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MEDIA RELEASE

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RECOGNISING PREGNANCIES LOST TO CRIMINAL ACTS

The NSW Government is seeking community views on a suite of reforms to improve recognition of the loss of an unborn child as a result of a third party criminal act.

Premier Gladys Berejiklian and Attorney General Mark Speakman today released an Exposure Draft Bill for public consultation.

“These reforms will acknowledge the heartbreaking loss experienced by many families,” Ms Berejiklian said.

“Given the sensitivity and complexity surrounding this issue, it is important to engage with the community, victims and experts so that we can achieve meaningful reform together.”

The Crimes Legislation (Offences Against Pregnant Women) Bill proposes the following reforms to strengthen the law:

- Amendments to the *Crimes Act 1900* to provide a specific circumstance of aggravation for offences committed against a pregnant woman, which causes the loss of an unborn child. The maximum prison sentence for the offence will be increased by an additional three years, specifically recognising the pregnancy loss.
- Expanding the eligibility for making a Victim Impact Statement to the immediate family members of a pregnant woman whose unborn child was lost, and enabling family members to express the impact of the loss on them. The statements are taken into account by the court when sentencing offenders.
- Criminal procedure amendments allowing the name of an unborn child lost as a result of a criminal offence to be included on an indictment in the particulars of a criminal charge. The indictment is the information about the alleged offence and is read out in court.
- Allowing grieving families to receive funeral expenses where an unborn child is lost as a result of a motor accident.

An administrative payment scheme will also be developed to provide bereavement payments to families who lose an unborn child due to a criminal act. The scheme will ensure that families can access support services.

The proposed amendments do not affect existing laws on abortion.

Significantly, these reforms do not displace the centuries old 'born alive rule', an integral legal doctrine adhered to in all Australian jurisdictions and other Commonwealth countries, including Canada, New Zealand and the United Kingdom.

The rule provides that a child attains legal personhood, including the capacity to be the victim of a criminal offence independently of their mother, when they are born and take their first breath.

"These reforms deliver meaningful recognition for grieving families, without undoing longstanding legal principles," Mr Speakman said.

"The Government is seeking community views on proposals that aim to acknowledge the loss of victims and appropriately punish offenders.

"The proposed amendments to the *Crimes Act 1900* recognise that the loss of a pregnancy falls into a unique, and especially serious, category of harm."

The Exposure Draft Bill, which was developed in response to expert advice and stakeholder feedback, is available on the [Have Your Say](#) website. Submissions close on 29 January 2021.