

2002

**THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL
TERRITORY**

Crimes Amendment Bill 2002

Explanatory Memorandum

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Statement of intention

The intention of this Act is to amend the *Crimes Act 1900* to protect pregnant woman and their unborn children against acts of violence and recklessness. This Act will provide protection to unborn fetuses assuming that death or injury occurred without the mother's consent to a lawful abortion or outside the usual and customary standards of medical practice or beyond acts deemed necessary to save the mother or child's life.

Clause Notes

Clauses 1,2 and 3 exist for the formal purposes of this Act. They state the short and long Titles of the Act and the commencement date.

Clause 4 inserts a new section into the Crimes Act, Section 42A.

Section 42A, Subsection 1: This section makes provision for circumstances to which this Act will not apply to:

- (a) a lawful abortion; or
- (b) anything done by a pregnant woman in relation to her own unborn child; or
- (c) anything done to save the life of a woman who is pregnant or her unborn child; or

(d) anything done otherwise within the usual and customary standards of medical practice.

Section 42A, Subsection 2 : Makes an offence an action committed by a person resulting in the intentional destruction of an unborn child. The maximum penalty correlates to the same penalty given should the child be already born.

Section 42A, Subsection 3: Makes an offence an assault carried out by a person intentionally or recklessly on a pregnant woman which directly or indirectly causes harm to or destroys the life of an unborn child.

This subsection was based on an offence in the Queensland Criminal Code, section 313 (2) .

Section 42A, Subsection 4: Makes an offence any act which is an offence under Section 10-49 (Part 2) of the *Crimes Act* which results in the death of or harm to an unborn child.

Part 2 of the *Crimes Act* is about offences against the person and includes acts such as murder, manslaughter, assaults and culpable driving.

Section 42A, Subsection 5: Provides the definition of an unborn child for the purpose of this Act. An unborn child is defined as a fetus at any stage of its development.