



Domestic Violence, Crime and Victims (Amendment) Act 2012

2012 CHAPTER 4

2 Evidence and procedure in cases of serious physical harm

After section 6 of the Domestic Violence, Crime and Victims Act 2004 insert—

“6A Evidence and procedure in cases of serious physical harm: England and Wales

- (1) Subsections (3) to (5) apply where a person (“the defendant”) is charged in the same proceedings with a relevant offence and with an offence under section 5 in respect of the same harm (“the section 5 offence”).
- (2) In this section “relevant offence” means—
 - (a) an offence under section 18 or 20 of the Offences against the Person Act 1861 (grievous bodily harm etc);
 - (b) an offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit murder.
- (3) Where by virtue of section 35(3) of the Criminal Justice and Public Order Act 1994 a court or jury is permitted, in relation to the section 5 offence, to draw such inferences as appear proper from the defendant’s failure to give evidence or refusal to answer a question, the court or jury may also draw such inferences in determining whether the defendant is guilty of a relevant offence, even if there would otherwise be no case for the defendant to answer in relation to that offence.
- (4) The charge of the relevant offence is not to be dismissed under paragraph 2 of Schedule 3 to the Crime and Disorder Act 1998 (unless the section 5 offence is dismissed).
- (5) At the defendant’s trial the question whether there is a case for the defendant to answer on the charge of the relevant offence is not to be considered before

Status: This is the original version (as it was originally enacted).

the close of all the evidence (or, if at some earlier time the defendant ceases to be charged with the section 5 offence, before that earlier time).”