



# Supplementary Notice Paper

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## Abortion Legislation Reform Bill 2023 [120-1]

SNP 120, Issue No. 1

Monday, 28 August 2023

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When in committee on the *Abortion Legislation Reform Bill 2023*:

### Clause 8

**Hon Kate Doust:** To move —

3/8 Page 9, line 23 — To delete “abortion.” and insert:

abortion; and

**Hon Kate Doust:** To move —

4/8 Page 9, after line 23 — To insert:

(d) without limiting paragraphs (a) to (c), the matters referred to in section 202MEA.

**Hon Nick Goiran:** To move —

1/8 Page 9, line 28 — To delete “(1)(b) — ” and insert:

(1) —

**Hon Nick Goiran:** To move —

2/8 Page 9, lines 31 to 33 — To delete “a medical practitioner with whom the primary practitioner consults need not” and insert:

the primary practitioner, and of a medical practitioner with whom the primary practitioner consults, must

**Hon Kate Doust:** To move —

5/8 Page 10, after line 12 — To insert:

**202MEA. Mandatory considerations for performance of abortion by medical practitioner at more than 23 weeks**

For the purposes of section 202ME(2)(d), the matters to which a medical practitioner must have regard are as follows —

- (a) whether it is essential to perform an abortion of an affected foetus in a multiple pregnancy at a gestation that does not risk severe prematurity and its attendant consequences for the surviving foetus;
- (b) whether there are serious foetal abnormalities that were not identifiable, diagnosed or fully evaluated before the pregnancy reached 23 weeks, including but not limited to abnormalities involving the brain, heart, renal and skeletal systems, or whether the foetus has been exposed to infective agents which may damage or limit the gestation and development of the foetus;
- (c) whether the person on whom the abortion is to be performed (the *patient*) has had difficulty accessing timely and necessary specialist services before the pregnancy reached 23 weeks, including but not limited to patients experiencing significant socio-economic disadvantage, cultural or language barriers and those who reside in remote locations;
- (d) whether the patient has been denied agency over the decision to continue a pregnancy or not, including (but not limited to) the abuse of minors and vulnerable adults to sexual and physical violence including rape, incest and sexual slavery;
- (e) whether the abuse outlined in paragraph (d) includes circumstances in which such abuse is not apparent, or the pregnancy is not diagnosed until an advanced gestational age;
- (f) whether medical or psychiatric conditions of the patient may become apparent or deteriorate during the pregnancy to the point where they are a threat to the patient's life;
- (g) whether the patient has a deteriorating maternal medical condition, or late diagnosis of a disease requiring treatment incompatible with an ongoing pregnancy (such as malignancies).

**Hon Kate Doust:** To move —

6/8 Page 10, after line 12 — To insert:

**202MEB. Medical practitioners and prescribing practitioners not to perform abortion for sex selection**

- (1) Subject to subsection (2), a medical practitioner or prescribing practitioner must not, under section 202MC, 202MD(2) or 202ME(1), perform an abortion on a person for the purposes of sex selection.
- (2) Subsection (1) does not apply if the medical practitioner or prescribing practitioner (as the case requires) is satisfied that there is a substantial risk that the person born after the pregnancy (but for the performance of the abortion) would suffer a sex-linked medical condition that would result in serious disability to that person.

**Hon Kate Doust:** To move —

7/8 Page 10, after line 12 — To insert:

**202MEC. Obligations of medical practitioners and prescribing practitioners to provide information about counselling**

- (1) Before a medical practitioner or prescribing practitioner, under section 202MC, 202MD(2) or 202ME(1), performs an abortion on a person, the practitioner must provide all necessary information to the person about access to counselling, including publicly-funded counselling.
- (2) A medical practitioner or prescribing practitioner may, in an emergency, perform an abortion on a person without complying with subsection (1).

**Hon Kate Doust:** To move —

8/8 Page 12, after line 28 — To insert:

**202MGA. Care of person born after performance of abortion**

- (1) This section applies if the performance of an abortion results in a person being born alive.
- (2) Nothing in this Division prevents the registered health practitioner who performed the abortion, or any other registered health practitioner present at the time the person is born alive, from exercising any duty to provide the person with medical care and treatment that is —
  - (a) clinically safe, and
  - (b) appropriate to the person's medical condition.
- (3) To avoid doubt, the duty owed by a registered health practitioner to provide medical care and treatment to a person born alive as a result of the performance of an abortion is no different than the duty owed to provide medical care and treatment to a person born alive other than as a result of the performance of an abortion.

**Hon Kate Doust:** To move —

9/8 Page 14, lines 20 to 24 — To delete the lines and insert:

- (b) the medical practitioner or prescribing practitioner (the *unwilling practitioner*) is unwilling to comply with the request, whether for the reason that the unwilling practitioner has a conscientious objection to abortion or for some other reason.

**Hon Kate Doust:** To move —

10/8 Page 14, line 25 — To delete “refusing” and insert:

unwilling

**Hon Kate Doust:** To move —

11/8 Page 14, line 28 — To delete “refusing” and insert:

unwilling

**Hon Kate Doust:** To move —

12/8 Page 15, line 2 — To delete “refusing” and insert:

unwilling

**Hon Kate Doust:** To move —

13/8 Page 15, line 28 — To delete “refusing” and insert:

unwilling

**Hon Kate Doust:** To move —

14/8 Page 15, after line 29 — To insert:

- (5) To avoid doubt, this section does not apply to a medical practitioner or prescribing practitioner who would be willing to comply with a request referred to in subsection (1)(a) but is unable to comply with the request because of unavailability or some other reason.

**Hon Kate Doust:** To move —

15/8 Page 17, after line 5 — To insert:

- (aa) contravenes section 202MEB(1); or
- (ab) contravenes section 202MEC(1); or

**Hon Kate Doust:** To move —

16/8 Page 23, after line 26 — To insert:

- (ba) preparing and providing to the Minister reports under section 202MS(1);

**Hon Kate Doust:** To move —

17/8 Page 24, after line 26 — To insert:

**202MS. Annual report**

- (1) In each calendar year, the Chief Health Officer must prepare and provide to the Minister a report in relation to health services provided in the immediately preceding calendar year in connection with the performance of abortions under Division 2.
- (2) Subject to subsection (3), the report must contain —
  - (a) demographic and clinical information in relation to each abortion performed under Division 2 in the immediately preceding calendar year, including —
    - (i) the age of the person on whom the abortion was performed; and
    - (ii) the gestational age of the foetus;
 and
  - (b) other information (including data and statistics) of a kind prescribed by the regulations or determined by the Minister.
- (3) A report prepared under this section —
  - (a) must only contain information that meets the requirements set out in section 202MP(3) and (4); and
  - (b) without limiting paragraph (a), must not refer to the particular age of a person on whom an abortion was performed but to an age category including a range of not less than 5 years (for example, under 15 years of age, 15 to 19 years of age, and so on); and
  - (c) without limiting paragraph (a), must not refer to the particular gestational age of the foetus but to an age range (for example, 9 weeks or less, 10 to 13 weeks, and so on).
- (4) The Minister must cause a copy of a report provided to the Minister under this section to be laid before each House of Parliament within 12 sitting days of the House after the day on which the report is provided.

