



Mark Speakman
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MEDIA RELEASE

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TOUGHER SENTENCES FOR CRIMES THAT CAUSE THE LOSS OF AN UNBORN CHILD

Offenders whose criminal acts cause the loss of an unborn child will face tougher sentences after reforms passed NSW Parliament this week.

Attorney General Mark Speakman said that a new criminal offence will commence next year to expressly recognise the loss of an unborn child as a unique injury for a pregnant woman and other family members.

“This new stand-alone offence will better acknowledge the anguish of expectant parents, who will also receive greater support as a result of our bill,” Mr Speakman said.

“It’s been a long and challenging journey to achieve these reforms, and I thank my Parliamentary colleagues for working constructively on this important bill. I acknowledge especially the extraordinary resilience of Brodie Donegan, Jacqueline Sparks and other victim-survivors in sharing their experiences and for their steadfast advocacy.

“The reforms deliver higher maximum penalties to reflect the gravity of these crimes, without undoing longstanding legal principles or affecting NSW abortion laws.”

The amendments strengthen the law by creating two new offences in the *Crimes Act 1900*:

- A stand-alone offence of ‘*Causing the loss of a foetus*’, which will apply to a wide range of criminal acts (such as dangerous driving or grievous bodily harm with intent to the pregnant woman) and carry a maximum penalty of between 5 and 28 years imprisonment depending on the type of act. This offence carries a maximum sentence which is 3 years higher than what was previously available for this conduct.
- An offence of ‘*Causing the loss of a foetus (death of pregnant woman)*’ which can be charged with a homicide offence (such as murder, manslaughter, dangerous driving occasioning death) when the pregnant woman is killed and the foetus is lost due to a third party criminal act. This offence carries a maximum penalty of 3 years imprisonment and applies in addition to the maximum penalty for homicide.

These can be charged when the unborn child had a gestational age of at least 20 weeks or was at least 400 grams in weight.

Improved support and recognition is also now available to parents who have lost an unborn child of any age as a result of a third party criminal act. The reforms now mean:

- family members can make victim impact statements that may be taken into account by the courts when sentencing offenders;

- the name of an unborn child lost as a result of a criminal offence can be included in the formal wording of charges against an accused (the indictment);
- family members can claim funeral costs for the loss of an unborn child caused by a car accident.

When either of the new offences are charged, families may also be eligible for a one-off \$3,000 payment. This bereavement payment can assist families to seek counselling and other support services.

The new laws do not affect reforms introduced by the *Abortion Law Reform Act 2019*. The offences expressly exclude any act or omission by the pregnant woman.

The reforms are not intended to displace the centuries old 'born alive rule', which provides that a crime of violence such as homicide can only be committed on a legally recognised person – a status attained when someone is born and takes their first breath.