

STATES OF JERSEY



DRAFT MARRIAGE AND CIVIL PARTNERSHIP (DISSOLUTION AND SEPARATION) (JERSEY) LAW 202- (P.85/2025) – CHILDREN’S RIGHTS IMPACT ASSESSMENT

**Presented to the States on 14th October 2025
by the Minister for Justice and Home Affairs**

STATES GREFFE

CHILDREN'S RIGHTS IMPACT ASSESSMENT (CRIA)

PART 1: SCREENING

Name and title of Duty Bearer:	Deputy Mary Le Hegarat
Type of Duty Bearer: (Minister, Elected Member or States Assembly Body)	Minister for Justice and Home Affairs
Assessment completed by (if not completed by duty bearer):	Policy Officer
Date:	8th October 2025

1) Name and brief description of the proposed decision

The subject of your CRIA may be a proposed law, policy or proposition and in accordance with the Law is referred to in this template as the '**decision**'

- What is the problem or issue the decision is trying to address?
- Do children experience this problem differently from adults?

The draft Marriage and Civil Partnership (Dissolution and Separation) (Jersey) Law 202- (the draft law), if approved, will repeal the Matrimonial Causes (Jersey) Law 1949 (the "1949 Law") and Parts 3 and 4 of the Civil Partnership (Jersey) Law 2012 (the "2012 Law"). It will give effect to the States Assembly's in principle decision, as set out P.77/2015: Same-Sex Marriage, Divorce and Dissolution, to introduce the principle of "no fault" dissolution of marriage (and civil partnership) into Jersey law. In addition to introducing no fault dissolution, the draft Law proposes several key reforms which reflect modern practices used in other jurisdictions and:

- allow couples to apply for dissolution at any time following the formation of their marriage or civil partnership;
- harmonise terminology by using the word "dissolution" for the legal ending of both a marriage and a civil partnership (it is acknowledged that people will still use the word "divorce" when referring to the legal ending of a marriage);
- permit either or both parties to apply for a dissolution;
- remove the ability to contest a dissolution application;
- enable future consideration to be given to pension matters including "pension sharing and
- allow additional time for couples to resolve their issues, with the Court having authority to refer them to alternative dispute resolution services when deemed appropriate.

These reforms reflect evolving societal values and align Jersey's approach with that of other jurisdictions that have adopted a more conciliatory legal framework for the dissolution of a marriage or civil partnership.

This emphasis on reducing conflict and a more conciliatory approach supports the broader policy of encouraging non-court forms of resolution of financial matters and child-related matters.

The States Assembly has previously endorsed the recommendations of the Violence Against Women Taskforce. The move towards "no-fault" dissolution is a positive

and progressive step that supports this work by reducing adversarial processes and promoting respectful separation thereby improving the position for children. As highlighted, this draft Law replaces the current legislation governing divorce for married couples and the dissolution of civil partnerships. The existing legal framework prioritises the wellbeing of children in all related discussions and agreements. This draft Law seeks to uphold and reinforce these well-established principles.
2) Which groups of children and young people are likely to be affected? Groups of children could include early years, primary or secondary education; young adults; children with additional learning needs; disabled children; children living in poverty; children from particular ethnic backgrounds; migrants; refugees; care experienced children and LGBTQ+ children
Children of all backgrounds - regardless of age, ethnicity or family structure - may be affected by the breakdown of their parents' marriage or civil partnership. The draft Law seeks to minimise conflict during the process, with the paramount aim of safeguarding children's existing rights and wellbeing, and promoting their welfare.
3) What is the likely impact of the proposed decision on children and on their rights? • Identify any potential positive OR negative impacts and include indirect impacts on children and their rights as described in the UNCRC • <u>Will different groups of children be affected differently by this decision?</u>
While the draft Law does not alter children's existing rights, its impact is expected to be positive. Crucially, it preserves the court's primary duty; to safeguard the welfare and upbringing of all children up to the age of eighteen, and those over that age in tertiary education or where there are other special conditions. The draft Law is based on the principle of reducing conflict during the dissolution process. By minimising emotional strain on adults, it aims – most importantly – to shield children from the negative effects of parental separation. Fault-based proceedings often obstruct forgiveness and co-operation, both of which are essential if a couple have children and are successfully to co-parent in the future. Notably, the draft Law reinforces Jersey's already strong commitment to protect children's rights. It retains the court's existing power to delay issuing a separation order, or a final dissolution or annulment order, until the welfare and circumstances of any children involved have been thoroughly considered.
4) Is a full Children's Rights Impact Assessment required? If you have identified impacts on children and their rights, a full CRIA should be completed. If no impacts are identified then a Full CRIA is not required, but <u>please explain your rationale and how you reached this conclusion</u>
Yes. This draft Law replaces previous legislation, and it is important to affirm that the revised framework continues to place children's rights and well-being at the core of all procedures and decisions when a marriage or civil partnership, where there are children, comes to an end.

If screening determines that a full CRIA is needed, complete Part 2

Part 2: FULL CHILDREN'S RIGHTS IMPACT ASSESSMENT

5) What will be the impacts (positive or negative) of the proposed decision on children's rights?			
For each of the UNCRC articles described below, click to identify any that may be relevant ☒			
Category	UNCRC Article	Impact? YES NO	
Guiding Principles	Non-discrimination (Art 2)	☐	☐
	Best interests of the Child (Art 3) to be a top priority	x	☐
	Right to Life survival and development (Art 6)	☐	☐
	Respect for the child's views (Art 12)	x	☐
Civil Rights & Freedoms	Right to birth registration, name and nationality (Art 7)	☐	☐
	Right to an identity (Art 8)	☐	☐
	Freedom of expression (Art 13)	☐	☐
	Freedom of thought, conscience, and religion (Art 14) Every child has the right to think and believe what they choose	☐	☐
	Freedom of association (Art 15) Every child has the right to meet with other children and to join groups and organisations	☐	☐
	Right to Privacy (Art 16) including family and home life	☐	☐
	Access to information from the media (Art 17) Right to access reliable information from a variety of sources, in a format that children can understand	☐	☐
	Protection against torture or other cruel, degrading or inhumane treatment or punishment (Art 37(a))	☐	☐
Family Environment and Alternative Care	Respect for the responsibilities, rights and duties of parents (or where applicable, extended family or community) to guide their child as they grow up (Art 5)	x	☐
	Responsibilities of both parents in the upbringing and development of their child (Art 18)	x	☐
	Children must not be separated from their parents against their will unless it is in their best interests (Art 9)	x	☐

	Family reunification (Art 10)	x	☐
	Abduction and non-return of children abroad (Art 11)	☐	☐
	Right to a standard of living that is good enough to meet the child's physical and social needs and support their development (Art 27)	x	☐
	Special protection for children unable to live with their family (Art 20)	☐	☐
	Best interests of the child in the context of Adoption (Art 21)	☐	☐
	Review of treatment whilst in care (Art 25) If a child has been placed away from home for the purpose of care or protection (for example, with a foster family or in hospital), they have the right to a regular review of their treatment, the way they are cared for and their wider circumstances.	☐	☐
	Protection from violence, abuse or neglect (Art 19)	x	☐
	Recovery from trauma and reintegration (Art 39) Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life.	☐	☐
Basic Health and Welfare	Rights of disabled children (Art 23)	☐	☐
	Right to health and health services (Art 24)	☐	☐
	Right to social security (Art 26)	☐	☐
	Right to adequate standard of living (Art 27)	☐	☐
Education, Leisure and Cultural Activities	Right to education (Art 28)	x	☐
	Goals of education (Art 29) Education must develop every child's personality, talents and abilities to the full	☐	☐
	Leisure, play and culture (Art 31) Every child has the right to relax, play and take part in cultural and artistic activities	☐	☐
Special Protection Measures	Special protection for refugee children (Art 22)	☐	☐
	Children and armed conflict (Art 38 and Optional Protocol #1) Governments must do everything they can to protect and care for children affected by war and armed conflict.	☐	☐

	Children and juvenile justice (Art 40) Right to be treated with dignity and respect, right to legal assistance and a fair trial that takes account of age.	☐	☐
	Inhumane treatment and detention (Art 37 (b)-(d)) Children should be arrested, detained or imprisoned only as a last resort and for the shortest time possible.	☐	☐
	Recovery from trauma and reintegration (Art 39) Children who have experienced neglect, abuse, exploitation, torture or who are victims of war must receive special support to help them recover their health, dignity, self-respect and social life	☐	☐
	Child labour and right to be protected from economic exploitation (Art 32)	☐	☐
	Drug abuse (Art 33)	☐	☐
	Sexual exploitation (Art 34)	☐	☐
	Abduction, sale and trafficking of children (Art 35)	☐	☐
	Protection from other forms of exploitation including for political activities, by the media or for medical research (Art 36)	☐	☐
	Children belonging to a minority or an indigenous group (Art 30)	☐	☐
	Optional Protocol on the sale of children, child prostitution and child pornography	☐	☐
	Optional protocol on the involvement of children in armed conflict	☐	☐

6) Information and research What evidence has been used to inform your assessment?		
Evidence collected (include links to relevant publications)	What did the evidence tell you?	What are the data gaps, if any?
Reports have been published by the Jersey Law Commission which support the concept of “no-fault” divorce. Information from England and Wales shows that the introduction of “no-fault” divorce has helped to minimise conflict.	Aside from the indications that the amendments are supported by members of the legal profession, including the Family Judge, and by members of the public who would benefit from the proposed dissolution processes, there are widely accepted benefits in minimising conflict in the dissolution process.	The full benefits and any potential challenges of introducing of “no-fault” divorce and the associated amendments in the draft Law will only become clear once the new processes are implemented in Jersey. Nevertheless, the successful adoption of similar reforms in comparable jurisdictions - without public opposition – indicates

		that this approach offers meaningful advantages.
--	--	--

7) Engagement with children What groups of children and young people (or those who speak on their behalf, such as social workers, teachers or youth workers) have been directly or indirectly involved in developing the decision?		
Groups consulted	How they were involved	What were the findings?
Due to the technical nature of this legislation, children were not consulted directly. Children will nonetheless benefit from the changes this Law introduces as it looks to minimise potential conflict between their parents when they separate or legally end their marriage or civil partnership.	There was a public consultation on the issue of divorce. Drafts of the Law have been discussed with members of Jersey's Family Law Association and other legal representatives including Jersey's Family Judge. These legal professionals are involved with all matters related to divorce and the dissolution of a civil partnership and discuss and consider proposal which effect children on a regular basis.	There is support for the draft Law including full support of the introduction of "no-fault" dissolution. Concerns and comments were made as set out in the public consultation. Consultation has been held with Jersey's Family Judge and members of Jersey's Family Law Association. Individual concerns raised during this work have been addressed and updates made to the version of the draft Law prior to its lodging.

8) Assessing Impact on children's rights Based on the information collected and analysed above, what likely impact will the proposed decision have on the specific children's rights identified in question 5)?		
Relevant UNCRC Articles (rights) identified in Q5	Describe the positive or negative impacts on these rights	Which group(s) of children are likely to be affected?
Guiding Principles Best interests of the Child (Art 3) to be a top priority. Respect for the child's views (Art 12)	The draft Law promotes the best interests of children by ensuring that the court considers their needs during the dissolution of a marriage or civil partnership.	This draft Law may affect any child whose parents formally separate or dissolve their marriage or civil partnership.
Family Environment and Alternative Care Respect for the responsibilities, rights and duties of parents (or where applicable,	The draft Law reinforces the principle that children's needs remain at the forefront throughout the dissolution process. It also introduces a new	This draft Law may affect any child whose parents formally separate or dissolve their marriage or civil partnership.

extended family or community) to guide their child as they grow up (Art 5) Family reunification (Art 10) Responsibilities of both parents in the upbringing and development of their child (Art 18) Children must not be separated from their parents against their will unless it is in their best interests (Art 9). Right to a standard of living that is good enough to meet the child's physical and social needs and support their development (Art 27) Protection from violence, abuse or neglect (Art 19)	provision on interim occupancy orders to better support families including those that may be affected by domestic violence and abuse.	
Education, Leisure and Cultural Activities Right to education (Art 28)	The draft Law preserves current provisions ensuring that financial arrangements can be made to support children throughout compulsory and tertiary level education.	This draft Law may affect any child whose parents formally separate or dissolve their marriage or civil partnership.
9) Weighing positive and negative impacts • If a negative impact is identified for any area of rights <u>or</u> any group of children and young people, what options are there to modify the proposed decision to mitigate the impact? • Could any positive impacts be enhanced? No negative impacts have been identified. Positive impacts cannot be enhanced any further within the scope of the draft Law.		

10) Conclusions In summary, what are your key findings on the impact of the proposed decision on the rights of Jersey children?
In summary, this draft Law seeks to minimise conflict between couples choosing to dissolve their marriage or civil partnership, with the primary focus, where children are involved, on protecting their rights and well-being. By introducing a no-fault dissolution process, the draft Law aims to lessen emotional strain and parental disputes, thereby shielding children from the adverse effects of parental separation.