Division;
 - (c) the Chief Executive of the Magistrates Association; and
 - (d) the Domestic Abuse Commissioner.
- (4) After commencement of this subsection, which shall not be more than two years after the passage of this Act, the Secretary of State shall ensure that no Family cases are heard by judges or magistrates who have not successfully completed the training mentioned in subsection (1).”

Member's explanatory statement

This amendment would require the Secretary of State, in consultation with training bodies, to publish a strategy for providing specialist training on matters relating to domestic abuse for magistrates and judges hearing cases in family proceedings.

Before Clause 65

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

45 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 CAMPBELL OF SURBITON
 BARONESS GREY-THOMPSON
 LORD SHINKWIN
 LORD HUNT OF KINGS HEATH
As an amendment to Amendment 45

- 46 In subsection (4), after inserted subsection (6)(g), insert—
 “(h) A is a carer for B who is a disabled person.”

Member’s explanatory statement

This amendment and the other in the name of Baroness Campbell of Surbiton to Amendment 45 would amend the new Clause in the name of Baroness Lister of Burtersett to ensure that the definition of “personally connected” in section 76 of the Serious Crime Act 2015 includes the relationship between a disabled person and their carer in line with the amendments to the definition in Clause 2 of this Bill in the name of Baroness Campbell of Surbiton.

As an amendment to Amendment 45

- 47 In subsection (5), at end insert—
 “(b) before ““civil partnership agreement”” insert ““carer” means an adult who provides care, whether paid or unpaid;”, and
 (c) after “18 years;” insert ““disabled person” means a person who has a disability within the meaning of section 6 of the Equality Act 2010 (disability);”.”

Member’s explanatory statement

This amendment and the other in the name of Baroness Campbell of Surbiton to Amendment 45 would amend the new Clause in the name of Baroness Lister of Burtersett to ensure that the definition of “personally connected” in section 76 of the Serious Crime Act 2015 includes the relationship between a disabled person and their carer in line with the amendments to the definition in Clause 2 of this Bill in the name of Baroness Campbell of Surbiton.

BARONESS MORGAN OF COTES
 LORD WOLFSON OF TREDEGAR
 LORD JUDGE
 BARONESS HODGSON OF ABINGER

- 48 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

- (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

Before Clause 65 - continued

- (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)”;
 - (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

Before Clause 65 - continued

- (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
BARONESS WILCOX OF NEWPORT
BARONESS MEACHER
THE LORD BISHOP OF LONDON

49 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
 - (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.

Before Clause 65 - continued

- (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 68

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

50

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 –

After Clause 68 - continued

- “(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).
- (8H) Subsection (8G)(b) will only be established if the behaviour concerned is, or is part of, a history 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
LORD RANDALL OF UXBRIDGE
BARONESS JONES OF MOULSECOOMB
BARONESS HAMWEE

51

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

After Clause 68 - continued

- (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
 - (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
 BARONESS MALLALIEU

52

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—

After Clause 68 - continued

- (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—
- (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

LORD WOLFSON OF TREDEGAR

53 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.

54 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.

55 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.

- 56 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.

- 57 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.

- 58 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.

- 59 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.

- 60 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,

Schedule 2 - continued

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.

- 61** 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.

- 62** 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
 - (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.

- 63** 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.

- 64** 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.

- 65 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.

After Schedule 2

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

- 66 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

- 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);

After Schedule 2 - continued

- (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

- 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

After Schedule 2 - continued

- 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).

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 –

After Schedule 2 - continued

- (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

- 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 –

After Schedule 2 - continued

- (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);
- (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);

After Schedule 2 - continued

- (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);
- (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

After Schedule 2 - continued

- 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 71

LORD RANDALL OF UXBRIDGE

66A Page 56, line 12, 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

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

67 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 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.
- (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;

After Clause 72 - continued

- (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.

BARONESS LISTER OF BURTERSETT
 BARONESS BURT OF SOLIHULL
 BARONESS BENNETT OF MANOR CASTLE
 BARONESS MEACHER

68

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;

After Clause 72 - continued

- (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 or perpetrators 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 LISTER OF BURTERSETT
BARONESS BURT OF SOLIHULL
BARONESS MEACHER
BARONESS BENNETT OF MANOR CASTLE

69

Insert the following new Clause—

“Social security: exemption from repaying benefit advances

- (1) The Social Security (Payments on Account of Benefit) Regulations 2013 are amended as follows.
- (2) In regulation 7 (definition of financial need), after paragraph (3) insert—
 - “(4) It shall be presumed for the purposes of this regulation that A is in financial need where A—
 - (a) is or has recently been a victim of domestic abuse; and
 - (b) provides evidence of the domestic abuse in one or more of the forms set out in regulation 33(2) of the Civil Legal Aid (Procedure) Regulations 2012.
 - (5) A has recently been a victim of domestic abuse if a period of 12 months has not expired since the domestic abuse was inflicted or threatened.
 - (6) For the purposes of this regulation—
 - (a) “domestic abuse” has the meaning set out in section 1 of the Domestic Abuse Act 2021;
 - (b) “victim of domestic abuse” means a person on or against whom domestic abuse is inflicted or threatened.”
- (3) In regulation 10 (bringing payments on account of benefit into account), after sub-paragraph (b) insert—
 - “(2) In the case of a payment on account of benefit made to a person who can provide evidence of being or having recently been a victim of domestic abuse, paragraph (1) shall not apply.
 - (3) A person has recently been a victim of domestic abuse if a period of 12 months has not expired since the domestic abuse was inflicted or threatened.
 - (4) For the purposes of this regulation—
 - “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.

After Clause 72 - continued

- (5) For the purposes of this regulation, evidence of being or having recently been a victim of domestic abuse must be provided in one or more of the forms set out in regulation 33(2) of the Civil Legal Aid (Procedure) Regulations 2012.””

THE LORD BISHOP OF GLOUCESTER
LORD ROSSER
BARONESS HAMWEE
BARONESS GOUDIE

70 Insert the following new Clause—

“Victims of domestic abuse: leave to remain and the destitution domestic violence concession (DDVC)

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

After Clause 72 - continued

- (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 provide migrant victims of abuse with temporary leave to remain and access to public funds, for a period of no less than six months, so they can access support services while they flee abuse and apply to resolve their immigration status.

LORD KENNEDY OF SOUTHWARK
BARONESS BULL
BARONESS NEWLOVE
BARONESS BURT OF SOLIHULL

71 Insert the following new Clause –

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

- (1) Where an appropriate health professional has examined a person in the course of providing services under a general medical services contract, the appropriate health professional may not impose a fee upon that person for providing a letter or report for the purposes of paragraph 11 or 12 of Schedule 1 to 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 and other services.

LORD BEST
THE LORD BISHOP OF MANCHESTER
BARONESS LISTER OF BURTERSETT

72 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 –

After Clause 72 - continued

- (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 under subsection (9A) must provide for exceptions as follows—
- (a) where B would fall within the grace period at regulation 82(1)(b) and (2) of the Universal Credit Regulations 2013 (S.I. 2013/376), for a period of at least 3 months from the end of that grace period; or
 - (b) where B would not fall within the grace period at regulation 82(1)(b) and (2) of the Universal Credit Regulations 2013 (S.I. 2013/376), for a period of at least 12 months beginning with the day on which 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 (S.I. 2006/213).
- (9C) Regulations made under subsections (9A) and (9B) must provide that, where B falls within paragraphs 3(h) and 3A(4) of Schedule 1 to the Universal Credit Regulations 2013 (S.I. 2013/376), the grace period at regulation 82(1)(b) and (2) or the exception at subsection (9B) above commences on the day on which B ceases to fall within those paragraphs.””

Member’s explanatory statement

This amendment provides for the benefit cap to be disapplied 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 ROYALL OF BLAISDON
 BARONESS BRINTON
 LORD RUSSELL OF LIVERPOOL
 LORD HUNT OF KINGS HEATH

73

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—

After Clause 72 - continued

“(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;
 - (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

74 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
BARONESS BENNETT OF MANOR CASTLE

75 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.

(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.

After Clause 72 - continued

- (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.

BARONESS BURT OF SOLIHULL
BARONESS MEACHER

76

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 –
 - (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

77

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.”

Member's explanatory statement

This amendment seeks to improve the state's understanding of the prevalence, causality and impact of brain injuries sustained during incidents of domestic abuse. It seeks to ensure that this is done quickly and thoroughly in order to start rehabilitative treatment.

BARONESS STROUD
 BARONESS FINLAY OF LLANDAFF
 LORD MACKAY OF CLASHFERN
 BARONESS ARMSTRONG OF HILL TOP

78

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.”

After Clause 72 - continued

BARONESS ALTMANN
 LORD PALMER OF CHILDS HILL
 BARONESS DEECH
 LORD MENDELSON

79 Insert the following new Clause—

“Controlling or coercive behaviour by 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.”

80 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 STRASBURGER

81 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 BENNETT OF MANOR CASTLE

BARONESS WALMSLEY

BARONESS WHITAKER

BARONESS FINLAY OF LLANDAFF

82 Insert the following new Clause—

“Repeal of defence of reasonable punishment

- (1) Section 58 of the Children Act 2004 is repealed.
- (2) In relation to any offence, battery of a child cannot be justified on the ground that it constituted reasonable punishment.”

BARONESS GREENGROSS

LORD HUNT OF KINGS HEATH

LORD RANDALL OF UXBRIDGE

BARONESS MEACHER

83 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.”

84 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 may be victims of domestic abuse, and
 - (b) has been refused entry by any of the occupants of the premises.”

After Clause 72 - continued

LORD ROSSER

85 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
 - (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.

After Clause 72 - continued

(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;

“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.

After Clause 72 - continued

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.

86 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 HELIC
BARONESS BUTLER-SLOSS
BARONESS HUSSEIN-ECE
BARONESS HAMWEE

87 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).

BARONESS BENJAMIN
LORD MCCOLL OF DULWICH

87A 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.
- (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.

After Clause 72 - continued

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

88 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
BARONESS JONES OF MOULSECOOMB

89 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
BARONESS FINLAY OF LLANDAFF
LORD MACKAY OF CLASHFERN
BARONESS ARMSTRONG OF HILL TOP

90 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.”

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

91 Page 58, line 32, 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 RAMSBOTHAM
BARONESS FINLAY OF LLANDAFF
BARONESS WHITAKER
LORD SHINKWIN

92 Page 58, line 32, at end insert –

“() Any guidance 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;
- (c) the services available to support people with speech, language and communication needs who are experiencing domestic abuse and their children, including how support provided by local authorities can be made inclusive and accessible to people with speech, language and communication needs.”

Member's explanatory statement

This amendment would require that the guidance the Secretary of State issues under the Bill, including to local authorities, includes information on the links between domestic abuse and speech, language and communication needs, the impact of witnessing domestic abuse on children’s speech, language and communication, and the services available to support people with those needs, and their children.

Clause 74

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

93 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
LORD JUDGE

94 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
BARONESS JONES OF MOULSECOOMB

95 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

96 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
LORD JUDGE

97 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
BARONESS JONES OF MOULSECOOMB

98 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

- 99 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 78

BARONESS NEWLOVE
LORD WOLFSON OF TREDEGAR
BARONESS JONES OF MOULSECOOMB

- 100 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.

- 101 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.

LORD BEST
THE LORD BISHOP OF MANCHESTER
BARONESS LISTER OF BURTERSETT

- 102 Page 61, line 4, after “sections” insert “(Benefit cap: domestic abuse) and”

Member’s explanatory statement

This amendment is consequential to the new Clause in the name of Lord Best with the title "Benefit cap: domestic abuse".

Clause 79

BARONESS MORGAN OF COTES
LORD WOLFSON OF TREDEGAR
LORD JUDGE

- 103 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.

In the Title

LORD WOLFSON OF TREDEGAR

- 104** 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
LORD JUDGE

- 105** 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
BARONESS JONES OF MOULSECOOMB

- 106** 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

REVISED
SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

8 March 2021
