

An Bille um an gCúigiú Leasú is Fiche
ar an mBunreacht (Beatha Dhaonna
le linn Toirchis a Chosaint), 2001

Twenty-fifth Amendment of the Con-
stitution (Protection of Human Life in
Pregnancy) Bill, 2001

*Mar a leasaíodh sa Roghchoiste um Shláinte agus Leanáí
As amended in the Select Committee on Health and Children*



**TWENTY-FIFTH AMENDMENT OF THE CONSTITUTION
(PROTECTION OF HUMAN LIFE IN PREGNANCY) BILL,
2001**

As amended in the Select Committee on Health and Children

ARRANGEMENT OF SECTIONS

Section

1. Amendment of Article 46 of the Constitution.
2. Citation.

AN CHÉAD SCEIDEAL — THE FIRST SCHEDULE

CUID 1 — PART 1

CUID 2 — PART 2

AN DARA SCEIDEAL — THE SECOND SCHEDULE



**AN BILLE UM AN gCÚIGIÚ LEASÚ IS FICHE AR AN
mBUNREACTH (BEATHA DHAONNA LE LINN TOIRCHIS
A CHOSAINT), 2001**

Mar a leasaíodh sa Roghchoiste um Shláinte agus Leanaí

RIAR NA nALT

Alt

1. Airteagal 46 den Bhunreacht a leasú.
2. Lua.

AN CHÉAD SCEIDEAL — THE FIRST SCHEDULE

CUID 1 — PART 1

CUID 2 — PART 2

AN DARA SCEIDEAL — THE SECOND SCHEDULE



**TWENTY-FIFTH AMENDMENT OF THE CONSTITUTION
(PROTECTION OF HUMAN LIFE IN PREGNANCY) BILL,
2001**

BILL

entitled

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AN ACT TO AMEND THE CONSTITUTION.

WHEREAS by virtue of Article 46 of the Constitution any provision of the Constitution may be amended in the manner provided for by that Article:

AND WHEREAS it is proposed to amend Article 46 of the Constitution: 10

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

Amendment of
Article 46 of the
Constitution.

1.—Article 46 of the Constitution is hereby amended as follows:

(a) the section the text of which is set out in *Cuid 1 — Part 1* 15
of *An Chéad Sceideal — The First Schedule* to this Act
shall be inserted after section 5 of the Irish text,

(b) the section the text of which is set out in *Cuid 2 — Part 2*
of *An Chéad Sceideal — The First Schedule* to this Act
shall be inserted after section 5 of the English text. 20

Citation.

2.—(1) The Amendment of the Constitution effected by this Act shall be called the Twenty-fifth Amendment of the Constitution.

(2) This Act may be cited as the Twenty-fifth Amendment of the Constitution (Protection of Human Life in Pregnancy) Act, 2001.



**AN BILLE UM AN gCÚIGIÚ LEASÚ IS FICHE AR AN
mBUNREACTH (BEATHA DHAONNA LE LINN TOIRCHIS
A CHOSAINT), 2001**

BILLE

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dá ngairtear

ACHT CHUN AN BUNREACTH A LEASÚ.

DE BHRÍ gur cead, de bhua Airteagal 46 den Bhunreacht, foráil ar bith den Bhunreacht a leasú ar an modh a shocraítear leis an Airteagal sin:

10 AGUS DE BHRÍ go bhfuil beartaithe Airteagal 46 den Bhunreacht a leasú:

ACHTAÍTEAR AG AN OIREACHTAS AR AN ÁBHAR SIN
MAR A LEANAS:

1.—Leasaítear leis seo mar a leanas Airteagal 46 den Bhunreacht: Airteagal 46 den
Bhunreacht a leasú.

15 (a) cuirfear an t-alt a bhfuil an téacs de leagtha amach i *gCuid 1 — Part 1 den Chéad Sceideal — The First Schedule* a ghabhann leis an Acht seo isteach i ndiaidh alt 5 den téacs Gaeilge,

20 (b) cuirfear an t-alt a bhfuil an téacs de leagtha amach i *gCuid 2 — Part 2 den Chéad Sceideal — The First Schedule* a ghabhann leis an Acht seo isteach i ndiaidh alt 5 den téacs Sacs-Bhéarla.

2.—(1) An Cúigiú Leasú is Fiche ar an mBunreacht a thabharfar Lua.
ar an leasú a dhéantar ar an mBunreacht leis an Acht seo.

25 (2) Féadfar an tAcht um an gCúigiú Leasú is Fiche ar an mBunreacht (Beatha Dhaonna le linn Toirchis a Chosaint), 2001, a ghairm den Acht seo.

CUID 1 — PART 1

- 6 1° D’ainneoin na bhforálacha sin romhainn den Airteagal seo, déanfar Airteagal 40 den Bhunreacht seo a leasú mar a leanas: 5
- Cuirfear na fo-ailt seo a leanas le halt 3 den téacs Gaeilge:
- “4° Déanfar, go sonrach, beatha na mbeo gan breith sa bhroinn a chosaint de réir fhorálacha an Achta chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002.
- 5° Beidh feidhm ag forálacha alt 2 d’Airteagal 46 agus ailt 1, 3 agus 4 d’Airteagal 47 den Bhunreacht seo maidir le haon Bhille a ritear nó a mheastar a rith-eadh ag dhá Theach an Oireachtais, ar Bille é a bhfuil togra ann chun an tAcht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002, a leasú, mar atá feidhm acu maidir le Bille a bhfuil togra nó tograí ann chun an Bunreacht seo a leasú agus ní foláir don Uachtarán a lámh a chur le haon Bhille den sórt sin láithreach ar mbeith sásta dó gur thoiligh an pobal go cuí leis an mBille de réir fhorálacha alt 1 d’Airteagal 47 den Bhunreacht seo, agus ní foláir don Uachtarán é a fhógairt go cuí ina dhlí.” 10 15 20
- 2° Má achtaíonn an tOireachtas dlí, nach bhfuil ann ach na forálacha atá leagtha amach sa *Dara Sceideal — The Second Schedule* a ghabhann leis an *Acht um an gCúigiú Leasú is Fiche ar an mBunreacht (Beatha Dhaonna le linn Toirchis a Chosaint), 2001*, déanfar an t-alt seo, seachas an leasú ar Airteagal 40 den Bhunreacht seo a dhéantar leis an alt seo, a fhágáil ar lár as gach téacs oifigiúil den Bhunreacht seo a fhoilseofar dá éis sin, ach d’ainneoin é a fhágáil ar lár amhlaidh leanfaidh an t-alt seo d’fheidhm dlí a bheith aige. 25 30
- 3° Mura ndéanfar dlí den sórt sin a achtú amhlaidh laistigh de 180 lá ón tráth a chuirfear an t-alt seo leis an mBunreacht seo, scoirfidh an t-alt seo d’éifeacht a bheith leis agus fágfar ar lár é as gach téacs oifigiúil den Bhunreacht seo a fhoilseofar dá éis sin. 35
- 4° Ní bheidh feidhm ag forálacha Airteagail 26 agus 27 den Bhunreacht seo maidir leis an mBille le haghaidh dlí den sórt sin.

CUID 2 — PART 2

6 1° Notwithstanding the foregoing provisions of this Article, Article 40 of this Constitution shall be amended as follows:

5 The following subsections shall be added to section 3 of the English text:

10 “4° In particular, the life of the unborn in the womb shall be protected in accordance with the provisions of the Protection of Human Life in Pregnancy Act, 2002.

15 5° The provisions of section 2 of Article 46 and sections 1, 3 and 4 of Article 47 of this Constitution shall apply to any Bill passed or deemed to have been passed by both Houses of the Oireachtas containing a proposal to amend the Protection of Human Life in Pregnancy Act, 2002, as they apply to a Bill containing a proposal or proposals for the amendment of this Constitution and any such Bill shall be signed by the President forthwith upon his being satisfied that the Bill has been duly approved by the people in accordance with the provisions of section 1 of Article 47 of this Constitution and shall be duly promulgated by the President as a law.”.

25 2° If a law, containing only the provisions set out in *An Dara Sceideal — The Second Schedule to the Twenty-fifth Amendment of the Constitution (Protection of Human Life in Pregnancy) Act, 2001*, is enacted by the Oireachtas, this section, other than the amendment of Article 40 of this Constitution effected thereby, shall be omitted from every official text of this Constitution published thereafter, but notwithstanding such omission this section shall continue to have the force of law.

35 3° If such a law is not so enacted within 180 days of this section being added to this Constitution, this section shall cease to have effect and shall be omitted from every official text of this Constitution published thereafter.

4° The provisions of Articles 26 and 27 of this Constitution shall not apply to the Bill for such a law.

AN ACT TO PROTECT HUMAN LIFE IN PREGNANCY, TO REPEAL SECTIONS 58 AND 59 OF THE OFFENCES AGAINST THE PERSON ACT, 1861, AND TO PROVIDE FOR RELATED MATTERS. 5

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Abortion.

1.—(1) In this Act, “abortion” means the intentional destruction by any means of unborn human life after implantation in the womb of a woman.

(2) Notwithstanding *subsection (1)* of this section, abortion does not include the carrying out of a medical procedure by a medical practitioner at an approved place in the course of which or as a result of which unborn human life is ended where that procedure is, in the reasonable opinion of the practitioner, necessary to prevent a real and substantial risk of loss of the woman’s life other than by self-destruction. 10 15

(3) In this section—

“approved place” means a place in the State approved for the time being by order as being suitable for the purposes of this section;

“medical practitioner” means a person permitted for the time being by law to practise as a medical practitioner in the State; 20

“reasonable opinion” means a reasonable opinion formed in good faith which has regard to the need to preserve unborn human life where practicable and of which a written record has been made and signed by the practitioner; 25

“woman” means a female person.

Prohibition of abortion.

2.—(1) No person shall carry out or effect an abortion in the State.

(2) For the purposes of this section, a person shall be presumed to have intended the natural and probable consequences of his or her conduct; but this presumption may be rebutted. 30

(3) A person who contravenes *subsection (1)* of this section, or attempts to do so, or aids, abets or procures any other person to do so, shall be guilty of an offence and shall be liable on conviction on indictment to imprisonment for a term not exceeding 12 years or a fine or both. 35

(4) A prosecution for an offence under this section may be brought only by or with the consent of the Director of Public Prosecutions.

Conscientious objections.

3.—Nothing in this Act shall be construed as obliging any person to carry out any medical procedure referred to in *section 1* of this Act. 40

5 ACHT CHUN BEATHA DHAONNA LE LINN TOIRCHIS A CHOSAINT, CHUN AILT 58 AGUS 59 DEN *OFFENCES AGAINST THE PERSON ACT*, 1861, A AISGHAIRM AGUS CHUN SOCRÚ A DHÉANAMH I dTAOBH NITHE GAOLMHARA.

ACHTAÍTEAR AG AN OIREACHTAS MAR A LEANAS:

1.—(1) San Acht seo, ciallaíonn “ginmhilleadh” beatha dhaonna gan breith a dhíothú d’aon ghnó ar mhodh ar bith tar éis ionphlandú i mbroinn mná. Ginmhilleadh.

(2) D’ainneoin *fho-alt (1)* den alt seo, ní fholáíonn ginmhilleadh lia-chleachtóir do dhéanamh beart liachta in áit fhormheasta ar beart é a gcuirtear deireadh le beatha dhaonna gan breith lena linn nó dá thoradh i gcás ina bhfuil an beart sin riachtanach, i dtuairim réasúnta an chleachtóra, chun cosc a chur le baol réadach substaintiúil go bhfaighidh an bhean bás ar shlí seachas trí fhéindíothú.

(3) San alt seo—
ciallaíonn “áit fhormheasta” áit sa Stát atá formheasta in alt na huaire, le hordú, mar áit atá oiriúnach chun críocha an ailt seo;
20 ciallaíonn “lia-chleachtóir” duine atá ceadaithe in alt na huaire, le dlí, chun cleachtadh mar lia-chleachtóir sa Stát;

ciallaíonn “tuairim réasúnta” tuairim réasúnta ar thángthas uirthi de mheon macánta agus a fhéachann don ghá atá ann beatha dhaonna gan breith a chaomhnú i gcás inar féidir é agus a bhfuil taifead scríofa uirthi déanta agus sínithe ag an gcleachtóir;

ciallaíonn “bean” duine baineann.

2.—(1) Ní dhéanfaidh aon duine ginmhilleadh, nó ní thabharfaidh aon duine ginmhilleadh i gcrích, sa Stát. Ginmhilleadh a thoirmeasc.

(2) Chun críocha an ailt seo, toimhdeofar go raibh sé ar intinn ag duine na hiarmhairtí nádúrtha dóchúla a theacht as a iompar nó as a hiompar; ach féadfar an toimhde sin a fhrisnéis.

(3) Aon duine a sháróidh *fo-alt (1)* den alt seo, nó a dhéanfaidh iarracht déanamh amhlaidh, nó a chabhróidh nó a neartóidh le haon duine eile nó a chuirfidh faoi deara d’aon duine eile, déanamh amhlaidh, beidh sé nó sí ciontach i gcion agus dlífear, ar é nó í a chiontú ar díotáil, príosúnacht ar feadh téarma nach faide ná 12 bhliain nó fíneáil, nó iad araon, a chur air nó uirthi.

(4) Ní fhéadfar ionchúiseamh i leith ciona faoin alt seo a thionscnamh ach amháin ag an Stiúrthóir Ionchúiseamh Poiblí nó le toiliú uaidh nó uaithi.

3.—Ní fhorléireofar aon ní san Acht seo mar ní a chuirfidh d’oib-leagáid ar aon duine aon bheart liachta dá dtagraítear in *alt 1* den Acht seo a dhéanamh. Agóidí coinsiasa.

Travel and information.

4.—(1) This Act does not limit freedom to travel between the State and another state or freedom to obtain or make available in the State, in accordance with conditions for the time being laid down by law, information relating to services lawfully available in another state.

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(2) This Act does not operate to restrict any person from travelling to another state on the ground that his or her intended conduct there would, if it occurred in the State, constitute an offence under *section 2* of this Act.

Orders.

5.—(1) In this Act (other than in *section 7*), “an order” means an order made by a member of the Government authorised in that behalf by the Government. 10

(2) An order may make such provision relating to the making, keeping and confirmation of records (including records of opinions) of medical procedures referred to in *section 1* of this Act as may be considered by the member of the Government concerned necessary or appropriate for the purposes of this Act. 15

(3) An order may be amended or revoked by order.

(4) Where an order is proposed to be made, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made unless a resolution approving of the draft has been passed by each such House. 20

Repeals.

6.—Sections 58 and 59 of the Offences against the Person Act, 1861, are hereby repealed.

Short title and commencement.

7.—(1) This Act may be cited as the Protection of Human Life in Pregnancy Act, 2002. 25

(2) This Act shall come into operation on such day not earlier than 2 months after the date of its passing as the Taoiseach may appoint by order.

4.—(1) Ní theorannaíonn an tAcht seo saoirse chun taisteal idir an Stát agus stát eile nó saoirse chun faisnéis a fháil nó a chur ar fáil sa Stát, de réir coinníollacha atá leagtha síos in alt na huaire le dlí, maidir le seirbhísí atá ar fáil go dleathach i stát eile. Taisteal agus faisnéis.

5 (2) Ní oibríonn an tAcht seo chun srian a chur ar aon duine taisteal chuig stát eile ar an bhforas go mbeadh an t-iompar atá ar intinn aige nó aici a dhéanamh ann ina chion faoi *alt 2* den Acht seo dá mba sa Stát a tharlódh an t-iompar sin.

10 5.—(1) San Acht seo (seachas in *alt 7*), ciallaíonn “ordú” ordú Orduithe. arna dhéanamh ag comhalta den Rialtas atá údaraithe chuige sin ag an Rialtas.

15 (2) Féadfar, le hordú, cibé socrú a dhéanamh a measfaidh an comhalta den Rialtas lena mbaineann é a bheith riachtanach nó cuí chun críocha an Achta seo, ar socrú é a bhaineann le déanamh, coimeád agus daingniú taifead (lena n-áirítear taifid ar thuairimí) ar bhearta liachta dá dtagraítear in *alt 1* den Acht seo.

(3) Féadfar, le hordú, ordú a leasú nó a chúlghairm.

20 (4) I gcás go mbeartaítear ordú a dhéanamh, leagfar dréacht den ordú faoi bhráid gach Tí den Oireachtas agus ní dhéanfar an t-ordú mura mbeidh rún ag ceadú an dréachta rite ag gach Teach acu sin.

6.—Aisghairtear leis seo ailt 58 agus 59 den *Offences against the Person Act, 1861*. Aisghairm.

7.—(1) Féadfar an tAcht chun Beatha Dhaonna le linn Toirchis a Chosaint, 2002, a ghairm den Acht seo. Gearrtheideal agus tosach feidhme.

25 (2) Tiocfaidh an tAcht seo i ngníomh cibé lá, nach luaithe ná 2 mhí tar éis dháta a rite, a cheapfaidh an Taoiseach le hordú.