

PARLIAMENT OF VICTORIA

Infant Viability Bill 2015

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PARLIAMENT OF VICTORIA

Introduced in the Council by Rachel Carling-Jenkins

Infant Viability Bill 2015

A Bill for an Act to ensure the provision of access to holistic care and support to pregnant women and preborn children so as to promote infant viability, to amend the **Abortion Law Reform Act 2008** and the **Crimes Act 1958**, to make consequential amendments to certain other Acts and for other purposes.

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

- (a) to require registered medical practitioners and certain other registered health practitioners to refer pregnant women to appropriate support services in certain circumstances; and

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- (b) to require registered medical practitioners to take reasonable steps to preserve the life of a child born alive after 24 weeks' gestation but before full term; and
- (c) to amend the **Abortion Law Reform Act 2008** to limit the operation of that Act to abortions at less than 24 weeks; and
- (d) to amend the **Crimes Act 1958** to prohibit late-term abortions.

10 **2 Commencement**

This Act comes into operation on the day after the day on which it receives the Royal Assent.

3 Definitions

In this Act—

15 *late-term abortion* has the same meaning as in section 65A of the **Crimes Act 1958**;

registered health practitioner means a person registered under the Health Practitioner Regulation National Law to practise a health profession (other than as a student);

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woman means a female person of any age.

Note

For the meaning of *registered medical practitioner*—see section 38EA of the **Interpretation of Legislation Act 1984**.

Part 2—Infant viability

Division 1—Holistic care

4 Obligation to facilitate the provision of access to holistic care in certain circumstances

- 5 (1) This section applies if—
- (a) a woman seeks medical advice or care from a specified registered health practitioner; and
 - (b) the specified registered health practitioner—
 - 10 (i) knows or reasonably believes that the woman is 24 or more weeks pregnant; and
 - (ii) reasonably believes that the woman is experiencing distress.
- 15 (2) The specified registered health practitioner must as soon as practicable—
- (a) provide to the woman; or
 - (b) refer the woman to a person who provides—
services appropriate in the circumstances, being—
 - (c) health services; or
 - 20 (d) mental health services; or
 - (e) pregnancy counselling and support services; or
 - (f) housing and support services; or
 - (g) any other kinds of services or support.
- 25 (3) In this section—
- distress*** means psychological, social, emotional, physical or health distress;
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5 *specified registered health practitioner* means
 a person registered under the Health
 Practitioner Regulation National Law to
 practise as a medical practitioner, a nurse
 practitioner or a psychologist (other than
 as a student).

**5 Premature delivery after 24 weeks in a medical
emergency**

10 If there is a substantial risk of death or serious and
 permanent physical impairment to a woman more
 than 24 weeks pregnant or to her preborn child, a
 registered medical practitioner may perform a
 premature delivery in a hospital that has neonatal
15 care facilities with the intention of preserving the
 child's life and for the purpose of protecting the
 child or the woman, or both, from a substantial
 risk of death or serious physical impairment.

Division 2—Neonatal care

20 **6 Obligation to take reasonable steps to preserve a
 child's life**

25 A registered health practitioner who performs,
 directs, authorises or supervises the delivery of
 a child born alive to a woman and knows or
 reasonably believes that the woman is at least
 24 weeks pregnant, must take all reasonable
 steps to ensure that the child is provided with
 appropriate neonatal care to preserve the
 child's life.

Part 3—Amendment of other Acts

Division 1—Abortion Law Reform Act 2008

7 Termination of pregnancy

5 At the foot of section 4 of the **Abortion Law Reform Act 2008** insert—

"Note

The termination of pregnancy at 24 weeks or more is prohibited—see section 65A of the **Crimes Act 1958**".

8 Repeal of section 5

10 Section 5 of the **Abortion Law Reform Act 2008** is repealed.

9 Repeal of section 7

Section 7 of the **Abortion Law Reform Act 2008** is repealed.

Division 2—Crimes Act 1958

10 New section 65A inserted

After section 65 of the **Crimes Act 1958** insert—

"65A Late-term abortions

- 20 (1) A person commits an offence if the person performs a late-term abortion.
- (2) A person who commits an offence against subsection (1) is liable to level 6 imprisonment (5 years maximum).
- 25 (3) A woman who consents to, or assists in, the performance of a late-term abortion on herself does not commit an offence against subsection (1).
- (4) If—
- 30 (a) a person is found guilty of an offence against subsection (1); and
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(b) the offence took place in a hospital; and

(c) the operator of the hospital failed to exercise due diligence to prevent the commission of the offence—

5 the operator of the hospital is guilty of an offence and liable to a penalty not exceeding 60 penalty units.

(5) An offence against subsection (4) is a summary offence.

10 (6) In this section—

hospital means a public hospital, private hospital, denominational hospital or day procedure centre within the meaning of the **Health Services Act 1988**;

15 *late-term abortion* means intentionally causing the termination of the pregnancy of a woman who is 24 or more weeks pregnant by using—

20 (a) an instrument; or

(b) a drug or combination of drugs—
or by any other means;

25 *operator*, in relation to a hospital, means the person with day to day responsibility for managing and operating the hospital;

30 *perform a late-term abortion* includes use, supply or procure the supply of any drug or other substance knowing that it is intended to be used to cause a late-term abortion or the imminent death of a child delivered following a late-term abortion, or both;

woman has the same meaning as in section 65.

Note

5 For the meaning of *registered medical practitioner*— see section 38EA of the **Interpretation of Legislation Act 1984**."

Division 3—Repeal of amending provisions

11 Repeal of amending provisions

10 This Part is **repealed** on the first anniversary of the day on which this Act receives the Royal Assent.

Note

15 The repeal of this Part does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.