# Domestic Abuse (Scotland) Bill

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 8</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>17 March 2017</td>
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<td>Introduced by:</td>
<td>Michael Matheson (Government Bill)</td>
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<td>Passed:</td>
<td>1 February 2018</td>
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<td>Royal Assent:</td>
<td>9 March 2018</td>
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## Domestic Abuse (Scotland) Act 2018 asp 5

### Passage of the Bill

The [Domestic Abuse (Scotland) Bill](#) was introduced in the Parliament in March 2017.

The Justice Committee was designated as lead committee for parliamentary consideration of the Bill. Its stage 1 report was published in September 2017, with the stage 1 debate taking place later the same month. The general principles of the Bill were agreed to following the debate.

During stage 2 scrutiny, in addition to the consideration of amendments, the Justice Committee took evidence on emergency barring orders.

The Bill was passed following the stage 3 parliamentary debate in February 2018 and became the [Domestic Abuse (Scotland) Act 2018](#) following Royal Assent in March 2018.

### Purpose of the Bill

The Bill as introduced contained provisions:

- creating a statutory offence of domestic abuse against a partner or ex-partner
- making changes to criminal procedure, evidence and sentencing in domestic abuse cases

The new offence was intended to cover behaviour which was already criminal, as well as abuse which might not be captured by existing offences. In relation to the latter, it was intended that the new offence would help enable the
effective prosecution of behaviour that is controlling, coercive and emotionally or psychologically abusive.

The reforms to criminal procedure, evidence and sentencing applied to cases involving the domestic abuse aggravator provided for in section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016, as well as to prosecutions for the new offence set out in the Bill.

**Parliamentary Consideration**

Stage 1 scrutiny by the Justice Committee disclosed broad support for the way in which the new offence was defined in the Bill as introduced. This was despite concerns expressed by some witnesses that it set the threshold for criminality too low.

The main elements of how the offence is defined were not changed during parliamentary scrutiny. However, the Bill was amended to:

- extend the territorial reach of the offence
- expand the scope of an aggravation which may apply where the offence involves a child

The proposed changes to criminal procedure, evidence and sentencing were generally welcomed. Much of the stage 1 evidence in this area related to non-harassment orders. The Bill, as introduced, included provisions requiring the courts to consider making non-harassment orders when sentencing offenders in domestic abuse cases. Whilst there was broad support for this change, some argued that further reform was needed. The Bill was amended at stage 2 so that a non-harassment order in a domestic abuse case, in addition to protecting the victim, could also cover children involved in the case. It was further amended at stage 3 to create a presumption in favour of imposing a non-harassment order.

Stage 2 amendments also added a provision extending an existing restriction on the use of bail, in cases where a person is prosecuted for a violent or sexual offence under solemn procedure, to include domestic abuse.

The Justice Committee considered the potential benefits of introducing emergency barring orders (EBOs) during its scrutiny of the Bill. Various forms of EBO are available in a number of countries. They are short-term orders designed to protect victims who may otherwise feel compelled to flee their homes. During stage 1, the Justice Committee received evidence arguing that the Bill should be amended to include provision for them in Scotland. This led to the Committee taking further evidence at stage 2. Although the Bill was not amended to include provision for EBOs, the Scottish Government did outline plans to consult on introducing some form of EBO.

The benefits of specialist domestic abuse courts were also debated during parliamentary scrutiny of the Bill. They exist in some parts of Scotland and may include a number of elements designed to support the effective
prosecution of domestic abuse cases (eg specific training for key personnel and arrangements for the prioritisation of domestic abuse cases over other cases). Debate included consideration of whether more needs to be done to widen the coverage of such courts across the country.