



New South Wales

Reproductive Health Care Reform Bill 2019

Explanatory note

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

This Bill is co-sponsored by the Hon Shelley Hancock MP, Trish Doyle MP, the Hon Brad Hazzard MP, Ryan Park MP, Jenny Leong MP, the Hon Leslie Williams MP, the Hon Penny Sharpe MLC, Alex Greenwich MP, the Hon Trevor Khan MLC, the Hon Abigail Boyd MLC, Jo Haylen MP, Jenny Aitchison MP, Felicity Wilson MP, Greg Piper MP and the Hon Emma Hurst MLC.

Overview of Bill

The objects of this Bill are as follows—

- (a) to enable a termination of a pregnancy to be performed by a medical practitioner on a person who is not more than 22 weeks pregnant,
- (b) to enable a termination of a pregnancy to be performed by a medical practitioner on a person who is more than 22 weeks pregnant in certain circumstances,
- (c) to identify certain registered health practitioners who may assist in the performance of a termination,
- (d) to require a registered health practitioner who has a conscientious objection to the performance of a termination on a person to disclose the objection and refer the person to another practitioner who does not have a conscientious objection,
- (e) to repeal offences relating to abortion in the *Crimes Act 1900* and abolish any common law rules relating to abortion,
- (f) to amend the *Crimes Act 1900* to make it an offence for a person who is not a medical practitioner otherwise authorised under the Act to terminate a pregnancy.

Outline of provisions

Part 1 Preliminary

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.

Clause 3 sets out the purposes of the proposed Act.

Clause 4 provides that the Dictionary in Schedule 1 of the proposed Act defines certain words used in the proposed Act.

Part 2 Performance of terminations by registered health practitioners

Clause 5 provides that a medical practitioner may perform a termination on a person who is not more than 22 weeks pregnant.

Clause 6 provides that a medical practitioner may perform a termination on a person who is more than 22 weeks pregnant if the medical practitioner considers that, in all the circumstances, a termination should be performed and has consulted with another medical practitioner who agrees the termination should be performed. A medical practitioner may also perform a termination without consultation if it is necessary to save the person's life or save another foetus.

Clause 7 provides that certain registered health practitioners may assist in the performance of a termination that is authorised under the proposed Act.

Clause 8 requires a registered health practitioner to disclose a conscientious objection to termination in certain circumstances. A registered health practitioner who has a conscientious objection and who is requested to perform, or assist in the performance of, a termination on a person must refer the person to another registered health practitioner or health service provider that the practitioner believes does not have a conscientious objection.

Clause 9 provides that a registered health practitioner's compliance with the proposed Act is relevant to matters relating to the practitioner's professional conduct and performance.

Part 3 Protection from criminal responsibility

Clause 10 provides that a person who consents to, assists in, or performs a termination on themselves does not commit an offence, despite any other Act.

Part 4 Miscellaneous

Clause 11 provides for a review of the operation of the proposed Act within 5 years after the commencement of section 11.

Clause 12 enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 Dictionary

Schedule 1 contains a Dictionary that defines certain words and expressions used in the proposed Act. **Termination** means an intentional termination of pregnancy in any way, including, for example, by administering a drug or using an instrument or other thing. **Registered health practitioner** means a person registered under the Health Practitioner Regulation National Law to practise a health profession, other than as a student.

Schedule 2 Amendment of Acts

Crimes Act 1900 No 40

Schedule 2.1 [2] amends the *Crimes Act 1900* to repeal existing offences relating to abortion. It will be an offence for a person to perform, or assist in the performance of, a termination on another person, if the person is not a medical practitioner, or other registered health practitioner, authorised to do so under the proposed Act. The maximum penalty will be imprisonment for 7 years. **Schedule 2.1 [3]** is a consequential amendment.

Schedule 2.1 [4] abolishes any rule of common law that creates an offence in relation to procuring a person's miscarriage.

Schedule 2.1 [1] provides that a termination of a pregnancy under the proposed Act does not constitute grievous bodily harm.

Criminal Procedure Act 1986 No 209

Schedule 2.2 makes a consequential amendment to the *Criminal Procedure Act 1986*.