

28 January 2021

Director, Law Enforcement and Crime
NSW Department of Communities and Justice
GPO Box 31
SYDNEY NSW 2001
By Email: policy@justice.nsw.gov.au

Submission: Crimes legislation (Offences Against Pregnant Women) Bill 2020

About Women's Health NSW

1. Women's Health NSW (WHNSW) is an association of and peak body for 21 NGO Women's Health Services funded by NSW Health across NSW.
2. WHNSW is proactive on priority issues relevant to women's health advocating for improved health outcomes for women in policy and practice to ensure women's health care is delivered in a gender appropriate, affordable and accessible way designed to meet the health needs of women. We also align with NSW Ministry of Health CORE values: Collaboration, Openness, Respect and Empowerment.

Aims of Women's Health NSW

3. Women's Health NSW and its members align with developed [Principles of Women's Health Care](#) that services will be provided within a feminist context which:
 - Recognises the social, environmental, economic, physical, emotional and cultural factors which influence women's health
 - Recognises and challenges the effects of sex-role stereotyping and gender discrimination on women's health and well-being
 - Reflects the whole of a woman's lifespan, their various and changing roles and responsibilities, not just their reproductive life
 - Recognises the importance of maintaining well-being by the focus on preventative practices
 - Actively encourages the empowerment of women in both the personal and social aspects of their lives
 - Values women's own knowledge and skills and their right to make informed decisions about their health
 - Promotes gender equity and the use of gender analysis frameworks for public policy, programs and practice.

Women's Health NSW Membership

4. WHNSW has twenty one members in total including seventeen Women's Health Centres providing multidisciplinary, primary health care focusing on wellness, prevention, early intervention, immediate and ongoing care including physical health/activity, chronic illness, emotional & mental health, reproductive and sexual health and the health effects of violence against women and, four special purpose services:
Waminda with a focus on culturally tailored programs for Aboriginal women,
Fairfield Women's Health Service providing health and well-being services to refugee and immigrant women,
Sydney Women's Counselling Centre with trauma specialised counselling and
Rape & Domestic Violence Services Australia.
5. The full list of members:
 - I. Bankstown Women's Health Centre
 - II. Blacktown Women's & Girls Health Centre
 - III. Blue Mountains Women's Health & Resource Centre
 - IV. Central Coast Community Women's Health Centre
 - V. Central West Women's Health Centre
 - VI. Coffs Harbour Women's Health Centre
 - VII. Cumberland Women's Health Centre
 - VIII. Fairfield Women's Health Service
 - IX. Hunter Women's Centre
 - X. Illawarra Women's Health Centre
 - XI. Leichhardt Community Women's Health Centre
 - XII. Lismore Women's Health Centre
 - XIII. Liverpool Women's Health Centre
 - XIV. Rape & Domestic Violence Services Australia
 - XV. Penrith Women's Health Centre
 - XVI. Shoalhaven Women's Health Centre
 - XVII. Sydney Women's Counselling Centre
 - XVIII. Women's Centre for Health & Wellbeing Albury Wodonga
 - XIX. Wagga Women's Health Centre
 - XX. Waminda South Coast Women's Health & Welfare Aboriginal Corporation
 - XXI. WILMA Women's Health Centre Campbelltown.

Executive Overview

6. Women's Health NSW and its members have always worked with disadvantaged and marginalised women and communities. As we work with women who have experienced violence in many forms part of our work includes reproductive health care, trauma and loss. The trauma of a lost pregnancy through intentional harm and or a tragic accident is well understood and we acknowledge the devastating impact of such harm and loss.

7. We have also consistently voiced our concerns regarding proposed amendments to the crimes act to address trauma and loss through judicial processes.
8. In relation to Schedule 1, the proposed amendment to the Crimes Act 1900. We support the findings of The Hon Michael Campbell QC in his 2010 Review of Laws Surrounding Criminal Incidents Involving the Death of an Unborn Child:
 - a. The extended definition of 'grievous bodily harm' under the Crimes Act 1900 was amended to address the destruction by a person of a foetus of a pregnant women;
 - b. With a maximum penalty of 25 years.

To create a new separate category of offence (Section 9) in the first instance appears unnecessary and will always have additional implications under the law either through interpretation and or open to amendment. We support the current law. The proposed extension of penalty of an additional 3 years appears excessive when one views existing sentencing capacity.

9. In relation to the Schedule 2, Amendment of Crimes (Sentencing Procedures) Act. We work in a variety of circumstances where 'the family is at odds with the victim', where the grief and anger of other family members can cause extreme trauma to the victim.

Where appropriate, we believe victim impact statements can and do include the impact on whole family unit and that creating this separate legislation has some inherent problems.

10. In relation to Schedule 3, Amendment of Criminal Procedure Act. We do not support the inclusion of the name of the foetus of a pregnant women on an indictment. While the intention of this bill 'seeks to specifically recognise the unique and significant loss of an unborn child as a result of criminal offending', as previously expressed, we believe addressing trauma and loss through judicial processes presents a legal risk to the women who rely on us. Women's Health NSW cannot support legislation that could through interpretation or amendment give rights to a foetus separate to the rights of the woman carrying the foetus – medically, legally or ethically.
11. In relation to Schedule 4, Amendment of Motor Accident Injuries Act. We understand that women and families can seek support through Victims of Crime Programs where appropriate support, referrals and finance can be obtained. This amendment is unnecessary whereas ensuring the family get a copy of the leaflets on Victims of Crime could be recommended.

12. For all the above reasons we do not support the proposed amendments in the Bill.

Thank you for the opportunity to provide a submission on this topic. Should you wish to discuss any aspect of this submission do not hesitate to contact me on 0414 780 417.

Yours sincerely,



Denele Crozier, AM
Chief Executive Officer.