

DÁIL ÉIREANN

AN BILLE SLÁINTE (FOIRCEANNADH TOIRCHIS A RIALÁIL), 2018 —AN TUARASCÁIL

HEALTH (REGULATION OF TERMINATION OF PREGNANCY) BILL 2018 —REPORT

*Leasuithe Breise agus Ionadacha
Additional and Substitute Amendments*

46. In page 15, to delete lines 32 to 34 and substitute the following:

“Information and informed consent

23. (1) Except in a case of an immediate risk to the life, or of serious harm to the health, of the pregnant woman, where it is immediately necessary to carry out the termination of pregnancy in order to avert that risk, no termination of pregnancy shall be carried out without the voluntary and informed consent of the pregnant woman.
- (2) Consent to a termination of pregnancy is voluntary and informed if and only if the medical practitioner who is to perform the termination of pregnancy or another medical practitioner assisting him or her—
- (a) has informed the pregnant woman, orally and in person, of the following:
- (i) medically accurate information that a reasonable patient in the position of the pregnant woman would consider material to the decision of whether or not to undergo the termination of pregnancy, including:
- (I) the proposed termination of pregnancy method;
- (II) the immediate and long-term medical risks associated with the proposed termination of pregnancy method;
- (III) the medical risks associated with carrying her child to full term; and
- (IV) alternatives to the termination of pregnancy;
- (ii) the probable gestational age of the foetus at the time the termination of pregnancy is to be performed; and
- (iii) the probable anatomical and physiological characteristics of the foetus at the time the abortion is to be performed,
- (b) in the case of a pregnant woman intending to avail of a termination of pregnancy in accordance with *section 13*, has offered the pregnant woman in person a printed copy of the document referred to in *subsection (7)*,
- (c) in the case of a pregnant woman intending to avail of a termination of pregnancy in accordance with *section 11* or *14*, has offered the pregnant woman in person a

printed copy of the document referred to in *subsection (8)*, and

- (d) in the case of a pregnant woman who expresses a wish to receive the information contained in either of the documents referred to in *paragraph (b)* or *(c)* respectively but is unable to read the said document, has conveyed the said information to the woman in an appropriate alternative manner.
- (3) Where it is intended to carry out a termination of pregnancy on a foetus who is twenty weeks' gestation or more, the medical practitioner intending to carry out the termination of pregnancy or another medical practitioner assisting him or her shall, orally and in person, offer information on foetal pain to the pregnant woman.
- (4) The information offered in accordance with *subsection (3)* shall include, but shall not be limited to, the following:
 - (a) that maternal anesthesia typically offers little pain prevention for the foetus; and
 - (b) that an anesthetic or analgesic is available in order to minimize and/or alleviate pain to the foetus.
- (5) Where it is intended that a termination of pregnancy be performed using abortion-inducing drugs, the person who supplies the drugs to the woman intending to have the termination of pregnancy shall, orally and in person, inform the woman of the following:
 - (a) that it may be possible to reverse the effects of the abortion-inducing drugs should she change her mind, but that time is of the essence; and
 - (b) that information on reversing the effects of abortion-inducing drugs is available in the document referred to in *subsection (8)*.
- (6) For the purposes of this section, the phrase "abortion-inducing drugs" means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood end the life of the foetus, other than drugs that may cause such a termination, but which are prescribed for other medical indication.
- (7) The Health Service Executive shall cause to be published in both printed and digital formats a document containing information as to:
 - (a) available medical and nursing assistance and care, including neonatal palliative care;
 - (b) available social and counselling supports and services; and
 - (c) contact details for public and private agencies and services,which may be of relevance and practical assistance for a pregnant woman in a case where a foetus has a condition referred to in *section 13*, including a pregnant woman who does not wish to avail of a termination of pregnancy in accordance with *section 13*.
- (8) The Health Service Executive shall cause to be published in both printed and digital

formats a document containing information as to:

- (a) public and private agencies and services available to assist a pregnant woman through pregnancy, upon childbirth, and while her child is dependent;
 - (b) information as to available medical assistance, supports and benefits for prenatal care, childbirth, and neonatal care;
 - (c) information on the support obligations of the father of a child who is born; and
 - (d) the information referred to in *subsections (5)(a) and 5(b)*.
- (9) The Health Service Executive shall develop and maintain an internet website, which may be part of an existing website, on which the information referred to in *subsections (7) and (8)* can be viewed and from which the documents referred to in *subsections (7) and (8)* respectively can be obtained.
- (10) The document referred to in *subsection (8)* shall also include the following statement:
- “There are many public and private agencies willing and able to help you to carry your child to term, and to assist you and your child after your child is born, whether you choose to keep your child or to place her or him for adoption. The law requires that your health care professional give you the opportunity to call agencies like these before you undergo a termination of pregnancy.”.
- (11) Nothing in this Act shall operate to create an entitlement by a pregnant woman under the age of eighteen years to consent to medical treatment.
- (12) A medical practitioner who carries out a termination of pregnancy in accordance with *section 11* shall certify in writing in addition to the matters referred to in *section 11(1)*:
- (a) the nature of the medical emergency; and
 - (b) in cases where the voluntary and informed consent of the woman concerned was not obtained, the reason for its not having been obtained.
- (13) The failure to comply with the requirements of this section shall provide the basis for:
- (a) a civil action for damages (including aggravated and exemplary damages) by the woman concerned for breach of statutory duty;
 - (b) professional disciplinary action against the health professional concerned.
- (14) In any matter referred to in *subsection (13)* the court shall, upon application by the woman concerned or of its own motion, allow a woman to proceed using solely her initials or a pseudonym and may make such other protective orders as it considers necessary and appropriate to preserve the privacy of the woman concerned.”.

—Mattie McGrath, Carol Nolan, Danny Healy-Rae, Michael J. Healy-Rae, Michael Collins,
Michael Fitzmaurice, Peter Fitzpatrick.

[*This amendment is in substitution for amendment No. 46 on the principal list of amendments, dated 26th November 2018.*]

46a. In page 15, to delete lines 32 to 34 and substitute the following:

“Information

23. (1) Except in a case of an immediate risk to the life, or of serious harm to the health, of the pregnant woman, where it is immediately necessary to carry out the termination of pregnancy in order to avert that risk, no termination of pregnancy shall be carried out without the offer of information to the pregnant woman.
- (2) Consent to a termination of pregnancy is voluntary if and only if the medical practitioner who is to perform the termination of pregnancy or another medical practitioner assisting him or her—
- (a) has offered the pregnant woman, orally and in person, information on the following:
- (i) medically accurate information that a reasonable patient in the position of the pregnant woman would consider material to the decision of whether or not to undergo the termination of pregnancy, including:
- (I) the proposed termination of pregnancy method;
- (II) the immediate and long-term medical risks associated with the proposed termination of pregnancy method;
- (III) the medical risks associated with carrying her child to full term; and
- (IV) alternatives to the termination of pregnancy;
- (ii) the probable gestational age of the foetus at the time the termination of pregnancy is to be performed; and
- (iii) the probable anatomical and physiological characteristics of the foetus at the time the abortion is to be performed,
- (b) in the case of a pregnant woman intending to avail of a termination of pregnancy in accordance with *section 13*, has offered the pregnant woman in person a printed copy of the document referred to in *subsection (7)*,
- (c) in the case of a pregnant woman intending to avail of a termination of pregnancy in accordance with *section 11* or *14*, has offered the pregnant woman in person a printed copy of the document referred to in *subsection (8)*, and
- (d) in the case of a pregnant woman who expresses a wish to receive the information contained in either of the documents referred to in *paragraph (b)* or *(c)* respectively but is unable to read the said document, has conveyed the said information to the woman in an appropriate alternative manner.
- (3) Where it is intended to carry out a termination of pregnancy on a foetus who is twenty weeks’ gestation or more, the medical practitioner intending to carry out the termination of pregnancy or another medical practitioner assisting him or her shall, orally and in person, offer information on foetal pain to the pregnant woman.
- (4) The information offered in accordance with *subsection (3)* shall include, but shall not

be limited to, the following:

- (a) that maternal anesthesia typically offers little pain prevention for the foetus; and
 - (b) that an anesthetic or analgesic is available in order to minimize and/or alleviate pain to the foetus.
- (5) Where it is intended that a termination of pregnancy be performed using abortion-inducing drugs, the person who supplies the drugs to the woman intending to have the termination of pregnancy shall, orally and in person, inform the woman of the following:
- (a) that it may be possible to reverse the effects of the abortion-inducing drugs should she change her mind, but that time is of the essence; and
 - (b) that information on reversing the effects of abortion-inducing drugs is available in the document referred to in *subsection (8)*.
- (6) For the purposes of this section, the phrase “abortion-inducing drugs” means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood end the life of the foetus, other than drugs that may cause such a termination, but which are prescribed for other medical indication.
- (7) The Health Service Executive shall cause to be published in both printed and digital formats a document containing information as to—
- (a) available medical and nursing assistance and care, including neonatal palliative care,
 - (b) available social and counselling supports and services, and
 - (c) contact details for public and private agencies and services,
- which may be of relevance and practical assistance for a pregnant woman in a case where a foetus has a condition referred to in *section 13*, including a pregnant woman who does not wish to avail of a termination of pregnancy in accordance with *section 13*.
- (8) The Health Service Executive shall cause to be published in both printed and digital formats a document containing information as to—
- (a) public and private agencies and services available to assist a pregnant woman through pregnancy, upon childbirth, and while her child is dependent,
 - (b) information as to available medical assistance, supports and benefits for prenatal care, childbirth, and neonatal care,
 - (c) information on the support obligations of the father of a child who is born, and
 - (d) the information referred to in *subsection (5)(a)* and *subsection 5(b)*.
- (9) The Health Service Executive shall develop and maintain an internet website, which may be part of an existing website, on which the information referred to in

subsections (7) and (8) can be viewed and from which the documents referred to in *subsections (7) and (8)* respectively can be obtained.

- (10) The document referred to in *subsection (8)* shall also include the following statement:
- There are many public and private agencies willing and able to help you to carry your child to term, and to assist you and your child after your child is born, whether you choose to keep your child or to place her or him for adoption. The law requires that your health care professional give you the opportunity to call agencies like these before you undergo a termination of pregnancy.
- (11) Nothing in this Act shall operate to create an entitlement by a pregnant woman under the age of eighteen years to consent to medical treatment.
- (12) A medical practitioner who carries out a termination of pregnancy in accordance with *section 11* shall certify in writing in addition to the matters referred to in *section 11(1)*:
- (a) the nature of the medical emergency; and
 - (b) in cases where the offer of information to the pregnant woman concerned was not made, the reason for it not having been made.
- (13) The failure to comply with the requirements of this section shall provide the basis for:
- (a) a civil action for damages (including aggravated and exemplary damages) by the woman concerned for breach of statutory duty;
 - (b) professional disciplinary action against the health professional concerned.
- (14) In any matter referred to in *subsection (12)* the court shall, upon application by the woman concerned or of its own motion, allow a woman to proceed using solely her initials or a pseudonym and may make such other protective orders as it considers necessary and appropriate to preserve the privacy of the woman concerned.”.

—Peadar Tóibín.