

## We urge you to oppose

### Crimes Amendment (Zoe's Law) Bill 2013 (No.2)

This Bill, for the first time in Australia, creates a concept of 'foetal personhood'. It removes the link between a woman and her pregnancy from 20 weeks onwards, despite medical and legal experts saying that our current laws are the best way to deal with cases of pregnant women who are injured through criminal acts.

On 21 November, after weeks of debate in the Lower House, NSW Members of Parliament voted on the above amendment to the Crimes Act. The Bill was put to a conscience vote and carried, 63 votes to 26. It now has to pass through the Upper House before it becomes law.

You can voice your **OPPOSITION** to the Bill.

#### Our coalition **OPPOSES** the Bill

Together we represent the women's health and community sector in NSW. We are respected and recognised for our work with some of the most vulnerable and disadvantaged women in the state.

- Rape and Domestic Violence Services Australia (formerly NSW Rape Crisis)
- Family Planning NSW
- Women's Health NSW
- Women's Legal Services NSW
- F Collective
- Women's Electoral Lobby Australia

#### Leading medical and legal experts **OPPOSE** the Bill

- NSW Bar Association
- Australian Medical Association (AMA)
- The Royal Australian and New Zealand College of Obstetrics and Gynaecologists (RANZCOG)
- Community Legal Centres NSW
- The Law Society
- Women Lawyers NSW
- MDA National (a leading medical indemnity insurer)

#### Reasons to **OPPOSE** the Bill

Listen to the experts from the medical, legal and women's sectors

##### ► Amendment to the Bill doesn't address concerns of the Bar Association.

The Bar Association is concerned about the arbitrary nature of the Bill. The Bar Association notes the NSW Births, Deaths and Marriages Registration Act 1995, with its recognition of 'stillbirth', serves an important function by allowing for a stillborn foetus to be given a name and registered to assist with grieving. The purpose of this was never to allow such a radical change to criminal law, where abortion still remains an offence. In a letter to the Member for the Entrance, the Bar Association says, "If an 'unborn child', within the meaning of that expression under this Bill is to be treated as a 'person' under some NSW criminal laws, it would be difficult to resist its adoption in respect to other NSW criminal law."

While we acknowledge the pain and grief experienced by Brodie Donegan and her family, we cannot be moved by one story alone. We should be guided by women like Hannah Robert who has voiced her opposition to this Bill although her experience mirrors that of Brodie.  
<http://theconversation.com/why-losing-my-daughter-means-i-dont-support-zoes-law-19985>

We should also listen to the families who are faced with the most dreadful decision to end a wanted pregnancy past 20 weeks gestation, where the woman's life may be at risk or the foetus is facing abnormalities incompatible with life.  
<http://www.smh.com.au/comment/decriminalise-abortion-prochoice-in-practice-is-not-the-same-as-legal-protection-20131202-2ym16.html>

**Our bodies**  
Our choices



▶ **It is not legally feasible to separate a woman from the foetus she is carrying.**

If successful, this will be the first time that legislation in Australia creates a distinction in personhood between a woman and the foetus she is carrying.

According to the AMA, RANZCOG and MDA National (one of Australia's leading providers of medical indemnity insurance and medico legal services with over 25,000 members) this will create uncertainty for medical practitioners in situations where the provision of medical treatment for the benefit of the mother is likely to result in serious harm being suffered to the foetus. It may mean that doctors are advised the criminal consequences of performing late term abortions are too risky in a criminal sense, even where they would save the life of a woman.

▶ **The Bar Association and the AMA believe this Bill will have implications for late term abortions.**

The AMA has highlighted the very real risk to more than 100 women a year in NSW who have medical terminations beyond the 20th week of pregnancy and raised serious concerns about a doctor's legal ability to undertake such interventions. The Bill creates tension because the foetus will have the same legal status as the mother.

*The Bar Association has consistently taken the position that the current NSW criminal law in this area is satisfactory. That remains the position of the Bar Association...the existing law provides protection for the foetus, irrespective of its length of gestation or size, while it is in utero.*

Phillip Boulten SC, President, New South Wales Bar Association

▶ **The law amendment is unnecessary.**

The Crimes Act 1900 was amended in 2005 to include "the destruction (other than in the course of a medical procedure) of the foetus of a pregnant woman, whether or not the woman suffers any other harm" in the definition of Grievous Bodily Harm.

The 2010 Government appointed Review by the Hon. Michael Campbell QC found this was appropriate and should not be changed. An offence of this nature causing destruction of a foetus already carries a maximum prison sentence of 25 years. Any further amendment to this Act is unnecessary.

▶ **The proposed Bill does not add anything to the protection of pregnant women and the foetus they are carrying but it does infringe on the reproductive rights and wellbeing of women.**

*"The current Act already gives the police and the courts the power to act if violence leads to the destruction of a foetus and as such we believe that the current law is adequate.*

*The proposed Bill does not add anything to the protection of pregnant women and the foetus they are carrying but it does represent a serious risk to women and their doctors."*

*"It is important that MPs know that it is their responsibility to ensure access to medical services for all women in NSW."*

Karen Willis, Chief Executive, Rape and Domestic Violence Services Australia

**You can OPPOSE the Bill by:**

- Visiting the website <http://ourbodiesourchoices.weebly.com> to register your opposition to the Bill online and email Upper House MPs
- Writing to MLC members - list available on website below
- Sending a letter to the editor of your local paper
- Join us on Facebook: <http://www.facebook.com/ourbodiesourchoices>
- Follow us on Twitter: @OurBodiesChoices

**For further information:**

'Zoe's Law' Bill threat to women's rights, Women's Legal Services NSW <http://www.womenslegalsw.asn.au/law-and-policy-reform/zoes-law.html>

Review of Laws Surrounding Criminal Incidents Involving the Death of an Unborn Child. The Honorable Michael Campbell QC, October 2010 [http://www.lpclrd.lawlink.nsw.gov.au/agdbasev7wr/lpclrd/documents/pdf/final\\_campbell\\_report.pdf](http://www.lpclrd.lawlink.nsw.gov.au/agdbasev7wr/lpclrd/documents/pdf/final_campbell_report.pdf)

The NSW Bar Association letter to Chris Spence, Member for the Entrance [http://www.nswbar.asn.au/docs/resources/submissions/spence\\_001.pdf](http://www.nswbar.asn.au/docs/resources/submissions/spence_001.pdf)

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<http://ourbodiesourchoices.weebly.com>

