

House of Representatives

Supplementary Order Paper

Tuesday, 3 March 2020

Abortion Legislation Bill

Proposed amendment

Agnes Loheni, in Committee, to move the following amendment:

Clause 7

In *clause 7, new section 11*, after *subsection (3)* (page 6, after line 1), insert:

- (4) When performing an abortion on a woman who is more than 20 weeks pregnant, the qualified health practitioner must ensure that the fetus is, throughout the performance of the procedure, under the influence of a general or local anaesthetic or an analgesic that is sufficient to prevent the fetus from feeling pain.

Explanatory note

This Supplementary Order Paper amends *clause 7* in the Abortion Legislation Bill by inserting *new section 11(4)* to ensure that the unborn child does not suffer unduly through the administration of abortion services. This amendment ensures that procedures performed on an unborn child after 20 weeks will minimise the possibility of pain to that unborn child during the procedure. The wording is based on section 17(3) of the Animal Welfare Act 1999, which requires animals to be under the influence of a general or local anaesthetic or an analgesic that is sufficient to prevent the animal from feeling pain.

While research is inconclusive on whether a fetus experiences pain in the same manner as a baby or adult during the first trimester of gestation, after the 20 weeks' gestation period, there is broad scientific agreement that a fetus's nervous system is sufficiently developed to experience pain in a largely similar manner to babies. Much of the evidence associated with whether an unborn baby can feel pain before this point or whether feeling pain does not occur till after this point in gestation depends on the definitions of terms such as "wakefulness" and "pain".¹ Taking into account this relative ambiguity and the fact that significantly fewer abortions are performed after the 20-week gestation period than before the 20-week gestation period, this requirement for an abortion procedure at a post-20 week period gestation ensures that the procedure is humane for the unborn child.

¹ Derbyshire, Stuart, PhD, "Foetal pain?" in *Best Practice & Research: Clinical Obstetrics & Gynaecology*, 24:5, October 2010, pp 647-655