

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT (BODY PIERCING AND TATTOOING) BILL 2008

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Second Reading

The Hon. PENNY SHARPE (Parliamentary Secretary) [5.50 p.m.] on behalf of the Hon. Ian Macdonald: I move:
That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The bill before the House will amend the Children and Young Persons (Care and Protection) Act 1998 to prohibit body piercing of children in certain circumstances and to prohibit certain tattooing procedures.

The bill will introduce a requirement of parental consent for all non-intimate body piercing of children under the age of 16 years. The provision requires this consent to be written by the parent of a child or for the parent to give consent in person before a non-intimate body piercing can be performed. In giving their consent, a parent will need to specify the part of their child's body to be pierced.

The bill will also legislate for a blanket-ban on all intimate body piercing of children. With or without parental consent, intimate body piercing will be outlawed in New South Wales for anyone under the age of 16 years.

For Members unfamiliar with the terminology, intimate body piercing refers to the piercing of the nipples or genitals in both men and women. Non-intimate sites are all other sites, including ear, brow, nose, lip, navel and the back of the neck.

Finally, the bill will also insert a definition of tattooing into section 230 of the Act to expand the circumstances in which it is an offence to tattoo a child or young person, to include like procedures such as beading, branding and scarification.

For the benefit of Members,

beading refers to leaving a scar after the cutting of the skin of a person and the insertion of an object beneath the skin to produce a lump;

branding refers to the application of heat to the skin of a person to produce scar tissue; and

scarification refers to the cutting of the skin of a person to create scar tissue. ,

The popularity of body piercing, especially unusual piercing, would appear to be on the increase and so the introduction of this legislation is timely.

The primary motivations for amendments to the Care Act in relation to body piercing of children are twofold.

The first major motivating factor for this legislation is the affirmation of the rights of parents to be involved in decision making in relation to the care and protection of their children.

An important part of good parenting is providing children with the knowledge and skills to make good choices. To do this, parents need the opportunity to be actively involved in the decision-making processes which affect the safety and wellbeing of their children.

The legislative amendments will provide parents with greater involvement and insight, to help them guide their children, using the following tools:

an awareness of their child's desire to undertake a piercing;

the opportunity to discuss this desire; the opportunity to explore the possible risks of piercing;

the opportunity to attend with the child and ensure the body piercing practitioner is following the prescribed regulations in relation to body piercing; and importantly

the opportunity to support the child through the procedure and ensure that aftercare is undertaken to minimise

any risk of infection.

The requirement for parental consent also removes the often overwhelming force of peer pressure, which may be a factor in piercings. Where peer pressure is a factor, children are even less likely to make an informed decision.

Secondly, this bill is motivated by a desire for the greater protection of the well being of children living in New South Wales.

All piercing carries the possibility of the risk of infection.

In most cases these risks are relatively low and where infection does occur, is easily treatable. However, in a minor number of cases, where health guidelines are followed and where infection is less easy to detect and/or treat, the consequences are potentially serious. This bill, enacted, will enable the Government, in partnership with parents, to better protect the well being of their children and better prevent the potential health risks associated with body piercing.

This bill is of course supported by the New South Wales Department of Health's Skin Penetration Code of Best Practice, which sets out guidelines for skin penetration procedures, including tattooing and body piercing. I would encourage parents to access the guidelines through New South Wales Health's website should they wish to better understand safe practice in relation to piercing.

As I outlined earlier, intimate body piercing involves the piercing of the nipples or genitalia in both men and women. The health risks it carries may be particularly severe.

Further, the intimate body piercing of a child places that child in a vulnerable position.

I would find it very difficult to believe, that there would be a Member in this House who would argue against the importance of this legislation, in the prevention of such sometimes serious and possibly life-long risks to our children's health and well-being. Queensland has already enacted legislation to outlaw the intimate body piercing of children. It's my strong desire that New South Wales follows suit.

The Government is aware that non-intimate body piercing of children is a long-standing practice in Australia and a widely accepted cultural and/or religious practice of adornment. This legislation will not impede this practice where piercings are culturally or religiously based, as parents will have the option to provide consent in such cases. A parent will still be able to have a young girl's ear lobes pierced to permit earrings being inserted.

Significant attention has been given to the appropriate age limit at which children should no longer be required to seek the permission of their parents in relation to body piercing. A number of factors informed the final decision of 16 years. These include:

Broad community acceptance of mainstream body piercing;

Consistency with existing child protection law which recognises the greater independence of young people, that is those between the ages of 16 and 18 years; and

Other liberties currently available to young people including the right to leave school, enter the workforce and quite possibly, live independently.

Consistent with the philosophy of this Act as a whole, these amendments both enhance the powers of parents in the lives of children while strengthening participation by young people in decisions being made about them.

The new offence of performing intimate body piercing on a child will reflect the seriousness of the offence and will carry a maximum penalty of 200 penalty units, which currently amounts to \$22,000. The proposed offence for performing non-intimate body piercing on a child without parental consent will carry a maximum penalty of 30 penalty units, or \$3,300.

These differentiated penalties recognise that the proposed offences differ fundamentally.

Imposing a significantly higher penalty for intimate body piercing recognises the relatively greater potential for abuse involved. It also accords with the protection that the law affords children against abuse by adults. It is consistent with the existing penalty for the permanent disfigurement of tattooing.

The relatively lesser penalty attached to non-intimate body piercing recognises the inappropriateness of imposing the same penalty for intimate and non-intimate body piercing offences involving children.

Non-intimate piercing of children without parental consent is closely analogous to public health offences involving unsanitary or dubious skin penetration procedures which carry a maximum penalty of 20 penalty units. Accordingly, a comparable penalty of a maximum of 30 penalty units has been set for performing body piercing on any part of a child's body without parental consent.

Importantly, the prohibition will not apply where body piercing is necessary in the course of medical treatment. This would include procedures undertaken by midwives, nurses and paramedics for medical purposes, for example body piercing which results from the stitching of a wound, and health care related therapeutic treatments including

acupuncture.

As noted the bill will also amend section 230 of the Care Act to ensure that tattooing-like procedures which make a permanent mark on the body of a child or young person such as beading, scarification and branding, are prohibited without parental consent. The bill has been drawn in an inclusive fashion so that if new fads develop which involve leaving a permanent mark on a child's skin these too will be caught.

These tattooing-like procedures will carry the same maximum penalty of 200 units that currently applies to performing tattooing on a child or young person without parental consent. Only last month I received a letter from a mother appalled at the scarification of her 17-year-old daughter which had occurred without the mother's consent. The operator had charged the young woman \$460 for this procedure which involved using a scalpel to scar the young woman's abdomen. Quite apart from the health risks involved, it is difficult to imagine that young people who undergo such a procedure, might not look back on it with regret.

It is intended that these new laws will provide protection to children and young people against unscrupulous tattooing parlours.

I would like to take this opportunity to thank everyone who has been involved in the development and construction of the bill which will result in Government and parents working together to better protect the health and well-being of our children here in New South Wales.

I commend the bill to the House.