

ABORTION LEGISLATION REFORM BILL 2023

Second Reading

Resumed from an earlier stage of the sitting.

HON MARTIN ALDRIDGE (Agricultural) [5.04 pm]: Before we were interrupted by question time, I was making some reference to the provisions in the bill that will, for the first time, expand access to the provision of abortion services beyond medical doctors in Western Australia. I understand that the motivation for this was the anticipation of a decision by the Therapeutic Goods Administration that occurred subsequent to the introduction of the bill into the Legislative Assembly.

On 11 July 2023, the TGA said —

The Therapeutic Goods Administration ... has approved an application from MS Health to amend restrictions on the prescribing of MS-2 Step ... MS-2 Step is indicated in females of childbearing age for the medical termination of an intrauterine pregnancy, up to 63 days of gestation.

A number of changes to prescribing requirements have been made. Previously, MS-2 Step was only able to be prescribed by a medical practitioner (a doctor) who had been certified to prescribe the medicine, and then dispensed by a pharmacist who was a registered dispenser. The TGA's decision means that MS-2 Step can now be prescribed by any healthcare practitioner with appropriate qualifications and training, without the need for certification—this may include nurse practitioners. Further, restrictions on dispensing that limited access to registered pharmacists have also been lifted.

Noting these revised restrictions, a new warning/instruction has been included in the Product Information, which provides information about circumstances where a person should be referred to a medical practitioner.

The TGA's decision will assist in addressing important access issues for patients who require this medication.

The decision to approve these amendments was informed by expert advice from the Advisory Committee on Medicines, an independent committee with expertise in scientific, medical and clinical fields and including consumer representation.

I raise this issue to signal to the minister that I wish to explore this area when we get to the committee stage. From the response of the panel of clinicians that briefed members, they perceive this to be a positive thing, particularly in regional and remote communities where there may not be access to a general practitioner or another form of medical doctor. The point was made by one of the clinicians that there was often a far better relationship between a patient and nurse practitioner when they are available in some communities than perhaps one with a doctor who might visit from time to time or, indeed, it may not even be the same doctor who is regularly visiting a community in remote parts of Western Australia.

From my perspective, I want to understand how this bill might evolve. I understand that the bill has a regulation-making power, and it is the government's intent to allow midwives, nurse practitioners—not all of them—and registered healthcare practitioners who have certain training to participate in the provision of medical abortions. Therefore, I want to understand their current scope of practice, their ability to order and receive things such as ultrasounds and scans, and their ability to prescribe medicines and how that might operate within a Western Australian context and whether other reforms are needed to help facilitate that process.

I come back to the issue I raised before, which I think is well understood, that informed consent is a core part of a doctor's training and informs many of their day-to-day activities and the decisions that they make. I want to have some confidence that if we are expanding access to the delivery of medical abortion services, the registered health practitioners—whatever class of health practitioner they may be—also similarly possess the necessary skills of competence and informed consent.

There are a couple of other areas that I am going to touch on briefly. As I said, I think there will be a greater opportunity for discussion in the committee stage of this bill. One area is decriminalisation. When the government first signalled that this legislation would be something that it would progress in this term of Parliament, one of the headlines was about Western Australia being, in some instances, out of step with the decriminalisation of abortion services in other jurisdictions. When we look at the discussion paper released by the Department of Health in November 2022, we see that there is an appendix entitled “Appendix A: Australian abortion legislation summary”.

I obviously assume that this is factually correct as of November 2022. When looking through the various jurisdictions in Australia, we see that the offence provisions in respect of abortion are exclusively found in the Criminal Codes, with the exception of one jurisdiction, the Australian Capital Territory, in which it is found in the Health Act 1993. I think it is important for clarity that we realise that that has been lost in translation. I think it was perceived—perhaps

Hon Martin Aldridge; Hon Neil Thomson; Hon Donna Faragher; Hon Darren West; Hon Dr Brad Pettitt; Hon Shelley Payne

just by me—that the reporting was that Western Australia was lagging behind the nation regarding decriminalisation and the removal of offence provisions from our Criminal Code when, in fact, that is the norm rather than the exception.

I will now discuss the issue of the offence provisions. It is technically not true that we are decriminalising abortion. Members will be aware of the current situation set out in the discussion paper. It states —

Under section 199 of the Criminal Code, abortion is lawful in WA, as long as it is performed by a medical practitioner in good faith and with reasonable care and skill, and the performance of the abortion is justified under section 334 of the Health (Miscellaneous Provisions) Act 1911 (the Act).

A person who unlawfully performs an abortion is guilty of an offence (Penalty: \$50,000). If a person who is not a medical practitioner performs an abortion that person is guilty of a crime and is liable to imprisonment for 5 years. Although there is currently no definition of ‘abortion’ in the statute book, this Discussion Paper will define abortion as “the performance of a procedure or administration of a substance that is intended to terminate a pregnancy.”

I want to say a couple of things about that. Firstly, I will quote from the second reading speech available to members in the chamber. However, I have checked to ensure that it is consistent with the second reading speech that was delivered and recorded by Hansard. It is consistent—I will come back to that issue in a minute. On page 9, it states —

The bill will introduce proposed section 202MM into the Public Health Act to create an offence for an unqualified person to perform an abortion, with the penalty being seven years’ imprisonment. The bill further makes clear at proposed section 202MN that it is not an offence for a person to perform an abortion on themselves.

I just wanted to check that this is accurate. I think it is important that it is accurate and we know whether a correction is required. Proposed section 202MM is a provision concerning consent to the performance of abortion on children who are not mature minors. I think the relevant proposed section is actually 202MN, which states that an unqualified person must not perform an abortion. It relates to proposed section 202MO, “Person does not commit offence of abortion on themselves”. To that extent, I think the second reading speech is inaccurate. I ask that the minister might reflect on that and ensure that if a correction is required, one is made.

The point that I make here is one that I have made before. It is my preference—not that it would have resolved the situation in this circumstance—that the second reaching speech available to members, particularly in the chamber, is the one that is delivered by the minister or parliamentary secretary, rather than one that is drafted and given to them to read and in which their delivery differs. It is not the first occasion when there have been differences. As I said, it would not have resolved the situation, which I think is a technical and administrative error, in the second reading speech that should be corrected.

I draw the attention of members to proposed section 202MN, which states that an unqualified person must not perform an abortion. The proposed section states —

(1) An unqualified person who performs an abortion on another person commits a crime.

Penalty for this subsection: imprisonment for 7 years.

That is inconsistent with the view that we are decriminalising abortion. It will clearly remain a crime. Indeed, the penalty for this crime is actually increasing from the current five years’ imprisonment in the Criminal Code to seven years. I think that is important because consistent with my earlier view, this will remain a highly regulated service when accessed and it will indeed remain a crime. I think perhaps the nuance in this conversation is the concern from medical practitioners who are engaged in the delivery of abortion services. At the moment, the current Criminal Code provision makes reference to the performance of the abortion being justified under section 334 of the Health (Miscellaneous Provisions) Act 1911. Section 334 of that act requires, as pointed out in the discussion paper, that a number of things occur in order to prevent that Criminal Code provision from being enlivened. I think that there is concern amongst medical practitioners, which I think would be addressed by this provision, that will alter that. I think we will alter section 334 of the Health (Miscellaneous Provisions) Act 1911 and section 199 of the Criminal Code through this bill. That will address those concerns; however, it will remain a criminal offence for unqualified persons to perform an abortion in accordance with the bill that is before us.

The other thing that I want to touch on is the changes to the gestation limits. Again, there is a handy summary of the jurisdictional comparisons in the discussion paper. As members can imagine, this is not consistent across Australia. It is fair to say that the position the government has landed on is that it will neither lead nor lag. Victoria is at 24 weeks and Tasmania is at 16 weeks, from memory. I am sure there will be some significant consideration of this issue.

We heard from the clinician panel and in other second reading contributions about the lack of access to services in regional Western Australia. Similar to how we debated voluntary assisted dying, it would be good to not just

Hon Martin Aldridge; Hon Neil Thomson; Hon Donna Faragher; Hon Darren West; Hon Dr Brad Pettitt; Hon Shelley Payne

talk about legislating because of a lack of services, but also have a conversation about how we improve services for women in regional and remote communities. One service that has been identified is access to ultrasound, which I understand is critical in the early stages of pregnancy to date and confirm the age of a fetus. Obviously, later on, it is critical for confirming whether any medical conditions have an impact on the fetus and its development.

With those few things said, I will probably leave many other aspects of my contribution to the committee stage. I think there will be considerable examination of the clauses and the alternative proposals that are on the supplementary notice paper. I have an open mind to hear the arguments for and against those things. It will be interesting, because I understand that this will be a conscience vote for all parties. There will not be a government position, and there will not be an opposition position, but I assume that there will be a —

Hon Sue Ellery: There is a government position, but there is a conscience vote. I am putting the government's position.

Hon MARTIN ALDRIDGE: Okay. There will be a government position, but we are not sure whether —

Hon Sue Ellery: Everyone can vote as they choose, but I will be putting the government's position.

Hon MARTIN ALDRIDGE: Does the Leader of the House have to support the government's position?

Hon Sue Ellery: I have a choice, and I am choosing to support it.

Hon MARTIN ALDRIDGE: Okay. I suspect the committee stage will be extensive. I think that will be the appropriate time to examine some of the other matters I was going to address. At this point, I indicate that I support the second reading of the bill.

HON NEIL THOMSON (Mining and Pastoral) [5.22 pm]: Firstly, I would like to acknowledge all the speakers who have spoken so far, specifically those who have shared deep personal experiences of abortion. I think it takes a certain level of courage to do so, and I want to acknowledge those people for their generous sharing.

It is important to speak in this place, given it will be a conscience vote across the chamber. As a member of this place, I take this to be an important responsibility. I think it is important for our constituents to better understand the diversity in this place and to see the authenticity of the people who represent them. In some small way, I hope I can share that today. Saying that, I am certainly not an expert in this area. I have been listening intently to the speakers and those who have made contributions, and I respectfully thank every single one of the speakers who has presented today.

I will make a couple of mentions. Hon Wilson Tucker made the comment about how important the matter is—I am paraphrasing to some extent—and how he was somewhat surprised by the contributions not being particularly long. I am not suggesting that we should make long contributions, but I think it is important for all of us to make a contribution. That is part of the challenge for all of us, given it is a deeply personal matter for a lot of people. It is also a matter that sometimes gets a little bit activated in the media in ways that I do not think are particularly helpful. Sometimes that means that people have a bit of reticence about putting their points of view. I think it is important that members of Parliament share their authenticity and present their positions.

I will start and share my personal philosophical position, for what it is worth, and then I will make a distinction between that and my view as an elected representative who is here to present a view on behalf of my constituents. It is something that I have thought long and hard about. At one level, people might broadly say that I could be labelled—if people want to label it—as a pro-life person and as someone who supports that idea. That is just a label and is the way I maybe think about myself. Others might not want to think of me in that way after I present my views on this matter because they might think that I am not sufficiently that way inclined. Sometimes, I think it is easy for people to oversimplify a view, specifically in the febrile environment we currently face that is fuelled by social media and the clickbait of media headlines, which tend to simplify people's positions. I find this is a somewhat disappointing aspect of the trend in society. These are very important ethical issues, and I think people are mature and sensible enough to make a distinction between a personal view and the view of someone who comes into this place and puts on the cloak of being a legislator. That is the view of someone who is there to represent the broader community and make decisions on their behalf, taking on board the views of the community in the broadest sense. I think that is important; we all have to do that when we come here. Some of us are independent, and some of us represent parties. Philosophical views permeate through our respective parties and through our society, and they change over time. I think it is important to acknowledge that we have seen a shift in views over time.

I was interested in understanding where people sit. I do not think enough research has been done on people's views on this, except to say in the broad sense that people support a woman's right to choose. The view I adopt as a legislator is that I strongly support a woman's right to choose to have an abortion. However, I suggest there is an area of caution and consideration, particularly in the later stages of gestation. I think that is probably borne out by the limited research I could find about the attitudes of people in the community. I could find some research out there. In 2021, Ipsos said that more than half of Australians support abortion access whenever a woman decides that she wants one, and

Hon Martin Aldridge; Hon Neil Thomson; Hon Donna Faragher; Hon Darren West; Hon Dr Brad Pettitt; Hon Shelley Payne

20 per cent of Australians support abortion in certain circumstances, such as when a woman has been raped. Only eight per cent of Australians indicated that abortion should never be permitted unless the life of the mother was in danger, and a further three per cent suggested not permitting abortion under any circumstances. We can see that there is broad support for safe abortion services across our society. I could not find any nuanced survey data about how people's views shifted on the issue that seems to be the focus of attention of our debate, which is the timing of when there might be further consideration of interventions. That certainly was reflected in the reforms that were put through in 1998. There is a need for some caution about later-stage abortions. In good faith, the 1998 legislators tried to put in a process that probably reflected the considerations at the time.

The only research I have was broken up in a bit more segmented way. I would certainly be pleased to hear any other views that might have come from broad-based surveys across the community and not just from surveys for which people are providing information. I am talking about a randomised survey across the community. The research I have was from Pew Research Center, which is in the USA. We know that the problem with that is that in the US, there seems to be a much more activated consideration of abortion and far more polarised views. I think it is probably useful to some extent to provide some indication of where people are as a general community and put aside the politics of it. Pew Research Center statistics from the US in 2022 show a much higher number of abortions than in Australia. They were legal in most cases, with some exceptions. Sixty-three per cent of people said it should be legal in some cases, with some restrictions. Ninety per cent of people said it should be legal in all cases, with no exceptions. There was a further study on the length of time, but 56 per cent said that how long a woman has been pregnant should not be a matter and, in some cases, should be illegal. Thirty-one per cent disagreed with that statement and said that how long a woman has been pregnant is a matter that should be considered with regard to whether it is illegal or legal.

I say that with some caution in terms of the US situation; as I said, it was broken down, but it does show that there is, in the broader US community, a bit of a trend towards more caution as the term expands, and I think that is an issue that has been reflected in some of the comments. That is, again, certainly my intuition. We try to separate views in terms of what people and their immediate family believe; they and the people around them might hold those views, but what is the broader view in the community? I came to that conclusion as I was speaking to people, including people within my own party, the Liberal Party. I know there has been some discussion at various levels within the party over some time on this issue, with a number of very informed and considered people, despite what some people might reflect upon in relation to that matter. Insofar as that is concerned, I think it is fair to say that over time, as the gestation period extends, there is a feeling or general trend towards more caution, and certainly the rights of the unborn child begin to emerge as becoming more important over time. That is actually reflected in the Abortion Legislation Reform Bill 2023 to a certain extent. It then becomes a judgement of whether it adequately reflects the community, and I think that is the question that is before us today.

That is where I sit. I will also refer to comments made by Hon Bill Johnston in the other place. I am not saying that I agree with all of them, but I thought the intent of some of his comments were probably aligned with what I feel about this matter. It is certainly a reflection of the process of trying to maybe unpack personal views and where we should be in the state of Western Australia. He put it on the line that it was his personal view and stated —

Personally, I think 20 weeks is the appropriate gestational point to move from abortion on demand to abortion only for medical reasons.

That was his view. We have had some discussion in this place about that. Hon Dr Brian Walker is a medical practitioner and mentioned some of his views about that. There were some comments from Hon Nick Goiran on this matter and some advice that he sought. I think it is an issue of whether 23 or 24 weeks, depending on how we look at it, becomes a point of consideration and whether the appropriate constraints and restrictions—if we can call that for what it is within the context of compassion, sensitivity and confidentiality—should be considered. How do we start to balance the rights of the unborn with the need for comfort and care? I think that is important. I will restate some of the comments made by Hon Bill Johnston, because I think they are valuable. He stated —

This is because at 20 weeks, the fetus has significant capacity. As an example, I will quote from research reported in a publication from the Massachusetts Institute of Technology on 25 May 2022. It states —

Inside the womb, fetuses can begin to hear some sounds around 20 weeks of gestation.

In research published in PLOS One on 8 June 2015, two researchers stated —

Although there is data on the spontaneous behavioural repertoire of the fetus, studies on their behavioural responses to external stimulation are scarce.

The study reported responses from 23 fetuses—10 from the second trimester and 13 from the third trimester—using 3D real-time sonography. The conclusion of that research paper stated, in part —

In summary, the results from this study suggest that fetuses selectively respond to external stimulation earlier than previously reported, fetuses actively regulated their behaviours as a response to the external stimulation ...

I urge that the situation of the fetus in late-term abortions should be a focus of the legislation.

As I said, I have a feeling of connection with the points made there; I do not think anyone in this room would not. If we honestly think about it, it is then a question of how we balance those rights with the need to manage the issues around the consideration of the woman who is pregnant and the issues they are contemplating at that point. What does that mean for our legislative process and the consideration that might be given to a whole range of matters that we will no doubt debate in more detail?

I wanted to put that on the record. I restate that there is some unease that needs to be considered in a considered debate once we go down the track on the gestation period. I reflect on the values of the Liberal Party, of which I am a member. I know that my constituents hold a whole range of views. I have certainly been in debates in the context of the representative organisation that I am part of, and I think that is important. I know there is a range of views amongst some of my constituents that would be firmly in the space of supporting the bill as it is, and there are also those who might like to see further restrictions put in place or something more like what we already have under the current legislation. There are obviously also those who would like to see some modification of the legislation, but not to the extent being proposed. There is also the whole issue, as part of our debate, about unpacking those issues.

I want to reflect on a couple of the values of the Liberal Party. I am proud of the fact that I am part of, and have been elected as a member of, a party that is a values-based organisation. I hope people see the authenticity I try to bring to this place. I do not think I am particularly special on that front, because I think that is something we are all doing today. All 36 members are trying very hard in that regard, so I am not putting myself on any more of a pedestal than anyone else in this place in relation to that, particularly those people who have experienced abortion firsthand and had to deal with that difficult choice. If there should be anyone on a pedestal, it is those people who have actually had to deal with these things at a firsthand level.

One of the values of the Liberal Party is that we believe in the basic freedoms of thought, worship, speech, association and choice. I think that is important, because we have a diverse range of views in the Liberal Party, as other parties here also probably do. We respect the concept of choice. I know everyone has a different view on what that might mean, but I reflect that in some circumstances some women might find themselves in a position in which they do not feel they have a choice. It is important, in whatever we do for the community, and in the broad sense of being compassionate, that we should, to the greatest extent possible, ensure that people have a choice when they believe they have an unwanted pregnancy, and that they feel they have a choice. I know that some women would say that there was never a choice but to terminate. I will not have anything other than the greatest respect and admiration for people who make hard choices in life. I am just here to present that.

The other Liberal value that I think is important is that we believe in a just and humane society in which those who cannot provide for themselves can live with dignity. That goes to the heart of a range of issues in relation to supporting those who do not have dignity. My view is that that would include those in the womb, particularly when they are fully formed and nearing the end of their gestation period. I think there is a need for us to deal with that hard issue and how their dignity can be considered. I hope that is reflected in whatever laws we decide on collectively in this place in the coming days, because it is important. It is a balancing process. We must be humane as a society. We must be dignified. The treatment of women and all individuals in our community must be dignified and humane. We should cherish and hold dear the value of human life.

I do not really want to say much more. I think a number of issues will get teased out. I commend Hon Martin Aldridge for his erudite comments about some of the aspects that he raised. I have listened to the speeches and comments that have been made—for example, about what this might mean for the Criminal Code. It is important that we demystify everything in this place and be honest and clear. I understand that we are in a political process so there will be a certain level of politicisation. I was a little disappointed with some of the commentary in the media today that highlighted some of the comments. I understand that people have different views and I hope that we continue to be respectful of that. I think the debate has been respectful in the main to this point. We are trying to be authentic human beings in this process. In the words of Hon Wilson Tucker, this legislation is important. It is probably the most important piece of legislation that I have had the pleasure of dealing with as someone who was elected by the people of the Mining and Pastoral Region, albeit in the number 6 position. I was elected to represent those who provided support to me, and I continue to represent them to the best of my ability.

I think we should consider the issues raised by the Australian Medical Association. The AMA provides an important sounding board. There is a range of views within the AMA, ranging from those that could be labelled as more strongly towards the pro-life side to those on the choice side, but I know that doctors will always work in the interests

Hon Martin Aldridge; Hon Neil Thomson; Hon Donna Faragher; Hon Darren West; Hon Dr Brad Pettitt; Hon Shelley Payne

of their patients to the greatest extent possible. I am trying to remember the name of the code that doctors abide by. Hon Dr Brian Walker is not here to help me.

Hon Martin Pritchard: The Hippocratic oath.

Hon NEIL THOMSON: That is the one. We have a lot of respect for the medical profession. There was a diversity of commentary from the AMA on this matter. We need to have consideration for Western Australian practitioners; that is an important issue that we should support.

It is likely that I will support many, if not all, of the suggested amendments. I will probably form my view at the last minute, depending on how the debate goes. As I said, I am not an expert but I am listening intently to the views that are being presented.

I know that Hon Kate Doust is probably being criticised to some extent. I acknowledge her for her contribution with the petition. We have the benefit of e-petitions in this place. I think they are important. I have been using them myself for a range of issues, obviously in support of people who have a particular issue to present. It is not an insignificant number of signatures on that petition. Some of the concerns that might be raised through that process deserve further consideration as we come to the final point.

I will end my comments. I reiterate my heartfelt feeling of respect and consideration for those who have spoken from all different perspectives today, and particularly for the women who struggle with that particular choice. The comment was made that in the order of 8 000 abortions occur. If there is anything that I could do in any way as a human being to help a person make that choice, I would do that, because I believe it is our duty to work as a humane and compassionate society going forward.

HON DONNA FARAGHER (East Metropolitan) [5.45 pm]: I have sat in this place —

The ACTING PRESIDENT (Hon Steve Martin): Sorry, member; are you the lead speaker?

Hon DONNA FARAGHER: No.

Hon Stephen Dawson: There is no lead speaker.

Hon DONNA FARAGHER: There are no lead speakers.

The ACTING PRESIDENT: Of course. Thank you.

Hon DONNA FARAGHER: I have sat in this place for a very long time. Although they are few and far between, perhaps thankfully, I, like some other members in this place, have had to make decisions on complex and contentious matters based on my conscience. On each and every occasion I thought very carefully about the decision I made. The difficulty with such matters is that they are rarely, if ever, black and white. There can be many varied and different perspectives on the same issue. There will be very strongly held viewpoints on either side of the argument. For some, it will be a relatively simple decision to make, but for other members who might be somewhere in the middle, they might support some elements of the legislation but might not be 100 per cent comfortable with every aspect.

I now come to the bill before us. I acknowledge that there are very firmly held views both for and against abortion. It is a polarising and an incredibly sensitive matter that deserves to be debated in a respectful way, irrespective of someone's views. I agree that, thus far, the debate in this house and, from the comments I have read, in the other place has been undertaken in that way. But this bill is actually not about whether abortion should be legal. That debate has been had. It was had many years ago, well before I arrived in this place. There were hours and hours of debate in this place and the other place and, ultimately, a decision was reached. It was not universally accepted, mind you, but a decision was made. Having said that, this bill proposes a number of changes. As the Leader of the House said in her second reading speech, the bill will introduce a new framework relating to abortion. According to the Leader of the House, this will better reflect that abortion is a public health matter. I do not intend to go through every detail of this bill during my contribution to the second reading debate. As has been mentioned, there is a supplementary notice paper. I expect that we will be in committee for some time, during which we can debate a number of these matters more closely.

I want to raise a couple of matters. The proposed change to the current gestational age limit for additional medical oversight for the termination of a pregnancy from 20 to 23 weeks is, let us be honest, one of the big-ticket items in this legislation. As was identified in the minister's second reading speech and confirmed in briefings and other information that I have, I accept that abortions after 20 weeks, and certainly after 23 weeks, are extremely rare. According to that information I know that they almost always occur in response to the identification of a serious fetal anomaly, or medical implication or condition impacting the mother's health. These complex individual cases require specialist care, attention and advice. According to information on the Australian Institute of Health and Welfare website, congenital anomalies encompass a wide range of atypical bodily structures or functions that are

Hon Martin Aldridge; Hon Neil Thomson; Hon Donna Faragher; Hon Darren West; Hon Dr Brad Pettitt; Hon Shelley Payne

present at or before birth. They are a cause of child death and disability and a major cause of perinatal death, when a baby is stillborn or dies within 28 days of birth. In 2017 and 2018, nearly one-third of perinatal deaths were caused by a congenital anomaly. The commonwealth Department of Health and Aged Care's website also had some references. Its figures relate to 2010 but it is still very relevant. The website states —

In Australia in 2010, congenital anomalies (including chromosomal and structural anomalies) was the leading cause of perinatal death in single pregnancies (29%) and accounted for 76.1% of neonatal deaths of babies born at 32–36 weeks gestation and 44.1% of deaths of babies born after 37 weeks gestation.

I take this and other information received into account, as well as the fact that a serious anomaly might be identified only after the second trimester ultrasound, which is generally taken at around 18 to 20 weeks. I listened to Hon Jackie Jarvis' comments about access to and the availability of health care in regional WA, so it can be later than that. Given that an anomaly might not just be identified through an ultrasound, but through other genetic screening and diagnostic testing such as an amniocentesis, I acknowledge that families receiving such news may have a limited window to consider their options before the additional requirements set out in the current legislation come into play. Remember, these will be families receiving incredibly difficult and challenging news about a baby that is dearly wanted, or receiving incredibly difficult and challenging news about a medical condition impacting the mother's health that cannot easily be overcome. There will be a lot to work through, and decisions will be made whether to continue with the pregnancy. There will be grief and sadness. There will be a whole heap of emotions. For my part, I do not think we need to add to that trauma. For those reasons, I am not against the proposed change.

One area I have some concerns with is counselling. As the minister explains in her second reading speech, under the current legislation, a patient must be provided with counselling about the medical risks of termination, continuing a pregnancy to term and the availability of ongoing counselling. I understand the arguments about mandatory counselling. I appreciate that counselling might not be for everyone, and people cannot be forced to take it. However, I do not see any harm in a medical practitioner providing some factual information about available ongoing counselling supports. I hope that is done as a matter of course, but it cannot be guaranteed. Yes, there are many ways to find out about counselling supports, but I do not think it is too much to ask that easily accessible factual information about counselling options be provided by medical practitioners, without judgement, to women and families. I do not think this should be seen as a negative.

The minister's second reading speech stated that providing information about a procedure, or treatment and associated risks, is standard medical practice. I agree with that. However, abortion is a deeply personal and sensitive matter, and can bring with it a whole range of emotions. It may not be in all cases, but as Hon Dr Brian Walker reflected on last night, grief will be felt by many. Therefore, providing some information about counselling, if requested, should also be standard practice. Some women might not have access to someone who they can talk to, or they may feel more comfortable to receive support from someone who is independent, whether that is before or after the abortion, and irrespective of the reasons for or timing of the abortion. Given this bill will also make changes to parental involvement in minors seeking abortion, I believe it is critically important that factual information about counselling options and appropriate wraparound services are known and available, particularly for children—they are children—who may not have, or feel they do not have a trusting and caring adult to turn to. Care, compassion and understanding is critical here. Ensuring that children and adults know where they can turn in order to receive support if they want to is, in my view, really important. No-one should feel that they must grieve or work through these issues in silence. They need to know there is help available and that support can be given without judgement. In Committee of the Whole, I will ask about those supports and what is available, particularly for minors under 16.

There are a number of other issues with this bill, but I will leave my comments there. I end on this point: I accept and respect there are deeply divided views on the issue of abortion. As I said at the beginning of my contribution, for some it will be a relatively simple decision to make about this proposed legislation, but other members might be somewhere in the middle when accepting and supporting some of the reasons for the legislation. I have already outlined one of the reasons in terms of what I support. However, some members might not necessarily be comfortable with every single aspect of the legislation. The votes are yet to come and we will not pre-empt those, but we can kind of count the numbers. It would appear that this bill will be supported at both the second and third reading. I support the second reading, but I will carefully consider all of the amendments on the supplementary notice paper.

HON DARREN WEST (Agricultural — Parliamentary Secretary) [5.58 pm]: I briefly put on the record my support for the Abortion Legislation Reform Bill 2023 in its current form, as passed by the Legislative Assembly, I proudly do so as a member of the government. I do it for a couple of reasons. There is a conscience vote, of course. As pointed out earlier, my conscience tells me that this difficult choice is best made by those most impacted by contemplating or taking up termination services. I wholeheartedly agree with that. I also believe that as the first elected member from the Agricultural Region in the history-making 2021 election, that is what my electorate wants me to do as well. There is overwhelming support for this bill in the electorate—I think it is fair to say that it is

Hon Martin Aldridge; Hon Neil Thomson; Hon Donna Faragher; Hon Darren West; Hon Dr Brad Pettitt; Hon Shelley Payne

one of the most conservative in the state—and for the need to modernise and reform these laws for the benefit of the women of that electorate, and to support their partners, families, medical practitioners and the like. There is general agreement, though obviously not by everybody, in the electorate, so I support those.

I want to acknowledge those who came before us in 1998. It was great to have Hon Cheryl Davenport in the house yesterday. It takes courage to make change and I believe she certainly used all her courage to push for those significant changes for women in Western Australia. To reform those laws now, 25 years since they were passed, is incumbent upon us. It is time we modernise the legislation and I support that modernisation.

I note the respectful nature of the debate, which is important, because this is one of the most ethical and complex issues we will deal with as members of Parliament. Think of those ethical and complex issues, such as end-of-life choices, marriage equality and others that divide not only communities, but also political parties and individuals. I think it is fair to say there would not be two people in this house who have exactly the same view on this bill. Although there will be those who agree with it and those who do not, there will be varying levels of support for different clauses and parts of the bill. A respectful debate is warranted, and that has been the case so far. We cannot control what happens outside Parliament, but certainly in here we need to be respectful of one another's view, even if we may not agree. That is the case with the public as well. People are respectful of other people's views. They may not always agree with those views.

As I said before, it takes courage to push progressive social change. This government is very proud of its work in the space of voluntary assisted dying. Former Premier Mark McGowan and former Minister for Health Roger Cook led that legislation. We now have the abortion reforms led by now Premier Roger Cook and Minister for Health Amber-Jade Sanderson. I acknowledge all the people involved in this bill who got it to this point. It takes a lot of work to get something to this point.

It is progressive legislation. I was listening to Hon Neil Thomson and, in an unusual course of events, found myself agreeing with what he said. I want to acknowledge, though, that progressive legislation is the domain of Labor governments. That is why it is important that we have Labor governments. All the big social changes—the raft of social changes that Whitlam introduced, from fault-free divorce to ending conscription, the establishment of universal health care in Australia and other major reforms introduced at that time, the reforms in the 80s when Hawke changed Medicare to its current form, through to the abortion reforms in 1998, which I touched on earlier, the marriage equality debate, voluntary assisted dying in Western Australia and now these reforms to abortion—are driven by progressive governments. That is why it is important that we have progressive governments and why I am so proud to be part of a progressive government that moves social change.

Change is the only constant in our lives. Society will always move forward and change. Progressive governments drive that change and have the courage to begin that change. People will always be criticised for change at some point, but those who persevere drive these changes. That is important to remember. There will always be people who oppose change, but as society moves forward it is incumbent on governments to move forward as well. I am very proud to be part of a government that is making these reforms. I am very proud to be part of a progressive Labor government. I think we have done a lot of good things, not only in managing the economy and getting the state back on an even keel, but also by moving forward with the community on these social changes. It is what my electorate wants, it is what my conscience says, and I support the bill.

HON DR BRAD PETTITT (South Metropolitan) [6.04 pm]: I also rise today in support of the Abortion Legislation Reform Bill 2023. I believe that access to quality health care is a human right, and that includes abortion procedures. No individual should be forced to carry a pregnancy to term, whether they are unable to do so safely or they simply do not wish to. In saying that, I acknowledge that this is a difficult debate. I have really appreciated the respectful manner in which both sides of the debate have carried themselves. My journey through this issue is one that has been very much on both sides of the debate. I grew up in a strong church community and this was a very significant issue. Obviously, many members of that church passionately thought that abortion should not occur in most circumstances. As I got older I have also had a limited number of friends who have grappled with this really difficult decision. I know for them that it was a really hard choice, whichever way they went. I acknowledge that this debate is difficult. Reflecting on those decisions of my friends who have contemplated having an abortion, I know that all of them were pleased and glad that they were able to make a choice. That is at the heart of it: enabling people to make a choice, whether they see a pregnancy through to full term or not.

Fast forward to about a year ago now and, as a relatively new member of Parliament, I had the honour of tabling a petition in this place on behalf of Nicole McEwen and the Defend Abortion Action Group Perth. It is worth reflecting on the 2 573 signatures that that petition had, regarding the very issues before us. Interestingly, they called on this place to remove abortion from the Criminal Code; ensure that abortion costs are 100 per cent free; guarantee medical and surgical abortion for all women, regardless of citizenship, residential status or postcode; remove any requirement for people seeking an abortion to receive mandatory counselling or seek multiple approvals

Hon Martin Aldridge; Hon Neil Thomson; Hon Donna Faragher; Hon Darren West; Hon Dr Brad Pettitt; Hon Shelley Payne

and the like; and adopt legislation that removes barriers to abortion access based on conscientious objection and the like. This change is very pleasing. I acknowledge Minister Amber-Jade Sanderson for obviously listening to not only that very good petition with many signatures, but also the calls of many Western Australians who want to see that change. It is really good, a year on, to see that we are making some of those changes.

I will reflect quickly on some of the changes that I am very keen to support. It would be fair to say that the reason for that petition was that, rightfully, the petitioners saw that WA was burdened with laws that are pretty outdated. As many have spoken about, in 1998 we became one of the first states to remove criminal penalties for pregnant patients seeking abortions and doctors providing those procedures. Twenty-five years on, I think there was a sense that WA had gone from being a trailblazer to having some of the most restrictive abortion laws in the country. There was certainly a need for this amendment bill and I am really pleased that, 25 years on, we are seeing some major changes. Over that time there have been some significant shifts in public attitudes around this issue. I will quickly look at some of the key changes that I am keen to see happen and will support as part of the Abortion Legislation Reform Bill 2023.

Firstly, given that accessing abortions still carries a risk of criminalisation, I am really pleased to see that this amendment bill will address this restriction by amending the Criminal Code and, importantly, align WA with other jurisdictions by decriminalising abortion across the state. That is a really important shift. We have had a lot of discussions in this place around abortions at 20 weeks or later and needing approval of at least two of the six doctors on the ministerial termination panel. That was pretty cumbersome and I think we all agree an unsatisfactory way of dealing with something that is a really stressful point in people's lives. This bill pleasingly addresses this restriction by seeking to, firstly, abolish the ministerial termination panel and, secondly, increase the gestational age to 23 weeks. It is a really sensible and important amendment that I think is worthy of support in this place.

I want to acknowledge at this point the very good briefing that my staff and I got. I want to say thank you for that, because obviously there is a lot in the bill to get one's head around. It was good to have a clear way of understanding the bill and to be able to talk through some of the issues. There were a lot of different understandings of some of the misconceptions in the community, so being able to unpack some of those was really important. I want to thank the staff for providing that to me and my team.

There are a few other points that I think are worth highlighting. Currently, support people cannot assist someone to access an abortion without risk of criminalisation. It would be fair to say that this restriction will be addressed by the amendment to the Criminal Code, which will make it clear that a person who assists does not perform an abortion themselves. This provision has been included to provide an explicit ability for people to assist without fear that they may be considered under the law as having performed an abortion. These are the kinds of sensible changes that I think we all agree need to happen.

I will not go through all the changes, as I note that others would like to speak before the end of the day. I acknowledge that these are all examples of good and worthwhile changes. They are ones that I think we all agree are really important and will go a long way to guaranteeing access to medical and surgical abortions for women and people who can give birth, regardless of citizenship, residential status or postcode. If passed, the Abortion Legislation Reform Bill will remove clinically unnecessary and antiquated barriers to women and people who can give birth accessing abortion.

I am really pleased to stand here and say that we support this bill. I look forward to hearing the amendments and the debate going forward, but this is certainly something that is very worthy of our support in this place.

HON SHELLEY PAYNE (Agricultural) [6.12 pm]: It gives me great pleasure to stand in support of the Abortion Legislation Reform Bill 2023. First of all, I thank our Minister for Health, Amber-Jade Sanderson, for bringing this bill forward and for all the work she has done as Minister for Health; Mental Health. They are big portfolios. There are lots of competing priorities. I really want to thank her for giving this priority and bringing the bill forward and for all the consultation she had done with the sector, the community and those with lived experience. It is great that we now have a female health minister looking at some of the issues that affect women, such as the new women's and babies' hospital. I note the comments from Hon Stephen Pratt earlier in the day about all the things that are happening in the health portfolio.

I also want to commend some members for what they have said throughout this debate, particularly Hon Ayor Makur Chuot for standing up as a Christian and supporting the bill and, in doing so, supporting the idea of personal choice, which I think is very important. A lot of members have acknowledged that this debate is not about abortion, but personal choice is important in this debate. I reflected on some of the comments of Hon Nick Goiran and his idealistic view of a perfect world in which all babies can be taken care of. I just wanted to comment on Hon Ayor Makur Chuot's culture and how lucky she is. I think what she has been able to do is great. We all have situations in our own lives and it is great that we can have personal choice.

Hon Martin Aldridge; Hon Neil Thomson; Hon Donna Faragher; Hon Darren West; Hon Dr Brad Pettitt; Hon Shelley Payne

I also want to thank Minister Jarvis and Hon Sandra Carr for telling their stories.

I want to quickly reflect on how lucky we are in Western Australia. Hon Dr Brian Walker brought up a few points about the overturning of *Roe v Wade*. Again, I know this is not a debate about whether or not we should have abortion, but I want to reflect on the women who live in the states in America where abortion is illegal and what they must go through when they have to go through with a pregnancy that they do not want and they are not in a situation that they can handle. I remember being horrified when I first learnt about the baby boxes at police stations, hospitals and fire stations where women could anonymously deposit their baby so that someone on the other side could take it and look after it. I reflect on what those mainly young women would have gone through. Right now, we are doing an inquiry into forced adoptions, and members can read all the harrowing stories of the mothers whose babies were taken away and how it has been a lifelong struggle. I just wanted to reflect on how lucky we are to live in a state that supports women's choice.

I also want to talk briefly about medical advancements. Hon Jackie Jarvis touched on this when she talked about having to go through a procedure when drugs were not available. I have young kids now. We have other medical advancements such as the morning-after pill that women can take if they think they might be pregnant and they had not planned for it. The more medical advancements there are that allow for earlier terminations and the more research that can be done into things so that women do not have to wait until 20 weeks to see whether there is a problem with the pregnancy, the more it will make things easier. The changes that we are making with this bill to make it easier for women are the right things to do and I totally support the bill.

I again thank Hon Amber-Jade Sanderson for bringing this bill forward. All the amendments will help, particularly the removal of the requirement to see two medical practitioners and allowing younger children to access abortion without requiring them to have support from their parents. Hon Donna Faragher talked about and supported the extension of the gestational age so that women will have time if they find out that there is an issue and they have a very difficult decision to make. This legislation will allow them time for that.

I thank members on both sides for the contributions they have made throughout the debate. I acknowledge that it has been a respectful debate and that is really great. Again, I appreciate all the work that has been done by the Department of Health in consulting with people in our community who have lived experience and listening to and considering their views. I think that is all I wanted to chat about.

Debate adjourned, pursuant to standing orders.