



Right to Equality is a non-profit organisation dedicated to advancing the rights of women and children through the law and challenging discriminatory laws.

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Right to Equality's Briefing for the Victims Bill

Executive summary

1. **Parental alienation:** Widespread use of so-called "parental alienation" allegations leads to the dismissal or reframing of rape, domestic abuse and child sex abuse claims, leaving women and children at risk of significant harm. Given these issues, the family courts may inadequately or entirely fail to assess the risk of domestic abuse to the child and protective parent, resulting in unsafe child arrangement orders. We recommend that "parental alienation" allegations should not be deployed in family court proceedings as these are harmful to child and adult victims, and the concept of "parental alienation" has no credible scientific basis.
2. **Victims' medical records:** In court, victims have been ordered to disclose medical records to perpetrators and alleged perpetrators. We recommend that the Victims Code make clear that victims' medical records should never be disclosed to those accused of abuse. Unfortunately, the disclosure of private and intimate medical records on behalf of victims has become commonplace in the family courts, causing further re-traumatisation.
3. **Jade's Law:** We recommend that Jade's Law be extended in the Victims Bill to suspend the parental responsibility of parents convicted of sexual abuse against their partner or child. We expect those with parental responsibility to act in the child's interests. A parent who sexually abuses their child is dangerous. The government appears to be more concerned with preserving the rights of convicted paedophiles rather than the children themselves and their protective parents.

Explanation

Please find further details on each concern and the Amendments that we have directly contributed to below.

Amendment 82: "Parental Alienation"

The prevalence of domestic abuse in private law family court proceedings involving disputes over post-separation arrangements for their children is considerably higher than in the general population,

with allegations or findings of domestic abuse ranging from 49% to 62%.¹ Annually, up to an estimated 32,400 such cases in England and Wales involve domestic abuse.² It is well established that domestic abuse is harmful to children, and this is reflected in the Domestic Abuse Act 2021, which acknowledges children as victims of domestic abuse in their own right. However, in private law family court proceedings, contact between children and non-resident parents is prioritised over the safety of the child, and the family courts' pro-contact culture has led to domestic abuse being minimised, downgraded or ignored, which can undermine efforts to protect women and children from harm. So-called "parental alienation" does not have a robust, methodologically sound scientific basis.³ It is not identified as a disorder or condition in major international indices. The European Association for Psychotherapy 'considers that the terms and concepts of 'PAS and 'PA' are unsuitable for use in any psychotherapeutic practice'.⁴

Research undertaken in numerous jurisdictions, including England and Wales, found that fathers make the vast majority of so-called "parental alienation" allegations,⁵ and these claims are often prevalent in cases involving domestic abuse and are made by perpetrators to negate and/or detract attention from allegations of domestic and child sexual abuse. Claims of so-called "parental alienation" have resulted in the residence of children increasingly being transferred from primary carer mothers to abusive fathers, sometimes forcibly, with no or decreased contact with the protective parent.⁶ This can cause continuing abuse and lasting harm to children, particularly if all contact is suspended between children and their primary carer,⁷ and arguably reaches the threshold of torture and cruel and inhuman treatment under Article 3 of the European Convention on Human Rights.

We are aware from the case law of cases where findings have been made of domestic abuse, and yet still, the court investigates the perpetrator's allegations of domestic abuse. When this occurs, the court acts as a weapon to further harm, control, and abuse. Once domestic abuse has been proven, a victim should never have to defend themselves from allegations of parental alienation. In a case with findings of domestic abuse, an 'expert' was instructed to ascertain if parental alienation had occurred. A survivor-parent and child's resistant to contact is justifiable and reasonable, given domestic abuse. As per the Family Justice Council's draft guidance on parental alienation, findings of domestic abuse must be a bar to parental alienation being raised as an issue in the family courts.

See Amendment 82, Baroness Chakrabarti

"After Clause 15, insert the following new Clause -

¹ See Barnett, A., *Domestic abuse and private law children cases A literature review* (Ministry of Justice 2020)

² Domestic Abuse Commissioner, *The Family Court and domestic abuse: achieving cultural change* (The Domestic Abuse Commissioner for England and Wales 2023), available at:

https://domesticabusecommissioner.uk/wp-content/uploads/2023/07/DAC_Family-Court-Report-_2023_Digital.pdf

³ An Roinn Dli Agus Cirt, *Parental Alienation: A Review of Understandings, Assessment and Interventions* (Department of Justice 2023), available at:

<https://www.gov.ie/en/publication/20df3-parental-alienation-research-report-and-policy-paper/>; Doughty, J, Maxwell, N and Slater, T, *Review of research and case law on parental alienation* (Cardiff University and Welsh Government 2018)

⁴ European Association for Psychotherapy, *EAP Statement on Parent Alienation Syndrome (PAS) – Parent Alienation (PA)* (EAP 2018), available at:

<https://www.europsyche.org/quality-standards/eap-guidelines/parent-alienation-syndrome-pas-parental-alienation-pa/#:~:text=A%20Statement%20from%20the%20European,use%20in%20any%20psychotherapeutic%20practice>

⁵ Alsalem, R, *Custody, violence against women and violence against children Report of the Special Rapporteur on violence against women and girls, its causes and consequences, Reem Alsalem* (UN General Assembly, 2023); Barnett, A, 'A genealogy of hostility: parental alienation in England and Wales' (2020) *Journal of Social Welfare and Family Law*, 42(1), 18-29

⁶ Barnett, A., 'A genealogy of hostility: parental alienation in England and Wales' (2020) *Journal of Social Welfare and Family Law*, 42(1), 18-29; Grey, R., "'Catastrophic": a qualitative exploration of survivors experiences of expert instruction in private law child arrangements proceedings' (2023) *Journal of Social Welfare and Family Law*, published online <https://doi.org/10.1080/09649069.2023.2281832>; Birchall, J and Choudhry, S, ' "I was punished for telling the truth": how allegations of parental alienation are used to silence, sideline and disempower survivors of domestic abuse in family law proceedings' (2021) *Journal of Gender-Based Violence*, 6(1), 115-131

⁷ Silberg, J and Dallam, S, 'Abusers gaining custody in family courts: A case series of over turned decisions' (2019) *Journal of Child Custody*, 16(2) 140-169

"Parental alienation in criminal domestic abuse cases

In section 1 of the Children Act 1989, after subsection (7) insert -

"(8) Anyone involved in the case who is also a victim (of criminal conduct) within section 1 of the Victims and Prisoners Act 2024 (meaning of "victim") cannot be considered by the family court as a potential perpetrator of parental alienation."

Member's explanatory statement:

This clause would seek to ensure that victims under this Bill could not be disadvantaged by considerations of parental alienation in the family court."

Amendment 117: Medical Disclosure

It is common for victims in family court proceedings for victims to be ordered to disclose their entire medical records to their perpetrators, yet perpetrators are rarely required to provide theirs. Often when victims say they are suffering from trauma (or PTSD) as a result of rape, perpetrators claim that the symptoms are 'self-reported' and so ask to see a full copy of their medical records.

In one such case, the court ordered a complainant of domestic abuse to disclose *all* of her medical records since birth to *all* the professionals involved in the case, including her alleged rapist. In contrast, the accused father did not disclose his medical records. The applications for disclosure are often made following concerns about a victim's mental health by their perpetrator, which is an extension of abuse and gaslighting. Victims are then 'put to proof' to show they have 'nothing to hide' by disclosing all intimate material. This is a flagrant breach of Articles 8 and 14.

In another case, a complainant of domestic abuse was diagnosed with PTSD as a result of the abuse by her ex-partner. The family courts ordered that she disclose all of her medical records.

See Amendment 117, Baroness Chakrabarti

"After Clause 27, insert the following new Clause

"Disclosure of a victim's medical records on the Family Court

In section 13 of the Children and Families Act 2014 (Control of expert evidence, and of assessments, in children proceedings), after subsection (4) insert —

"(4A) Anyone involved in the case who is also a victim (of criminal conduct) within section 1 of the Victims and Prisoners Act 2024 (meaning of "victim") must not be ordered by the court to disclose their medical records to their alleged or proven perpetrator unless there are exceptional circumstances."

Member's explanatory statement:

This new Clause provides protection for victims who should not be ordered to disclose private and intimate medical records to their domestic abuse perpetrators, such orders can continue coercive and controlling criminal conduct."

Amendment 85: Jade's Law

The Victims and Prisoners Bill will be amended so parents who are convicted for the murder or voluntary manslaughter of a partner or ex-partner with whom they have children will automatically have their parental responsibility suspended upon sentencing. An automatic exemption would be put in place in cases where a domestic abuse victim kills their abuser.⁸ Currently, victims of abuse, including children, bear the burden of trying to remove or limit the parental responsibility of convicted child abusers. Abuse perpetrated against parents presents direct and indirect risk of harm to children.

See Amendment 85, Baroness Chakrabarti and Baroness Brinton

"Clause 16, page 13, line 23, at end insert "or a sexual offence against the child or a child in the family"

⁸ Ministry of Justice (2023). Jade's Law to be introduced to better protect children.

<https://www.gov.uk/government/news/jades-law-to-be-introduced-to-better-protect-children>

Member's explanatory statement

This amendment, and others in the name of Baroness Chakrabarti, add a sexual offence against a child in the family to the murder or manslaughter of another parent as grounds for requiring a Crown Court to make a prohibited steps order protecting the children of an offender on sentencing.”

We're pleased to have contributed to and supported these amendments.

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