

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE2238](#): Automatically remove parental rights upon the conviction of a child sexual/domestic abuse offence, lodged by Lynne Steel

Brief overview of issues raised by the petition

This petition relates to the law on ‘parental responsibilities and rights’ (‘PRRs’), as set out in Part 1 of the [Children \(Scotland\) Act 1995](#) (‘the 1995 Act’). Specifically, the petition considers the circumstances in which someone’s PRRs should be automatically removed by the criminal court.

The current law in Scotland

Part 1 of the [Children \(Scotland\) Act 1995](#), as amended by the [Children \(Scotland\) Act 2020](#), provides for a range of parental responsibilities and rights (‘PRRs’) in respect of all children living in Scotland (under 16s in this context).

A person with the full range of PRRs can make decisions about many aspects of a child's life, from everyday matters to major decisions with long-term consequences. PRRs include the right to determine where a child lives, where the child lives with another parent or person, the right and responsibility to maintain contact with that child.

Note that, unlike [England and Wales](#), Scotland does not, [for the most part](#), have a specialist family court system. Instead, disputes under the 1995 Act are mainly dealt with by [the local sheriff court](#), which deals with a wide range of civil and criminal matters. Court procedures and the scheduling of business differ between civil and criminal cases in the sheriff courts.

At present, PRRs may be removed or varied only by an order of the sheriff court (exercising its civil law responsibilities) and following an application to it, often by a parent. In reaching its decision, [the court must apply certain key principles and consider a range of factors](#), with the welfare of the child its paramount consideration.

The law and court processes relating to PRRs in Scotland is set out in more detail in the 2024 SPICe briefing, [Parental responsibilities and rights](#).

Developments in England and Wales

England and Wales have a similar law to Scotland on ‘parental responsibility’, as set in the [Children Act 1989](#), as amended.

There have been developments in that legal system that are relevant to the issues raised in this petition.

Jade's law: the Victims and Prisoners Act 2024

First, there is what is known as 'Jade's law', originating with [a UK Parliament petition](#), and contained in section 18 of the [Victims and Prisoners Act 2024](#). It has not yet been brought into force, as discussed in [this recent BBC article](#). The UK Government's intention is to implement it by the end of December 2026.

Section 18 aims to ensure that, where a parent with parental responsibility is convicted of the murder or manslaughter of the child's other parent, the Crown Court (a criminal court that deals with the most serious criminal offences) makes a 'prohibited steps order' (a civil order) preventing that parent from exercising parental responsibility unless later authorised to do so by a family court.

It will be compulsory to make this order if the parent has been convicted of murder but there is more discretion if the conviction is manslaughter.

Victims and Courts Act 2026

Section 3 of the Victims and Courts Act 2026 ('the 2026 Act') (not yet in force) will restrict the parental responsibility of a parent who has been convicted of a serious sexual offence against a child (not necessarily their own child, but against any child). Section 4 of the 2026 Act restricts the parental responsibility of a parent of a child who was conceived through rape.

Again, in cases like this, the Crown Court will make a 'prohibited steps order' that suspends parental responsibility when the parent is sentenced. The details of possible subsequent procedures associated with the family court largely mirror those associated with Jade's Law.

UK Parliament Petition

Lastly, there is [a current UK Parliament petition](#), which closes for signatures on 11 September 2026, arguing for the automatic removal of parental responsibility for parents convicted of abuse.

Developments in Scotland

The 2018 Scottish Government consultation

The Scottish Government last reviewed the law on PRRs in [its 2018 consultation](#), which led to the [Children \(Scotland\) Act 2020](#).

Following the 2020 Act, decisions on whether to remove or vary a person's PRRs remain a discretionary matter for the sheriff court under family law.

However, the 2018 consultation sought views (at paras 7.117-7.120) on whether a parent convicted of a serious criminal offence should have their PRRs removed by the criminal court. This, the consultation stated, could be achieved by either:

- the criminal court being given a duty to consider the removal of PRRs when a person is convicted of certain types of offences; or
- the option of an application to the criminal court following a conviction to remove that person's PRRs.

It was not entirely clear whether the criminal court would have any discretion in relation to the first option.

Of those that responded to the relevant consultation question, 50% favoured keeping it a matter for the discretion of the civil court; 34% supported a duty on the criminal courts to consider the removal of PRRs; 7% favoured the possibility of an application to the criminal courts; and 9% wanted another option ([analysis of consultation responses](#), para 8.10.1).

Other relevant topics

More generally, at present, a policy concern expressed by some stakeholders is that sometimes a perpetrator of abuse might try to use civil court processes relating to PRRs as a way of continuing their abuse, for example, by draining a person's financial resources. The possibility of continued abuse was, for example, [the focus of a 2023 petition](#) considered by the Scottish Parliament.

Recently, there have also been a number of policy developments in Scotland aimed at improving the coordination between the civil and criminal courts in cases involving domestic abuse. These are covered in detail in the SPICe briefing, [Domestic abuse and civil law in Scotland](#) (at p 52 onwards).

Finally, given the focus of the current petition, it is worth noting that, at present in Scotland, some protective orders can be made by both the criminal and civil courts, so the two systems are not entirely separate. The main example is a 'non-harassment order' (NHO) which can be imposed in the criminal court following a conviction for certain offences, including sexual and domestic abuse offences (see [Domestic abuse and civil law in Scotland](#), pp 22-24).

Key Organisations and relevant links

- [Law Society of Scotland](#)
- [The Family Law Association](#)
- [Scottish Women's Aid](#)
- [Shared Parenting Scotland](#)
- [The Children and Young People's Commissioner Scotland](#)
- [Children First](#)
- [SPICe briefing: Parental responsibilities and rights](#)
- [SPICe briefing: Domestic abuse and civil law in Scotland](#)

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The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot

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