



## Supplementary Notice Paper

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

SNP 120, Issue No. 2

Tuesday, 12 September 2023

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

#### Clause 8

**Hon Ben Dawkins:** To move —

21/8 Page 8, line 6 — To delete “23” and insert:

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**Hon Ben Dawkins:** To move —

22/8 Page 8, line 20 — To delete “23” and insert:

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**Hon Ben Dawkins:** To move —

23/8 Page 9, line 1 — To delete “23” and insert:

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**Hon Nick Goiran:** To move —

18/8 Page 9, line 13 — To delete “circumstances.” and insert:

- circumstances; and
- (c) the primary practitioner, or a medical practitioner consulted under paragraph (b), holds specialist registration in obstetrics and gynaecology under the *Health Practitioner Regulation National Law (WA) Act 2010*.

**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 Ben Dawkins:** To move —

24/8 Page 10, line 9 — To delete “23” and insert:

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**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 Nick Goiran:** To move —

19/8 Page 10, after line 12 — To insert:

**202MEA. Performance of abortion for particular reason of diagnosed or suspected Down syndrome**

- (1) Subject to subsection (2), a medical practitioner or prescribing practitioner must not, and is not authorised to, perform, and a registered health practitioner or student in a relevant health profession must not, and is not authorised to assist in the performance of, an abortion on a person for the particular reason of the diagnosis in the unborn baby of, or suspicion that the unborn baby has, the genetic condition Down syndrome, also known as trisomy 21.
- (2) In an emergency, a medical practitioner is authorised to perform an abortion, or assist in the performance of an abortion, on a person in the circumstances mentioned in subsection (1) if the medical practitioner considers it necessary to perform the abortion to save the person's life or save another unborn baby.
- (3) This section applies despite any other provision of this Act.

**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 Ben Dawkins:** To move —

25/8 Page 10, line 19 — To delete “23” and insert:

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**Hon Ben Dawkins:** To move —

26/8 Page 10, line 23 — To delete “23” and insert:

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**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 Ben Dawkins:** To move —

27/8 Page 19, line 10 — To delete “23” and insert:

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**Hon Ben Dawkins:** To move —

28/8 Page 19, line 16 — To delete “23” and insert:

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**Hon Ben Dawkins:** To move —

29/8 Page 19, line 28 — To delete “23” and insert:

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**Hon Ben Dawkins:** To move —

30/8 Page 20, line 8 — To delete “23” and insert:

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**Hon Ben Dawkins:** To move —

31/8 Page 20, line 18 — To delete “23” and insert:

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**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.

**Hon Nick Goiran:** To move —

20/8 Page 24, after line 26 — To insert:

**202MS. Annual Report**

- (1) The Chief Health Officer must, by 30 June each year, provide the Minister with a report about abortions performed in the preceding calendar year.
- (2) A report under subsection (1) —
  - (a) can only be statistical or summary information; and
  - (b) cannot include any particulars from which it may be possible to ascertain —
    - (i) the identity of a person on whom an abortion has been performed; or
    - (ii) the identity of a person who has performed, or has assisted in the performance of, an abortion on a person.
- (3) A report under subsection (1) must include the following information about an abortion —
  - (a) the age category of the person on whom the abortion was performed (for example, under 16 years of age);
  - (b) a clinical estimate of the gestational age range of the unborn baby, at the date on which the abortion was performed (for example, up to 9 weeks, between 10 and 13 weeks, between 14 and 19 weeks, between 20 and 22 weeks, from 23 weeks);
  - (c) the type of place at which the abortion was performed (for example, a public or private hospital or a private health facility);
  - (d) if the abortion was performed on a person who was more than 23 weeks pregnant — the class of reason for the abortion having been performed (for example, an emergency to save the person's life, an emergency to save another unborn baby, unborn baby with a lethal abnormality, unborn baby with a non-lethal abnormality);
  - (e) the health profession of each registered health practitioner who performed, or assisted in the performance of, the abortion, including whether the practitioner holds specialist registration under the *Health Practitioner Regulation National Law (WA) Act 2010* and, if so, the practitioner's speciality;
  - (f) the method used to perform the abortion (for example, vacuum, vacuum and medication, medication only, dilatation and curettage, dilatation and evacuation);
  - (g) whether there were complications arising from or following upon the performance of the abortion on the person, including whether the person died as a result of the performance of the abortion or the complications;
  - (h) whether the performance of the abortion resulted in a live birth;
  - (i) other information (including data and statistics) of a kind prescribed by the regulations or determined by the Minister.
- (4) The Minister must cause a copy of the 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 to the Minister.



