

Legislative Council—No 69

As introduced and read a first time, 30 November 2022

South Australia

Statutes Amendment (Loss of Fetus) Bill 2022

A BILL FOR

An Act to amend the *Criminal Law Consolidation Act 1935*, the *Sentencing Act 2017* and the *Victims of Crime Act 2001*.

Contents

Part 1—Preliminary

1 Short title

Part 2—Amendment of *Criminal Law Consolidation Act 1935*

2 Insertion of Part 3 Division 19
Division 19—Causing loss of fetus
83AA Causing loss of fetus

Part 3—Amendment of *Sentencing Act 2017*

3 Amendment of section 14—Victim impact statements

Part 4—Amendment of *Victims of Crime Act 2001*

4 Amendment of section 17—Eligibility to make claim

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Loss of Fetus) Act 2022*.

5 Part 2—Amendment of *Criminal Law Consolidation Act 1935*

2—Insertion of Part 3 Division 19

After section 83 insert:

Division 19—Causing loss of fetus

83AA—Causing loss of fetus

- 10 (1) A person commits an offence against this section if—
- (a) the person is found guilty of a prescribed offence; and
 - (b) the conduct to which the prescribed offence relates, whether an act or omission or a series of acts or omissions, causes the loss of a fetus of another person.
- 15 Maximum penalty: Imprisonment for 3 years.
- (2) If the prescribed offence for which a person is found guilty for the purposes of subsection (1)(a) consisted of acts or omissions making up a course of conduct—
- (a) the prosecution is not required to allege which act or
- 20 omission caused the loss of the fetus; and

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- (b) the trier of fact is not required to be satisfied that any particular act or omission caused the loss of the fetus, but must be satisfied that the loss of the fetus occurred as a result of 1 or more of the acts or omissions; and
- (c) if the trier of fact is a jury, the members of the jury are not required to agree on which act or omission caused the loss of the fetus.
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- (3) In proceedings for an offence against this section, it is not necessary for the prosecution to establish that the defendant knew, or ought reasonably to have known, that the person who lost their fetus was pregnant.
- (4) A person may be charged with an offence against this section and the prescribed offence in the same instrument of charge.
- (5) In this section—
- 15 **cause**—a person causes the loss of a fetus if the person's conduct is the sole cause of, or substantially contributes to, the loss of the fetus;
- prescribed offence** means—
- (a) section 11; or
- (b) section 12A; or
- 20 (c) section 13; or
- (d) section 14; or
- (e) section 14A; or
- (f) section 19A; or
- (g) section 19AB; or
- 25 (h) section 20; or
- (i) section 20AA; or
- (j) section 20AB; or
- (k) section 20A; or
- (l) section 23; or
- 30 (m) section 24; or
- (n) section 29; or
- (o) section 29A; or
- (p) section 33A; or
- (q) section 48; or
- 35 (r) section 48A; or
- (s) section 49; or
- (t) section 56; or

- (u) any other section prescribed by the regulations for the purposes of this definition.

Part 3—Amendment of *Sentencing Act 2017*

3—Amendment of section 14—Victim impact statements

5 Section 14—after subsection (6) insert:

- (6a) For the purposes of subsection (1), a person who has suffered injury, loss or damage resulting from an indictable offence or a prescribed summary offence committed by another includes a person who is a family member of such a person who has lost their fetus as a result of the relevant offence.

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Part 4—Amendment of *Victims of Crime Act 2001*

4—Amendment of section 17—Eligibility to make claim

Section 17—after subsection (4) insert:

- (4a) For the purposes of subsection (4), a reference to a victim includes a reference to a fetus that is lost as a result of the commission of an offence against section 83AA of the *Criminal Law Consolidation Act 1935*.

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