



Parental Alienation: Possible offences.

As identified in Ireland: January 2020

last update: 26 November 2021, adding Criminal Justice (Perjury and Related Offences) Act, 2021

Introduction:

There is, to date of this updated summary, (26 November 2021) no enactment understood to be directly addressing parental alienation, hostile aggressive control, implacable hostility or whatever you want to name it, in Ireland.

During the process of parental alienation or other toxic separations, many offences are committed. This is a summary of offences that may be applicable in some cases.

Not all the offences are involved in one case. Each specific case is to be evaluated by a knowledgeable person.

This document was drafted by a lay litigant and may need correction by a legal professional.

Some important developments in the past 3 years:

Regarding Offences

In the past, An Garda Síochána refused to hear information and investigate an offence committed during in-camera proceedings – referring to family law, child care law or otherwise. The reason stated was that “it is a civil matter” and/or “it is in camera” and persons reporting or victims were told to “speak to a solicitor” or “tell the judge”.

This problem has been solved on 23 July 2019 in the High Court, meaning that information on offences should be heard, noted and investigated.

During a District Court Hearing on 24 November 2021, the Judge recognised Legal Harassment and several offences as outlined in this document and referred the matter to An Garda Síochána for investigation.

Parental alienation is cruelty to children and child abuse:

In several jurisdictions, this fact is now enacted in legislation.

There are no credible arguments to the contrary and in more court rulings in Ireland, it is accepted and addressed as such.

On 25 May 2019, the World Health Assembly adopted the final version of ICD-11. Parental alienation was included as another name for “caregiver-child relationship problem”. It is important to note that the ICD-11 did not officially endorse parental alienation theory. The WHO staff

cautioned: “Index entries serve to be able to code, in case such term is reported. Index entries can in no way be interpreted and must not be interpreted as an endorsement or consideration of endorsement of the underlying concepts” (Team WHO, April 16, 2019).

During 2020 the term “parental alienation” was removed from the search index of ICD-11 after lobbying by several organisations, but “caregiver-child relationship problem” remained.

Many other ICD-11 codes can be coupled to parental alienation. In revision 09/2020 dated 15 September 2020, several codes were added, all pointing to parental alienation, but the term is not used.

Note:

The list of enactments hereunder is copied from the Irish Statute Book by a litigant in person.

Other enactments may be applicable and will be added in due course if needed. Comments and opinions are by a lay litigant and should not be seen as legal advice.

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Marriage Act, 1542 (as amended)

(Troubling or impeaching any marriage)

	And that no reservation or prohibition (God's law except) shall trouble or impeach any marriage without the Levitical degrees.
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Notes by the author:

After amendments, this act is complete as copied and pasted above.

In this enactment, no sentence was specified. From limited records available, it was regarded as a serious offence.

Some persons found guilty received sentences of up to 7 years transportation, corporal punishment or “Detention at the will of the crown”. Adultery was also prosecuted under this enactment in at least 2 matters where the adulterer and the partner (not spouse), were prosecuted and sentenced to receive corporal punishment and time in the pillory with their ears nailed.

I believe that it is still a prosecutable offence that can carry a sentence at the discretion of the court.

It is interesting to note that a “marriage” or “civil union” that is outside the “Levitical degrees” is not protected by this enactment and the enactment is not amended to protect it.

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Perjury Act, 1586 to 1791

Procuring Perjury

Perjury

Refer to the detailed essay by van Tonder, Guildea and Sullivan as attached hereunder.

*Where Perjury and Procuring Perjury was committed before **28 July 2021**, prosecution can be initiated under this enactment. There is no statute of limitations on this enactment.*

*Due to several issues, this enactment was replaced with the new **Criminal Justice (Perjury and Related Offences) Act No. 13 of 2021**. The new enactment eliminates many problems with this enactment.*

This enactment is replaced due to several shortcomings and the harsh punishments (possible transportation, compulsory death sentence in case of escape, nailing of ears etc.)

The problems associated to a guilty verdict of a state official or witness being branded as a liar is obvious...

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Criminal Procedure Act, 1851

Prosecution for perjury by direction of the court.

19	It shall and may be lawful for the judges or judge of any of the superior courts of common law or equity, or for any of her Majesty's justices or commissioners of assize, nisi prius, oyer and terminer, or gaol delivery, or for any justices of the peace, recorder or deputy recorder, chairman, or other judge, holding any general or quarter sessions of the peace, or for any commissioner of bankruptcy or insolvency, or for any judge or deputy judge of any county court or any court of record, or for any justices of the peace in special or petty sessions, or for any sheriff or his lawful deputy before whom any writ of inquiry or writ of trial from any of the superior courts shall be executed, in case it shall appear to him or them that any person has been guilty of wilful and corrupt perjury in any evidence given, or in any affidavit, deposition, examination, answer, or other proceeding made or taken before him or them, to direct such person to be prosecuted for such perjury, in case there shall appear to him or them a reasonable cause for such prosecution, and to commit such person so directed to be prosecuted until the next session of oyer and terminer or gaol delivery for the county or other district within which such perjury was committed, unless such person shall enter into a recognizance, with one or more sufficient surety or sureties, conditioned for the appearance of such person at such next session of oyer and terminer or gaol delivery, and that he will then surrender and take his trial, and not depart the court without leave, and to require any person he or they may think fit to enter into a recognizance, conditioned to prosecute or give evidence against such person so directed to be prosecuted as aforesaid, and to give to the party so bound to prosecute a certificate of the same being directed, which certificate shall be given without any fee or charge, and shall be deemed sufficient proof of such prosecution having been
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directed as aforesaid; and upon the production thereof the costs of such prosecution shall and are hereby required to be allowed by the court before which any person shall be prosecuted or tried in pursuance of such direction as aforesaid, unless such last mentioned court shall specially otherwise direct; and when allowed by any such court in Ireland, such sum as shall be so allowed shall be ordered by the said court to be paid to the prosecutor by the treasurer of the county in which such offence shall be alleged to have been committed, and the same shall be presented for, raised, and levied in the same manner as the expences of prosecutions for felonies are now presented for, raised, and levied in Ireland: Provided always, that no such direction or certificate shall be given in evidence upon any trial to be had against any person upon a prosecution so directed as aforesaid.

Notes by the Author:

In many past cases, the Judge remarked that the evidence presented by a party was derived from the truth.

This enactment, if brought to the attention of the judge, can be used to have said person immediately arrested and charged with perjury. I suggest that you immediately, during the hearing, remind the judge of this enactment and ask the judge to exercise his/her rights under the act and have the perjurer arrested immediately.

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Malicious Damage Act, 1861

Killing or maiming other animals

41	Whosoever shall unlawfully and maliciously kill, maim, or wound any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall on conviction thereof before a justice of the peace, at the discretion of the justice, either be committed to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall forfeit and pay, over and above the amount of injury done, such sum of money, not exceeding twenty pounds, as to the justice shall seem meet; and whosoever, having been convicted of any such offence, shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term, not exceeding twelve months, as the convicting justice shall think fit.
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Criminal Law Act, 1976

Prohibition of giving certain false information

12	Any person who—
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(a) knowingly makes a false report or statement tending to show that an offence has been committed, whether by himself or another person, or tending to give rise to apprehension for the safety of persons or property, or

(b) knowingly makes a false report or statement tending to show that he has information material to any inquiries by the Garda Síochána and thereby causes the time of the Garda Síochána to be wastefully employed,

shall be guilty of an offence and shall be liable—

(i) on summary conviction, to a fine not exceeding £500 or to imprisonment for a term not exceeding 12 months, or to both, or

(ii) on conviction on indictment, to imprisonment for a term not exceeding 5 years.

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Courts (No. 2) Act, 1986

Enforcement of certain orders under Guardianship of Infants Act, 1964.

- 5.—
- (1) In this section “the Act of 1964” means the Guardianship of Infants Act, 1964 , as amended by the Courts Act, 1981 , the Age of Majority Act, 1985 , the Status of Children Act, 1987 , and the *Children Act, 1997* .
- (2) Without prejudice to the law as to contempt of court, where the District Court has made an order under section 7, 11 or 11B of the Act of 1964 containing a direction regarding—
- (a) the custody of an infant, or
 - (b) the right of access to an infant,
- any, person having the actual custody of the infant who, having been given or shown a copy of the order and—
- (i) having been required, by or on behalf of a person to whom the custody of the infant is committed by the direction, to give up the infant to that person, or
 - (ii) having been required, by or on behalf of a person entitled to access to the infant in accordance with the direction, to allow that person to have such access,
- fails or refuses to comply with the requirement shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,500 or, at the discretion of the Court, to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.
- (3) For the purposes of this section a person shall be deemed to have been given or shown a copy of an order made under section 7, 11 or 11B of the Act of 1964 if that person was present at the sitting of the Court at which such order was made.
- (4) The references in subsections (1) and (7) of section 8 of the Enforcement of Court Orders Act, 1940 , to an order shall be construed as including references to a maintenance

order made under section 7 (6) or section 11 (2) (b) of the Act of 1964 and to a variation order made under section 12 of the Act of 1964.

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Criminal Damage Act, 1991.

Damaging property.

- 2.—
- (1) A person who without lawful excuse damages any property belonging to another intending to damage any such property or being reckless as to whether any such property would be damaged shall be guilty of an offence.
- (2) A person who without lawful excuse damages any property, whether belonging to himself or another—
- (a) intending to damage any property or being reckless as to whether any property would be damaged, and
 - (b) intending by the damage to endanger the life of another or being reckless as to whether the life of another would be thereby endangered,
- shall be guilty of an offence.
- (3) A person who damages any property, whether belonging to himself or another, with intent to defraud shall be guilty of an offence.
- (4) An offence committed under this section by damaging property by fire shall be charged as arson.
- (5) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding £1,000 or imprisonment for a term not exceeding 12 months or both, and
 - (b) on conviction on indictment—
 - (i) in case the person is guilty of arson under *subsection (1)* or *(3)* or of an offence under *subsection (2)* (whether arson or not), to a fine or imprisonment for life or both, and
 - (ii) in case the person is guilty of any other offence under this section, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 10 years or both.
- (6) For the purposes of this section a person is reckless if he has foreseen that the particular kind of damage that in fact was done might be done and yet has gone on to take the risk of it.

Threat to damage property.

- 3.—
- A person who without lawful excuse makes to another a threat, intending that that other would fear it would be carried out—
- (a) to damage any property belonging to that other or a third person, or

	<p>(b) to damage his own property in a way which he knows is likely to endanger the life of that other or a third person,</p> <p>shall be guilty of an offence and shall be liable—</p> <p>(i) on summary conviction, to a fine not exceeding £1,000 or imprisonment for a term not exceeding 12 months or both, and</p> <p>(ii) on conviction on indictment, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 10 years or both.</p>
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Child Care Act 1991.

Note by author:

I strongly believe, reading section 71 of the act, that not obeying any of the obligations outlined in this enactment, is an offence. You should discuss this with your legal representative and consider prosecution as common informer.

Access to children in care.

37.—	<p>(1) Where a child is in the care of the Child and Family Agency whether by virtue of an order under Part III or IV or otherwise, the Agency shall, subject to the provisions of this Act, facilitate reasonable access to the child by his parents, any person acting in loco parentis, or any other person who, in the opinion of the F242 Agency, has a bona fide interest in the child and such access may include allowing the child to reside temporarily with any such person.</p> <p>(1A) Where a child is in the care of the Child and Family Agency pursuant to a special care order or an interim special care order, the Child and Family Agency shall, subject to this Act, and to a direction, if any, given under section 23NA(2)(a) inserted by the Child Care (Amendment) Act 2011), and in accordance with that special care order or interim special care order and that direction, if any, facilitate reasonable access to the child in the special care unit by his or her parents, a person acting in loco parentis, a guardian or any other person who, in the opinion of the Child and Family Agency, has a bona fide interest in the child.</p> <p>(2) Any person who is dissatisfied with arrangements made by the Child and Family Agency under subsection (1) or (1A) or by the Health Service Executive under those subsections before the establishment of that Agency may apply to the court, and the court may —</p> <p style="padding-left: 40px;">(a) make such order as it thinks proper regarding access to the child by that person, and</p> <p style="padding-left: 40px;">(b) vary or discharge that order on the application of any person.</p> <p>(3) The court, on the application of the Child and Family Agency, and if it considers that it is necessary to do so in order to safeguard or promote the child’s welfare, may—</p>
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	<p>(a) make an order authorising the Agency to refuse to allow a named person access to a child in its care, and</p> <p>(b) vary or discharge that order on the application of any person.</p> <p>(4) This section is without prejudice to section 4 (2)</p> <p>(4) This section is without prejudice to section 4 (2) .</p> <p>(5) In this section, in proceedings under <i>Part IVA</i> (as amended by the Child Care Act 2011), ‘ court ’ means the High Court.</p>
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Prosecution of offences.

71.—	<p>(1) Summary proceedings for an offence under this Act may be brought and prosecuted by the Child and Family Agency or by any other person.</p> <p>(2) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.</p> <p>(3) Where an offence under this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate or an unincorporated body of persons and is proved to have been committed with the consent or approval of, or to have been attributable to any neglect on the part of, any person who, when the offence was committed, was director, member of the committee of management or other controlling authority of the body concerned, or the manager, secretary or other officer of the body, that person shall also be deemed to have committed the offence and may be proceeded against and punished accordingly.</p>
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Criminal Justice (Public Order) Act, 1994

Blackmail, extortion and demanding money with menaces.

17.—	<p>(1) It shall be an offence for any person who, with a view to gain for himself or another or with intent to cause loss to another, makes any unwarranted demand with menaces.</p> <p>(2) For the purposes of this section—</p> <p style="padding-left: 20px;">(a) a demand with menaces shall be unwarranted unless the person making it does so in the belief—</p> <p style="padding-left: 40px;">(i) that he has reasonable grounds for making the demand, and</p> <p style="padding-left: 40px;">(ii) that the use of the menaces is a proper means of reinforcing the demand;</p> <p style="padding-left: 20px;">(b) the nature of the act or omission demanded shall be immaterial and it shall also be immaterial whether or not the menaces relate to action to be taken by the person making the demand.</p> <p>(3) A person guilty of an offence under this section shall be liable—</p>
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- (a) on summary conviction to a fine not exceeding £1,000 or to imprisonment for a term not exceeding 12 months or to both,
- (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 14 years or to both.

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Non-Fatal Offences against the Person Act 1997

(only relevant parts copied)(as amended)

Interpretation.

- 1.— (1) In this Act—
- “ harm” means harm to body or mind and includes pain and unconsciousness;
- “ member of the family” in relation to a person, means the spouse, a child (including step-child or adopted child), grandchild, parent, grandparent, step-parent, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece of the person or any person cohabiting or residing with him or her;
- “ property” means property of a tangible nature, whether real or personal, including money and animals that are capable of being stolen;
- “ public place” includes any street, seashore, park, land or field, highway and any other premises or place to which at the material time the public have or are permitted to have access, whether on payment or otherwise, and includes any train, vessel, aircraft or vehicle used for the carriage of persons for reward;
- “ serious harm” means injury which creates a substantial risk of death or which causes serious disfigurement or substantial loss or impairment of the mobility of the body as a whole or of the function of any particular bodily member or organ;
- “ street” includes any road, bridge, lane, footway, subway, square, court, alley or passage, whether a thoroughfare or not, which is for the time being open to the public; and the doorways, entrances and gardens abutting on a street and any ground or car-park adjoining and open to a street, shall be treated as forming part of a street;
- (2) For the purposes of [sections 17](#) , [18](#) and [19](#) it is immaterial whether a belief is justified or not if it is honestly held but the presence or absence of reasonable grounds for the belief is a matter to which the court or the jury is to have regard, in conjunction with any other relevant matters, in considering whether the person honestly held the belief.
- (3) In this Act—
- (a) a reference to any enactment shall, unless the context otherwise requires, be construed as a reference to that enactment as amended or extended by or under any subsequent enactment including this Act,
- (b) a reference to a section is a reference to a section of this Act unless it is indicated that reference to some other enactment is intended,
- (c) a reference to a subsection, paragraph or subparagraph is a reference to the

subsection, paragraph or subparagraph of the provision in which the reference occurs unless it is indicated that reference to some other provision is intended.

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Assault.

- 2.— (1) A person shall be guilty of the offence of assault who, without lawful excuse, intentionally or recklessly—
- (a) directly or indirectly applies force to or causes an impact on the body of another, or
 - (b) causes another to believe on reasonable grounds that he or she is likely immediately to be subjected to any such force or impact,
- without the consent of the other.
- (2) In *subsection (1) (a)*, “ force ” includes—
- (a) application of heat, light, electric current, noise or any other form of energy, and
 - (b) application of matter in solid liquid or gaseous form.
- (3) No such offence is committed if the force or impact, not being intended or likely to cause injury, is in the circumstances such as is generally acceptable in the ordinary conduct of daily life and the defendant does not know or believe that it is in fact unacceptable to the other person.
- (4) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 6 months or to both.

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Assault causing harm.

- 3.— (1) A person who assaults another causing him or her harm shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding £1,500 or to both, or
 - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or to both.

Causing serious harm.

- 4.— (1) A person who intentionally or recklessly causes serious harm to another shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable on conviction on indictment to a fine or to imprisonment for life or to both.

Threats to kill or cause serious harm.

- 5.—
- (1) A person who, without lawful excuse, makes to another a threat, by any means intending the other to believe it will be carried out, to kill or cause serious harm to that other or a third person shall be guilty of an offence,
- (2) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or
 - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 10 years or to both.

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Coercion.

- 9.—
- (1) A person who, with a view to compel another to abstain from doing or to do any act which that other has a lawful right to do or to abstain from doing, wrongfully and without lawful authority—
- (a) uses violence to or intimidates that other person or a member of the family F1 [or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010] of the other, or
 - (b) injures or damages the property of that other, or
 - (c) persistently follows that other about from place to place, or
 - (d) watches or besets the premises or other place where that other resides, works or carries on business, or happens to be, or the approach to such premises or place, or
 - (e) follows that other with one or more other persons in a disorderly manner in or through any public place,
- shall be guilty of an offence.
- (2) For the purpose of this section attending at or near the premises or place where a person resides, works, carries on business or happens to be, or the approach to such premises or place, in order merely to obtain or communicate information, shall not be deemed a watching or besetting within the meaning of *subsection (1) (d)*.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or
 - (b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 5 years or to both.

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Harassment.

- 10.—** (1) Any person who, without lawful authority or reasonable excuse, by any means including by use of the telephone, harasses another by persistently following, watching, pestering, besetting or communicating with or about him or her shall be guilty of an offence.
- (2) For the purposes of this section a person harasses another where—
- (a) he or she, by his or her acts intentionally or recklessly, seriously interferes with the other's peace and privacy or causes alarm, distress or harm to the other, and
 - (b) his or her acts are such that a reasonable person would realise that the acts would seriously interfere with the other's peace and privacy or cause alarm, distress or harm to the other.
- (3) Where a person is guilty of an offence under *subsection (1)*, the court may, in addition to or as an alternative to any other penalty, order that the person shall not, for such period as the court may specify, communicate by any means with or about the other person or that the person shall not approach within such distance as the court shall specify of the place of residence or employment of the other person.
- (4) A person who fails to comply with the terms of an order under *subsection (3)* shall be guilty of an offence.
- (5) If on the evidence the court is not satisfied that the person should be convicted of an offence under *subsection (1)*, the court may nevertheless make an order under *subsection (3)* upon an application to it in that behalf if, having regard to the evidence, the court is satisfied that it is in the interests of justice so to do.
- (6) A person guilty of an offence under this section shall be liable—
- a) on summary conviction to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or
 - (b) on conviction on indictment to a fine or a term of imprisonment not exceeding 10 years, or both.
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Demands for payment of debt causing alarm, etc.

- 11.—** (1) A person who makes any demand for payment of a debt shall be guilty of an offence if —
- (a) the demands by reason of their frequency are calculated to subject the debtor or a member of the family F2 [or the civil partner within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010] of the debtor to alarm, distress or humiliation, or
 - (b) the person falsely represents that criminal proceedings lie for non-payment of the debt, or
 - (c) the person falsely represents that he or she is authorised in some official

	<p>capacity to enforce payment, or</p> <p>(d) the person utters a document falsely represented to have an official character.</p> <p>(2) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £1,500.</p> <p style="text-align: right;">(Go back to Table of Contents)</p>
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Endangerment.

13.—	<p>(1) A person shall be guilty of an offence who intentionally or recklessly engages in conduct which creates a substantial risk of death or serious harm to another.</p> <p>(2) A person guilty of an offence under this section shall be liable—</p> <p style="padding-left: 40px;">(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or</p> <p style="padding-left: 40px;">(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 7 years or to both.</p>
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False imprisonment.

15.—	<p>(1) A person shall be guilty of the offence of false imprisonment who intentionally or recklessly—</p> <p style="padding-left: 40px;">(a) takes or detains, or</p> <p style="padding-left: 40px;">(b) causes to be taken or detained, or</p> <p style="padding-left: 40px;">(c) otherwise restricts the personal liberty of,</p> <p>another without that other's consent.</p> <p>(2) For the purposes of this section, a person acts without the consent of another if the person obtains the other's consent by force or threat of force, or by deception causing the other to believe that he or she is under legal compulsion to consent.</p> <p>(3) A person guilty of an offence under this section shall be liable—</p> <p style="padding-left: 40px;">(a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or</p> <p style="padding-left: 40px;">(b) on conviction on indictment, to imprisonment for life.</p> <p style="text-align: right;">(Go back to Table of Contents)</p>
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Abduction of child by parent, etc.

16.—	<p>(1) A person to whom this section applies shall be guilty of an offence, who takes, sends or keeps a child under the age of 16 years out of the State or causes a child under that age to be so taken, sent or kept—</p> <p style="padding-left: 40px;">(a) in defiance of a court order, or</p> <p style="padding-left: 40px;">(b) without the consent of each person who is a parent, or guardian or person to</p>
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whom custody of the child has been granted by a court unless the consent of a court was obtained.

(2) This section applies to a parent, guardian or a person to whom custody of the child has been granted by a court but does not apply to a parent who is not a guardian of the child.

(3) It shall be a defence to a charge under this section that the defendant—

(a) has been unable to communicate with the persons referred to in *subsection (1) (b)* but believes they would consent if they were aware of the relevant circumstances; or

(b) did not intend to deprive others having rights of guardianship or custody in relation to the child of those rights.

(4) A person guilty of an offence under this section shall be liable—

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 7 years or to both.

(5) Any proceedings under this section shall not be instituted except by or with the consent of the Director of Public Prosecutions.

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Abduction of child by other persons.

17.— (1) A person, other than a person to whom [section 16](#) applies, shall be guilty of an offence who, without lawful authority or reasonable excuse, intentionally takes or detains a child under the age of 16 years or causes a child under that age to be so taken or detained—

(a) so as to remove the child from the lawful control of any person having lawful control of the child; or

(b) so as to keep him or her out of the lawful control of any person entitled to lawful control of the child.

(2) It shall be a defence to a charge under this section that the defendant believed that the child had attained the age of 16 years.

(3) A person guilty of an offence under this section shall be liable—

(a) on summary conviction to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both, or

(b) on conviction on indictment to a fine or to imprisonment for a term not exceeding 7 years or to both.

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Evidential value of certain certificates signed by medical practitioners.

25.— (1) In any proceedings for an offence alleging the causing of harm or serious harm to a

person, the production of a certificate purporting to be signed by a registered medical practitioner and relating to an examination of that person, shall unless the contrary is proved, be evidence of any fact thereby certified without proof of any signature thereon or that any such signature is that of such practitioner.

(2) In this section “ registered medical practitioner” means a person registered in the General Register of Medical Practitioners established under section 26 of the Medical Practitioners Act, 1978.

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Criminal Law Act, 1997

Penalties for assisting offenders.

- 7.— (1) Any person who aids, abets, counsels or procures the commission of an indictable offence shall be liable to be indicted, tried and punished as a principal offender.
- (1A) Any person who, outside the State, aids, abets, counsels or procures the commission of an indictable offence in the State shall be liable to be indicted, tried and punished as a principal offender if —
- (a) the person does so on board an Irish ship,
 - (b) the person does so on an aircraft registered in the State,
 - (c) the person is an Irish citizen, or
 - (d) the person is ordinarily resident in the State.
- (2) Where a person has committed an arrestable offence, any other person who, knowing or believing him or her to be guilty of the offence or of some other arrestable offence, does without reasonable excuse any act , whether in or outside the State, with intent to impede his or her apprehension or prosecution shall be guilty of an offence.
- (2A) A person shall be guilty of an offence under subsection (2) for doing an act outside the State only if —
- (a) the person does so on board an Irish ship,
 - (b) the person does so on an aircraft registered in the State,
 - (c) the person is an Irish citizen, or
 - (d) the person is ordinarily resident in the State.
- (3) If, upon the trial on indictment of an arrestable offence, it is proved that the offence charged, or some other offence of which the accused might on that charge be found guilty, was committed but it is not proved that the accused was guilty of it, the accused may be found guilty of an offence under *subsection (2)* of which it is proved that he or she is guilty in relation to the offence charged, or that other offence.
- (4) A person committing an offence under *subsection (2)* with intent to impede another person's apprehension or prosecution shall be liable on conviction on indictment to imprisonment according to the gravity of the offence that the other person has committed or attempted to commit, as follows:

(a) if that offence is one for which the sentence is fixed by law, or for which the maximum sentence is imprisonment for life, he or she shall be liable to imprisonment for a term not exceeding ten years;

(b) if it is one for which a person of full capacity and not previously convicted may be sentenced to imprisonment for a term of fourteen years, he or she shall be liable to imprisonment for a term not exceeding seven years;

(c) if it is not one included in *paragraph (a)* or *(b)* but is one for which a person of full capacity and not previously convicted may be sentenced to imprisonment for a term of ten years, he or she shall be liable to imprisonment for a term not exceeding five years;

(d) in any other case, he or she shall be liable to imprisonment for a term not exceeding three years.

(5) Where a person is charged with an offence under *subsection (2)*, no further proceedings in the matter (other than any remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.

(6) The references in the following provisions, namely *subsection (1) of section 13* (which relates to a plea of guilty in the District Court of an indictable offence) and *subsection (1) (f) of section 29* (which relates to bail in the case of certain offences) of the Criminal Procedure Act, 1967, to an accessory before or after the fact shall be construed as references to aiding, abetting, counselling or procuring the commission of an offence, and to an offence under *subsection (2)*.

(7) The First Schedule to the [Criminal Justice Act, 1951](#) (which specifies the indictable offences which may be tried summarily with the consent of the accused) is hereby amended by the insertion of the following reference:

“24. An offence under [section 7 \(2\)](#) of the *Criminal Law Act, 1997*.”.

(8) A person who has his or her principal residence in the State for the 12 months immediately preceding the commission of an offence referred to in *subsection (1A)* or an offence under *subsection (2)* is, for the purposes of *subsection (1A)(d)* or (in the case of an offence under *subsection (2)*) *subsection (2A)(d)*, taken to be ordinarily resident in the State on the date of the commission of the offence.

(9) In this section ‘ Irish ship ’ has the meaning it has in [section 9](#) of the [Mercantile Marine Act 1955](#).

Penalty for concealing offence.

8.— (1) Where a person has committed an arrestable offence, any other person who, knowing or believing that the offence or some other arrestable offence has been committed and that he or she has information which might be of material assistance in securing the prosecution or conviction of an offender for it, accepts (or agrees to accept), whether in or outside the State, for not disclosing that information any consideration other than the making good of loss or injury caused by the offence, or the making of reasonable compensation for that loss or injury, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding three years.

(1A) A person shall be guilty of an offence under *subsection (1)* for conduct that the

	<p>person engages in outside the State only if —</p> <p>(a) the conduct takes place on board an Irish ship,</p> <p>(b) the conduct takes place on an aircraft registered in the State,</p> <p>(c) the person is an Irish citizen, or</p> <p>(d) the person is ordinarily resident in the State.]</p> <p>(2) No proceedings shall be instituted for an offence under this section except by or with the consent of the Director of Public Prosecutions.</p> <p>(3) The compounding of an offence shall not be an offence otherwise than under this section.</p> <p>(4) The First Schedule to the Criminal Justice Act, 1951 (which specifies the indictable offences which may be tried summarily with the consent of the accused) is hereby amended by the insertion of the following reference: “25. An offence under section 8 of the <i>Criminal Law Act, 1997</i>.”</p> <p>(5) A person who has his or her principal residence in the State for the 12 months immediately preceding the commission of an offence under subsection (1) is, for the purposes of subsection (1A)(d), ordinarily resident in the State on the date of the commission of the offence.</p> <p>(6) In this section ‘ Irish ship ’ has the same meaning as it has in section 7.</p>
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<p>Protections for Persons Reporting Child Abuse Act, 1998</p>	
<p>Interpretation.</p> <p><i>(Only relevant parts copied)</i></p>	
<p>1.—</p>	<p>(1) In this Act, unless the context otherwise requires—</p> <p>“ appropriate person” means a designated officer or a member of the Garda Síochána;</p> <p>“ child” means a person who has not attained 18 years of age;</p> <p>“ employee” and “ employer” have the same meaning as they have in the Act of 1994;</p> <p>F1 [‘ designated officer ’ means an employee of the Health Service Executive or the Child and Family Agency appointed under section 2 of this Act to be a designated officer for the purposes of this Act.]</p> <p>welfare”, in relation to a child, comprises the moral, intellectual, physical, emotional and social welfare of the child.</p>

False reporting of child abuse.

5.—	<p>(1) A person who states to an appropriate person that—</p> <ul style="list-style-type: none">(a) a child has been or is being assaulted, ill-treated, neglected or sexually abused, or(b) a child's health, development or welfare has been or is being avoidably impaired or neglected, <p>knowing that statement to be false shall be guilty of an offence.</p> <p>F8 [(1A) This section does not apply to the making of a statement that is a protected disclosure within the meaning of the Protected Disclosures Act 2014.]</p> <p>(2) A person guilty of an offence under this section shall be liable—</p> <ul style="list-style-type: none">(a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both,(b) on conviction on indictment, to a fine not exceeding £15,000 or to imprisonment for a term not exceeding 3 years or to both. <p>(3) Notwithstanding section 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 2 years from the date on which the offence was committed or, if later, 2 years from the date on which evidence that, in the opinion of the person by whom the proceedings are brought, is sufficient to justify the bringing of the proceedings comes to that person's knowledge.</p> <p>(4) For the purposes of <i>subsection (3)</i> of this section, a certificate signed by or on behalf of the person bringing the proceedings as to the date on which the evidence referred to in that subsection relating to the offence concerned came to his or her knowledge shall be <i>prima facie</i> evidence thereof and in any legal proceedings a document purporting to be a certificate issued for the purpose of this subsection and to be so signed shall be deemed to be so signed and shall be admitted as evidence without proof of the signature of the person purporting to sign the certificate.</p>
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Criminal Justice Act, 1999

Intimidation etc. of witnesses, jurors and others.

41.—	<p>(1) Without prejudice to any provision made by any other enactment or rule of law, a person—</p> <ul style="list-style-type: none">(a) who harms or threatens, menaces or in any other way intimidates or puts in fear another person who is assisting in the investigation by the Garda Síochána of an offence or is a witness or potential witness or a juror or potential juror in proceedings for an offence, or a member of his or her family,(b) with the intention thereby of causing the investigation or the course of justice to be obstructed, perverted or interfered with,
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shall be guilty of an offence.

(2) In this section, “potential juror” means a person who, at the time an offence under this section is alleged to have been committed, has been summoned for jury service but has not been empanelled as a juror to serve on a particular jury.

(3) In proceedings for an offence under this section, proof to the satisfaction of the court or jury, as the case may be, that the accused did an act referred to in subsection (1)(a) shall be evidence that the act was done with the intention required by subsection (1)(b).

(4) In subsection (1) the reference to a member of a person's family includes a reference to—

(a) the person's spouse,

(b) a parent, grandparent, step-parent, child (including a step-child or an adopted child), grandchild, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece of the person or his or her spouse, or

(c) any person who is cohabiting or residing with him or her.

(5) A person guilty of an offence under this section shall be liable—

(a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, and

(b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 10 years or both.

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Criminal Justice (United Nations Convention Against Torture) Act, 2000

(Only relevant parts copied)

Also refer to the essay attached, regarding matters under the Child Care Act, 1991 (as amended) where the threshold of torture is met.

Interpretation.

1.— (1) In this Act—

“public official” includes a person acting in an official capacity;

“torture” means an act or omission done or made, or at the instigation of, or with the consent or acquiescence of a public official by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person—

(a) for such purposes as—

(i) obtaining from that person, or from another person, information or a confession,

(ii) punishing that person for an act which the person concerned or a third person has committed or is suspected of having committed, or

(iii) intimidating or coercing that person or a third person,

	<p>or</p> <p>(b) for any reason that is based on any form of discrimination, but does not include any such act that arises solely from, or is inherent in or incidental to, lawful sanctions.</p> <p>(2) Any reference in this Act to any other enactment shall be construed as a reference to that enactment as amended by or under any other enactment including this Act.</p>
<p>Offence of torture.</p>	
2.—	<p>(1) A public official, whatever his or her nationality, who carries out an act of torture on a person, whether within or outside the State, shall be guilty of the offence of torture.</p> <p>(2) A person, whatever his or her nationality, other than a public official, who carries out an act of torture on another person, whether within or outside the State, at the instigation of, or with the consent or acquiescence of, a public official shall be guilty of the offence of torture</p> <p>(3) A person guilty of the offence of torture shall be liable on conviction on indictment to imprisonment for life.</p>
<p>Related offences.</p>	
3.—	<p>A person, whatever his or her nationality, whether within or outside the State, who—</p> <p>(a) attempts to commit or conspires to commit the offence of torture, or</p> <p>(b) does an act with the intent to obstruct or impede the arrest or prosecution of another person, including a person who is a public official, in relation to the offence of torture,</p> <p>shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for life.</p>

Notes by author:

Noting the ruling by the ECtHR in the matter Volodina v. Russia, No. 41261/17, 9 July 2019, Final 04 November 2019, paragraph 101:

In view of the manner in which the authorities handled the case – notably the authorities’ reluctance to open a criminal investigation into the applicant’s credible claims of ill-treatment by S. and their failure to take effective measures against him, ensuring his punishment under the applicable legal provisions – the Court finds that the State has failed to discharge its duty to investigate the ill-treatment that the applicant had endured.

Causing the official(s) guilty of torture due to “commission” and the state in breach of the UNCAT and the ECHR.

An important example:

If Mickey assaulted Minny the offence is “assault”.

If Minny reports it to police officer Bobby and Bobby did not act, it is interpreted that Bobby condoned the action.

Bobby is an officer of the state, therefore it is now interpreted that Bobby gave permission and Mickey acted. The offence is now interpreted as torture.

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Children Act 2001

Cruelty to children.

- 246.—
- (1) It shall be an offence for any person who has the custody, charge or care of a child wilfully to assault, ill-treat, neglect, abandon or expose the child, or cause or procure or allow the child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause unnecessary suffering or injury to the child’s health or seriously to affect his or her wellbeing.
 - (2) A person found guilty of an offence under this section shall be liable—
 - (a) on summary conviction, to a fine not exceeding £1,500 or imprisonment for a term not exceeding 12 months or both, or
 - (b) on conviction on indictment, to a fine not exceeding £10,000 or imprisonment for a term not exceeding 7 years or both.
 - (3) A person may be convicted of an offence under this section—
 - (a) notwithstanding the death of the child in respect of whom the offence is committed, or
 - (b) notwithstanding that actual suffering or injury to the health of the child, or the likelihood of such suffering or injury, was obviated by the action of another person.
 - (4) On the trial of any person for the murder of a child of whom the person has the custody, charge or care, the court or the jury, as the case may be, may, if satisfied that the accused is guilty of an offence under this section in respect of the child, find the accused

guilty of that offence.

(5) For the purposes of this section a person shall be deemed to have neglected a child in a manner likely to cause the child unnecessary suffering or injury to his or her health or seriously to affect his or her wellbeing if the person—

(a) fails to provide adequate food, clothing, heating, medical aid or accommodation for the child, or

(b) being unable to provide such food, clothing, heating, medical aid or accommodation, fails to take steps to have it provided under the enactments relating to health, social welfare or housing.

(6) In subsection (1) the reference to a child's health or wellbeing includes a reference to the child's physical, mental or emotional health or wellbeing.

(7) For the purposes of this section ill-treatment of a child includes any frightening, bullying or threatening of the child, and "ill-treat" shall be construed accordingly.

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Criminal Justice Act 2006

Reckless endangerment of children.

176.— (1) In this section—

"abuser" means an individual believed by a person who has authority or control over that individual to have seriously harmed or sexually abused a child or more than one child;

"child" means a person under 18 years of age, except where the context otherwise requires;

"serious harm" means injury which creates a substantial risk of death or which causes permanent disfigurement or loss or impairment of the mobility of the body as a whole or of the function of any particular member or organ;

"sexual abuse" means an offence under paragraphs 1 to 13 and 16(a) and (b) of the Schedule to the Sex Offenders Act 2001.

(2) A person, having authority or control over a child or abuser, who intentionally or recklessly endangers a child by—

(a) causing or permitting any child to be placed or left in a situation which creates a substantial risk to the child of being a victim of serious harm or sexual abuse, or

(b) failing to take reasonable steps to protect a child from such a risk while knowing that the child is in such a situation,

is guilty of an offence.

(3) Where a person is charged with an offence under subsection (2), no further proceedings in the matter (other than any remand in custody or on bail) shall be taken except by or with the consent of the Director of Public Prosecutions.

(4) A person guilty of an offence under this section is liable on conviction on indictment,

to a fine or to imprisonment for a term not exceeding 10 years or both.

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Communications Regulation (Postal Services) Act 2011

Prohibition on opening of postal packets and mail bags.

- 53.— (1) A person commits an offence if he or she, without the agreement of the addressee and, in the case of a person who is a postal service provider or an employee or agent of a postal service provider, contrary to his or her duty, intentionally—
- (a) delays, detains, interferes with or opens, a postal packet addressed to another person or does anything to prevent its delivery or authorises, suffers or permits another person (who is not the addressee) to do so,
 - (b) discloses the existence or contents of a postal packet referred to in *paragraph (a)*, or
 - (c) uses for any purpose any information obtained from a postal packet referred to in *paragraph (a)*.
- (3) A person who commits an offence under this section is liable—
- (a) on summary conviction, to a class C fine or imprisonment for a term not exceeding 12 months or both, or
 - (b) on conviction on indictment, to a fine not exceeding €75,000 or imprisonment for a term not exceeding 5 years or both.

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Criminal Justice Act 2011

Withholding information.

- 19.— (1) A person shall be guilty of an offence if he or she has information which he or she knows or believes might be of material assistance in—
- (a) preventing the commission by any other person of a relevant offence, or
 - (b) securing the apprehension, prosecution or conviction of any other person for a relevant offence,
- and fails without reasonable excuse to disclose that information as soon as it is practicable to do so to a member of the Garda Síochána.
- (2) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years or both.

Liability for offences by bodies corporate.

- 22.— (1) Where an offence under this Act is committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, shall be guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.
- (2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

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Criminal Justice (Withholding of Information on Offences against Children and Vulnerable Persons) Act 2012

Offence of withholding information on certain offences against children.

- 2.— (1) Subject to this section, a person shall be guilty of an offence if—
- (a) he or she knows or believes that an offence, that is a Schedule 1 offence, has been committed by another person against a child, and
 - (b) he or she has information which he or she knows or believes might be of material assistance in securing the apprehension, prosecution or conviction of that other person for that offence,
- and fails without reasonable excuse to disclose that information as soon as it is practicable to do so to a member of the Garda Síochána.
- (2) *Subsection (1)* applies only to information that a person acquires, receives or becomes aware of after the passing of this Act irrespective of whether the Schedule 1 offence concerned was committed before or after that passing.
- (3) The child against whom the Schedule 1 offence concerned was committed (whether or not still a child) shall not be guilty of an offence under this section.
- (4) This section is without prejudice to any right or privilege that may arise in any criminal proceedings by virtue of any rule of law or other enactment entitling a person to refuse to disclose information.
- (5) For the avoidance of doubt it is hereby declared that the obligation imposed on a person by *subsection (1)* to disclose information that he or she has to a member of the Garda Síochána is in addition to, and not in substitution for, any other obligation that the person has to disclose that information to the Garda Síochána or any other person, but that subsection shall not require the first-mentioned person to disclose that information to the Garda Síochána more than once.

Offence of withholding information on certain offences against vulnerable persons.

- 3.— (1) Subject to this section, a person shall be guilty of an offence if—
- (a) he or she knows or believes that an offence, that is a Schedule 2 offence, has been committed by another person against a vulnerable person, and
 - (b) he or she has information which he or she knows or believes might be of material assistance in securing the apprehension, prosecution or conviction of that other person for that offence,
- and fails without reasonable excuse to disclose that information as soon as it is practicable to do so to a member of the Garda Síochána.
- (2) *Subsection (1)* applies only to information that a person acquires, receives or becomes aware of after the passing of this Act irrespective of whether the Schedule 2 offence concerned was committed before or after that passing.
- (3) The vulnerable person against whom the Schedule 2 offence concerned was committed (whether or not still a vulnerable person) shall not be guilty of an offence under this section.
- (4) This section is without prejudice to any right or privilege that may arise in any criminal proceedings by virtue of any rule of law or other enactment entitling a person to refuse to disclose information.
- (5) For the avoidance of doubt it is hereby declared that the obligation imposed on a person by *subsection (1)* to disclose information that he or she has to a member of the Garda Síochána is in addition to, and not in substitution for, any other obligation that the person has to disclose that information to the Garda Síochána or any other person, but that subsection shall not require the first-mentioned person to disclose that information to the Garda Síochána more than once.

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Domestic Violence Act 2018

Notes by the Author – Domestic Violence by Proxy:

During the process of parental alienation or parental estrangement, the perpetrator might “play the system” to achieve his / her goal. A new term emerged by professionals naming it “Domestic Violence by Proxy”, meaning the alienating party is performing the action by using another authority e.g. an enactment or known loophole in the law to succeed.

One of the most effective measures is the obtaining of a safety, barring, or protection order.

Target parents and other victims should use the same to stop the alienation process and protect the child from ECAPA (emotional child abuse by parental alienation).

Domestic violence by proxy can be partly addressed by using this enactment to obtain a Protection and Safety Order. (See separate document entitled “**Domestic Violence by Proxy**”

Offence of coercive control

39. (1) A person commits an offence where he or she knowingly and persistently engages in behaviour that—
- (a) is controlling or coercive,
 - (b) has a serious effect on a relevant person, and
 - (c) a reasonable person would consider likely to have a serious effect on a relevant person.
- (2) For the purposes of *subsection (1)*, a person’s behaviour has a serious effect on a relevant person if the behaviour causes the relevant person—
- (a) to fear that violence will be used against him or her, or
 - (b) serious alarm or distress that has a substantial adverse impact on his or her usual day-to-day activities.
- (3) A person who commits an offence under *subsection (1)* is liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months, or both, and
 - (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 5 years, or both.
- (4) In this section, a person is a “relevant person” in respect of another person if he or she—
- (a) is the spouse or civil partner of that other person, or
 - (b) is not the spouse or civil partner of that other person and is not related to that other person within a prohibited degree of relationship but is or was in an intimate relationship with that other person.

Relationship between defendant and victim as aggravating factor in sentencing for certain offences

40. (1) Where a court is determining the sentence to be imposed on a person for a relevant offence, the fact that the offence was committed by the person against a relevant person shall be treated, for the purpose of determining the sentence, as an aggravating factor.
- (2) Subject to *subsection (3)*, where *subsection (1)* applies the court shall impose a sentence which is greater than that which would have been imposed if the person against whom the offence was committed was not a relevant person.
- (3) *Subsection (2)* shall not apply where the court considers that there are exceptional circumstances justifying it not applying that subsection.
- (4) The sentence imposed as a result of the application of *subsection (2)* shall not be greater than the maximum sentence permissible for the relevant offence concerned.
- (5) In this section—
- “Act of 1990” means the [Criminal Law \(Rape\) \(Amendment\) Act 1990](#) ;

“relevant offence” means—

(a) an offence under [sections 2 to 15](#) of the [Non-Fatal Offences against the Person Act 1997](#) ,

(aa) an offence under section 2 or 3 of the Harassment, Harmful Communications and Related Offences Act 2020,

(b) any offence which involves violence or a threat of violence to a person other than an offence—

(i) referred to in *paragraph (a)*, or

(ii) under [section 39](#) ,

(c) rape,

(d) rape under section 4 of the Act of 1990,

(e) sexual assault within the meaning of section 2 of the Act of 1990,

(f) aggravated sexual assault within the meaning of section 3 of the Act of 1990,

(g) an offence consisting of attempting or conspiring to commit, or aiding or abetting, counselling or procuring or inciting the commission of, an offence referred to in *paragraph (a), (aa), (b), (c), (d), (e) or (f)*.

(6) In this section, a person is a “relevant person” in respect of another person if he or she —

(a) is the spouse or civil partner of that other person, or

(b) is not the spouse or civil partner of that other person and is not related to that other person within a prohibited degree of relationship but is or was in an intimate relationship with that other person.

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Criminal Justice (Corruption Offences) Act 2018

Comment by authors:

Many parental alienation matters in the past, were proven to originate from corrupt legal professionals, Court report writers, guardian ad litem or others, who benefit financially by the outcomes.

It is possible that these actions may be addressed by this act.

This act also addresses some aspects of fraud upon the court.

A qualified criminal legal professional will be able to identify the relevant section to use in any prosecution.

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Civil Law and Criminal Law (Miscellaneous Provisions) Act 2020

Note by author:

Many so-called “Court Reports” are written by persons making money by writing said report, hoping to make money on a follow-up report.

I suggest that parents demand a “Statement of Truth” in any report submitted to the court.

Statement of truth

- 21.** (1) Subject to *subsection (2)*, where, in civil proceedings—
- (a) evidence is to be given on, or a document or information is to be verified by, affidavit or statutory declaration, and
 - (b) a document may be lodged or filed, or is required to be lodged or filed, or an application may be made, or is required to be made, by electronic means in accordance with [section 20](#),
- rules of court may, notwithstanding any other enactment or rule of law, make provision for a statement, which shall be known as a statement of truth, to be made and transmitted by electronic means in place of the affidavit or statutory declaration concerned and subject to such conditions and exceptions as may be specified by such rules.
- (2) A statement of truth—
- (a) may be in electronic form,
 - (b) shall contain a statement that the person making the statement of truth has an honest belief that the facts stated therein are true,
 - (c) may be signed by the person making it by that person entering his or her name in an electronic format or otherwise electronically as may be permitted by rules of court, and
 - (d) shall comply with any other requirements as to its content, verification, authentication or form as may be prescribed by rules of court.
- (3) Where rules of court have made provision for the matters referred to in *subsection (1)*, any reference in any enactment to an affidavit or a statutory declaration shall be construed as including a reference to a statement of truth which may be made in place of such affidavit or statutory declaration by virtue of that subsection.
- (4) Without prejudice to the law as to contempt of court, a person who makes, or causes to be made, a statement in a statement of truth without an honest belief as to the truth of that statement shall be guilty of an offence.
- (5) A person guilty of an offence under *subsection (4)* shall be liable—
- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 12 months, or both, or
 - (b) on conviction on indictment, to a fine not exceeding €250,000 or imprisonment for a term not exceeding 5 years, or both.

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Harassment, Harmful Communications and Related Offences Act 2020

(Coco's Law)

Note by author:

I suggest that you study the complete enactment. I only copied the part on threatening or grossly offensive communication. Other parts of the enactment may be applicable in your case.

Also, note that the interpretation of harm in this enactment is different to that of other enactments.

Distributing, publishing or sending threatening or grossly offensive communication

- 4.
- (1) A person who—
 - (a) by any means—
 - (i) distributes or publishes any threatening or grossly offensive communication about another person, or
 - (ii) sends any threatening or grossly offensive communication to another person, and
 - (b) with intent by so distributing, publishing or sending to cause harm, is guilty of an offence.
 - (2) For the purposes of subsection (1), a person intends to cause harm where he or she, by his or her acts, intentionally seriously interferes with the other person's peace and privacy or causes alarm or distress to the other person.
 - (3) A person who is guilty of an offence under this section is liable—
 - (a) on summary conviction to a class A fine or imprisonment for a term not exceeding six months, or both, or
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding two years, or both.

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Criminal Justice (Perjury and Related Offences) Act, 2021

Note by author:

I suggest that you study the complete enactment as published, by clicking on the link [Criminal Justice \(Perjury and Related Offences\) Act, 2021](#).

It is important to note that this enactment only applies to offences committed on or after 28 July 2021. Perjury and Procuring perjury before that date can be prosecuted under the **Perjury Act, 1586 to 1791**

Also, note the statute of limitations of 3 years under the new perjury enactment.

Common Law

Cruel, Inhuman or Degrading Treatment or Punishment

(Reference to Article 16 of the UNCAT)

Contempt of the Court

See <http://www.lawreform.ie/fileupload/consultation%20papers/cpContempt.htm>

Perverting the course of justice

Murder

Manslaughter

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PERJURY IS PROSECUTABLE IN IRELAND

**Andries van Tonder,
Brendan Guildea BL,
Clifford Sullivan, Solicitor.**

Note added on 3 October 2020 by Andries:

This paper was drafted in 2016. The **Perjury and Related Offences Bill 2018**, (Bill 112 of 2018) progressed to the “Dáil Third Stage” on 28 July 2020 in Dáil Éireann. If the bill is enacted, it will replace the existing perjury enactments.

Introduction

In the course of private and public family law proceedings, perjury has the potential to destroy entire families and communities. If unchecked, through lack of criminal prosecution where it transpires that an untruth was knowingly told during sworn testimony, the fundamental building blocks of Irish society lie fatally exposed.

Decisions made in the Irish Courts are decoded – almost exclusively – on oral evidence. In the context of private family law and child care proceedings, an untruth spun on a crucial issue can sway the Court in favour of the liar’s position. APS have been directly involved in several cases where lies have set events in motion which ended in the death, usually by suicide, of one or more persons. Such deaths are, to a degree, investigated but the perjury and other offences giving rise to the suicides or murders, are never investigated or prosecuted. The net result of this is that the “word on the street” is that one can lie to a Judge, obtain a decision in their favour and face zero consequences.

Why is this happening? What can we, as an organisation and a community passionate about justice being based on truth, do?

Gap in legal education

Despite having its own section in three of Ireland’s leading textbooks on criminal law, the criminal offence of perjury is not generally known among members of An Garda Síochána, legal practitioners and Judges.¹ Furthermore, the Law Reform Committee’s 1990 Report on Oaths and Affirmations states “although prosecutions for perjury are comparatively rare, this does not appear to be due to any deficiencies in the existing law.”

The law on perjury

Although the Perjury Act of 1586 is still in place, perjury is referred to in many enactments as a common law offence² which may be tried summarily.³ The most recent statutory enactment which

1 Hughes & Hughes, *Criminal Procedure in the District Court* (1st edn, Clarus Press, 2014) page 797, Quinn, *Criminal Law in Ireland* (4th edn, Irish Law Publishing, 2009) and Woods, *District Court Practice and Procedure in Criminal Cases* (2nd edn, Limerick, 2010).

2 Note: In many instances where reference is made to an Act, the Act is mentioned. In several cases, mention is made to perjury without quoting the enactment. One example is Section 7 of the Criminal Procedure Act 2010

3 Per First Schedule of the Criminal Justice Act 1951 and section 2(2) of the same Act. This means that perjury, although an indictable offence, can be tried in the District Court.

refers to the existence of perjury is the Companies Act 2014.

The ingredients of the offence are:

1. An oath was sworn. This requires proof of:
 - a. The authority, usually of the Court Registrar, to administer the oath.
 - b. The administration of the oath (i.e. the accused person formally entered the oath).
 - c. The form of the oath administered.
2. The materiality of the matter sworn (i.e. the fact asserted was not trivial).
3. The falsity of the matter sworn.
4. A knowing intention on the part of the accused person regarding said falsity.

It is clear that the 1586 Act is still in place insofar as it was not repealed by the 1962 Act. Were it not for the amendments set out in the 1962 Act there would be some doubt as to whether the statutory offence still existed, as it could have been repealed by any of the criminal law legislation in the intervening period. The 1586 Act, and indeed the 1729 Act, appear to make perjury a felony. There are two elements to the 1586 Act,-

- firstly the procurement of wilful or corrupt perjury, in section 1 (first part) of the Act, and
- in section 2 (the second part) of the Act their own perjury "or by their owne act.. commit any manner of willfull perjurie".

The penalties were different under the different sections, but is amended by the act of 1729.

It is important to note the entitlement under this Act to damages for perjury "And that upon every such reversall, the parties grieved to recover his or their damages against all and every such person or persons, as did procure the said judgment, so reversed, to be given against them, and every of them, by action or actions, to be sued upon his or their case or cases, according to the course of the common lawes of this realm".

The level of confusion about the existence of a statutory offence, in that the 1791 Act makes reference to "the common law offence of perjury" may theoretically create the possibility that at some stage prior to 1791 the offence of perjury had already been repealed. This confusion can be seen as eliminated by the amendments to the 1586 Act, made in 1962.

It may be, that in fact there are probably two separate jurisdictions here, one the statutory offence being breach of the Perjury Act 1586 as amended /1729 Act which are felonies, and the other the common law misdemeanour of perjury prosecutable in accordance with the 1791 Act.



Applicable penalty

In the District Court, a person convicted of perjury, or procuring perjury, faces 1 year in prison and a fine of up to €5,000. On indictment in the Circuit Court, a convicted person may face 7 years imprisonment and an unlimited fine.

According to the Perjury enactment (as copied after the conclusion) some unique additional penalties exist and is not amended during the amendments made to the Principle Act in 1962⁴

- One hour in pillory and "disabled to be sworn" (branding as a liar) if found guilty of

⁴ Statute Law Revision (Pre-Union Irish Statutes) Act, 1962

procuring perjury

- “Disabled to be sworn” (branding as a liar) if found guilty of perjury
- Judgement reversal (not to be labelled a liar any more) – procurer of perjury - Repair damages suffered by other party
- Judgement reversal (not to be labelled a liar any more) – perjurer - Repair damages suffered by effected party or time in pillory and nailing of the ears.



Initiating proceedings

If you are directly aware of perjury being committed, you must first make a formal complaint to a member of An Garda Síochána. It is their duty to investigate and, if appropriate, prosecute same.

However, the current DPP’s practice of not prosecuting perjury matters (perhaps because of the in camera rule or otherwise), means that it may be necessary to initiate private criminal proceedings as a common informer. This should be done on foot of legal advice and with legal assistance.

In matters where the in camera rule is applicable, the investigating officer of An Garda Síochána may need to apply to the Court for the lifting of the in camera rule to investigate the offence. The investigating officer may also apply for a copy of the original affidavit and / or a transcript of the DAR (digital audio recording).

The first lie

It is important that the first instance of perjury by a person be prosecuted. If found guilty, said accused is labelled, according to the Act of 1586 as a liar and all subsequent evidence by said person is to be rejected “until such time as the judgement given against the said person or persons shall be reversed by attain or otherwise”. This can only be achieved after serving the sentence.

Conclusion

Perjury and Procuring Perjury are offences and should be prosecuted by the relevant authority.

Offences are to be investigated by a “competent authority”. In Ireland, An Garda Síochána is the only competent authority, except in matters where another person / authority is named in the enactment.

If prosecuted as a summary offence, prosecution may be initiated by a common informer or the DPP in a District Court.

If prosecuted as an indictable offence, prosecution may only be initiated by the DPP after receiving a file outlining the investigation of the Gardaí.

Although it is not classed as perjury, a false statement tending to show that an offence has been committed, is an offence⁵.

⁵ Criminal Law Act 1976 S.12

Enactments

No official record is known by the authors of any enactments prior to 1540.

Official recorded Legislation (See links in footnotes)

Year	Act	Notes	Status
1540	Maintenance and Embracery Act	this act was applied in Ireland at will of the courts until 1586	Repealed
1586	(28 Eliz.) c. 1 Perjury - Perjury Act ⁶	This act is amended	In force
1729	(3 Geo. 2) c. 4 Forgery: perjury: transportation ⁷ Perjury Act		In force
1791	(31 Geo. 3) c. 18 Perjury triable at quarter sessions - Perjury Act ⁸		In force
1962	Statute Law Revision (Pre-Union Irish Statutes) Act ⁹	1586 Act retained and Amended	In force
1975	Court of Justice of the European Communities (Perjury) Act ¹⁰	Extending law to the European Court	In force
2007	Statute Law Revision Act -Number 28 of 2007 ¹¹	Perjury Acts of 1586, 1729, 1791 retained	In force

NB: The PERJURY ACTS are not “local and personal Act ” or a “private Act” as repealed by the Statute Law Revision Act 2009 ¹² (Note S.1 “Definitions”)

The acts hereunder were copied from the Irish Statute Book web page.

PERJURY ACT 1586

as amended by the Statute Law Revision (Pre-Union Irish Statutes) Act, 1962.
Amendments done using single strike outs in the text.

CHAPTER I.

An Act concerning Willfull Perjurie.

6 <http://www.irishstatutebook.ie/eli/1586/act/1/enacted/en/print.html>

7 <http://www.irishstatutebook.ie/eli/1729/act/4/enacted/en/print.html>

8 <http://www.irishstatutebook.ie/eli/1791/act/18/enacted/en/print.html>

9 <http://www.irishstatutebook.ie/eli/1962/act/29/enacted/en/print.html>

10 <http://www.irishstatutebook.ie/eli/1975/act/12/enacted/en/print.html>

11 <http://www.irishstatutebook.ie/eli/2007/act/28/enacted/en/print.html>

12 <http://www.irishstatutebook.ie/eli/2009/act/46/section/1/enacted/en/index.html>

5 Eliz. 9. Eng. 3 G. 2. 4. [Ir.].

Persons procuring witnesses to commit perjury in any suit by writ, action, bill, complaint, or information, in any court, or who suborne witnesses to testify in perpetuam rei memoriam.

After conviction forfeit 40l.

Or, if they have not to that value, imprisonment for six months, and pillory for one hour.

And not to be received as witnesses in any courts till judgment reversed.

Upon reversal, to recover damages against the persons procuring said judgment by action on the case.

The persons committing perjury, and convicted, forfeit 20l. and imprisoned 6 months:

their oath not to be received in any court of record till judgment reversed.

Upon reversal, damages against the person procuring the judgment by action on the case.

If offender has not 20l. to be set in pillory by the sheriff or head officer,

FORASMUCH as this realm of Ireland is greatly troubled and hindered by reason of wilfull perjurie daily committed notwithstanding that many good lawes have been made and ordeyned for redress thereof, and for that great dangers and perilles are daily like to fall, if some further remedies shall not be speedily provided for prevention thereof; be it therefore enacted by our Sovereign Lady the Queen, with the assent of the lords spiritual and temporal, and the commons in this present Parliament assembled, and by the authority of the same, that all and every person and persons, which ~~at any time after the end of this present Parliament~~, shall unlawfully or corruptly procure any witness or witnesses by letters, rewardes, promisses, or by any other sinister or unlawful labour or meanes whatsoever, to commit any wilful or corrupt perjurie, in any matter or cause whatsoever now depending, or that hereafter shall depend in suite and variaunce, by any writ, action, bill, complaint or information, in any wise concerning any lands, tenements, or hereditaments, or any goods, chattles, debts, damages, or any other cause of action whatsoever, in any ~~of her Majesties- courtes of castle chamber, chauncerie, chief place courte of common pleges, exchequer, or any other court or courts~~, before any judge, justicer, president, governour, commissioner, mayor, sheriffes, senescalles, or any other officers whatsoever, ~~as well within liberties as without, in this realm of Ireland~~, or shall likewise, unlawfully or corruptly, procure or soborne any witness or witnesses, which shall ~~from and after the end of this present Parliament~~; be sworn to testifie in perpetuam rei memoriam: that then everie such offender and offenders shall, for his or their said offence, being thereof lawfully convicted or attainted, lose and forfeite the summe of fortie poundes: and if it fortune any such offendour or offendours, so being convicted or attainted, as aforesaid, not to have any goods or chattels, lands or tenements, to the value of fortie pounds; that then everie such person, so being convicted or attainted of any offences aforesaid, shall, for his or their said offence, suffer imprisonment by the space of one half year without bayle or mayneprise, and to stand upon the pillory by the space of one whole hour, in some market towne next adjoyning to the place where the offence was committed, in open market there, or in the market towne it selfe where the offence was committed: [Rep., Stat. Law Rev. (I.) Act, 1878] And that no person or persons being so convicted or attainted, to be from thenceforth received as a witsesse, to be deposed or sworn in any court of record, or within any other court or courts ~~within this realm of Ireland~~; untill such time as the judgment given against such person or persons shall be reversed by attaint or otherwise. And that upon every such reversall, the parties grieved, to recover his or their damages against all and every such person and persons, as did procure the sayd judgment, so reversed, to be first given against them or any of them, by action or actions, to be sued upon his or their case or cases, according to the course of the common lawes of this realm.

II. And be it further enacted by the authoritie aforesaid, that if any person or persons, ~~after the end of this Parliament~~, either by the subornation, unlawfull procurement, sinister perswasion or means of any others, or by their owne act, consent or agreement, willfully or corruptly commit any manner of willfull perjurie, by his or their deposition in any the courts before mentioned, or before any the judges, commissioners, or officers before mentioned, or being examined ad perpetuam rei memoriam: that then every person and persons so offending, and being thereof duely convicted or attainted, by the laws of this realm, shall for his or their offence loose and forfeit twenty poundes, and to have imprisonment by the space of six months, ~~without baile or mainprise~~; and the oath of such person or persons so offending, from thenceforth, not to be received in any court of record within this realm, untill such time as the judgment given against the said person or persons shall be reversed by attaint or otherwise. And that upon every such reversall, the parties grieved to recover his or their damages against all and every such person or persons, as did procure the said judgment, so reversed, to be given against them, and every of them, by action or actions, to be sued upon his or their case or cases, according to the course of the common lawes of this realm. And if it happen the said offender or offendours, so offending, not to have any goods or chattels to the value of xx. li. that then he or they to be set upon the pillorie in some market place within the county, city or borough,

to have his ears nailed,
disabled to be sworn till
judgment reversed,
thereupon to recover
damages as before.

where the said offences shall be committed, by the sheriffe or his minister, if it shall fortune to be without any citie or towne corporate; and if it happen to be within any such citie or towne corporate, then by the said head officer or officers of such citie or towne corporate, or by his or their ministers, and there to have both his ears nailed, [Rep., Stat. Law Rev. (I.) Act, 1878,] and from thenceforth to be discredited and disabled for ever to be sworn in any of the courts of record aforesaid, until such time as the judgment shall be reversed, and thereupon to recover his damages in maner and forme aforesaid . . [Rep., Stat. Law Rev. (I.) Act, 1879.]

Who shall hear and
determine said offences.

III. And be it also enacted by the authority aforesaid, that aswell the judge and judges of every such of the said courts where any such suite is or shall be, and whereupon any such perjurie is or shall happen to be committed, as also ~~the justices of assise and gaole deliverie;~~ in their several circuites, and the justice of peace in every county within this realm, at their quarter sessions, ~~both within liberties and without,~~ shall have full power and authoritie, by vertue hereof, to inquire of all and every the defaults and offences perpetrated, committed or done, contrarie to this act, by inquisition, presentment, bill, or information before them exhibited, or otherwise lawfully to heare and determine the same; and thereupon to give judgment, award processe and execution of the same, according to the course of the lawes ~~of this realm.~~

Nor to restrain the authority
of any judge having absolute
power to punish perjury
before this Stat. so that a less
punishment than in this act
contained is not set upon the
offenders.

VI. Provided alwayes that this act, or any thing therein containyd, shall not extend in any wise to restrain the power and authoritie given by act of Parliament, heretofore made to the lord chauncellor of Ireland, and others of the King's counsell for the time being, to examine and punish ryots, routes, heynous perjuries, and other offences and misdemeanors which the lord chauncellor, and other sithence the making of the said act, have most commonly used to heare and determine in the court, at the castle of Dublin, commonly called the court of castle chamber, nor to restraine the power or authoritie of the lord president and counsaile, that is or shall be in Mounster, Conaght and Ulster, nor [Rep., Stat. Law Rev. (I.) Act, 1879] of any other judge having absolute power to punish perjurie before the making of this statute, but that they, and every of them, shall and may proceed in the punishment of all offences heretofore punishable, in such wise as they might have, and used to do before the making of this act to all purposes, so they set not upon the offendor or offendors less punishment then is containyd in this act: This act to continue for ever.

Perpetual.

PERJURY ACT 1729

[CHAPTER IV.]

An Act for the more effectual preventing and further punishment of forgery, perjury, and subornation of perjury, and to make it felony to steal bonds, notes, or other securities for payment of money, and for the more effectual transporting felons, vagabonds, and others.

For perjury or subornation,
besides former punishment,
to be sent to house of
correction, or transported, 7
years,

[II.] And the more effectually to deter persons from committing wilful and corrupt perjury, or subornation of perjury; be it further enacted by the authority aforesaid, That besides the punishment already to be inflicted by law for so great crimes, it shall and may be lawful for the court or judge, before whom any person shall be convicted of wilful and corrupt perjury, or subornation of perjury according to the laws now in being, to order such person to be sent to some house of correction within the same county for a time not exceeding seven years, there to be kept to hard labour during all the said time or to be transported to some of his Majesty's plantations beyond the seas for a term not exceeding seven years, as the court shall think most proper, and thereupon judgment shall be given, that the person convicted shall be committed or

escaping, breaking prison, or
returning, death without
benefit of clergy or the
statute, tried where escape, or

where apprehended.

transported accordingly over and besides such punishment, as shall be adjudged to be inflicted on such person agreeable to the laws now in being; and if transportation be directed, the same shall be executed in such manner, as is or shall be provided by law for the transportation of felons; and if any person so committed or transported shall voluntarily escape, or break prison, or return from transportation before the expiration of the time, for which he shall be ordered to be transported as aforesaid, such person being thereof lawfully convicted shall suffer death as a felon without benefit of clergy or of the statute, and shall be tried for such felony in the county, where he so escaped or where he shall be apprehended.

PERJURY ACT 1791

CHAPTER XVIII.

An Act to render Prosecutions for Perjury, and Subornation of Perjury, more easy and effectual, and for affirming the Jurisdiction of the Quarter Sessions in Cases of Perjury.

Justices of peace at quarter sessions may determine in cases of perjury.

III. And whereas doubts have been entertained whether justices of the peace have jurisdiction in cases of perjury at common law, be it declared and enacted by the authority aforesaid, That it shall and may be lawful to and for the justices of the peace at their quarter sessions to hear and determine in all cases of perjury committed within their jurisdiction.

Endnote

Some Anonymous legal professionals also contributed.

Final version, incorporating comments, edits and additions completed without final approval of all those who supplied input.

The following individual members assisted or motivated the original author to create this document, by their experience, comments or words: Natalie v T, Richard H, Frank N, Martin M, Joe B, Colleen J. Many others that can not be mentioned.

15 December 2016

Comments, corrections, opinions and criticism will be appreciated: Email **andy at aps dot ie**
Copy available in Word or ODT format.

-oOo-

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