

Domestic Abuse Bill

MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF COMMONS DISAGREEMENT, AMENDMENTS IN LIEU AND REASONS

[The page and line references are to HL Bill 124, the bill as first printed for the Lords]

MOTION A

Clause 2

LORDS AMENDMENT 1

- 1** Page 2, line 27, at end insert –
“() A is a carer for B who is a disabled person.”

COMMONS REASON

The Commons disagree to Lords Amendment 1 for the following Reason –

- 1A** *Because it is inappropriate to extend the definition of “domestic abuse” in the Bill to include abuse carried out against a disabled person by the person’s carer.*

LORDS AMENDMENT 2

- 2** Page 2, line 32, at end insert –
““carer” means an adult who provides care, whether paid or unpaid;”

COMMONS REASON

The Commons disagree to Lords Amendment 2 for the following Reason –

- 2A** *Because it is inappropriate to extend the definition of “domestic abuse” in the Bill to include abuse carried out against a disabled person by the person’s carer.*

LORDS AMENDMENT 3

- 3 Page 2, line 35, at end insert—
 ““disabled person” means a person who has a disability within the meaning of section 6 of the Equality Act 2010 (disability);”

COMMONS REASON

The Commons disagree to Lords Amendment 3 for the following Reason –

- 3A *Because it is inappropriate to extend the definition of “domestic abuse” in the Bill to include abuse carried out against a disabled person by the person’s carer.*

- A** **Baroness Williams of Trafford to move, That this House do not insist on its Amendments 1, 2 and 3, to which the Commons have disagreed for their Reasons 1A, 2A and 3A.**

MOTION B

Clause 55

LORDS AMENDMENT 9

- 9 Page 35, line 19, 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.”

COMMONS REASON

The Commons disagree to Lords Amendment 9 for the following Reason –

- 9A *Because it is unnecessary to provide for the accreditation of child contact centres by local authorities.*

- B** **Lord Wolfson of Tredegar to move, That this House do not insist on its Amendment 9, to which the Commons have disagreed for their Reason 9A.**

- B1★** **Baroness Finlay of Llandaff to move, as an amendment to Motion B, at end insert “and do propose Amendment 9B in lieu of Amendment 9—**

- 9B In Clause 55, page 35, line 19, at end insert—
 “() ensure all child contact centres and organisations that offer child contact services regularly check their employees, agency workers and volunteers for compliance with national standards in relation to safeguarding and preventing domestic abuse as specified in regulations made by the Secretary of State.””

MOTION C

After Clause 64

LORDS AMENDMENT 33

33 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 paragraph (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 passing 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).”

COMMONS REASON

The Commons disagree to Lords Amendment 33 for the following Reason –

33A *Because it is unnecessary and is contrary to the principle of judicial independence.*

C **Lord Wolfson of Tredegar to move, That this House do not insist on its Amendment 33, to which the Commons have disagreed for their Reason 33A.**

C1★ **Baroness Helic to move, as an amendment to Motion C, at end insert “and do**

propose Amendment 33B in lieu of Amendment 33 –

33B After Clause 64, insert the following new Clause –

“Training

- (1) The Lord Chancellor must within six months of the passage 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 and domestic abuse and coercive control;
 - (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)(a) and (b) the Lord Chancellor must consult –
 - (a) the Lord Chief Justice;
 - (b) the Chairman of the Board of the Judicial College;
 - (c) the President of the Family Division;
 - (d) the Chief Executive of the Magistrates Association; and
 - (e) the Domestic Abuse Commissioner.
- (4) After commencement of this subsection, which must be not more than two years after the passing of this Act, the Lord Chancellor must ensure that no Family cases are heard by judges or magistrates who have not successfully completed the training mentioned in subsection (1).”

MOTION D**Before Clause 69****LORDS AMENDMENT 37**

37 Insert the following new Clause –

“Reasonable force in domestic abuse cases

- (1) Section 76 of the Criminal Justice and Immigration Act 2008 (reasonable force for purposes of self-defence etc.) is amended as follows.

- (2) In subsection (5A) after “In a householder case” insert “or a domestic abuse case”.
- (3) In subsection (6) after “In a case other than a householder case” insert “or a domestic abuse case”.
- (4) After subsection (8F) insert –
 - “(8G) For the purposes of this section “a domestic abuse case” is a case where –
 - (a) the defence concerned is the common law defence of self-defence,
 - (b) D is, or has been, a victim of domestic abuse, and
 - (c) the force concerned is force used by D against the person who has perpetrated the abusive behaviour referred to in paragraph (b).
 - (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”.

COMMONS REASON

The Commons disagree to Lords Amendment 37 for the following Reason –

- 37A** *Because it is inappropriate to extend the so-called ‘householder defence’ to victims of domestic abuse who use disproportionate force against their abusers in self-defence.*

LORDS AMENDMENT 38

- 38** Insert the following new Clause –

“Defence for victims of domestic abuse who commit an offence

- (1) A person is not guilty of an offence if –
 - (a) the person is aged 18 or over when the person does the act which constitutes the offence,
 - (b) the person does that act because the person is compelled to do it,
 - (c) the compulsion is attributable to their being a victim of domestic abuse, and
 - (d) a reasonable person in the same situation as the person and having the person’s relevant characteristics would have no realistic alternative to doing that act.
- (2) A person may be compelled to do something by another person or by the person’s circumstances.

- (3) Compulsion is attributable to domestic abuse only if—
 - (a) it is, or is part of, conduct which constitutes domestic abuse as defined in sections 1 and 2 of this Act, including but not limited to conduct which constitutes the offence of controlling or coercive behaviour in an intimate or family relationship as defined in section 76 of the Serious Crime Act 2015 (controlling or coercive behaviour in an intimate or family relationship), or
 - (b) it is a direct consequence of a person being, or having been, a victim of such abuse.
- (4) A person is not guilty of an offence if—
 - (a) the person is under the age of 18 when the person does the act which constitutes the offence,
 - (b) the person does that act as a direct consequence of the person being, or having been, a victim of domestic abuse as defined at subsection (3)(a) above, and
 - (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*).

COMMONS REASON

The Commons disagree to Lords Amendment 38 for the following Reason –

38A

Because it is inappropriate to provide a new defence for victims of domestic abuse who are compelled to commit an offence as a result of such abuse, as the existing common law defence of duress is sufficient.

After Schedule 2

LORDS AMENDMENT 83

83 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);
 - (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

- 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—
- (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 (S.I. 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 –
- (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);
- (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

- 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.”

COMMONS REASON

The Commons disagree to Lords Amendment 83 for the following Reason –

83A *Because it is inappropriate to provide a new defence for victims of domestic abuse who are compelled to commit an offence as a result of such abuse, as the existing common law defence of duress is sufficient.*

D★ **Lord Wolfson of Tredegar to move, That this House do not insist on its Amendment 37, to which the Commons have disagreed for their Reason 37A, and do not insist on its Amendments 38 and 83, to which the Commons have disagreed for their Reasons 38A and 83A.**

D1★ **Baroness Kennedy of The Shaws to move, as an amendment to Motion D, at end insert “and do propose Amendment 37B in lieu of Amendments 37, 38 and 83—**

37B Before Clause 69, insert the following new Clause –

“Independent review of defences for those who offend due to domestic abuse

- (1) Within six months of the date of the passing of this Act, the Lord Chancellor must establish an independent review to examine the effectiveness of the defences listed in subsection (2) for those whose alleged offending is linked to their experience of domestic abuse, and to establish the need for any legislative reform.
- (2) The relevant defences are –
 - (a) self-defence, and
 - (b) duress.
- (3) The review must –
 - (a) have published terms of reference,
 - (b) include consultation with a range of experts, including the Domestic Abuse Commissioner and Victims’ Commissioner, and those with relevant lived experience,
 - (c) include public consultation, and
 - (d) conclude with a written report of recommendations which must be laid before Parliament within twelve months of the review’s establishment.”

MOTION E

After Clause 72

LORDS AMENDMENT 40

40 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;
 - (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.”

COMMONS REASON

The Commons disagree to Lords Amendment 40 for the following Reason –

40A *Because the Government has committed to reviewing the processing of migrant victims’ personal data for the purposes of immigration control in response to the report on Liberty and Southall Black Sisters’ super-complaint on policing and immigration status published by Her Majesty’s Chief Inspector of Constabulary on 17 December 2020, and the Commons consider that the Amendment would preempt the outcome of that review.*

E **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 40, to which the Commons have disagreed for their Reason 40A.**

E1★ **Baroness Meacher to move, as an amendment to Motion E, at end insert “and do propose Amendments 40B and 40C in lieu of Amendment 40–**

40B After Clause 72, 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;
 - (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.”

40C In Clause 79, after subsection (7) insert –

- “(7A) Regulations under this section bringing section (*Victims of domestic abuse: data-sharing for immigration purposes*) into force may not be made until both Houses of Parliament have approved a resolution to the effect that it should be brought into force, moved either after debate in that House of any publication of the outcome of a review by the Secretary of State of existing data-sharing procedures in relation to victims of domestic abuse for purposes of immigration control, or after 1 July 2021, whichever is the sooner.””

MOTION F

After Clause 72

LORDS AMENDMENT 41

41 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;
 - (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);
 - (c) “person subject to immigration control” means a person in the United Kingdom who does not have the right of abode;
 - (d) “provider of services” includes both public and private bodies;
 - (e) “services” includes accommodation, education, employment, financial assistance, healthcare and any service provided exclusively or particularly to survivors of domestic abuse.”

COMMONS REASON

The Commons disagree to Lords Amendment 41 for the following Reason –

- 41A** *Because the Amendment would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

LORDS AMENDMENT 43

- 43** 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.”

COMMONS REASON

The Commons disagree to Lords Amendment 43 for the following Reason –

43A *Because the Amendment would involve a charge on public funds, and the Commons do not offer any further Reason, trusting that this Reason may be deemed sufficient.*

F **Baroness Williams of Trafford to move, That this House do not insist on its Amendments 41 and 43, to which the Commons have disagreed for their Reasons 41A and 43A.**

F1 **The Lord Bishop of Gloucester to move, as an amendment to Motion F, at end insert “and do propose Amendment 41B in lieu of Amendment 41 –**

41B After Clause 72, insert the following new Clause –

“Recourse to public funds for duration of pilot scheme

- (1) For the duration of the pilot Support for Migrant Victims Scheme announced by the Government on 14 April 2021, the Secretary of State must make provision that a person who –
 - (a) is a victim of domestic abuse; and
 - (b) provides evidence in one or more of the forms in subsection (3);
 shall not be subject to restrictions on recourse to public funds, due to their immigration status, provided for in the provisions listed in subsection (2).
- (2) The provisions referred to in subsection (1) are –
 - (a) section (3)(1)(c)(ii) of the Immigration Act 1971;
 - (b) section 115 of the Immigration and Asylum Act 1999;
 - (c) Schedule 3 to the Nationality, Immigration and Asylum Act 2002;
 - (d) section 21 of the Immigration Act 2014.
- (3) For the purposes of this section, evidence that a person is a victim of domestic abuse may consist of one or more of the following –
 - (a) a relevant conviction, police caution or protection notice;
 - (b) a relevant court order (including without notice, ex parte, interim or final orders), including a non-molestation undertaking or order, occupation order, domestic abuse protection order, forced marriage protection order or other protective injunction;
 - (c) evidence of relevant criminal proceedings for an offence concerning domestic violence or a police report confirming attendance at an incident resulting from domestic abuse;
 - (d) evidence that a victim has been referred to a multi-agency risk assessment conference;
 - (e) a finding of fact in the family courts of domestic abuse;
 - (f) a medical report from a doctor at a UK hospital confirming injuries or a condition consistent with being a victim of domestic abuse;
 - (g) a letter from a General Medical Council registered general practitioner confirming that he or she is satisfied on the basis of an examination that a person had injuries or a condition consistent with those of a victim of domestic abuse;
 - (h) an undertaking given to a court by the alleged perpetrator of domestic abuse that he or she will not approach the applicant who is the victim of the abuse;

- (i) a letter from a social services department confirming its involvement in providing services to a person in respect of allegations of domestic abuse;
 - (j) a letter of support or a report from a domestic abuse support organisation; or
 - (k) other evidence of domestic abuse, including from a counsellor, midwife, school, witness or the victim.
- (4) The Secretary of State must, within 2 months of the completion of the pilot Support for Migrant Victims Scheme announced by the Government on 14 April 2021 –
- (a) consult the Domestic Abuse Commissioner and specialist organisations that work with victims of abuse on the impact of this section on victims;
 - (b) publish a strategy for the long-term provision of support for victims of domestic abuse who do not have leave to remain or have leave to remain subject to a condition under section 3(1)(c) of the Immigration Act 1971.””

F2★ **Baroness Helic to move, as an amendment to Motion F, at end insert “and do propose Amendment 43B in lieu of Amendment 43 –**

43B In Clause 55, page 35, line 19, at end insert –

“(1A) In preparing such a strategy, a local authority must have regard to Article 4(3) of the Council of Europe Convention on preventing and combating violence against women and domestic violence.””

MOTION G

After Clause 72

LORDS AMENDMENT 42

42 Insert the following new Clause –

“Monitoring of serial and serious harm domestic abuse and stalking perpetrators under Multi-Agency Public Protection Arrangements

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

- (3) After section 327 (section 325: interpretation) insert—

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

- (1) For the purposes of section 325, a person (“P”) is a “relevant domestic abuse or stalking perpetrator” if P has been convicted of a specified offence and meets either the condition in subsection (2)(a) or the condition in subsection (2)(b).
- (2) For the purposes of subsection (1), the conditions are—
 - (a) P is a relevant serial offender; or
 - (b) a risk of serious harm assessment has identified P as presenting a high or very high risk of serious harm.
- (3) An offence is a “specified offence” for the purposes of this section if it is a specified domestic abuse offence or a specified stalking offence.
- (4) In this section—
 - “relevant serial offender” means a person convicted on more than one occasion for the same specified offence, or a person convicted of more than one specified offence;
 - “specified domestic abuse offence” means an offence where it is alleged that the behaviour of the accused amounted to domestic abuse within the meaning defined in section 1 of the Domestic Abuse Act 2021;
 - “specified stalking offence” means an offence contrary to section 2A or section 4A of the Protection from Harassment Act 1997.
- (5) Within 12 months of the Domestic Abuse Act 2021 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.”

COMMONS DISAGREEMENT AND AMENDMENTS IN LIEU

The Commons disagree to Lords Amendment 42 but propose Amendments 42A, 42B and 42C as amendments in lieu—

42A Before Clause 69, insert the following new Clause –

“Strategy for prosecution and management of offenders

- (1) The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed, prepare and publish a document setting out a strategy for –
 - (a) detecting, investigating and prosecuting offences involving domestic abuse,
 - (b) assessing and managing the risks posed by individuals who commit offences involving domestic abuse, and
 - (c) reducing the risk that such individuals commit further offences involving domestic abuse.
- (2) The Secretary of State –
 - (a) must keep the strategy under review;
 - (b) may revise it.
- (3) If the Secretary of State revises the strategy, the Secretary of State must publish a document setting out the revised strategy.
- (4) In preparing or revising a strategy under this section, the Secretary of State must consult –
 - (a) the Domestic Abuse Commissioner, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply in relation to any revisions of the strategy if the Secretary of State considers the proposed revisions of the strategy are insubstantial.”

42B In Clause 75, page 59, line 8, after “section” insert “(*Strategy for prosecution and management of offenders*),”

42C In Clause 79, page 60, line 32, at end insert –
“() section (*Strategy for prosecution and management of offenders*);”

G **Baroness Williams of Trafford to move, That this House do not insist on its Amendment 42 and do agree with the Commons in their Amendments 42A, 42B and 42C in lieu.**

G1 **Baroness Royall of Blaisdon to move, as an amendment to Motion G, leave out from “Amendment 42” to end and insert “, do disagree with the Commons in their Amendments 42A, 42B and 42C and do propose Amendments 42D, 42E and 42F in lieu –**

42D Before Clause 69, insert the following new Clause –

“Identification, monitoring and management of serial domestic abuse and stalking perpetrators

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

- (b) in subsection (2), after paragraph (a) insert—
“(aa) relevant domestic abuse or stalking perpetrators,”.
- (3) After section 327 (Section 325: interpretation) insert—
- “327ZA Section 325: interpretation of relevant domestic abuse or stalking perpetrator**
- (1) For the purposes of section 325, a person (“P”) is a “relevant domestic abuse or stalking perpetrator” if P has been convicted of a specified offence and meets either the condition in subsection (2)(a) or 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.”
- (4) The Secretary of State must, before the end of the period of 12 months beginning with the day on which this Act is passed—
- (a) commission a review into the operation of the provisions in this section;
 - (b) prepare and publish a document setting out a strategy for the prosecution and management of domestic abuse and stalking offenders.
- (5) A strategy under subsection (4)(b) must include provisions for—
- (a) detecting, investigating and prosecuting offences involving domestic abuse or stalking,
 - (b) assessing and managing the risks posed by individuals who commit offences involving domestic abuse or stalking, and
 - (c) reducing the risk that such individuals commit further offences involving domestic abuse or stalking.
- (6) The Secretary of State—
- (a) must keep the strategy under review;
 - (b) may revise it.
- (7) If the Secretary of State revises the strategy, the Secretary of State must publish a document setting out the revised strategy.

- (8) In preparing or revising a strategy under this section, the Secretary of State must consult –
- (a) the Domestic Abuse Commissioner, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (9) Subsection (7) does not apply in relation to any revisions of the strategy if the Secretary of State considers the proposed revisions of the strategy are insubstantial.”

42E In Clause 75, page 59, line 8, after “section” insert “(*Identification, monitoring and management of serial domestic abuse and stalking perpetrators*),”

42F In Clause 79, page 60, line 32, at end insert –
“() section (*Identification, monitoring and management of serial domestic abuse and stalking perpetrators*);”

Domestic Abuse Bill

MARSHALLED LIST OF MOTIONS TO BE MOVED ON CONSIDERATION OF
COMMONS DISAGREEMENT, AMENDMENTS IN LIEU AND REASONS

19 April 2021

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS