



**SEANAD ÉIREANN**

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**AN BILLE UM CHOSAINN NA BEATHA LE LINN TOIRCHIS,  
2013**

**PROTECTION OF LIFE DURING PREGNANCY BILL 2013**

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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# SEANAD ÉIREANN

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## AN BILLE UM CHOSAINT NA BEATHA LE LINN TOIRCHIS, 2013 —AN TUARASCÁIL

### PROTECTION OF LIFE DURING PREGNANCY BILL 2013 —REPORT

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#### *Leasuithe Amendments*

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1. In page 6, line 8, after “treatment” to insert the following:

“but such medical procedure shall be in accordance with current medical practice in Ireland and circumscribed by regulation”.

—*Senators Jim Walsh, Diarmuid Wilson.*

2. In page 7, line 9, to delete “complete” and substitute “partial”.

—*Senators Rónán Mullen, Paul Bradford.*

3. In page 7, lines 19 and 20, to delete all words from and including “or” in line 19 down to and including “2004” in line 20 and substitute “or any institution listed in the *Schedule*”.

—*Senators Jim Walsh, Diarmuid Wilson.*

4. In page 7, between lines 27 and 28, to insert the following:

“(iv) facilities for the intensive care of newborns,”.

—*Senators Jim Walsh, Diarmuid Wilson.*

5. In page 8, line 33, after “illness” to insert “(not being a risk of loss of life from suicide)”.

—*Senators Rónán Mullen, Paul Bradford.*

6. In page 8, line 34, and in page 9, line 1, to delete all words from and including “(being” in line 34 down to and including “practicable)” in line 1 of page 9 and substitute the following:

“(being an opinion which respects the equal right to life of the unborn, and which has regard to the duty to deliver the viable unborn alive where practicable)”.

—*Senators Rónán Mullen, Paul Bradford.*

7. In page 9, line 2, after “procedure” to insert the following:

“or at the request of a pregnant woman in the case of fatal foetal abnormality or if the pregnancy is the result of rape or incest”.

—*Senators David Norris, Sean D. Barrett.*

8. In page 9, to delete lines 4 and 5 and substitute the following:

“(b) that medical procedure is carried out at an appropriate institution by—

(i) an obstetrician, or

- (ii) a medical practitioner of a medical speciality in respect of which he or she is registered in the Specialist Division of the register, and which is relevant to the care or treatment in respect of which the risk of such loss arises, not being a psychiatrist or a general practitioner.”.

—*Senators Rónán Mullen, Paul Bradford.*

9. In page 9, between lines 5 and 6, to insert the following:

“(c) where the unborn is sixteen weeks gestation or older, an effective anaesthetic for pain relief shall be administered to the foetus before the medical procedure is commenced, provided this does not increase the risk of the loss of life of the pregnant woman.”.

—*Senators Fidelma Healy Eames, Mary Anne O’Brien.*

10. In page 9, lines 26, to delete “is ended” and substitute “may be lost”.

—*Senators Rónán Mullen, Paul Bradford.*

11. In page 9, lines 31 to 33, to delete all words from and including “(being” in line 31 down to and including “practicable)” in line 33 and substitute the following:

“(being an opinion which respects the equal right to life of the unborn, and which has regard to the duty to deliver the viable unborn alive where practicable)”.

—*Senators Rónán Mullen, Paul Bradford.*

12. In page 10, to delete lines 4 to 39.

—*Senators Jim Walsh, Labhras Ó Murchú, Rónán Mullen, Paul Bradford.*

13. In page 10, line 7, to delete “is ended” and substitute “may be lost”.

—*Senators Rónán Mullen, Paul Bradford.*

14. In page 10, line 9, to delete “have jointly certified in good faith that” and substitute “and having regard to the relevant clinical evidence, have jointly certified that”.

—*Senators Rónán Mullen, Paul Bradford.*

15. In page 10, between lines 11 and 12, to insert the following:

“(ii) a reasonable attempt has been made to avert the risk of suicide via psychiatric treatment and/or engaging the patient with psychotherapy or counselling services, and

(iii) one of the medical practitioners has informed the woman of her legal right to place her unborn for adoption after birth, and”.

—*Senators Rónán Mullen, Paul Bradford.*

16. In page 10, to delete lines 12 to 14 and substitute the following:

“(ii) in their reasonable opinion (being an opinion formed on reasonable grounds and in good faith which has regard to the right to life of the unborn), that risk can only be averted by carrying out the medical procedure,

(iii) the pregnant woman has undergone an ultrasound,”.

—*Senators Jim Walsh, Labhras Ó Murchú.*

17. In page 10, lines 12 and 13, to delete all words from and including “(being” on line 12, down to and including “practicable)” on line 13 and substitute the following:

“(being an opinion which respects the equal right to life of the unborn, and which has regard to the duty to deliver the viable unborn alive where practicable)”.

—*Senators Rónán Mullen, Paul Bradford.*

18. In page 10, between lines 17 and 18, to insert the following:

“(c) that medical procedure shall not involve the intentional destruction of a viable unborn,

(d) where the unborn is sixteen weeks gestation or older, an effective anaesthetic for pain relief shall be administered to the foetus before the medical procedure is commenced.”.

—*Senators Fidelma Healy Eames, Mary Anne O’Brien.*

19. In page 10, between lines 17 and 18, to insert the following:

“(c) the medical procedure is not intended to end the life of the unborn where such life is viable.”.

—*Senators Rónán Mullen, Paul Bradford.*

20. In page 10, after line 39, to insert the following:

“(6) Where the medical practitioner believes in his or her reasonable opinion that the unborn child is capable of surviving outside the womb with appropriate medical support, that that medical practitioner, where practicable, shall deliver the unborn and take all necessary measures to sustain the life of the born infant.”.

—*Senators Fidelma Healy Eames, Paul Bradford.*

21. In page 10, after line 39, to insert the following:

“(6) No procedure as defined herein where the result of such procedure is the delivery of a viable infant shall expose any medical practitioner to civil or criminal liability for negligence.”.

—*Senators Fidelma Healy Eames, Paul Bradford.*

22. In page 11, between lines 13 and 14, to insert the following:

“(3) Where a certification is made under *section 9*, the Attorney General or his/her nominee shall, on behalf of the unborn, make an application in the prescribed form and manner to the Executive for a review of the decision.

(4) Where a certification is made under *section 9*, the father of the unborn baby may make an application in the prescribed form and manner to the Executive for a review of a relevant decision.

(5) A certification made under *section 9* shall be based on evidence based medicine which should be specified on the certificate for its validity.”.

—*Senators Jim Walsh, Labhras Ó Murchú.*

23. In page 11, between lines 13 and 14, to insert the following:

“(3) Where a *section 9* certification (also a “relevant decision” for the purposes of this Act) has been made by medical practitioners, the Attorney General or his nominee shall make an application in the prescribed form and manner to the Executive for a review of this decision.”.

—*Senators Rónán Mullen, Paul Bradford.*

24. In page 11, line 15, after “*subsection (2)*” to insert “and (3)”.

—*Senators Jim Walsh, Labhras Ó Murchú.*

25. In page 11, line 16, after “term” to insert “not exceeding three years”.

—*Senators Jim Walsh, Labhras Ó Murchú.*

26. In page 11, lines 21 and 22, to delete “, in addition to appointing medical practitioners duly identified by it for appointment to the review panel,”.

—*Senators Jim Walsh, Labhras Ó Murchú.*

27. In page 11, to delete lines 28 and 29.

—*Senators Jim Walsh, Labhras Ó Murchú.*

28. In page 11, line 31, to delete “3 days” and substitute “1 day”.

—*Senators Fiach Mac Conghail, Marie-Louise O'Donnell.*

29. In page 12, line 25, to delete “7 days” and substitute “3 days”.

—*Senators Fiach Mac Conghail, Marie-Louise O'Donnell.*

30. In page 12, line 28, after “woman” to insert the following:

“and consult with any medical practitioner who has been requested to give an opinion in respect of the pregnant woman in the circumstances referred to in *section 7(1)* or *9(1)* and does not give an opinion or gives an opinion but not such as would be required for the purpose of a *section 7* certification or a *section 9* certification, as the case may be”.

—*Senators Rónán Mullen, Paul Bradford.*

31. In page 12, line 30, to delete “in good faith” and substitute “, and having regard to the relevant clinical evidence,”.

—*Senators Rónán Mullen, Paul Bradford.*

32. In page 12, lines 33 and 34, to delete all words from and including “(being” in line 33, down to and including “practicable)” in line 34 and substitute the following:

“(being an opinion which respects the equal right to life of the unborn, and which has regard to the duty to deliver the viable unborn alive where practicable)”.

—*Senators Rónán Mullen, Paul Bradford.*

33. In page 13, to delete lines 16 to 19 and substitute the following:

“(1) (a) The pregnant woman and a nominee acting on behalf of the unborn shall be entitled to be heard by the review committee and, where the woman or a person acting on

her behalf informs the committee that she wishes to be heard, the committee shall make such arrangements as may be necessary in order to hear the woman or a person acting on her behalf, or on behalf of the unborn.

- (b) The medical practitioners, whose decisions are being reviewed, shall be heard by the review committee.”.

—*Senators Jim Walsh, Diarmuid Wilson.*

**34.** In page 13, line 19, after “woman” to insert “and”.

—*Senators Paschal Mooney, Diarmuid Wilson.*

**35.** In page 13, between lines 19 and 20, to insert the following:

“(2) The review committee shall make an application in the prescribed form and manner to the Attorney General requesting the Attorney General to nominate an advocate for the right to life of the unborn to be heard by the review committee where a pregnant woman, or a person acting on her behalf, makes an application in the prescribed form and manner to the Executive for a review of a relevant decision under *section 9*, or where the Attorney General or his nominee makes an application in the prescribed form and manner to the Executive for a review of a relevant decision under *section 9*.

- (3) Pursuant to *section 14(2)*, the woman, the representative of the woman and the advocate for the right to life of the unborn shall be entitled to review all documents and information being considered by the review committee and to be heard by the review committee, but subject to the restriction that the advocate for the right to life of the unborn shall not be entitled to cross-examine the woman.”.

—*Senators Rónán Mullen, Paul Bradford.*

**36.** In page 14, to delete lines 7 to 12 and substitute the following:

“(2) Notwithstanding the generality of *subsection (1)*, a report under this section shall, in respect of the year that is the subject of the report, include information on—

- (a) the total number of certifications sought under *sections 7, 8 and 9* respectively,
- (b) the total number of certifications made under *sections 7, 8 and 9* respectively,
- (c) the nature of each medical procedure certified under *sections 7, 8 and 9* respectively,
- (d) the period of gestation of the unborn in respect of whom each medical procedure was certified under *sections 7, 8 and 9* respectively,
- (e) the outcome for the pregnant woman and her unborn in respect of every medical procedure certified and carried out under *sections 7, 8 and 9*,
- (f) the total number of certifications sought under *section 13*,
- (g) the total number of certifications made under *section 13*,
- (h) the nature of each medical procedure certified under *section 13*,
- (i) the period of gestation of the unborn in respect of whom each medical procedure was certified under *section 13*,
- (j) the outcome for the pregnant woman and her unborn in respect of every medical

procedure certified and carried out under *section 13*,

- (k) the range and maximum number of medical procedures carried out by individual medical practitioners, in a form that does not identify the medical practitioner,
- (l) the range and maximum number of section certifications signed by individual psychiatrists, in a form that does not identify him or her,
- (m) the total number of applications for review received by the Executive,
- (n) the number of reviews carried out, and the number of decisions overturned,
- (o) in the case of the reviews carried out, the reason why the review was sought, and
- (p) the outcome of the reviews and the reasons for overturning the first decision.”.

—*Senators Jim Walsh, Brian Ó Domhnaill.*

**37.** In page 14, to delete line 12 and substitute the following:

- “(d) the procedural and clinical outcomes of the reviews for both the woman and the unborn,
- (e) all medical procedures carried out under *section 9*, including information on the clinical outcomes for both the woman and the unborn.”.

—*Senators Rónán Mullen, Paul Bradford.*

**38.** In page 14, to delete lines 15 to 17 and substitute the following:

- “(a) a woman who has sought certification under *section 9* or who has made an application under *section 10(2)*, or in respect of whom such an application has been made by a person acting on her behalf, or
- (b) a medical practitioner who was a member of a review committee or who has been party to a joint certification pursuant to *section 9(1)*.”.

—*Senators Rónán Mullen, Paul Bradford.*

**39.** In page 14, to delete lines 18 to 20 and substitute the following:

- “(4) The Executive shall arrange for a report laid before both Houses of the Oireachtas in accordance with *subsection (1)* to be published in such form and manner as will provide the appropriate details in *subsection (2)* above as soon as practicable after copies of the report are so laid.”.

—*Senators Jim Walsh, Brian Ó Domhnaill.*

**40.** In page 14, line 25, to delete “medical treatment” and substitute “a medical procedure”.

—*Senators Rónán Mullen, Paul Bradford.*

**41.** In page 14, line 28, after “any” to insert “person,”.

—*Senators Jim Walsh, Brian Ó Domhnaill.*

**42.** In page 14, line 28, to delete “medical practitioner, nurse or midwife” and substitute “person”.

—*Senators Fidelma Healy Eames, Paul Bradford.*



43. In page 14, line 28, after “midwife” to insert “, or any other person employed in or contracted to provide services to an approved institution”.

—*Senators Rónán Mullen, Paul Bradford.*

44. In page 14, line 29, to delete “7(1) or”.

—*Senators Rónán Mullen, Paul Bradford.*

45. In page 14, to delete lines 33 to 35 and substitute the following:

“(3) A medical practitioner who has a conscientious objection to carrying out, or assisting to carry out a medical procedure referred to in *section 9(1)* shall make such arrangements as may be necessary to ensure that effective and evidence-based mental health care services are immediately available to the woman from the time of the initial consultation.”.

—*Senators Fidelma Healy Eames, Paul Bradford.*

46. In page 14, to delete lines 33 to 35.

—*Senators Rónán Mullen, Paul Bradford.*

47. In page 14, line 35, to delete “to enable the woman to avail of the medical procedure concerned” and substitute “to an alternate medical practitioner”.

—*Senators Jim Walsh, Brian Ó Domhnaill.*

48. In page 16, between lines 18 and 19, to insert the following:

- “(e) the clinical grounds for carrying out the medical procedure,
- (f) the period of gestation of the unborn,
- (g) the outcome for the mother and her unborn child.”.

—*Senators Jim Walsh, Diarmuid Wilson.*

49. In page 16, between lines 18 and 19, to insert the following:

“(e) the clinical outcomes for both the pregnant woman and the unborn, including the gestational age of the unborn at the time the medical procedure was carried out.”.

—*Senators Rónán Mullen, Paul Bradford.*

50. In page 16, line 21, after “year,” to insert “which shall include the information outlined in *subsection (3)*”.

—*Senators Rónán Mullen, Paul Bradford.*

51. In page 16, between lines 32 and 33, to insert the following:

“(8) Notwithstanding the provisions of *subsection (5)*, the Minister shall include in such a report to be laid before each House of the Oireachtas the following details in respect of every notification received by him or her under this section during the immediately preceding year:

- (a) the outcome of the medical procedure for the woman and the unborn,
- (b) the gestational age of the unborn,

- (c) the total number of notifications received by him or her under each of the subsections in this section,
- (d) the clinical grounds for the medical procedure being carried out in respect of each notification.”.

—*Senators Fidelma Healy Eames, Paul Bradford.*

**52.** In page 17, line 34, to delete “destroy” and substitute “end”.

—*Senators Rónán Mullen, Paul Bradford.*

**53.** In page 17, line 34, after “destroy” to insert “or to end”.

—*Senators Jim Walsh, Labhras Ó Murchú.*

**54.** In page 17, to delete lines 35 and 36 and substitute the following:

- “(2) A person, other than the pregnant woman concerned, who is guilty of an offence under this section shall be liable on indictment to a fine or imprisonment for a term not exceeding 14 years, or both.
- (3) The pregnant woman concerned who is guilty of an offence under this section shall be liable on indictment to a fine or imprisonment for a term not exceeding 5 years, or both.”.

—*Senators Fidelma Healy Eames, Paul Bradford.*

**55.** In page 17, to delete lines lines 35 and 36 and substitute the following:

- “(2) A person, other than the pregnant woman in question, who is guilty of an offence under this section shall be liable on indictment to a fine or imprisonment for a term not exceeding 14 years, or both.
- (3) A woman who is guilty of an offence under this section shall be liable on indictment to a fine or imprisonment for a term not exceeding 7 years, or both.”.

—*Senators Rónán Mullen, Paul Bradford.*

**56.** In page 17, line 35, after “person” to insert “other than a woman who has terminated her own pregnancy”.

—*Senators John Crown, Sean D. Barrett.*

**57.** In page 17, line 36, to delete “or imprisonment for a term not exceeding 14 years, or both” and substitute the following:

“not in excess of 50 cent and or a term of imprisonment not to exceed 24 hours with a maximum number of 18 hours remission for good behaviour”.

—*Senators David Norris, Sean D. Barrett.*

**58.** In page 17, line 36, to delete “14 years” and substitute “2 years”.

—*Senators Fiach Mac Conghail, Marie-Louise O'Donnell.*

**59.** In page 17, line 36, to delete “14 years” and substitute “one year”.

—*Senators John Crown, Sean D. Barrett.*

60. In page 17, after line 38 to insert the following:

“(4) Where a woman is prosecuted for an offence under this section in relation to the destruction of unborn life arising from her own pregnancy, no statement made by her to a medical practitioner in seeking treatment for actual or possible complications arising from the procedure in which the unborn life was destroyed, or other evidence gathered in the course of such treatment by a medical practitioner, shall be admissible as evidence against her in such a prosecution without her consent unless the medical practitioner in question is also alleged by the Director of Public Prosecution to have committed an offence under this section in relation to the same destruction of unborn human life.”.

—*Senators Rónán Mullen, Paul Bradford.*

61. In page 17, after line 38 to insert the following:

“(4) Where a midwife, nurse, general practitioner, psychiatrist, gynaecologist, obstetrician, or other medical practitioner, or an employee of the Health Service Executive, or an employee of the Department of Health, believes that a patient in their care, or in the care of the institution which employs them, has undergone a medical or other procedure, the purpose of which was to intentionally destroy unborn human life which she was pregnant with, or continues to be pregnant with, and they communicate this information to any person, State body, institution, or body corporate without the patient’s explicit written consent, for any purpose other than medical reasons or the requirement to comply with *section 20* of this Act, shall commit an offence.”.

—*Senators John Crown, Sean D. Barrett.*

62. In page 18, after line 11, to insert the following:

**“Interment of remains of unborn where mother so wishes**

24. Where a medical procedure referred to under *sections 7, 8 and 9* is performed, that the option be provided to the mother as to whether she wants to bury the remains of the unborn, and that if she so does that the remains of the unborn be provided to her promptly by the appropriate institution for such interment.”.

—*Senators Fidelma Healy Eames, Paul Bradford.*