

CAYMAN ISLANDS



PENAL CODE (AMENDMENT) BILL, 2024

A BILL FOR AN ACT TO AMEND THE PENAL CODE (2024 REVISION) IN RELATION TO ABORTION OFFENCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES.

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Portfolio of Legal Affairs (PLA)



Memorandum of OBJECTS AND REASONS

This Bill amends the Penal Code (2024 Revision) in relation to abortion offences. These amendments are consequential to the enactment of the Termination of Pregnancy Act, 2024, which provides a framework for the lawful termination of pregnancy.

The Bill contains four clauses.

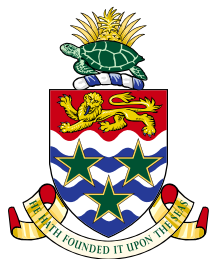
Clause 1 of the Bill provides for the short title and commencement of the legislation. The legislation commences on the date the Termination of Pregnancy Act, 2024 commences.

Clause 2 repeals and replaces sections 141 and 142 of the Penal Code (2024 Revision). Section 141 contains an offence for procuring an abortion, with the exception of an abortion performed with the written certification of two medical practitioners as being necessary to preserve the life of the mother. Section 142 contains an offence for a woman who attempts to procure an abortion. Clause 2 repeals these sections and replaces them with two new offences. New section 141 provides that it is an offence for a person other than a medical practitioner, nurse or pharmacist acting in accordance with the Termination of Pregnancy Act, 2024 (a “qualified person”) to attempt to terminate a woman’s pregnancy by administering a drug or using an instrument. New section 141 also provides that it is an offence for a person other than a qualified person to supply an instrument or drug to a woman that is intended to cause a termination of the woman’s pregnancy. New section 142 contains an offence for coercing a woman to terminate her pregnancy, or performing a termination without the woman’s consent.

Clause 3 repeals section 143, which contains an offence for supplying drugs or instruments to procure an abortion. The offence contained in the new section 141 covers the supply of such items by a person other than a qualified person.

Clause 4 amends section 199, which contains an offence for killing an unborn child. The amendment inserts an exception to the offence for a medical practitioner, nurse or pharmacist acting in accordance with the Termination of Pregnancy Act, 2024.

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Arrangement of Clauses

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**PENAL CODE (AMENDMENT) BILL, 2024**

A BILL FOR AN ACT TO AMEND THE PENAL CODE (2024 REVISION) IN RELATION TO ABORTION OFFENCES; AND FOR INCIDENTAL AND CONNECTED PURPOSES.

ENACTED by the Legislature of the Cayman Islands.

Short title

1. (1) This Act may be cited as the Penal Code (Amendment) Act, 2024.
- (2) This Act comes into force on the date the *Termination of Pregnancy Act, 2024* comes into force.

Repeal and substitution of sections 141 and 142 of the Penal Code (2024 Revision) - attempts to procure abortion; attempt by woman with child to procure abortion

2. The *Penal Code (2024 Revision)*, in this Act referred to as the “principal Act”, is amended by repealing sections 141 and 142 and substituting the following sections —

“Termination of pregnancy by unqualified person

141. (1) A person commits an offence if —

- (a) the person does either of the following with the intention of causing the termination of a woman’s pregnancy —



- (i) administers a drug to the woman or causes a drug to be taken by the woman; or
 - (ii) uses an instrument or other thing on the woman; and
- (b) the person is not a qualified person.
- (2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for ten years.
- (3) A person commits an offence if —
 - (a) the person procures for, or supplies to, a woman a drug, instrument or other thing; and
 - (b) the drug, instrument or other thing is intended to be used for the purpose of causing the termination of the woman's pregnancy; and
 - (c) the person is not a qualified person.
- (4) A person who commits an offence under subsection (3) is liable on conviction to imprisonment for ten years.
- (5) This section does not apply to a woman who consents to, or assists in, the performance of a termination on herself.
- (6) In this section —
 - “**qualified person**” means a medical practitioner, nurse or pharmacist acting in accordance with the *Termination of Pregnancy Act, 2024*; and
 - “**woman**” means a female person of any age.

Termination of pregnancy by coercion or without consent

- 142.** (1) A person commits an offence if the person coerces a woman to terminate her pregnancy.
- (2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for fifteen years.
 - (3) A person commits an offence if —
 - (a) the person does either of the following with the intention of causing the termination of a woman's pregnancy —
 - (i) administers a drug to the woman or causes a drug to be taken by the woman; or
 - (ii) uses an instrument or other thing on the woman; and
 - (b) the woman does not consent to the termination.
 - (4) A person who commits an offence under subsection (3) is liable on conviction to imprisonment for fifteen years.



(5) In this section –

“**coerce**”, a person, means to compel or force the person, by physical or mental pressure, to do something the person would not otherwise do; and

“**woman**” means a female person of any age.”

Repeal of section 143 - supplying drugs or instruments to procure abortion

3. The principal Act is amended by repealing section 143.

Amendment of section 199 - killing an unborn child

4. The principal Act is amended in section 199 by repealing subsections (2) and (3) and substituting the following subsection —

“(2) Subsection (1) does not apply to a medical practitioner, nurse or pharmacist acting in accordance with the *Termination of Pregnancy Act, 2024*.”

Passed by the Parliament the _____ day of _____, 2024.

Speaker

Clerk of the Parliament