



New South Wales

Crimes Amendment (Zoe's Law) Bill 2017

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crimes Act 1900*:

- (a) to establish a separate offence for conduct causing serious harm to or the destruction of a child in utero, and
- (b) to extend the offence of dangerous driving causing death or grievous bodily harm to dangerous driving causing the destruction of, or serious harm to, a child in utero.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

Schedule 1 [2] creates a new offence of conduct causing serious harm to or the destruction of a child in utero. The offence will apply if the person who causes the serious harm or destruction is reckless as to whether his or her conduct causes serious harm to any person. The offence will not apply to medical procedures or to conduct engaged in by or with the consent of the mother of the child in utero. The offence will carry a maximum penalty of 10 years imprisonment.

Schedule 1 [1] changes the definition of *Grievous bodily harm* so that it no longer includes the destruction of the foetus of a pregnant woman. Conduct causing such harm will be covered by the new offence described above.

Schedule 1 [3] extends the offence of dangerous driving causing death or grievous bodily harm so that it applies to dangerous driving causing the destruction of, or serious harm to, a child in utero. **Schedule 1 [4]** defines *child in utero* for the purposes of that extension.

Schedule 1 [5] ensures that dangerous driving causing death or grievous bodily harm is an alternative verdict to a charge of recklessly harming or destroying a child in utero.



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New South Wales

Crimes Amendment (Zoe's Law) Bill 2017

No. , 2017

A Bill for

An Act to amend the *Crimes Act 1900* to prohibit conduct that causes serious harm to or the destruction of a child in utero; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Amendment (Zoe's Law) Act 2017*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Crimes Act 1900 No 40

[1] Section 4 Definitions

Omit paragraph (a) of the definition of *Grievous bodily harm* from section 4 (1).

[2] Section 41AA

Insert after section 41A:

41AA Harm to or destruction of child in utero

- (1) A person who engages in any conduct that causes serious harm to or the destruction of a child in utero, being reckless as to whether the conduct causes serious harm to any person, is guilty of an offence.
Maximum penalty: Imprisonment for 10 years.
- (2) This section does not apply:
 - (a) to anything done in the course of a medical procedure, or
 - (b) to anything done by or with the consent of the mother of the child in utero.
- (3) For the purposes of this section:
 - (a) serious harm to or the destruction of a child in utero includes serious harm or death occurring after birth, if the serious harm or death is caused by conduct that occurred while the person was a child in utero, and
 - (b) being reckless as to causing serious harm to a person includes being reckless as to causing serious harm to or the destruction of a child in utero of a pregnant woman.
- (4) In this section:
child in utero means the prenatal offspring of a woman.

[3] Section 52A Dangerous driving: substantive matters

Insert after section 52A (7):

(7A) Protection of child in utero

A reference in this section and in section 52AA to the death of a person, or grievous bodily harm to a person, includes a reference to the destruction of, or serious harm to, a child in utero.

[4] Section 52A (9)

Insert in alphabetical order:

child in utero means the prenatal offspring of a woman.

[5] Section 52AA Dangerous driving: procedural matters

Insert "41AA," before "53" in section 52AA (4).