

# House of Representatives

# Supplementary Order Paper

**Tuesday, 3 March 2020**

## **Abortion Legislation Bill**

### *Proposed amendment*

Joanne Hayes, in Committee, to move the following amendment:

*New subpart 3A*

After *subpart 3* (page 15, after line 12), insert:

Subpart 3A—Amendment to Care of Children Act 2004

**16A Amendment to Care of Children Act 2004**

This subpart amends the Care of Children Act 2004.

**16B Section 38 repealed (Consent to abortion)**

Repeal section 38.

### **Explanatory note**

This Supplementary Order Paper amends the Abortion Legislation Bill by inserting *new subpart 3A* to repeal section 38 of the Care of Children Act 2004, which gives minors the capacity to consent to an abortion. The right of minors to consent to abortion is inconsistent with the rights of minors in relation to the provision of other healthcare services. It is the stated aim of the Bill to “better align the regulation of abortion services with other health services”. If that is the case, section 38 of the Care of Children Act 2004 must be repealed.

In all other health contexts, the health practitioner is required to assess the child’s capacity prior to a medical procedure and, where capacity is lacking, obtain the consent of a parent or guardian. This highlights a significant inconsistency in the treatment of abortion services and other healthcare services, where abortion services are arguably more significant and consequential.

Without repealing section 38 of the Care of Children Act 2004, girls of all ages will remain able to consent to abortion as though they were adults, without consultation with their parent or guardian, exacerbating the vulnerability of the girl. The removal of current safeguards, as proposed by this Bill, makes pregnant minors even more vulnerable. It is therefore even more important that the health practitioner involved in the provision of abortion services be required to assess the child's capacity prior to undertaking an abortion.

In circumstances where there is concern that a minor could be at risk if her parents were notified, the law already provides alternative solutions, such as an application under the Oranga Tamariki Act 1989 or section 31 of the Care of Children Act 2004. This SOP does not seek to place girls in dangerous situations by including a parent or legal guardian but seeks to ensure her welfare is fully considered and prioritised in those situations where, according to the opinion of the health practitioner, a minor does not have capacity to consent. In such cases, the involvement of the parent or guardian should be required.