

ABORTION LEGISLATION REFORM BILL 2023

Committee

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Sandra Carr) in the chair; Hon Sue Ellery (Leader of the House) in charge of the bill.

Clause 1: Short title —

Committee was interrupted after the clause had been partly considered.

Hon KATE DOUST: Just before we broke for question time, I think I put a question to the minister and we agreed that we might see how she goes answering it once we come back from question time. There were two different parts to the answer. If she cannot remember what it was, I am happy for her to take it on notice.

Hon SUE ELLERY: It was the prognosis and diagnostic testing conversation. We will get the member some information on that when we sit again.

Hon KATE DOUST: Once I have that information, and noting where we are at today, it may be that when we come back in a week I might ask the minister an additional question based on that information, but I am happy to give the minister a heads-up on that before we return.

Hon NICK GOIRAN: Prior to the interruption for the taking of questions without notice, we were examining clause 1. In particular, we were looking at the changes to what I would describe as phase 1 abortions that presently take place prior to 20 weeks' gestation, but under this proposed regime will occur prior to 23 weeks' gestation. We looked specifically at a number of elements of those changes, one of which was that only one doctor instead of two will be needed. I know of some contention in respect of that point. Certainly, the Leader of the Liberal Party, the member for Vasse, moved an amendment in the other place, and there is an amendment standing in my name dealing with whether or not those practitioners, certainly for late-term abortions, should be from Western Australia. There has also been some discussion by the Australian Medical Association about it. At present, for phase 1 abortions, do the two doctors need to be Western Australian doctors?

Hon SUE ELLERY: There is no statutory requirement that says that a woman must or must not consult with a doctor from outside Western Australia.

Hon Nick Goiran: Inside.

Hon SUE ELLERY: Yes, sorry, inside. The practice is that some women do. I am advised that some medical practitioners brought to the attention of the team that put the legislation together that because the legislation is silent on it, why do we not make it clear? There was nothing in the legislation that said that a woman must deal with someone from inside Western Australia, and the practice has been that some choose to consult with medical practitioners outside Western Australia.

Hon NICK GOIRAN: Thank you for that clarification. Again, we are talking about the phase 1 abortions at this point in time because phase 2 abortions require two doctors who are on the panel. Just to close the loop on this, I take it that all six doctors on the panel have always been Western Australian doctors.

Hon SUE ELLERY: Can I clarify that the member is talking about the ministerial panel?

Hon Nick Goiran: Yes—the only two doctors under the current regime who can approve late-term abortions.

Hon SUE ELLERY: We do not have the list of members of the panel. We can check. We think they are Western Australians. Before we meet again, we will check and I will clarify that when we meet again.

Hon NICK GOIRAN: I thank the minister for taking that on notice. She will respond when we get back and I will be surprised if there are interstate practitioners on that ministerial panel of six who make a decision on late-term abortions, but it will be interesting to have that confirmed.

In any event, for phase 1 abortions, the minister is indicating that, as a matter of law at present, it is not necessary for a medical practitioner to consult with a Western Australian medical practitioner. It is at the very least theoretically possible and perhaps has happened on more than one occasion in practice that the consultation has happened with an interstate practitioner. That is in respect of consultation. Are we aware of any scenarios whereby both doctors would have been from interstate?

Hon SUE ELLERY: I am not sure we can give the member a precise answer because the suite of measures available to provide abortion care includes prescription of medication. Certainly, telehealth can be used for that and the best advice I have is that we think telehealth advice is provided within Western Australia but, to be sure to be sure, we will check whether we have any information that can assist the member on that issue.

Hon NICK GOIRAN: Okay. To round that out, the point is that at the present time, for a phase 1 abortion, it is the case that two doctors are required. The legislation or regime is silent on the geographical location of those doctors. To be clear, moving forward, only one doctor will be required and could that doctor, even for phase 1 abortions, be an interstate doctor?

Hon SUE ELLERY: I think we are getting a little bit tied up in knots here. The reference to consulting a second practitioner who does not need to be in Western Australia is for late-term abortions. I do not know whether that requires the member to rephrase the question because I did not understand.

Hon NICK GOIRAN: Yes, I can do that. I take the point, minister. With regard to phase 1 abortions, moving forward, the proposal is that only one doctor will be involved. Does that one doctor who is involved for the phase 1 abortions have to be a Western Australian doctor?

Hon SUE ELLERY: There are tiers to this. I do not mean we are going to cry; I mean we are going to —

Hon Nick Goiran interjected.

Hon SUE ELLERY: Correct. Under the current legal framework, there is a difference between the decision to abort and the performance of an abortion. I will go back to the tiers. The first medical practitioner has to refer. So the medical practitioner who establishes informed consent, bearing in mind this definition of “informed consent” is quite specific and applies only to this form of care, cannot, under the existing arrangement, be the medical practitioner who performs the abortion. That is where the two medical practitioners come in. One medical practitioner is for the decision and establishing —

Hon Nick Goiran: One is referring and one is performing.

Hon SUE ELLERY: Correct. In order to do that, we will go back to the original question —

Hon Nick Goiran: They can be in WA or not, at the moment?

Hon SUE ELLERY: I will leave my answer there. I was getting confused about another matter.

Progress reported and leave granted to sit again, pursuant to standing orders.