DÁIL ÉIREANN

AN COMHCHOISTE UM DHLÍ AGUS CEART, GNÓTHAÍ BAILE AGUS IMIRCE

JOINT COMMITTEE ON JUSTICE, HOME AFFAIRS AND MIGRATION

Dé Máirt, 01 Iúil 2025

Tuesday, 01 July 2025

Tháinig an Comhchoiste le chéile ag 3 p.m.

The Joint Committee met at 3 p.m.

Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Tom Brabazon,	Robbie Gallagher,
Paula Butterly,	Garret Kelleher,
Catherine Callaghan,	Anne Rabbitte.
Máire Devine,*	
Gary Gannon,	
Alan Kelly,	
Pádraig O'Sullivan.	

* In éagmais / In the absence of Deputy Mark Ward.

Teachta / Deputy Matt Carthy sa Chathaoir / in the Chair.

General Scheme of the Guardianship of Infants (Amendment) Bill 2025: Discussion

An Cathaoirleach: Tá fáilte romhaibh go léir. Apologies have been received from Senator Ruane and Deputy Ward. Deputy Devine is attending as a substitute for Deputy Ward. I remind members to turn off their mobile phones or switch them to flight mode.

The purpose of this meeting is engagement stakeholders as part of the committee's pre-legislative scrutiny of the guardianship of infants (amendment) Bill 2025, also known as Valerie's law. The committee has received nine submissions on the general scheme, all of which have been circulated, and a document summarising the submissions has been prepared for the assistance of members. That has also been circulated and all the information is available on the Teams channel.

On behalf of the committee, I extend a very warm welcome to Mr. David French. He is if not unique, then certainly one of a few guests who have appeared before an Oireachtas committee who can say the subject of the discussion is primarily, I would argue, down to their campaigning. Also in attendance are officials from the Department of Justice, Home Affairs and Migration. They are only attending as observers to assist the committee if clarification is needed on the general scheme, but they are very welcome. They are Ms Lisa Doherty, principal officer, and Mr. Chris Quattrociocchi, assistant principal officer, and are available to answer any member's questions.

Before I invite Mr. French to deliver his opening statement, I wish to advise those present about parliamentary privilege. Witnesses and members are reminded of the long-standing parliamentary practice that they should not criticise or make charges against any person or entity by name or in such a way as to make him, her or it identifiable or otherwise engage in speech that might be regarded as damaging to the good name of the person or entity. Therefore, if their statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative they comply with any such direction.

The format of the meeting is that I will invite Mr. French to make an opening statement. Once the opening statement has been delivered, I will call members of the committee to put their questions in the order in which they indicate to me. I propose each member will have an initial eight minutes to engage with the witnesses via questions and answers. When time allows, we will provide for a second round. I invite Mr. French to deliver his opening statement.

Mr. David French: Salutations. I thank the committee for the opportunity to make this submission. My sister Valerie French was murdered by her husband on 13 or 14 June 2019 and his conviction was in July 2024. She left three young children and he is the legal father. My experience following this event, my reading into relevant research and discussions with other victims' families inform my input to this committee. I strongly believe the amendment of legislation to provide for suspension of guardianship in these situations is necessary for the safeguarding of children following domestic homicide. The key motivating insight is that killing a parent is child abuse. Children are primary victims in this situation. Killing a parent is a direct crime against their children. It is an anomaly in law that when the killer is also a parent, that person's guardianship of the children currently continues. Children need to be protected from their abusers by the State. The required protection is far more than just the physical isolation and incarceration of the convicted killer. The children's privacy, psychological safety and the actions of those caring for the children, including the victim's relations, need to be protected from the killer's involvement and interference. Rights under guardianship of the convict - to

information about the children, consultation rights or decision-making powers - are a direct problem and a vector for ongoing abuse and manipulation. It is important to appreciate that the loss and consequent harm is ongoing for a child's entire life. Court discretion is a key part of the proposed amendment of the law to suspend guardianship. This allows for edge cases such as manslaughter following domestic abuse to be handled in the best interests of the child. Nevertheless, the assumption has to be that the court will suspend or remove guardianship in the vast majority of manslaughter and murder cases.

It is also important to remember that the suspension of guardianship rights does not preclude the children, or people acting for the children, from accessing the convict if that is deemed in the children's best interests. Children are people in their own right and not tools to be used in the rehabilitation of a convict. We have seen this happen.

The time from the charge of murder or manslaughter is usually in the order of years, and the killing may also have preceded that by years. These timespans are significant in a child's life. The potential future suspension of guardianship can be weighed and taken into account in the interim period. Much can be done using policy and principles rather than burdening legislation with complexity and risking unconstitutionality. The suspension of guardianship has to be triggered by a guilty verdict.

The Government's "A Study on Familicide & Domestic and Family Violence Death Reviews" and its interim report on that study recommend the reform of the law in this area. It is also recommended that the victim's family be made notice parties to the court cases in this area but this may be outside the current legislation. Judges can make interested parties such as the victim's family to be notice parties on their own application. It is to be expected that the accused will oppose this and in these cases, it is important that the wishes of the accused to exclude others are not supported by the State bodies such as the Child and Family Agency, Tusla.

Our three nephews were taken into care without properly consulting the victim's family. In our case, the murderer and Tusla blocked the victim's family proposal to take the children out of care. Even post conviction, Tusla does not rule out family reunification with the murderer and is focused on rehabilitating him in the eyes of the children. His continued guardianship causes this problem.

The mechanism by which the initiative passes from the criminal court, where the verdict of murder or manslaughter is given, to the family law court, where guardianship would be suspended, needs to be guaranteed and immune from interference. Tusla's default role is to "help and support parents". In my own experience, this applies even when the parent is accused or convicted of murder. Any staff involved will be exposed to his or her defence through their interaction in advance of a verdict and may be susceptible to taking a sympathetic view of the accused. It is important that any such view is put aside and does not influence the ability of the organisation to fulfil its function. I would recommend an independent unit within the organisation submit the application to suspend guardianship.

Tusla should not be involved unnecessarily when the children are not already in care, so there should also be a way for guardianship to be suspended on the initiative of another guardian or the children's relatives. The Child Care Law Reporting Project, CCLRP, says that seven children per year are in the situation of having one parent killed by the other. Initially, this does not seem a large number but the implications for their lives and the lives of their families are immense.

Article 24 of the Charter of Fundamental Rights of the European Union is on the rights of the child. It states:

> 1. Children shall have the right to such protection and care as is necessary for their well-being....
>
> 2. In all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration.
>
> 3. Every child shall have the right to maintain on a regular basis a personal relationship and direct contact with both his or her parents, unless that is contrary to his or her interests.

The proposed amendment supports all of these.

Last April, I met Commissioner Michael McGrath in Brussels and discussed this topic. In the UK, "Jade's Law" was introduced in May 2024. Jade's Law uses a prohibited steps order mechanism to suspend guardianship in these situations. Research confirms that to abuse a child's mother is to abuse the child. An abuser should not enjoy status in relation to the child. The logic here is incontrovertible. There is extensive research in this area, which is referenced in my submission document.

I thank the members for their time in considering this matter.

An Cathaoirleach: I thank Mr. French. I now invite members in the order in which they indicated to engage with the witnesses. Each member has eight minutes.

Deputy Máire Devine: I thank Mr. French for his time. He was very generous previously when we met and spoke about Valerie's law. I appreciate all that he has done. His drive to protect children is commendable. I cannot imagine what it has been like for Valerie's family, who could only watch while three young children were taken into care. It is incomprehensible that Valerie's family, including Mr. French, had no say in what happened and no engagement whatsoever when it came to his nephews and sister's boys.

I have read all the documents and note that there has been a significant response by the different agencies with an interest in and concern about this matter. There are several issues and I will ask three questions.

What difference would it have made to Valerie's family and the well-being of the children if this legislation had been in place when Valerie was murdered in 2019?

What does Mr. French think about the suggestion that the guardianship should be suspended for a parent who has been charged with but not convicted of either murder or manslaughter, or causing incapacitating injury, to the other parent? It took five years to get Valerie's case to court, so what is Mr. French's opinion of the process taking so long? My personal opinion is that childhood is a very short season and the corruption of it will happen within those five years.

I want to discuss Mr. French's experience of Tusla, whose function it is to protect children and families. It seems Tusla will take a central role if this legislation goes through. Tusla has stated its concerns about how the new statutory functions under this Bill would fundamentally change its existing statutory functions and remit, which relates to the child and family protection that Tusla is charged with providing for this State.

Mr. David French: I will answer the questions in order and please let me know if I miss any of them.

If the proposed amendment was in place at the time of Valerie's murder, then a different approach would have been taken towards the accused. He would be seen as someone who would not necessarily be in the room forever in respect of the boys. When I say "in the room", I mean as a guardian inside the Family Law Court. That is very important because in the current situation, without Valerie's law, the approach is that the verdict might happen, it might not happen, it might be a mistrial or who knows, but it is effectively irrelevant when it comes to the Family Law Court because he will remain a guardian regardless. A different approach would have been taken to him if there was a potential that he would not be there anymore. Also, the ideas that he would have or the statements that he would make would be weighed against the view that he might not be a guardian forever.

Suspending or removing guardianship in advance of a verdict would create a lot of problems. I am not a legal person and I have not a clue. There is a presumption of innocence and until there is a verdict, I do not feel there is a right to do anything. I think it would practically sabotage any attempt to do something. A lot can be done via policy and principles. If we know there is a potential that someone will lose guardianship, then the policy and principles could treat him or her in a very different way and weigh his or her input in a different way. That person would have guardianship but it would not necessarily be seen as something that is going to go on forever. I am not sure I have fully answered the Deputy.

Deputy Máire Devine: It does, kind of. It is obvious that Mr. French is aware of due process. There is a great fairness in that, given the burden of what happened to Valerie and the loss of her children to Mr. French as well.

My last question is on Tusla. Does Mr. French feel that the legislation would change the role of Tusla?

Mr. David French: Yes. I am not sure the initiative should be solely with Tusla to go from the criminal courts down to the family courts and literally just move a piece of data, concerning a verdict having happened, across from one court to the other so it can act on it. That is literally just transmitting one piece of information concerning someone having been charged and found guilty. This is not somewhere where Tusla's special competences in supporting parents and families add any value. Anyone else, including the Courts Service, the children's relatives or the children themselves through a guardian *ad litem*, could undertake that function. It is just a mechanical thing and is not adding value. I do not think this is something Tusla should necessarily have to do. If the children are in care and Tusla is acting for them, then clearly it has a role, but if the children are not in care, then it should be someone else. Tusla should not be dragged into something it was not already involved with.

In 99.9% of cases, what the organisation does as the Child and Family Agency is to support parents. The CEO, Kate Duggan, said publicly on "The Pat Kenny Show" recently that it is there to help and support parents, and this makes perfect sense. The organisation does fantastic work. This is except in cases of a parent like my former brother-in-law, where, unfortunately, Tusla will do what it always does, help and support. When that help and support is landing on someone who has harmed the children directly by killing their mother, it does not make sense anymore. I can see from the agency's perspective that, normally, it is protecting someone who is in prison, but if it is someone in prison for doing this particular crime, that should be an exception. I think Tusla's and everybody's life would be easier if it was not being pulled out into

this area. There are enough problems for the organisation to be dealing with.

Deputy Máire Devine: Okay. I thank Mr. French very much.

An Cathaoirleach: I call Deputy Gannon.

Deputy Gary Gannon: I thank David for his submission, his generosity with his time and the advocacy he has done. It has been incredible. I do not actually have many questions he can answer. I do have a lot of questions for either the representatives from the Department or for the Minister. Mr. French has already outlined his concerns, particularly regarding the role of Tusla in the first instance, but this is really a question for the Department.

In terms of the role for Tusla, as opposed to automatic suspension of guardianship rights, could something be said about why it was felt this was necessary?

Mr. Chris Quattrociocchi: I thank the Deputy. Quite simply, this is seen to be best dealt with as a matter of public law and the Child and Family Agency is considered to be the best placed agency to make an application from a neutral perspective. Notwithstanding that - I know Mr. French has given his views on this aspect as well - this is something that will be explored further and there will be further engagement with Tusla as part of drafting. I understand the committee has requested a report from Tusla too as part of pre-legislative scrutiny. This is something we will obviously examine in due course as well.

Deputy Gary Gannon: That will be very welcome. Given that information, I have questions, but I suppose I can wait for the report to come back from Tusla. Do we have a timeline for it?

Mr. Chris Quattrociocchi: Well, I understand the committee is due to report within eight weeks.

An Cathaoirleach: Tusla has provided a written submission. It is in the Deputy's MS Teams pack.

Deputy Gary Gannon: That is fine for me.

An Cathaoirleach: I thank Deputy Gannon. I call Deputy Kelly.

Deputy Alan Kelly: I thank David for coming in and I am sorry for his loss. His advocacy has been incredible and there is no doubt the law is going to change. This is just about ensuring we get it pristine and right. This is what this format is for. I was taken by several of the submissions. These can sometimes be quite technical, and sometimes it is about the order in which things happen too. Many of the submissions are in that context. Merit can be seen in different ways in different submissions, but they cannot all work together so we have to figure out how they can all hang together. I appreciate what Mr. French said about this having to be based on conviction. Otherwise, the can of worms would open the possibility we would be unable to do this. We would not be able to bring about this legislation because it would almost certainly be unconstitutional, in my view. It is important to have this line and to know where it is. I can, morally, see the merit if it was someone being charged, but it would be impossible legally. There is the right to due process and all that.

I wish to ask Mr. French a couple of questions about what he said because I would like to tease it out a little bit more. In his few words, he mentioned "the mechanism by which the initiative passes from the criminal court where the verdict of murder or manslaughter is given to

the family law court where guardianship would be suspended needs to be absolutely guaranteed and immune to interference". I would really like to tease out the phrase, "needs to be absolutely guaranteed and immune to interference". What does he mean by it?

Mr. David French: I would hope that in 100% of cases where there has been a guilty verdict, the family law court starts thinking about the suspension or removal of guardianship and there is no possibility the ball will get dropped or there will be some ridiculously long delay. It must absolutely and definitely happen like night follows day. It should be the case that when the verdict lands the family law court gets involved. There should be no way it can be circumvented and it should have to go from one court to the next court.

Deputy Alan Kelly: The legislation has a specific timeline. Is Mr. French's concern here that someone could go to a higher court and try to interrupt this process or stop the clock from starting?

Mr. David French: My concern is that just, for some reason, it would not happen. I am an engineer, so I think there should be a practical, mechanical process, whereby if there is a guilty verdict, it should always happen that the family law court starts considering the suspension or removal of guardianship.

Deputy Alan Kelly: I am trying to tease out if Mr. French has specific concerns.

Mr. David French: To expand on this point, my concern - I think I mentioned this elsewhere - is that following a killing, when there has not yet been a verdict, there are lots of theories about what happened. The accused will be throwing out their defence. There will be people saying, "Oh, it was an accident" and this and that. If a member of the public or of CFA-Tusla is exposed to this defence, they might take a very sympathetic view. If they are in a position to frustrate the process or do something, that would be bad. The victim's family etc. cannot say anything in the time between when the killing happens and the verdict lands. You are afraid of upsetting a trial and you are not familiar with the situation, so you cannot say anything. The only story out there is the one from the defence and that can be very persuasive. There should be no way that anyone can stop the family law court looking at the situation following a verdict.

Deputy Alan Kelly: Yes. I will turn to the whole role of Tusla. Based on what Deputy Gannon said, we will be engaging with the Department on the report and all of that process separately, so I do not want to necessarily go into that aspect now because we will have other time to do so. Mr. French said there are - I am sorry, but the statistics matter - about seven cases a year. Am I right?

Mr. David French: Yes.

Deputy Alan Kelly: Mr. French also said that he "would recommend an independent unit within the organisation submit the application to suspend guardianship". What Mr. French is specifically saying is that within the organisation there should be a unit that is almost landlocked away from what he just said.

Mr. David French: Yes, that is correct and basically how I see it. In our situation, and I understand in all other post-homicide cases, the CFA-Tusla people and social workers are literally the ones in the area. It is not currently a specialist unit. A special unit would have experience of what happens and would know the dynamics involved.

Deputy Alan Kelly: In other words, a small unit would be able to deal with the necessity

of all of these cases.

Mr. David French: That would be one side. Its members would still be exposed to the defence, but it would be better than the current situation. The current situation is one where - this is the wrong form of words - a "standard" social worker shows up, or a member of the public, and they do not have involvement with a murder trial or a post-homicide situation. Those people will be susceptible to listening to the defence, and will not know how impacted the victim's family is and will not know what the accused is likely to be doing. They will be vulnerable to something. Specifically in these cases, where it is domestic homicide, the perpetrator is typically manipulative. That manipulation is not just of their spouse but of everyone.

Deputy Alan Kelly: It can extend.

Mr. David French: It came out during the trial in our specific case that the accused had told a lot of different stories to people and said whatever he felt needed to be heard by the person to whom he was talking at the time. That is a matter of public record. That manipulative behaviour-----

Deputy Alan Kelly: It can extend.

Mr. David French: -----can point to social workers as well. If they are not prepared for it, and on average they will not be, then-----

Deputy Alan Kelly: Mr. French also said in his opening statement: "Tusla should not be involved unnecessarily [and I took that word 'unnecessarily' as very deliberate] when the children are not already in care, so there should also be a way for guardianship to be suspended on the initiative of another guardian or the children's relatives." The words or phrases in that I focused on were "unnecessarily" and "on the initiative of another guardian". Am I right in understanding Mr. French to say that where there is an initiative from a close family member to take guardianship, the whole role of Tusla-----

Mr. David French: There are so many different scenarios. They may already be existing guardians. It is not about someone-----

Deputy Alan Kelly: Let us say there are no guardians. Let us paint that picture.

Mr. David French: Let us consider the hypothetical situation where a grandparent, the parent of the person who has been killed, wants to look after his or her grandchild and is being interfered with in the family law courts. That grandparent is not in the family law court and is not a notice party or a guardian, yet the person who is accused is in that court and frustrating the situation. The grandparent should be able to take the initiative. Where there has been a criminal verdict, the grandparent should be able to go to the family law court to try to get the guardianship suspended. CFA-Tusla and everyone else can do good work, but if there is someone in the room who is accused, they can frustrate the process and be awkward.

Deputy Alan Kelly: The initiative of another family member should be able to deal with it.

Mr. David French: Yes. There should be an alternative pathway to take the initiative-----

Deputy Alan Kelly: That is what I thought.

Mr. David French: -----from one court to the next.

Senator Garret Kelleher: I thank Mr. French. I sympathise with him on the tragic loss of his sister and commend him, for what it is worth and even if it sounds trite, on the advocacy work he has done. I am more than willing to work with him, as is and everybody else on the committee, to see how things can be improved. He has raised a number of hugely important topics.

I want to focus on one question raised by Deputy Kelly, which was how we can change the law and improve the situation to ensure that in situations like this, the children's best interests are the absolute priority. What Mr. French said in his opening statement was abundantly clear and made sense. There should be some mechanism whereby children are not put through the whole process and retraumatised, having been taken away from those who they know and love, those being their next of kin, outside of their parents. We must consider how we can go about ensuring through the agencies of this State that we make every effort to ensure that happens. It makes eminent sense, without being partisan or prejudicial in any way to the outcome of an investigation, to ensure that children's interests are prioritised. Immediate family should take on their care rather than their being taken into care. That is an important step we need to take.

Mr. French has answered the question already in response to Deputy Kelly, but what should we be doing? We should be ensuring that there is at least the possibility of a case being interpreted in such a way as to lead to what appears to Mr. French and I the obvious outcome that children would be looked after by those they know and love in the immediate aftermath of an event such as this.

Mr. David French: I want to separate where the children eventually end up living from the fact that the accused, or convicted at this point, has guardianship. There has been an abundance of research in this space that shows the best placement is with the victim's family. The next best is in neutral foster care and the worst case is with the family of the convicted. That is irrelevant to this consideration. People will have the children's best interests at heart. CFA-Tusla has expertise. The victim's family is a resource. It is possible that the killer's family is also helpful. The problem is that the convicted person in the room has rights. Where the children end up or who is their guardian could be sorted out much better if the convicted killer was not in the room and making problems by, for example, restricting the children from being cared for abroad, as was the case in our situation, or fighting against the notice party of the victim's family. That convicted person in the room is known to be someone who causes problems so removing that person would solve an awful lot of issues. It would mean CFA-Tusla not having to respect his guardianship. It would mean a more collegiate atmosphere rather than an adversarial one.

Senator Garret Kelleher: Mr. French mentioned the timeline around the commencement of an investigation post homicide, the length of time that the process of going through the criminal justice system takes and the impact it has. I would be interested to know if a solution could be arrived at without prejudicing the outcome of a criminal investigation. Logic can be brought into it and we can avoid the possibility of children being taken into care and being retraumatised. I thank Mr. French.

Senator Anne Rabbitte: I thank Mr. French for coming before the committee. I am sure today is not easy for him as he has to read out his speech and share his experiences. In response to Deputy Kelly, he explained the need for expertise. He is not saying that a new agency is required to replace CFA-Tusla. What came to mind was Barnahus in Galway, which is an expert initiative within Tusla that deals specifically with child abuse. It has the expertise. It is the go-to for An Garda Síochána, the HSE, Tusla and families. If I am listening correctly, that unit has the expertise to support those seven children, or whatever the relevant number is, on an annual

basis. It knows how the system works. You are, therefore, not working with a social worker who might have only started working in the past couple of months and finds himself or herself dealing with a very complex case with complex personalities and everything else. That to me was the first takeaway. Am I correct in that?

Mr. David French: Yes.

Senator Anne Rabbitte: I say to the Chair and the departmental officials that we already have a model of expertise within Tusla. A model similar to Barnahus is what clearly comes to mind. It could be staffed with experts and also have the legal expertise that could support-----

Mr. David French: We had meetings in the Department of Justice. The victims' families showed up every month between July and January to deal with the 2023 report. One of the things that came out of that was a multi-agency critical planning and response, MACPAR, team, which is a specialist team that shows up and helps the victim's family post homicide, and signposts the resources, what is going to happen next and so on. Expertise is super important, as is prior experience. As the Senator said, a standard social worker will not necessarily have that experience. The Barnahus example was pointed out. The key insight is that killing a parent is child abuse. If you are a parent and you kill the other parent, that is child abuse. In the post-abuse situations, the child is a direct victim. That is increasingly recognised. If there is a domestic homicide or even severe domestic abuse, the child is a direct victim. That child is being abused. In a normal situation where a parent is missing, you can assume the good intentions of the other parent. The standard social worker will assume everyone wants the best for the child. Clearly, if you have already abused a child directly or by killing their other parent, you do not want the best for the child. A set of expertise could recognise that and go forward sensibly.

Barnahus was not involved in our situation. The murder was in Castlebar and Barnahus is in Galway. Some kind of specialist unit is needed but I would not want to get away from the fact Tusla should not necessarily be the only way this can happen. Barnahus or something like that in Tusla could be consulted for expertise but it does not really make their life any better if they have to do a secretarial, administrative job by taking a verdict from here and going into the family law court. Clearly, the family law court should reach out to them to get an expert opinion later on. Trotting down to kick the process off over there is not really something you need someone of their calibre to do.

Senator Anne Rabbitte: Absolutely. However, because people within officialdom are afraid to make decisions sometimes - I say that respectfully - you need to have a leader who understands how the system works and where the Courts Service can go to, where the family can to go and who understands there is a process. We love processes. At the same time, in the Children Act the child is at the centre and the best outcomes for the child is what should be leading it all the way.

Mr. David French: Yes, the best interests of the child should lead but expert opinion will come in, especially when the children are particularly young. If the expert opinion comes in on the basis of a child having been abused, it is very different from an expert opinion coming in and saying the child is just there; the parent was killed but it is nothing to do with the child.

Senator Anne Rabbitte: No, I am not equating it at all. Mr. French may have misunderstood me. I am not equating it at all to child abuse. Absolutely not. A stand-alone unit with experienced staff absolutely is what would be required within Tusla, similar to Barnahus, but I am not equating it all to abuse. Absolutely not.

Mr. David French: We are in agreement.

Senator Anne Rabbitte: I want to be clear on that. I have a question on the Bill for the officials. In Part IIA of the Bill, section 12C (1) relates to an interim suspended guardianship order. Can someone explain that paragraph to me? It reads:

> Where a guardian of a child is convicted by a court of competent jurisdiction (in this section referred to as the 'convicted guardian') for the offence of murder or manslaughter of any person who was, at the time of the commission of the offence, also a guardian of the child, then the court concerned shall make an order suspending the guardianship rights of the convicted guardian (in this section referred to as an 'interim suspended guardianship order').

Can what that means be explained to me?

Mr. Chris Quattrociocchi: Sorry, could the Senator clarify which section she is referring to?

Senator Anne Rabbitte: I am referring to Part IIA, the interim suspended guardianship order. It is section 12C (1).

Mr. Chris Quattrociocchi: Is this of the general scheme of the amending Bill?

Senator Anne Rabbitte: Yes, the general scheme. It is on page 4 of the amendment Bill 2025.

Mr. Chris Quattrociocchi: Sorry, I cannot actually see it but if the Senator leaves it with me, I will revert with further information.

Senator Anne Rabbitte: I brought this up because I want to know what happens if there are step parents. That is why I am asking that question.

An Cathaoirleach: I suggest that we let Deputy Butterly in and I will ask the clerk whether we can bring up that section on screen immediately after Deputy Butterly's contribution.

Senator Anne Rabbitte: Absolutely.

Deputy Paula Butterly: I thank Mr. French for his opening statement. I was particularly struck by his level-headedness. Very often when there are tragedies like this in families, there is very much a knee-jerk reaction of calling for the immediate enactment of legislation. I was really impressed by his logic about the presumption of innocence and seeing it through to conviction because anything else could potentially be damaging. It is really hard to be able to see through that, particularly when you are in the centre of such circumstances.

From Mr. French's opening statement, I see he is advocating for suspension whereas others might have asked for a permanent removal of guardianship. The stakeholder comments are that by suspending, it is not necessarily going to infringe on any constitutional rights and it is most likely the best way forward. He also mentioned court discretion. Listening to what my committee colleague said, my interpretation is that the word "shall" should be changed to "must" in the context of the enactment of an order that would automatically suspend any guardian rights. I am interested to hear Mr. French's thoughts on whether, on conviction, there is no court discretion to suspend or not. Rather, it is automatic there and then on application on sentencing. Does he believe that to be the case? Is that what the purpose of it is, rather than waiting for the

family courts further down the line?

Mr. David French: The family law court would always deal with it within a certain period of time following the guilty verdict. The family law court would have discretion. The edge case that is called out is a woman who kills in self-defence, gets a manslaughter verdict and is guilty of killing. In that situation, the court should have discretion to say suspending her guardianship is not necessarily going to help. The criminal courts had to give her a manslaughter conviction. Taking her guardianship off her is not going help. There needs to be discretion for the court in this regard, as far as I can see. There are cases like that. Thankfully, they are rare but they happen. It is not a mechanical process whereby a guilty verdict is landed and, therefore, guardianship gets removed from that person. There needs to be an element of court discretion but, in the vast majority of cases, guardianship should be taken away. My separate concern is how the monitoring of this would happen because the family law courts are *in camera*. We could all go away thinking there was a Valerie's Law and nothing actually changes out in the real world.

Regarding suspension versus removal, pragmatically, it makes no odds. The main thing is you have it or you do not have it. Whether it is suspended or removed makes no difference; the person does not have it. The other thing to remember is that children are under guardianship until they are 18, typically. If it is suspended for 17 or 18 years, it may as well have been removed because it is not something you have forever. You lose it when the child hits 18. Pragmatically, why not just suspend? Maybe something will change and it will get unsuspended. Maybe an appeal works and the person gets their guardianship unsuspended on application. It needs to be approached pragmatically.

Deputy Paula Butterly: I certainly agree with Mr. French about manslaughter because it is very often different from murder. There may be aggravating circumstances. Facts and evidence of aggravating circumstances such as domestic abuse and victimisation, etc. which will lead to a conviction of murder may be put before the jury during the trial. Mr. French has been at the centre of this and I have no doubt he has been debating it in his head for a long time. Manslaughter is very different from murder. There is the potential in these cases of splitting the charges. On conviction of murder where evidence has been given of aggravating factors such as sexual or domestic violence, there should be an automatic suspension. With manslaughter, however, although I do not want to trivialise it, this might be considered in the way we distinguish the automatic disqualification for certain drink driving offences against others. I see the potential for that. It may lead to less stress for the guardians of the children and the children themselves. They would at least have that certainty in cases of murder rather than manslaughter. I am not saying there is a valid excuse for manslaughter but there could be a genuine concern and love for the children and those guardianship rights should not necessarily be suspended. I was just teasing that out and wanted to hear the thoughts of Mr. French, as he is central to all this.

Mr. David French: I would be very concerned about importing complexity into any legislation in respect of drawing lines between manslaughter and murder. Every case lands differently and there is a lot of context. If someone has been found guilty of killing - manslaughter or murder - we should be able to rely on the discretion of the family law court to make those distinctions. Families show up in many different configurations and one cannot legislate for all of them. The family law court can look in detail at the specifics of the case. There are maybe seven to ten of these cases every year. Rather than trying to foreshadow or pre-legislate for all these things, we should depend upon the family law court to figure out what is the best way going forward, with the assumption that in the majority of cases there will be a suspension of guardianship. That is the important part.

Getting back to the matter of monitoring, it is a function of the Courts Service to figure out whether this has an effect in the real world and how it is playing out. It must consider whether judges need additional training or learning or if the legal system has precedents on this. Trying to have that complexity in the legislation right now is a recipe for making life complicated.

An Cathaoirleach: Have any other members indicated? Deputy Callaghan is next.

Deputy Catherine Callaghan: I do not have an enormous number of questions for Mr. French. I thank him for coming in and sympathise with him on the loss of his sister and with his nephews on the loss of their mother. It is a horrendous experience that does not bear thinking about. As a sister and mum myself, I commit, along with my colleagues, to do everything we can to reform the laws. I thank him for the work he has done to ensure something like this does not happen to another family in the future.

Deputy Tom Brabazon: I wish to echo the remarks of the previous speaker. I do not intend to repeat it but I share her sentiments.

On the definition in the section which encapsulates incapacitation, is Mr. French happy this covers sufficient scenarios? To my mind, incapacity can be temporary or permanent and it can be physical or of a mental nature. Would he like to see the definition expanded in any way?

Mr. David French: Where is the reference to incapacity in the proposed legislation?

Deputy Tom Brabazon: Section 6G(1) states:

> Where a guardian or parent of a child has been convicted of an offence:-
>
> (a) of murder or manslaughter of another parent or guardian of the child; or
>
> (b) of a serious offence resulting in the incapacitation of another parent...

Mr. David French: I would stick to the straight manslaughter-murder approach. I do not have a particular comment on the incapacitation side of it.

An Cathaoirleach: Perhaps the Deputy might like to ask the Department the rationale for this.

Mr. Chris Quattrociocchi: My understanding is the definition of incapacitation in section 19 of the general scheme is in line with the definition of incapacitation under other legislation.

Deputy Tom Brabazon: There is one other point I wish to raise with Mr. Quattrociocchi. I have a recollection of a case relating to succession law where the High Court held that a piece of legislation - I think it was the Guardianship of Infants Act or the original legislation itself - was retrospective in application. What is the intention here? Is it retrospective or prospective?

Mr. Chris Quattrociocchi: Is that regarding succession?

Deputy Tom Brabazon: It is in respect of this proposed legislation.

Mr. Chris Quattrociocchi: It will be retrospectively applied. On commencement of the legislation, the Child and Family Agency must make an application within six months.

Deputy Tom Brabazon: Does the Department envisage that in a scenario where an offence took place prior to the enactment of the legislation, a person could apply to the court to extend

the six-month period at that stage?

Mr. Chris Quattrociocchi: Sorry, Deputy.

Deputy Tom Brabazon: It is necessary to apply within six months. Tusla must go to court and apply within six months of the date of the conviction. If, for example, the legislation is passed today, is it envisaged that the legislation would apply in the case of a person was convicted a year ago? Would Tusla be in a position to go to the court and ask for an extension of time because the six-month period has elapsed?

Mr. Chris Quattrociocchi: I will clarify that and come back to the Deputy.

An Cathaoirleach: Do members wish to come in for a second round?

Deputy Alan Kelly: I have one comment to make. We will come back to this with the Department officials but my observation is that the proposed Bill is complex but short. When we engage with the witnesses on the Bill separately after we get back, we might go through the issues relating to Tusla. We will want more definitive answers, rather than us going back to them all the time. It is not a very long Bill. That has been the response to my colleagues and I here today. For such a short Bill, I have never witnessed that before.

An Cathaoirleach: In the absence of any other members wishing to contribute, I have a couple of brief questions. The first is for Mr. French. He mentioned in response to one of the questions that research has been conducted in respect of the best place for children following tragic events. Without speaking to his own family circumstances, I ask him to elaborate on where that research was commissioned and whether, to his knowledge, it is being utilised by agencies such as Tusla in this State?

Mr. David French: The research was done by Professor Dora Black in the UK. It is summarised in a book, *When Father Kills Mother*. The authors are academics and the book is the accessible version of the research. It looked across a 20-year timespan so it covers a large cohort. There are further references from that but it is the leading part. In answer to the Deputy's last question, as far as I can see, as of 2019 this had not been incorporated into the practices in this jurisdiction. *When Father Kills Mother* is a blunt title. The book is about dealing with the children and talks to children in these cases. It looks at placements and how they worked out for the children's mental health and best interest going forward. It is solid research covering a large sample size. There are many other researchers, such as Professor Eva Alisic in Melbourne and a chap in Scotland, Professor John Devaney. In social work, and this specific post-homicide case, it has been looked at by many people. In the UK, there are approximately two killings of women and girls by partners or ex-partners per week. These are mostly women of child-bearing age so there are many children to study. There is a well-known set of dynamics and clear patterns. There are journals devoted to this space. It is a big area and there has been a lot of research. *When Father Kills Mother* is the starting point as a book, but I reference several others in my submission.

An Cathaoirleach: I thank Mr. French for that. A practical issue is that the heads of the Bill essentially put the entire onus on Tusla to make the application. I have a sense from the questions that our report might have a comment or two to make on that but let us take it at face value that Tusla will make the application. I presume Mr. French believes the victim's family should at least have an impact on that. Does he have a view on whether the convicted killer, in the vast majority of circumstances we are discussing, should have representation in the hearings

involved?

Mr. David French: The victim's family - or the children's relatives, to take a wider set - should have something to say. In the interests of justice, the killer should have representation and the ability to make representations. They are a party to it. They are someone with a guardianship that is about to be taken away. They should be able to present arguments as to why that should not happen, just like a regular court. One would assume the court would weigh the fact this person has had a verdict dropped on them of the ultimate crime, either manslaughter or murder. They should be represented. I have a lot of faith in courts.

An Cathaoirleach: I turn to the officials, notwithstanding anything Deputy Kelly has said. Most of the submissions we have received and the oral evidence we have heard today has been clear there is a concern around that onus being entirely on one agency, particularly an agency that has not played this type of role before on a statutory basis. What is the Department's view on other parties being in a position to make an application to the court? Those parties could include relatives of the children or others with a material interest, such as educators or healthcare workers. Perhaps even a presiding judge in a case might feel the issues are profound and would want to direct this to be brought to the family courts. I ask the Department, first, if there is a willingness to explore an expansion of those who can make the case. Then I gather Mr. French wants to make a comment as well.

Mr. Chris Quattrociocchi: It is crucial this is seen as a matter of public law. The Child and Family Agency is seen as the most neutral body to make an application. Of course, as part of drafting we will consider alternative options. We will await the committee's report in that context and consider everything that is put before us as part of drafting.

Mr. David French: When listing the people who may be able to say something, the child should not be forgotten. It is not necessarily a primary school child. The child could be 16. I could name a specific case where the child is 16 and is well capable of having views of their own. They might be eight years old and have clear views. I know my nephews have clear views and they are not 16. There is a need to look at the best interests of the child. The child absolutely should not be shielded completely from this. They know what has happened and have been explained that mummy is not coming back. What they want next does not necessarily need to pass through a whole bunch of filters. They can be just asked, literally, "Do you want this person to be your guardian?". They are children; they will probably give fairly clear answers.

An Cathaoirleach: That is a good point very well made. My final question is on the six-month period stipulated in the heads. It would not take much imagination to consider an issue arising six, nine or 12 months, or perhaps a number of years, after a conviction where there is a need for an intervention like this. Where did the six months arise? Is the Department open to considering views of this committee or others on it?

Mr. Chris Quattrociocchi: There is no specific reason six months was picked. It was seen as sufficient time to allow Tusla to make an application. All suggestions will be considered as part of the drafting.

An Cathaoirleach: Is there anything the Department wishes to add before we finish?

Mr. Chris Quattrociocchi: I thank the Chair and committee for the invitation to attend today. I thank Mr. French for taking the time to contribute to the development of this legislation.

This is important legislation which is not only a Government priority but will also have a real-world positive impact on families who have experienced unspeakable trauma. Mr. French's contributions are welcome and I trust they will assist in ensuring the final legislation is robust and meets the expectations of such families. We look forward to the final report of the committee, which will be of significant assistance in the drafting process. Thank you.

An Cathaoirleach: Thank you. Is there anything Mr. French would like to conclude with?

Mr. David French: The key point is the simple principle in the middle of it, which is that killing a parent is child abuse, particularly if you are the other parent. The child is a direct victim. When people hear about this, they ask how it is still a thing that they retain guardianship. It is not widely recognised that the sanctions on someone for this crime are around incarceration; they are not around rights in childcare or in property. There is a slew of things that could or should be better handled in legislation. Because it involves children, this is the single most important part. Other things can be fixed later but these things need to be fixed more quickly. Removing someone who is guilty of a crime from the conversation can only serve the best interests of the child.

An Cathaoirleach: On that note, I thank the officials for being present. In particular, I thank Mr. French for his testimony and for his advocacy over a number of years. There are not many people, including Members of these Houses, who can say they single-handedly changed the law and were the cause of a new law being introduced. You, sir, can say that and you are an absolute credit to Valerie. Thank you again.

Is it agreed we publish the opening statement on the committee's website? Agreed. I thank everybody.

The joint committee suspended at 4.08 p.m., resumed in private session at 4.13 p.m. and adjourned at 4.24 p.m. until 3 p.m. on Tuesday, 15 July 2025.