ABORTION LEGISLATION REFORM BILL 2023

Second Reading

Resumed from an earlier stage of the sitting.

MS E.J. KELSBIE (Warren–Blackwood) [2.53 pm]: As I was saying, I wish to reiterate why this bill is so important. Today, in 2023, I stand proud to be part of the Cook Labor government introducing legislation that will fully decriminalise abortion, address inequity issues in line with other Australian jurisdictions and remove clinically unnecessary and antiquated barriers for women accessing an abortion. I fully support the legislation to decriminalise abortion and modernise our abortion laws.

The SPEAKER: Leader of the Liberal Party, you need to seek leave to walk between myself and the speaker.

Ms L. Mettam: I did that.

The SPEAKER: Sorry?

Ms L. Mettam: I did seek leave.

Ms E.J. KELSBIE: I feel very strongly that a woman has the right to choose. Women have the right to make decisions about our own bodies, and that decision is mine. As I said earlier, my child-bearing days are obviously behind me, but I feel strongly that it is my body and it is my choice. It is not an easy decision, but it is my decision to make about my body. I do not want to be lectured, I certainly do not want to be judged, and I do not want to be vilified for making a call about my own body. What I want is support. Abortion is an emotional subject, but it is most certainly not a dirty word.

We know that young people are sexually active. Although it is not common, we know a small number of young people need to access abortion care. Most confide in a parent or guardian. However, in saying that, we also know that on rare occasions that is not always safe or possible for a young person under 16. They may need to seek an abortion without parental consent. Under the current legislation, a young person aged under 16 can seek an abortion without parental consent, but to do so they must seek of the approval of the Children's Court of WA. Those cases are rare, but it is a reality for some young people.

This reform will remove the need for a young person seeking access to abortion care without parental consent on those rare occasions to seek approval from the Children's Court of WA. Under this legislation, the concept of mature minor is recognised. "Mature minor" was a new term for me so I did further research and also spoke with medical practitioners. I learnt that a mature minor is someone deemed by a medical practitioner to be sufficiently mature and intelligent to make healthcare decisions on his or her own behalf, including consenting to medical treatment. It was also reiterated to me that medical practitioners are well versed in the process of determining the decision-making capacity of a young person. A person under the age of 18 is assessed as being a mature minor if they fully comprehend the nature, consequences and risks of the proposed action, irrespective of the presence or absence of parental consent. If a young person is deemed to have decision-making capabilities, they are therefore deemed to be a mature minor and can access abortion care. This is consistent with the provision of all other medical care; is not specific just to abortion services. When appropriate, health practitioners can also make referrals to additional services such as counselling or a social work team to provide additional support to a young person.

When we talk about barriers to abortion, by reforming this legislation, the requirement for an abortion to be considered by two medical practitioners—not one—will be removed. This will remove a barrier for women, especially regional women, to access abortion. The reform will also allow other registered health practitioners to perform medical abortions on a fetus of not more than 23 weeks by prescribing, supplying or administering an abortion drug to the patient, removing yet another barrier to women, especially regional women, to access abortion care. Now imagine someone who has sat with their decision and seeks an abortion. They make an appointment with their medical practitioner, seeking support to access abortion care, only to discover at the appointment that the GP is a conscientious objector who refuses to participate in abortion care. The patient herself must now approach other GPs—they have to do that themselves—to find a medical practitioner who is willing and able to participate in the patient's abortion care. This could, no doubt, be distressing and potentially add to feelings of judgement. Compounding these feelings of judgement is the additional time it takes to navigate this emotionally charged process—time the patient is acutely aware of as each week of her pregnancy comes with significant meaning and pressure. These much-needed reforms will ensure that any refusal to participate in abortion care must be clearly and immediately articulated to the patient. This legislation will place an obligation on certain practitioners to transfer the care of the patient to a registered health practitioner or health-service facility that can knowingly provide abortion services or provide relevant information to enable the patient to access treatment elsewhere. Sending a woman away with zero support to access an abortion she is seeking will simply no longer be acceptable.

Feedback from public consultation, which was overwhelming with just over 17 500 responses, showed strong support from both the community and health professionals for the modernisation of WA's abortion legislation. This consultation allowed women and other stakeholders to have their say on these key issues. I can only imagine how emotionally charged those responses would have been. We are putting into words our feelings and recommendations for what would have been an extremely personal experience in the hope of helping those women who come after us. That is the reality. Many more women will face this decision in the weeks, months and years ahead.

I thank the women who have gone before me in this place for continuing to fight for women's rights and for fighting for women's rights to make decisions about their bodies. I thank those who took part in the community consultation on abortion reform that allowed women and other stakeholders to have their say on these key issues, and the strong support from both the community and health professionals for the modernisation of WA's abortion legislation. I fully support the legislation to decriminalise abortion and modernise our abortion law. I am proud to be part of the Cook government and to improve the reproductive rights of women.

Women's rights to access abortion is a fundamental part of our health care. It is a right that we should quite rightly be fiercely protecting. We all witnessed the scenes in the United States last year with horror and sadness after the Supreme Court overturned the Roe v Wade landmark decision that for five decades had provided women with the constitutional right to an abortion. Women of all ages and races took to the streets in their masses to fiercely protect their rights and their bodies. Women everywhere, across the globe, want to be heard when it comes to making decisions about their bodies.

I stand steadfast in my commitment to the reproductive rights of and equitable access to abortion for all Western Australians, especially women in the regions. It is my body. It is my choice. I choose to commend this bill related to reforming women's reproductive rights to the house.

MS L. METTAM (Vasse — Leader of the Liberal Party) [3.01 pm]: I rise to express my support for the Abortion Legislation Reform Bill 2023, fully aware of the moral significance that accompanies such decisions. The matters we are addressing are deeply personal and complex, leaving us with no easy or obvious answers. Importantly, as outlined by the Minister for Health in her second reading speech, we are not here to debate a woman's right to have an abortion. That argument was had and settled in this place almost three decades ago—in 1998. While examining the issues before us, we must recognise that our conscience plays a pivotal role, demanding that we individually make thoughtful and informed decisions. Emotions are a natural part of this process as they shape our perspectives and guide our actions. As such, it is vital that we not only share our thoughts, but also actively listen to the perspectives and feelings of others in the community.

I acknowledge the contributions already made in this place by other members on all sides of the chamber. As legislators, we bear the responsibility to base our words, our decisions and our votes on facts. Our deliberations must be grounded in evidence and expert knowledge to ensure that we make informed and sound judgements. Throughout this discussion, we must hold true to the core belief that women facing the difficult decision to terminate a pregnancy deserve compassion and kindness free from judgement. Our role is to support and empower them to make choices that align with their personal circumstances and beliefs. We must approach this matter with empathy and understanding, acknowledging the complexity of individual experiences. Together, let us work towards introducing policies that protect the rights and wellbeing of all, fostering a society that respects personal autonomy and upholds the dignity of every individual.

Abortion is a critical component of reproductive health care. I firmly support the right of individuals to make decisions about their own bodies and reproductive futures. Every person should have the freedom to access safe, legal and compassionate abortion care when they face what is ultimately a difficult and personal position.

As I have heard many times in the past months, abortion is not a decision that is taken lightly but is often a necessary option for those facing health risks, fetal abnormalities or other challenging circumstances. As a legislator, it is challenging to foresee every circumstance that a woman might face during pregnancy. I am therefore cautious about amendments that try to prescriptively determine what is acceptable and what is not in such intricate detail. Instead, I believe we should adopt a moral stance that focuses on minimising harm and places trust in the medical profession. The medical field is equipped with the necessary checks and balances to make informed decisions in collaboration with women, especially in situations in which complexities are beyond our full comprehension.

This bill intends to empower women to place their trust in their healthcare professionals. However, I am open to considering amendments that align with the core principle of ensuring the wellbeing of women while upholding other beliefs within our community. Our objective is to create a position on abortion that offers women in challenging circumstances an accessible and comfortable pathway to terminate pregnancies that cannot be sustained. To achieve this, we must enable medical professionals to guide women through their decisions and determine the safest and least harmful approach to terminating pregnancies. By doing so, we can provide the necessary support and care for those facing complex situations that many of us may not fully comprehend or wish to experience ourselves.

Ultimately, our aim is to uphold the rights and autonomy of women while ensuring their safety and wellbeing throughout this process.

In engaging with key stakeholders, I have given careful consideration to correspondence from both supporters and opponents of this bill. Additionally, I have dedicated significant time to studying the insights of medical and legal experts. Their thoughts and comments have provided me with factual evidence that late-term terminations are and will remain exceedingly rare. These procedures are undertaken only in cases when women and their medical teams have collectively deemed it medically appropriate to discontinue the pregnancy. It is also important to recognise that the community has provided feedback on their expectations for the legislation. The WA government undertook a four-week consultation period to provide input into key issues regarding access to abortion care and to provide information on the legislative amendments that are now before us. More than 17 500 survey responses were received during the consultation period, 91 per cent of whom were from Western Australian residents. Over 81 per cent of respondents were women. The majority of respondents backed every change, including fully decriminalising abortion, increasing the gestational time limit for a procedure from 20 to 24 weeks, abolishing mandatory counselling and removing the need for GP referral. Reproductive rights are human rights and people should not be forced into parenthood due to circumstances that are beyond their control. Providing access to abortion empowers individuals to make decisions for themselves. Ultimately, the right to abortion is about respecting the individual's freedom and their ability to make choices in very difficult circumstances. We should trust people to make the best decisions for themselves and their families without unnecessary interference. By supporting access to safe and legal abortion, we stand on the side of the fundamental rights of individuals in relation to compassion and choice and also with respect to medical practice.

The proposed changes in this bill are aimed at removing unnecessary hurdles that for too long have obstructed women's reproductive rights and access to health care. The amendments seek to repeal both the Criminal Code and the Health (Miscellaneous Provisions) Act 1911, making way for contemporary provisions governing abortion under the Public Health Act 2016. This is an important step for Western Australia. In Western Australia, abortion is currently legal in most circumstances. However, its regulation remains tied to an exception established under section 199 of the Criminal Code Act Compilation Act 1913. This exception allows abortions to be performed in accordance with section 334 of the Health (Miscellaneous Provisions) Act 1911. As a result, abortion is still bound by the constraints of criminal law rather than being treated as a healthcare matter in the eyes of the law. This poses a number of challenges and limitations to the full recognition of abortion as an essential aspect of health care deserving the rights and protections that healthcare services should entail. This is a position that is supported by the Human Rights Law Centre that stated in its community consultation submission —

> The use of the criminal law to regulate access to abortion perpetuates the harmful stigma and discrimination that has been attached to abortion for too long. It is also completely at odds with contemporary community values.

Over the years, we have witnessed significant strides across Australia in recognising abortion as an essential aspect of health care and the decriminalisation of abortion in Western Australia as an important step in the right direction. Likewise, informed consent is a fundamental tenet of medical ethics ensuring that individuals have the right to make well-informed decisions about their own bodies and about health care. It is essential that we respect the autonomy of those seeking abortion services by allowing them to make choices based on reliable and comprehensive information.

Requiring two doctors to essentially approve an abortion procedure can create undue delays and may not be practical in all circumstances. This is burdensome, particularly in remote areas with limited access to medical professionals. We should not impose additional or unnecessary obstacles on women and individuals who are already navigating through personal and emotional complexities. By eliminating the requirement for a referral to a second doctor for most abortions, we empower individuals to make their healthcare decisions freely and without undue burdens, and I support this change. Similarly, mandatory counselling can inadvertently create barriers to access and impose unnecessary emotional distress on individuals already facing difficult decisions. Although counselling can be a valuable resource for some and should be accessible, it should not be mandated for all at a particular time as it assumes that individuals are incapable of making sound decisions on their own. Instead, we should empower women and those seeking abortion care to determine what kind of support, if any, they require throughout this process and ensure that that support is available. This is a view also shared by the Australian Medical Association (WA). Its submission highlighted that although some patients would greatly benefit from further specialist medical and practitioner advice, support and counselling, their medical practitioners can refer and support patients in line with existing standards of care and professional obligations, if it is required. This is particularly important for accessibility for those under 16 years of age.

The focus must be on ensuring that all medical professionals who provide abortion care are highly qualified and capable of delivering safe and compassionate services. The law should be designed to support patients and their doctors in making the best possible medical decisions tailored to each patient's unique circumstances. Rigid and

inflexible laws concerning the timing of medical procedures create unnecessary challenges for medical professionals and impede patients from making decisions that align with their best interests and their wellbeing.

Currently, Western Australia's abortion laws place vulnerable women in a difficult position as some are compelled to travel interstate to access the care they need for terminations after 20 weeks' gestation. This imposes significant physical, emotional and financial burdens on these women, who would normally be able to receive the necessary care in their home state. In contrast with other Australian jurisdictions, Western Australia's current laws stand alone with an outdated requirement for a medical panel of six doctors appointed by the Minister for Health to review each case involving a patient who seeks an abortion from 20 weeks' gestation onwards. For an abortion to proceed, two doctors from this panel must both agree that the procedure is justified based on severe maternal or fetal medical conditions. The Human Rights Law Centre states —

> The use of legislated medical panels, or a mandated requirement for particular specialists to be involved, in the decision as to whether a person can receive an abortion has been widely criticised, in particular for causing delays and discriminating against people in regional and remote areas. In 2019, the South Australian Law Reform Institute's … comprehensive review of abortion noted that such requirements can be "bureaucratic and cumbersome", and impose greater barriers on people living regionally and remotely and Aboriginal and Torres Strait Islander people.

Outdated regulations that hinder access to necessary health care only serve to create additional challenges for women facing difficult decisions about their pregnancies, and I note that 67 per cent of individuals who responded to the community consultation process supported the removal of this panel. Again, I support this change.

The Abortion Legislation Reform Bill 2023 also seeks to increase the gestational limit at which additional requirements apply to 23 weeks' gestation to ensure that individuals can receive appropriate medical care within reasonable time frames. It is important to highlight that this change is supported by both the community and the medical profession. The community consultation process provided support for an increase in the gestational age at which additional requirements apply to better align with other jurisdictions, and 60 per cent of people of reproductive age who responded to the consultation process were in favour.

The Australian Medical Association (WA) firmly believes that the WA government should heed medical advice in identifying the appropriate gestational limit for any additional requirements. In determining the gestational limit for abortions or late abortions, it highlights that it must be approached as a clinical consideration. The insights and expert opinions of esteemed organisations such as the Royal Australian and New Zealand College of Obstetricians and Gynaecologists are invaluable in shaping the decisions being made. Their expertise and evidence-based guidance will play a crucial role in informing the establishment of a suitable gestational limit for late abortions. In light of these considerations, the AMA's submission states —

> … The AMA (WA) believes that 22 weeks gestation would be more appropriate when determining a gestational limit for additional requirements.
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> … Increasing the gestational limit to 22 weeks provides additional time post 18-20-week anatomy scan for patients and their care providers to consider the indications and reasons for accessing abortion services.

During my consultation process, I was fortunate enough to speak with Professor Jan Dickinson, AM, an obstetrician and subspecialist in maternal fetal medicine. Her guidance with regard to increasing the gestational limit to 23 weeks and confirmation that this is a clinically appropriate time frame has made it much easier for me to support this change. She also highlighted that it is crucial to acknowledge that abortions performed from the middle to the later stages of pregnancy are rare occurrences. In Western Australia, they account for less than one per cent of all abortions performed. These situations typically arise in complex and distressing circumstances, such as the diagnosis of a severe maternal condition or a fatal fetal condition at the 20 to 22-week scan, often in the context of a much-wanted pregnancy. In these cases, multiple health professionals are involved as a matter of good clinical practice. The complexity of such situations demands a collaborative and comprehensive approach to ensure that patients receive the best possible care and support during this challenging time.

Let us keep these realities in mind as we consider our approach to abortion care. While the overall focus should be on promoting access to safe and compassionate health care for all individuals, we must also recognise the unique and sensitive nature of these specific situations.

The bill before us also marks a significant step towards improving the decision-making process surrounding late-term abortions. By allowing two medical practitioners to jointly assess the appropriateness of those procedures, we prioritise professional expertise over bureaucratic processes. This change will ensure that medical decisions are grounded in the knowledge and experience of those who are best equipped to make them. However, it is imperative to critically examine one aspect of this provision—the ability for the primary practitioner to seek a second opinion

from medical professionals located anywhere in the country raises valid concerns, which I will raise further during consideration in detail. Although seeking expert advice is essential, we must question the necessity of allowing practitioners to essentially shop around for opinions, potentially leading to variations in decision-making that could be driven by factors beyond medical considerations. This clause becomes especially perplexing when we consider the context of late-term abortions, which are predominantly performed at Western Australia's women's facility, King Edward Memorial Hospital for Women. Our discussions with senior staff at the hospital indicate that the need for seeking opinions from external practitioners located outside Western Australia is exceedingly rare, if not entirely unnecessary. Their expertise and experience, coupled with the availability of local sub-specialists, render the insertion of this clause questionable at best. I will also raise this during the consideration in detail stage.

It is reassuring to note that the Australian Medical Association WA shares this perspective. Its professional insight confirms that our state boasts a wealth of highly skilled sub-specialists who are more than capable of providing second opinions for a wide range of medical conditions. This abundance of local expertise should negate the need for practitioners to look beyond our borders for additional input. It also believes that these procedures are not merely standard procedures. Its submission highlights —

> … if the current requirement of a Ministerial Panel to approve late term abortions is removed, legislative reform should ensure that an additional two specialist registered medical practitioners, with appropriate qualifications and experience are required. At least one should be an Obstetrician and Gynaecologist, and the second should have specialist medical registration and clinical expertise relevant to the patient's needs, for example maternal-fetal medicine, rural and remote medicine, paediatric neurology, paediatric cardiology or psychiatry.

This is also a view supported by Professor Dickinson, who states —

> These late abortions are more complex, virtually always require feticide and occur in tertiary hospitals under the management of Fetal Medicine Specialists. It is my opinion that abortion >23 weeks gestation should occur in a tertiary obstetric hospital, as these procedures can be complex and involve specialist obstetric and anaesthetic care.

As we contemplate the nuances of this bill, we must weigh up the importance of seeking informed medical opinions against the potential risks associated with allowing practitioners to source opinions from afar. Striking a balance that ensures the best possible care for patients while safeguarding against unnecessary variations in decision-making is paramount.

I also believe that laws that rigidly restrict the authority to perform abortions exclusively to doctors present an additional hurdle for individuals seeking access to comprehensive and high-quality abortion care. A wealth of evidence exists regarding the safety and effectiveness of nurse-led care in the realm of early medication abortions. This model not only increases access to care, but also carries the potential to alleviate the stark challenges faced by people in regional and remote areas, where a lack of trained providers presents a significant obstacle. Ironically, in Western Australia, nurse-led care currently stands as a criminal offence. A stark contrast emerges when we examine jurisdictions that have recently overhauled their abortion laws. For instance, Queensland and the Northern Territory have taken progressive steps by embracing a diverse range of professionals, including nurses, midwives, and Aboriginal and Torres Strait Islander health workers, alongside pharmacists, to contribute to abortion care. Similarly, South Australia has extended the role to encompass health practitioners, expanding the scope beyond solely medical practitioners, particularly in medication abortion scenarios.

An agile and responsive legal framework is paramount to fostering the growth of these advancements in clinical practice. Rather than binding progress with overly prescriptive regulations, our laws should stand as a facilitator, propelling and supporting women in the best way possible. By embracing nurse-led care and allowing space for a broader spectrum of healthcare professionals, we set the stage for a more accessible, compassionate and forward-thinking healthcare landscape.

As part of the community consultation process, there was also strong support that the legislation should be updated with regard to conscientious objection. It is crucial to acknowledge that individual health practitioners possess the right to freedom of thought, conscience, and religion, allowing for a diversity of viewpoints on abortion. This diversity is evident within the medical community whereby doctors may hold varying beliefs regarding this complex issue. The Australian Medical Association (WA) has taken a definitive stance on this matter through its position statement on ethical issues in reproductive medicine. This statement highlights the importance of maintaining a patient-centred approach, even in cases of conscientious objection. According to the AMA, when a doctor holds a conscientious objection to abortion, it is their responsibility to communicate this objection to the patient. However, this communication should be executed in a manner that ensures any resulting delay in treatment does not unduly hinder the patient's access to essential services. Although it is crucial to respect the conscientious objection of medical practitioners, it is equally important to safeguard patients' access to necessary and timely medical care. Conscientious objection should not become a barrier preventing individuals from accessing healthcare services. As we navigate reforms, it

is imperative that we strike a balance that respects the beliefs of healthcare professionals while upholding patients' rights to timely and comprehensive care. The AMA (WA) advised during consultation that instead of mandating a medical referral, there should be a requirement for conscientious objectors to provide essential information and advice to patients seeking abortion services. This approach, which is contained in the bill, will ensure that patients can access the necessary information and resources to secure abortion care and is therefore a position I support. I will seek further clarification from the minister on this point during the consideration in detail stage. In essence, our focus should remain on ensuring that patients' access to healthcare remains unimpeded, while also respecting the rights of healthcare professionals to conscientiously object. By striking this balance, we can establish a framework that supports both patients and practitioners within the realm of abortion care.

This bill also intends to eliminate a significant barrier that has long hindered young individuals' access to reproductive healthcare. At its core, it addresses the issue of parental involvement when a dependent minor seeks an abortion. A paramount aspect of this bill centres on bringing Western Australia's approach in line with that of other jurisdictions. This harmonisation is a resounding affirmation of our commitment to fairness and equity in healthcare, erasing the prevailing disparity that has imposed a higher standard of informed consent on minors seeking abortion care compared with other forms of medical assistance. It is important to recognise a young person's capacity to make informed medical decisions. In the broader context of medical practice and law, this stands firm as a cornerstone. Regrettably, Western Australia's existing abortion laws deviate from this medical standard, compelling those under 16 years of age to secure consent from a parent or guardian, or to seek court approval to access abortion care. The consequences of such a requirement can be dire, often resulting in unintended and grievous outcomes. For a mature minor capable of making healthcare choices, forcing disclosure of their pregnancy to parents or guardians or navigating a difficult and challenging court process can inflict significant physical and psychological harm. It is a path fraught with potential risks, including attempts to procure an abortion without proper medical supervision in the contemplation of self-harm.

This concern is further magnified in circumstances in which a young person finds themselves in a particularly vulnerable situation. Cases involving violent parents, individuals in foster care or pregnancies stemming from rape or incest underscore the urgency of re-evaluating our approach. The law should act as a safeguard, facilitating decision-making in the best interests of young and vulnerable individuals. In some scenarios this will entail refraining from mandating disclosure of a pregnancy to parents or guardians, recognising the complexities and sensitivities surrounding such situations. In supporting these aspects of the bill, we seek to uphold the dignity, autonomy and wellbeing of young individuals. It is a collective acknowledgement of our responsibility to foster a healthcare system that serves in the best interests of all, particularly those who find themselves in vulnerable circumstances.

In my view, the proposed changes to the information collection and management model for abortion aim to strike the right balance between safeguarding patients' privacy and ensuring adequate information for health service provision, monitoring, planning and evaluation. This strategic approach underscores a commitment in maintaining the utmost confidentiality of patients' personal and medical details while simultaneously catering to the requirements of healthcare infrastructure enhancement. My support lies behind the continued implementation of mandatory notification for abortions irrespective of the gestation stage at which they occur. This data holds a significant place in the realm of healthcare analysis and planning, offering invaluable insights into the trends that shape patient care. For instance, the discernible decline in terminations for adolescent women serves as a pivotal point of reference for healthcare education and interventions. Just as all births beyond the 23-week gestation threshold are subject to mandatory reporting through the Western Australian midwives notification system, it is only fitting that this same standard be upheld for other abortion procedures. This practice, already established in the United Kingdom, serves as a means of transparency and accountability, reassuring the public of Western Australia that late-term abortions are undertaken for valid and serious medical conditions. Such stringent reporting mechanisms instil a sense of trust in our healthcare system, assuring the community that late abortions are not undertaken frivolously. As we consider these crucial amendments, it is incumbent upon us to ensure that the privacy of both individuals and health practitioners involved in abortion services remain sacrosanct.

Amendments to the Freedom of Information Act will be a shield against any unwarranted intrusion, safeguarding the confidential nature of these sensitive matters.

Lastly, a critical aspect of the bill seeks to eliminate the mandatory reporting requirement to the coroner for live births after an abortion. This change reflects a profound recognition of the intricate emotional landscape that patients and their families traverse during such times. The current reporting obligation, although well intentioned, often inadvertently becomes a source of additional trauma, casting a shadow of distress over individuals who are already navigating a complex and sensitive journey.

It is undeniable that the experience of undergoing an abortion is laden with myriad emotions, personal considerations and sometimes even challenges that extend beyond the medical realm. This decision is an intensely private one, often entailing intricate emotional negotiations and personal circumstances that can only be fully understood by the individuals involved. Mandating the reporting of live births following an abortion to the coroner introduces an

unnecessary intrusion into these lives, potentially compounding the emotional burden they already bear. It is our duty to ensure that the experiences of patients and their families are met with understanding and empathy, rather than subjecting them to additional stressors that serve no tangible medical purpose.

Furthermore, this amendment is in alignment with our overarching goal of fostering a healthcare environment in which patients are empowered to make the best decisions for their own lives, in consultation with their healthcare providers. The removal of this reporting requirement signifies a step forward in creating an atmosphere where trust between patients and healthcare professionals is established, acknowledging their agency and valuing their wellbeing above all else.

I quote the words of Professor Dickinson in relation to these concerns —

> The current involvement of the WA state coroner in all live born babies after termination should cease. There are fetuses with known lethal congenital anomalies in whom the mother does not wish for her baby to be stillborn, but feels strongly she wishes to spend the short amount of time after birth that she has with her baby whilst it dies under a comfort care model. I accept these cases will need to be individualised, but this option should be available for selective cases without the threat of a coronial investigation (which currently is in place).

Finally, as we advocate for pro-abortion policies, the significance of comprehensive sex education cannot be overstated. By imparting accurate and unbiased information we equip individuals with the awareness and understanding necessary to navigate the complexities of sexual health. This education extends beyond the realm of anatomy and physiology; it delves into matters of consent, communication and healthy relationships. Armed with this knowledge, individuals are empowered to make choices that resonate with their values and priorities, ultimately reducing the incidence of unintended pregnancies.

The Western Australian Abortion Legislation Reform Bill 2023 presents what is recognised by medical experts as a much-needed overhaul of our current approach to abortion care. By recognising that abortion is part of essential health care and removing clinical barriers we are supporting the autonomy of individuals seeking these services. By empowering women and individuals to make their own decisions and respecting their choices we create a supportive and caring environment that upholds the principles of patient-centred health care.

I take the opportunity to thank the minister and her office for providing information to the opposition. We will approach the vote on this bill as a conscience vote. I will support this bill. I flag that there will potentially be an amendment moved, and we will be open to any other amendments that may be moved in this place.

I take the opportunity to thank all the clinicians who provided valuable feedback to me in order to better understand what this bill represents, in particular Professor Jan Dickinson. She does not believe that this bill will lead to any significant increase in abortions, but that it will provide better support for women during what is a very difficult time and better support for health professionals as well. She provided great insight and clarity on a number of matters, importantly around the instances of late-term abortions and the needs of women accessing this procedure in Western Australia. I leave my comments there.

MS L. DALTON (Geraldton) [3.41 pm]: Fellow members, I rise today to speak to the Abortion Legislation Reform Bill 2023. I thank my colleagues who have already spoken in support of this bill today, particularly those who have shared their own experiences and also the experiences of close family and friends. It has been a privilege to be in this chamber today to hear their stories. I have to say, I am feeling very grateful for their courage.

I believe this bill is potentially at the heart of human rights—women's rights—in this country. It is strange, but the topic of abortion is a sensitive one. It is a word often whispered and not spoken about openly and honestly. Perhaps if it were not so much of a taboo subject in our culture, we may not have had restrictive laws surrounding them, and women and girls would not have felt such a stigma about trying to access an abortion or asking for help to navigate their way through making this decision. To have an abortion is a private, important decision and one, in my experience, that should never be taken lightly. However, at the heart of it, abortion is health care, and safe and supported abortions should be accessible to all women in Western Australia without the fear of judgement, stigma or retribution. Access to this health care needs to be fair and equitable, no matter where they live in WA.

Imagine, if you will, our dystopian future if we do not move towards better reproductive rights in this state and a society in which women's voices are silenced, their choices restricted and their bodies controlled by laws that fail to recognise their inherent rights. We could not imagine it; that is the stuff of *The Handmaid's Tale*, but in many ways that was our experience before this bill was introduced. As we know, in 1998, Western Australia became the first state in Australia to decriminalise abortion. Currently, abortion is lawful in WA as long as it is performed by a medical practitioner in good faith and with reasonable care and skill, and the performance of the abortion is justified under the Health Act 1911. However, medical care around abortion services has advanced since 1998, and the legislation is now outdated and in some circumstances poses an unnecessary barrier to the provision of this healthcare service.

The purpose of this reform is to contemporise the legislative framework by removing unnecessary barriers to accessing abortion care and align with laws in other Australian jurisdictions when suitable to the WA context.

Living in regional Western Australia, I understand how accessing abortion services can become very difficult and adds to what can be already a very emotional and traumatic time. I have listened to the stories of women in my community, and some of them have been very confronting. The current legislation requires that informed consent be obtained from the patient by two medical practitioners prior to an abortion being performed. This makes the window of opportunity for a medical abortion smaller and sometimes just out of reach. The time to have to wait to see a general practitioner or have to be referred to a clinic in Perth making the gestational age longer puts much more stress, anxiety and burden on a woman seeking abortion. In some regional areas, there is only one practicing GP who offers this health service, so, as members can appreciate, the wait time can be weeks before being seen by a doctor.

When Minister Sanderson introduced the bill to modernise WA's abortion legislation to Parliament, women reached out personally to me to congratulate our government and to let me know that they had participated in the survey and were pleased to see these outcomes. As a woman and a mother of a daughter, I have been very interested in the four-week consultation and encouraged many people in my community to participate. More than 17 500 people made contributions, with over 81 per cent of respondents being women. The consultation results were overwhelmingly in favour of these reforms, with 69 per cent wanting to see a reduction in the number of health practitioners required to be involved in care from two to one; 67 per cent in favour of abolishing the ministerial panel required for late-term abortions; and 72 per cent in favour of allowing health practitioners to conscientiously object, but be required to refer patients to a clinician willing and able to provide the care. This is one aspect that I believe to be very important, particularly when time is often of the essence. Removing the requirement for mandatory counselling provisions had 63 per cent of respondents in favour. Currently, an assessing medical practitioner must provide a patient with counselling about the medical risks of a termination, continuing a pregnancy to term and the availability of ongoing counselling. This requirement does not reflect contemporary practice, and its removal will align WA with other Australian jurisdictions and reduce barriers to accessing abortion in Western Australia. Instead, medical practitioners will be able to obtain informed consent in line with existing standards of care and professional obligations.

Many years ago, when I was a young woman living in Sydney, I had to make the difficult decision to have a termination. I have been reflecting a lot on that time over the past few weeks, knowing that this bill was being debated this week. I also read the consultation and listened to other women's stories. A lot of the details around that time I truthfully cannot remember, but what has come back to me was how I felt. I remember feeling sad, I remember feeling extremely disappointed in myself for getting into this situation and I remember feeling scared. I remember feeling anxious, worried and stressed. But the other feeling I very much remember is one of feeling certain. I knew that I was not ready to have a baby—emotionally, financially and mentally. I was definitely not in the right place and I knew my decision was the right one for me at the time. I remember being in the clinic and looking around at all the women who were there for the same care as me, but for many very different reasons. They came from all walks of life, different ages, demographics, cultures and backgrounds. We all sat in silence in that room together with a shared understanding and care for each other. Although strangers, we shared this experience without judgement.

Many years later, I am the very proud mother of two wonderful humans. My son is nearly 26 years old and my daughter is 18 years old. I have felt very lucky, and my pregnancies were both healthy and easy and without any risk involved. I know that for some this is not always the case, and we have heard some of those stories today. The decision to have to abort their wanted and planned pregnancies is traumatic and very heartbreaking. I really hope these reforms will make those decisions easier to bear and the process more compassionate.

In Geraldton, I am grateful for an organisation called Desert Blue Connect, a women's wellness centre that offers wonderful services to the women of Geraldton and the surrounding area either free or at low cost. A referral is not required; women can just make a phone call or pop in and make an appointment to see a women's health doctor or nurse on a variety of women's health-related issues, such as contraception; cervical screening; antenatal shared care; menopause management, which is more the area I am in now; sexually transmitted infection treatment; and breast examinations. It also offers non-directional information on all pregnancy options and uses a pro-choice women-centred approach. The centre staff believe, as do I, that women are the experts in their own lives and are the people best placed to make a decision about whether or not to continue with a pregnancy. The centre offers counselling if the woman would like it pre and post abortion and is able to offer advocacy for women should they feel the need for support at medical appointments. I would really like to take this time to thank the staff at Desert Blue Connect for all the advocacy work they do for the women of Geraldton and the midwest more broadly.

In summary, the Western Australian Abortion Legislation Reform Bill 2023 holds the potential to address the shortcomings of the existing legislation in Western Australia by embracing a new model for abortion care that supports women's productive agency and recognises abortion as a medical right. The bill will pave the way for improved access to safe and legal abortions.

I congratulate Minister Sanderson on her fabulous work in this area and everyone involved for all the work they have done in introducing this very important bill. I also thank the many women before us who I am sure have also spent a lot of time shedding blood, sweat and tears on bringing legislation to the point it is at today.

I fully support this reform to ensure that women across Western Australia are empowered to make autonomous decisions about their reproductive health and wellbeing. I am very proud to be part of a government that is leading the way on equity for women and bringing our abortion legislation in line with that in other states and territories. I commend the bill to the house.

MR S.N. AUBREY (Scarborough) [3.53 pm]: I rise to speak on the Abortion Legislation Reform Bill 2023. I have long known where I stand on abortion and the rights of women over their bodies. I can never personally fully understand or experience abortion or the challenges that women face in our society. As a gay man, I cannot even share that experience with a life partner, but I know in my heart that supporting this legislation and the rights of women to control their bodies is the right thing to do. These reforms are the right thing to do. I support all these reforms in their entirety, including raising the limit for the performance of an abortion by a health practitioner to not more than 23 weeks, up from 20 weeks. Currently, a patient must both seek approval from their original medical practitioner and obtain joint authorisation from another two medal practitioners who are members of a statutory panel appointed by the Minister for Health. These reforms will enable patients to access abortion when a primary medical practitioner has consulted with another medical practitioner and they both agree that performing an abortion is appropriate in all circumstances, including the person's relevant medical circumstances and their current and future physical, psychological, physiological and social circumstances.

These reforms will provide clarity for medical practitioners who conscientiously object and protection for patients. A patient whose general practitioner refuses to participate in their abortion care may find themselves required to see several medical practitioners before they find one who is willing and able to participate in their abortion care. This bill will clarify that both medical practitioners and students may refuse to participate in an abortion. In the event that a medical practitioner refuses to participate in an abortion, whether due to a conscientious objection or otherwise, they must immediately disclose their objection to the patient. There will be an obligation on certain practitioners to transfer the care of the patient to a registered health practitioner or to a health service facility that the refusing practitioner reasonably believes can provide abortion services or information approved by the Chief Health Officer.

Patient privacy will be protected by ensuring that patient data will not be required to be published or recorded.

The date by which an abortion can be performed by a health practitioner will be increased from 20 weeks to not more than 23 weeks.

The bill will remove the requirement for an abortion to be considered by two medical practitioners—the medical practitioner performing the abortion and another. Rather, it will authorise one medical practitioner to perform an abortion on a patient who is not more than 23 weeks pregnant. The bill will allow abortions to be performed later than 23 weeks with the approval of two doctors. Seeking a later term abortion is extremely rare, with abortions after 20 weeks accounting for fewer than one per cent of all procedures. It occurs most often due to the discovery of a serious fetal anomaly or because of a serious risk to the person's health. It is almost always a very difficult decision to make and a challenging process for families to endure. The bill will remove the constraint that currently exists under the Health (Miscellaneous Provisions) Act on patients seeking late-term abortions.

These reforms will also remove the need for a patient to both seek approval from their original medical practitioner and obtain joint authorisation from another two medical practitioners who are members of a statutory panel appointed by the Minister for Health. Instead, the changes will enable the patient to access an abortion when a primary medical practitioner has consulted another medical practitioner and they both agree that the abortion is appropriate in all circumstances, including the person's relevant medical circumstances and their current and future physical, psychological and social circumstances.

Changes will be made to abortion care for mature minors. Currently, the only way for a dependent minor under the age of 16 years who is unable or unwilling to obtain the consent of their parents to seek an abortion is through the approval of the Children's Court of Western Australia. Western Australia is the only jurisdiction in which minors, regardless of their maturity, are required to meet a higher standard of informed consent for abortions compared with that for other medical care. This bill recognises the concept of a mature minor, whereby a young person with sufficient understanding and intelligence can consent to their own medical treatment, thereby removing the requirement to obtain approval for abortion care through the Children's Court. The bill also recognises that there is a range of circumstances in which parental notification poses a safety risk to the child or is inappropriate or impractical.

There are many reasons why I fundamentally support these reforms. Firstly, Western Australian health clinicians have been integral in the development of these reforms and the legislation has their expert backing and support. I have had the opportunity to be briefed by some of these clinicians on not only the challenges that women who

seek abortions experience in WA, but also the difficult decisions that clinicians have to make in trying to deliver the best care while adhering to outdated laws on abortion. I express my gratitude for the work of the clinical experts who worked to deliver this change and for their service to women and the state of Western Australia.

Secondly, significant consultation was undertaken as part of these reforms. In November 2022, the Department of Health commenced a four-week consultation process on key abortion-related issues. More than 17 500 people made contributions, with over 81 per cent of respondents being women. The consultation identified that 69 per cent of respondents were in favour of reducing the number of health practitioners required to be involved in care from two to one; 67 per cent were in favour of abolishing the ministerial panel requirement for later term abortions; 72 per cent were in favour of allowing health practitioners to conscientiously object but to be required to refer patients to a clinician willing and able to provide care; 63 per cent were in favour of removing mandatory counselling provisions; and 65 per cent were in favour of removing the requirement for ministerial approval for a health service to perform later term abortions. Feedback also showed that 60 per cent of people of reproductive age were in favour of the proposal to increase the gestational age at which additional requirements apply to better align with the provisions in other jurisdictions.

This report and its results delivers a clear mandate for this government to advance this reform. Thirdly, for me as a gay man, I am further removed than most from having a true understanding of the physical, emotional and mental exertion and challenges for women who go through the experience of abortion. I rely on the knowledge, wisdom and experience of the women in my life to assist in guiding my beliefs and values when it comes to the equality and rights of women. I can say that I have been fortunate to be surrounded by kind, strong, courageous, dedicated and empathetic women my entire life, who have shaped much of my view of the world. Just as I said in the local newspaper in the week of my election to this place, mum’s the word! Thank you.

Debate adjourned, pursuant to standing orders.