



ATTORNEY GENERAL; MINISTER FOR COMMERCE

Our Ref: 44-22694
Your Ref: Petition 115



Hon Simon O'Brien MLC
Chairman
Standing Committee on Environment and Public Affairs
Parliament House
PERTH WA 6000

Dear Chairman

PETITION NO. 115 – OPPOSE ABORTION

Thank you for your letter dated 17 June 2016 regarding the above petition.

You have requested my comments on the terms of the petition and the submission from the principal petitioner.

The petition asks the Legislative Counsel to support the following action:

1. To recognise at law the separate legal persona of the unborn; and
2. To appoint, with respect to each unborn child, an independent advocate who is granted an opportunity to plead for their life to a court of law, prior to any abortion being performed.

The question of when an unborn foetus attains legal personality is both morally and legally complex. The criminal law in Western Australia makes it clear that a child becomes a person capable of being killed only when it has completely proceeded from the mother (section 269 of the *Criminal Code*).

Section 269, and other provisions, of the Western Australian *Criminal Code* articulate a longstanding, cornerstone legal principle upon which our criminal law is framed. Any disruption to this principle would affect the existing rights of women to make decisions about their pregnancy, and may have other unintended legal consequences.

Given the above, there is no basis upon which the first issue raised by the petition can be supported. For the same reason, there is no proper legal basis for the appointment of any sort of 'independent advocate' to represent an unborn foetus in court.

