



HUMAN TISSUE AMENDMENT (ANTE-MORTEM INTERVENTIONS) BILL 2023

STATEMENT OF PUBLIC INTEREST

Need: Why is the policy needed based on factual evidence and stakeholder input?

Ante-mortem interventions help to assess if the organs considered for donation are healthy. They are also required to make the donated organs healthier and work better, for the benefit of the person or people who will receive the organs when they are transplanted.

Currently only a potential donor can consent to ante-mortem interventions. The Bill would enable a process for others to consent to ante-mortem interventions where the person is very close to death and lacks capacity, leading to better organ donation outcomes.

This is a private member's Bill, and the Government cannot comment on which stakeholders were consulted by the member.

The Government undertook its own consultation, including with:

- o Medical Services Committee,
- o Australian Medical Association (NSW),
- o Health Ethics Advisory Panel,
- o Australian and New Zealand Intensive Care Society,
- o Royal Australian College of Physicians,
- o Department of Communities and Justice, including the State Coroner, and the NSW Trustee and Guardian,
- o Intensive Care NSW, and
- o Emergency Care Institute.

Objectives: What is the policy's objective couched in terms of the public interest?

This is a private member's Bill and the Government cannot comment on the member's policy intent.

However, it is noted that there is a strong public interest in ensuring that, wherever possible, viable organs are transplanted, subject to safeguards to protect the interests and wishes of an organ donor.

Options: What alternative policies and mechanisms were considered in advance of the bill?

This is a private member's Bill. No other alternative policies and mechanisms were considered by the Government.

It is noted that, due to the provisions of the Guardianship Act 1987, it is not possible to currently undertake ante-mortem interventions without consent of the potential donor. The Guardianship Act only authorises substitute consent for procedures that are beneficial to the patient. As such no policy alternatives are available.

Analysis: What were the pros/cons and benefits/costs of each option considered?

This is a private member's Bill. No other alternative policies and mechanisms were considered by the Government.

It is noted that the benefits of this Bill are to improve health outcomes for organ donor recipients. While the Bill does allow for substitute consent, there are a number of protections included in the amendments to ensure the potential donor's interests are protected.

Pathway: What are the timetable and steps for the policy's rollout and who will administer it?

The amendments will commence four months after assent. If the Bill is passed, the Ministry of Health will prepare policies and procedures to support the changes.

Consultation: Were the views of affected stakeholders sought and considered in making the policy?

This is a private member's Bill and the Government cannot comment on views of stakeholders expressed to the member.

The stakeholders the Government consulted with were supportive of a process to provide authorisation of ante-mortem interventions, where there were safeguards in place to protect a potential donor's interests.