




Speech By
Cynthia Lui

MEMBER FOR COOK

Record of Proceedings, 10 September 2024

ASSISTED REPRODUCTIVE TECHNOLOGY BILL

 **Ms LUI** (Cook—ALP) (12.35 pm): I rise to speak on the Assisted Reproductive Technology Bill 2024. I would like to acknowledge the work of the Minister for Health, Mental Health and Ambulance Services and Minister for Women, Hon. Shannon Fentiman, who in late 2023 directed the Office of the Health Ombudsman to conduct an investigation of certain issues relating to assisted reproductive technology provision in Queensland. The directive by the minister to the Office of the Health Ombudsman to run an investigation into certain issues relating to ART is one of the key components in bringing this bill to parliament. The Health Ombudsman's final report stated that its findings indicate a compelling case for the need for proposed legislation to regulate ART providers in Queensland and strengthen the safeguards for consumers, donors and donor-conceived children.

The bill responds to two previous inquiries: the Legal Affairs and Safety Committee's inquiry into matters relating to donor conception, and the Office of the Health Ombudsman's recent investigation of ART providers in Queensland, set out in an interim and final report. I want to acknowledge the work of the Community Safety and Legal Affairs Committee. I acknowledge the chair, Peter Russo, and the other members of the committee for their work in the examination of the bill. The committee examined 34 written submissions from stakeholders, received written and oral briefings provided by Queensland Health and the Department of Justice and Attorney-General, and held a public hearing in Brisbane. To help inform the findings of the report, the committee heard from a wide range of stakeholders including academics, legal and medical professionals, assisted reproductive technology providers, religious bodies, unions, donor-conceived people and donors. The evidence received by the committee indicates that stakeholders are broadly supportive of the bill's objectives and how it seeks to achieve them. Some expressed concern about specific provisions, most commonly related to the proposed donor family limit, the donor conception register and the birth certificates of donor-conceived people.

While fertility and the ability to conceive naturally represent a joyous time for some, we know that this is not the case for everyone. I have witnessed in my own family group where the challenges of fertility become incredibly stressful and often very difficult to deal with. Access to ART in this day and age changes this. Knowing that there are alternative ways to conceive—if not naturally—gives people hope. The explanatory notes state—

ART refers to treatments or procedures that address fertility.

Having access to ART unlocks a wonderful opportunity for people who wish to start a family. The opportunity includes a range of procedures, the most well known of which is IVF. ART services are used by a range of people who would otherwise be unable to conceive, including LGBTIQ+ families, single women and couples experiencing infertility.

While this report acknowledges the historical and ongoing issues faced by donor-conceived people in gaining access to information regarding their donor-conceived status, genetic origins and health information, the committee had to consider the complex issue of whether a donor-conceived person's right to know their genetic origin outweighs a donor's right to privacy, noting the longstanding practice within the industry to assure anonymity to donors.

As for the complex nature of the bill, it is absolutely necessary to strengthen our laws to protect individuals' rights in Queensland. Currently in Queensland there is a relatively small number of clinics that provide ART services, all of which are private providers. At present there are eight providers operating in Queensland. Together, they run a total of 24 accredited ART units across the state. There is no state-based legislation that regulates the provision of ART services in Queensland. However, the majority of other Australian jurisdictions, including the Australian Capital Territory, New South Wales, South Australia, Victoria and Western Australia, have ART legislation in place.

Currently, in Queensland ART providers are required by federal law to maintain professional accreditation whereby they must comply with the National Health and Medical Research Council's ethical guidelines on the use of assisted reproductive technology in clinical practice and research and the Reproductive Technology Accreditation Committee of the Fertility Society of Australia and New Zealand's code of practice for assisted reproductive technology. However, it should be noted that failure to comply with the NHMRC guidelines and RTAC code of practice is not an offence under federal law where very limited enforcement mechanisms are available. This means that in the absence of state-based legislation Queensland is unable to enforce compliance with either the NHMRC guidelines or the RTAC code of practice. In effect, the industry is self-regulated. This has recently become a source of concern due to several high-profile cases in which it was alleged that ART providers had failed to comply with these requirements, leading to adverse impacts on people using ART services and donor-conceived people.

The bill has two main policy objectives and they are to establish a state-based framework to regulate assisted reproductive technology services in Queensland and to establish a donor conception information register in the state. The bill proposes establishing a new regulatory framework for the provision of ART services in Queensland. The framework includes requirements that clinics must meet when providing ART services, restrictions on the retrieval and use of gametes and embryos, and provisions that facilitate the disclosure of health information between donor related individuals.

The bill proposes a new licensing scheme for ART providers operating in Queensland, a preliminary recommendation made by the Health Ombudsman. The new measures mean that ART providers must apply for and be granted a licence to provide ART services in Queensland. Providing ART services without a licence will be an offence subject to a maximum penalty of 200 penalty units, or two years imprisonment. Under these new laws, licences will be required for clinics rather than the individual practitioners and personnel who work within them. However, clinics will be required to ensure that ART services are only provided by, or under the supervision of, a medical practitioner and Queensland Health will be responsible for the administration of the licensing scheme.

The bill proposes several compliance mechanisms as part of the licensing scheme which will give the public certainty and security when it comes to protecting people's rights and interests. As heard by the committee, Lyndal Bubke, a donor-conceived person, stated she was relieved that the legislative developments were progressing to regulate an industry where providers have, in her view, placed convenience and profit over health and safety. The bill would permit ART to disclose health information to certain people if a medical practitioner certifies that this is necessary: to prevent or reduce a serious risk to someone's life or health, or to warn a person about the existence of a health condition that may be harmful to them or their descendants. ART providers would be permitted to disclose health information about a donor or a relative of a donor to a range of people. This would include donor-conceived people and their descendants or parents, a person who became pregnant using a donated gamete and a person who has a gamete donated by the donor.

This bill is absolutely necessary, like I said before, and I fully support and commend the bill to the House.