



SEANAD ÉIREANN

**AN BILLE SLÁINTE (FOIRCEANNADH TOIRCHIS A
RIALÁIL), 2018**

**HEALTH (REGULATION OF TERMINATION OF
PREGNANCY) BILL 2018**

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

SEANAD ÉIREANN

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

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

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

1. In page 6, between lines 29 and 30, to insert the following:

“(2) No public moneys shall be provided by the Oireachtas to pay for the carrying out of a termination of pregnancy other than a termination of pregnancy in accordance with *section 9 or 10* in a case where there is a risk to the life of the pregnant woman.”

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

2. In page 8, line 21, after “woman” to insert “and consulted with her, where possible”.

—*Senators Lynn Ruane, Ivana Bacik, Alice-Mary Higgins, Colette Kelleher, Grace O'Sullivan, Frances Black, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

3. In page 8, line 23, to delete “serious”.

—*Senators David Norris, Gerard P. Craughwell, Lynn Ruane, Ivana Bacik, Alice-Mary Higgins, Colette Kelleher, Grace O'Sullivan, Frances Black, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

4. In page 8, line 25, to delete “avert” and substitute “mitigate”.

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

5. In page 8, line 25, after “avert” to insert “or mitigate”.

—*Senators Lynn Ruane, Ivana Bacik, Alice-Mary Higgins, Colette Kelleher, Grace O'Sullivan, Frances Black.*

6. In page 8, line 25, after “avert” to insert “or substantially avert”.

—*Senators Alice-Mary Higgins, Colette Kelleher.*

7. In page 8, to delete lines 33 to 38 and substitute the following:

“(4) The obstetrician referred to in *subsection (2)(a)* shall make such arrangements as he or she will deem necessary for the carrying out as soon as may be of the termination of pregnancy to which the certification referred to in *subsection (3)* relates.”

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn,*

Fintan Warfield, Niall Ó Donnghaile.

8. In page 9, line 10, to delete “avert” and substitute “mitigate”.

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

9. In page 9, line 10, after “avert” to insert “or substantially avert”.

—*Senators Alice-Mary Higgins, Colette Kelleher.*

10. In page 9, line 20, after “woman” to insert “and consulted with her, where possible”.

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

11. In page 9, line 22, to delete “, or within 28 days of,” and substitute “or shortly after”.

—*Senators David Norris, Gerard P. Craughwell.*

12. In page 9, to delete lines 29 to 34 and substitute the following:

“(4) The obstetrician referred to in *subsection (2)(a)* shall make such arrangements as he or she will deem necessary for the carrying out as soon as may be of the termination of pregnancy to which the certification referred to in *subsection (3)* relates.”.

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

13. In page 10, line 3, to delete “matter” and substitute “matters”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

14. In page 10, to delete lines 4 to 9.

—*Senators David Norris, Gerard P. Craughwell.*

15. In page 10, lines 5 to 9, to delete all words from and including “from—” in line 5 down to and including line 9 and substitute the following:

“from the date on which the pregnant woman made arrangements to attend the medical practitioner for the purpose of the examination referred to in *subsection (1)*.”.

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

16. In page 10, between lines 9 and 10, to insert the following:

“(4) *Subsection (3)* shall not apply to a woman where it is deemed to constitute a significant barrier to access to a termination of pregnancy under this section, including because it may contribute to her exceeding the 12 week limit referred to in *subsection (1)*.”.

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

17. In page 10, between lines 13 and 14, to insert the following:

“(5) *Subsections (3) and (4)* shall not apply where the medical practitioner referred to in *subsection (1)* is of the reasonable opinion, formed in good faith that, during the time period referred to in *subsection (3)*, the pregnant woman is likely to be subject to a threat to her life or health, arising from her living circumstances.”.

—*Senators Lynn Ruane, Ivana Bacik, Alice-Mary Higgins, Colette Kelleher, Grace O’Sullivan, Frances Black.*

18. In page 10, between lines 13 and 14, to insert the following:

“(5) *Subsections (3) and (4)* shall not apply where the pregnant woman concerned has previously been the subject of arrangements for the transfer of care in accordance with *section 22(3)* in respect of the pregnancy concerned.”.

—*Senators Lynn Ruane, Alice-Mary Higgins, Colette Kelleher, Grace O’Sullivan, Frances Black.*

19. In page 11, line 24, to delete “serious”.

—*Senators Lynn Ruane, Ivana Bacik, Alice-Mary Higgins, Colette Kelleher, Grace O’Sullivan, Frances Black, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

20. In page 11, line 27, to delete “appropriate” and substitute “necessary”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

21. In page 11, line 27, to delete “avert” and substitute “mitigate”.

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

22. In page 11, line 27, after “avert” to insert “or substantially avert”.

—*Senators Alice-Mary Higgins, Colette Kelleher.*

23. In page 13, line 36, to delete “or *section 12* certification” and substitute “, *section 12* certification or *section 22*”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

24. In page 14, between lines 22 and 23, to insert the following:

“(d) any information required to be included in the notification under *section 14(4)*;”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

25. In page 14, after line 36, to insert the following:

“(7) A medical practitioner who wilfully or recklessly contravenes *subsection (1)* of this section shall be guilty of an offence.

(8) A person who is guilty of an offence under this section shall be liable—

(a) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both,

- (b) on conviction on indictment to a fine or imprisonment for a term not exceeding 5 years, or both.”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

26. In page 15, between lines 5 and 6, to insert the following:

“Parental notification

22. (1) A termination of pregnancy in respect of a pregnant minor may only be carried out in accordance with *section 9* where a copy of the certification referred to in that section has been served on a parent of the minor at least 24 hours before the termination of pregnancy is carried out.
- (2) In respect of a pregnant minor, a copy of the certification referred to in section 10(2) shall be served on a parent of the minor—
- (a) before the termination of pregnancy is carried out, or
- (b) where it is not practicable to do so before the termination of pregnancy is carried out, as soon as may be but, in any event, not later than 2 days after the making of that certification.
- (3) A termination of pregnancy in respect of a pregnant minor may only be carried out in accordance with section 11 where a copy of the certification referred to in that section has been served on a parent of the minor at least 48 hours before the termination of pregnancy is carried out.
- (4) A termination of pregnancy in respect of a pregnant minor may only be carried out in accordance with section 12 where a copy of the certification referred to in that section has been served on a parent of the minor at least 72 hours before the termination of pregnancy is carried out.
- (5) Service of any certification required to be served under this section shall be carried out in such manner as may be prescribed and shall be recorded in any notification required to be forwarded to the Minister under *section 20*.
- (6) The High Court, upon application made to it by any interested party, and if satisfied that it is in the best interests of the minor concerned, may make an order dispensing with any requirement for service provided for under this section.
- (7) An application under *subsection (6)* shall be made on notice to the parent or parents of the minor concerned, unless the High Court is satisfied that, in the particular circumstances of the case, it may justly proceed to hear and determine the application without notice to the parent or parents of the minor concerned.
- (8) In this section—
- “minor” means a woman who has not attained the age of 16 years;
- “parent” includes—
- (a) a guardian appointed under the Guardianship of Infants Act 1964,
- (b) any other natural or legal person acting in *loco parentis* in respect of the pregnant

minor under any statutory power or order of a court, and

- (c) in the case of a minor who has been adopted under the Adoption Acts, 1952 to 2010, or, where the child has been adopted outside the State and that adoption is recognised by the State by virtue of any statute or rule of law for the time being in force, the adopter or, where relevant, the surviving adopter.”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

27. In page 15, between lines 5 and 6, to insert the following:

“Provision of foetal ultrasound imaging and auscultation of foetal heart tone

22. (1) At least 24 hours before the carrying out of a termination of pregnancy in accordance with *section 9, section 11 or section 12* the relevant medical practitioner or a qualified person assisting the relevant medical practitioner shall perform ultrasound imaging of the foetus and auscultation of foetal heart tone.
- (2) The active ultrasound image referred to in *subsection (1)* must be of a quality consistent with standard medical practice, shall contain the dimensions of the foetus, and shall accurately portray the presence of external members and internal organs of the foetus, if present or viewable.
 - (3) The auscultation of foetal heart tone referred to in *subsection (1)* must be of a quality consistent with standard medical practice.
 - (4) Before or during the imaging and auscultation services referred to in *subsection (1)*, the relevant medical practitioner or the qualified person, as the case may be, shall offer the pregnant woman, orally and in person, the opportunity to view the active ultrasound of the foetus and hear the heartbeat of the foetus, if the heartbeat is audible.
 - (5) At least 24 hours before the carrying out of a termination of pregnancy the relevant medical practitioner shall certify that—
 - (a) foetal ultrasound imaging and auscultation of foetal heart tone have been performed,
 - (b) the pregnant woman has been offered the opportunity to view the active ultrasound image of the foetus and to hear the heartbeat of the foetus, if the heartbeat is audible, and
 - (c) the pregnant woman either—
 - (i) requested to view the active ultrasound imaging and hear auscultation of foetal heart tone, or
 - (ii) opted not to view the active ultrasound imaging and hear auscultation of foetal heart tone.
 - (6) The relevant medical practitioner shall obtain the signature of the pregnant woman on the certification referred to in *subsection (5)* verifying that it is factually correct.
 - (7) A medical practitioner who contravenes *subsection (1), (4), (5) or (6)* shall be guilty

of an offence.

- (8) A person who is guilty of an offence under *subsection (7)* shall be liable—
- (a) on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months, or both,
 - (b) on conviction on indictment to a fine or imprisonment for a term not exceeding 4 years, or both.

- (9) In this section—

“auscultation” means the act of listening for sounds made by internal organs of the foetus, specifically for a foetal heartbeat, utilising an ultrasound transducer and foetal heart rate (FHR) monitor or similar device;

“midwife” means a person whose name is for the time being registered in the midwives division of the register of nurses and midwives established under section 46 of the Nurses and Midwives Act 2011;

“nurse” means a person whose name is for the time being registered in the nurses division of the register of nurses and midwives established under section 46 of the Nurses and Midwives Act 2011;

“qualified person” means a nurse, midwife or medical practitioner who is competent to perform foetal ultrasound imaging and auscultation of foetal heart tone services;

“relevant medical practitioner” means—

- (a) in the case of a termination of pregnancy to be carried out in accordance with *section 9* or *11*, the obstetrician by whom the termination of pregnancy is to be carried out, and
- (b) in the case of a termination of pregnancy to be carried out in accordance with *section 12*, the medical practitioner who has certified or is required to certify his or her opinion as to the matter referred to in *subsection (1)* of that section;

“ultrasound” means the use of ultrasonic waves for diagnostic or therapeutic purposes, specifically to monitor a developing foetus.”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

- 28.** In page 15, line 8, after “practitioner,” to insert “pharmacist,”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

- 29.** In page 15, between lines 10 and 11, to insert the following:

“(2) Pharmacists shall also be covered by *subsection (1)*.”.

—*Senators David Norris, Gerard P. Craughwell.*

- 30.** In page 15, to delete lines 13 to 16.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

31. In page 15, line 25, to delete “2011.” and substitute the following:

“2011;

“pharmacist” means a person whose name is for the time being registered in the register of pharmacists established under section 13 of the Pharmacy Act 2007.”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

32. In page 15, between lines 25 and 26, to insert the following:

““medical practitioner” means a medical practitioner who is for the time being registered in the register or a person who is studying or training to qualify or work as a medical practitioner.”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

33. In page 15, between lines 25 and 26, to insert the following:

“Dignified Disposal of Foetal Remains

23. (1) The bodily remains of a foetus who has been the subject of a termination of pregnancy carried out by surgical means shall be disposed of only by way of:

(a) burial in a burial ground for the purposes of section 44 of the Local Government (Sanitary Services) Act 1948; or

(b) cremation carried out in a crematorium, being a building fitted with appliances for the burning of human remains which is lawfully used for that purpose as its primary function.

(2) The Minister shall make regulations to provide for the dignified disposal in accordance with *subsection (1)* of the bodily remains of a foetus who has been the subject of a termination of pregnancy carried out by surgical means.

(3) The woman who has availed of a termination of pregnancy carried out by surgical means shall be entitled to choose the manner of the disposal of the bodily remains of the foetus subject to *subsection (1)* and regulations made by the Minister under *subsection (2)* and the said regulations shall provide for the manner of disposal in the event that no such choice is made.

(4) A person who disposes of the bodily remains of a foetus who has been the subject of a termination of pregnancy carried out by surgical means otherwise than in accordance with *subsection (1)* shall be guilty of an offence.

(5) A person who disposes of the bodily remains of a foetus who has been the subject of a termination of pregnancy carried out by surgical means otherwise than in accordance with regulations made by the Minister pursuant to *subsection (2)* shall be guilty of an offence.

(6) A person who is guilty of an offence under *subsection (4)* or *subsection (5)* shall be liable on summary conviction to a class A fine.

(7) A person who sells or offers to sell a foetus or the bodily remains or any part thereof of a foetus who has been the subject of a termination of pregnancy shall be guilty of

an offence.

- (8) A person who carries out any experiment or procedure not authorised by this Act on the bodily remains of a foetus or any part thereof who has been the subject of a termination of pregnancy shall be guilty of an offence.
- (9) A person who is guilty of an offence under *subsection (7)* or *subsection (8)* shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.
- (10) In this section “termination of pregnancy carried out by surgical means” means a termination of pregnancy which involves carrying out a procedure other than or in addition to the administration or self-administration of a drug or drugs to the pregnant woman in order to end the life of a foetus.
- (11) *Subsections (4), (5), (7) and (8)* shall not apply to the woman who has availed of the termination of pregnancy concerned.”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

- 34.** In page 15, to delete lines 26 to 38, and in page 16, to delete lines 1 to 6.

—*Senators David Norris, Gerard P. Craughwell, Lynn Ruane, Alice-Mary Higgins, Colette Kelleher, Grace O'Sullivan, Frances Black.*

- 35.** In page 15, lines 27 to 33, to delete all words from and including “(1) It” in line 27 down to and including line 33 and substitute the following:

“(1) It shall be an offence for a person to intentionally or recklessly, by any means whatsoever, cause injury or death to a pregnant woman such as to cause the termination of her pregnancy.

(2) It shall be an offence for a person to intentionally or recklessly administer any drug, substance, instrument, apparatus or other thing to a pregnant woman without her consent such as to cause the termination of her pregnancy.”.

—*Senators Lynn Ruane, Alice-Mary Higgins, Colette Kelleher, Grace O'Sullivan, Frances Black.*

- 36.** In page 15, between lines 35 and 36, to insert the following:

“(4) *Subsections (1) and (2)* shall not apply to a medical practitioner acting in good faith.”.

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

- 37.** In page 15, to delete lines 36 to 38.

—*Senators Lynn Ruane, Ivana Bacik, Alice-Mary Higgins, Colette Kelleher, Grace O'Sullivan, Frances Black.*

- 38.** In page 15, to delete lines 36 to 38 and substitute the following:

“(4) It shall be an offence for a person to intentionally coerce or deceive a pregnant woman into terminating her pregnancy against her will or without her knowledge.”.

—*Senators Alice-Mary Higgins, Colette Kelleher.*

39. In page 15, line 36, to delete “It” and substitute “Save in the case where a person is acting with explicit instruction from the pregnant woman, it”.

—*Senators Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

40. In page 15, line 36, to delete “, counsel”.

—*Senators Alice-Mary Higgins, Colette Kelleher.*

41. In page 15, line 36, to delete “counsel” and substitute “coerce”.

—*Senators Alice-Mary Higgins, Colette Kelleher.*

42. In page 15, after line 38, to insert the following:

“(4) It shall be an offence for a person to intentionally coerce or deceive a pregnant woman into terminating her pregnancy against her will or without her knowledge.”.

—*Senators Lynn Ruane, Ivana Bacik, Alice-Mary Higgins, Colette Kelleher, Grace O'Sullivan, Frances Black.*

43. In page 15, after line 38, to insert the following:

(5) It shall be an offence to obstruct, or attempt to obstruct, a woman from accessing a termination of pregnancy under this Act, including by intimidating, threatening, misleading or deceiving her, or by impeding her access to any premises or location where terminations of pregnancy are performed under this Act.”.

—*Senators Lynn Ruane, Ivana Bacik, Alice-Mary Higgins, Colette Kelleher, Grace O'Sullivan, Frances Black, Rose Conway-Walsh, Máire Devine, Paul Gavan, Pádraig Mac Lochlainn, Fintan Warfield, Niall Ó Donnghaile.*

44. In page 17, lines 8 and 9, to delete “*section 9, 10, 11 or 12 of the Health (Regulation of Termination of Pregnancy) Act 2018*” and substitute the following:

“*section 9 or 10 of the Health (Regulation of Termination of Pregnancy) Act 2018* where there is a risk to the life of the woman”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

45. In page 17, lines 14 and 15, to delete “*section 9, 10, 11 or 12 of the Act of 2018*” and substitute “*section 9 or 10 of the Act of 2018* in a case where there is a risk to the life of the pregnant woman”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

46. In page 17, lines 25 and 26, to delete “*section 9, 10, 11 or 12 of the Act of 2018*” and substitute “*section 9 or 10 of the Act of 2018* in a case where there is a risk to the life of the pregnant woman”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*

47. In page 17, lines 38 and 39, to delete “*section 9, 10, 11 or 12 of the Health (Regulation of Termination of Pregnancy) Act 2018*” and substitute the following:

“*section 9 or 10 of the Health (Regulation of Termination of Pregnancy) Act 2018 where there is a risk to the life of the woman*”.

—*Senators Brian Ó Domhnaill, Rónán Mullen, Paul Coghlan.*