

**INQUIRY INTO CORRECTIONAL SERVICES
LEGISLATION AMENDMENT BILL 2006**

Organisation:

Name: Dr Pauline Warburton

Telephone:

Date Received: 28/07/2006

Subject:

Summary

This legislation is unethical and immoral. It contravenes basic human rights by exploiting misfortune to add to a prisoner's sentence without due process. It also impinges on medical practitioner's rights by limiting their ability to deliver standard medical care to all those requiring it.

Dr Pauline Warburton

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27th July 2006

General Purpose Standing Committee No. 3

Parliament House

Macquarie St

Sydney NSW 2000

Dear Committee Members,

Re: Correctional Services Legislation Amendment Bill 2006

I am writing to express my grave concerns about this proposed piece of legislation. I am a haematologist employed by at a public hospital in NSW. As such, I treat young people with malignant disease (cancer). Treatment of these malignant diseases with chemotherapy not infrequently renders the patient infertile. It is routine practice to discuss this possible adverse side effect with the patient and to offer them the opportunity to store reproductive material for future use in the eventuality that he / she has been rendered infertile. This is such standard medical care that not to discuss this issue with a young patient would be considered negligent. The reproductive material is often stored in public hospitals at no expense for these cancer sufferers.

I am appalled to think that this bill could be passed into legislation. I find it abhorrent that this legislation will also apply to those who have committed crimes as a juvenile. I am not unsympathetic to the feelings and needs of the victims of crime about the requirement for appropriate punishment of offenders. Nor do I pretend to fully understand the impact of the crime on their lives, as thankfully I have not been such a victim. While the reaction of these victims and the public to the recent news that a young man sentenced for a serious offence had sperm cryopreserved at public expense prior to chemotherapy is perhaps understandable, that of our politicians is not.

I fail to understand the purpose of this legislation apart from political expediency. Is it perceived as some form of "natural justice" to add to the punishment of a prisoner who by serendipity has had the misfortune of being diagnosed with cancer? We already have an accountable legal system that trials and sentences perpetrators of crime. We should not be manipulating sentences just because the chance randomly presents itself. What will be next? Will we decide to ensure that all those convicted of serious offences can never have children by castrating them on imprisonment? Alternatively perhaps we will decide to deny them all or other selected types of medical treatment (e.g. treating cancer, HIV infection or heart disease). Such decisions would add to the misery of the prisoner and possibly result in lower prisoner numbers and consequent lower public expenditure on the correctional system. I find such reasoning repugnant.

Perhaps the purpose of the legislation is intended as a form of eugenics. Is it believed that it would prevent the inheritance of a genetic trait? If this is the case, what is the supporting evidence for this belief?

I fear that the only motivation for proposing this legislation is to appeal to public opinion in the 12 months prior to an election and that both the government and opposition are supporting the bill for this reason only.

This legislation is unethical and immoral. It contravenes basic human rights, principally the rights of prisoners to appropriate medical care as routinely available within their society. These rights are delineated in various UN articles and the AMA position statement on "Health Care for Prisoners and Detainees". It punishes members of the prisoner's family by denying them the possibility of children, grandchildren or siblings. It gives no credence to the possibility of rehabilitation. Indeed I suspect that denying a prisoner standard medical care, if anything, risks further embittering and disenfranchising them from society and decreases the chance of rehabilitating them. Furthermore, it does not allow for the possibility that a conviction might be overturned on appeal. Many of the problems associated with this legislation have already been highlighted by the Legislative Review Committee of the NSW parliament.

I would urge you to consider doing what is morally and ethically correct and not what is politically expedient. I would also like you to consider that the path to "cleansing" certain groups in a population starts with what are felt to be minor and defensible erosions of

human rights. That first step allows each subsequent step to be more easily accepted as appropriate and defensible. Please do not put NSW on this path.

Yours sincerely,

Pauline Warburton