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Minister for Health

Minister for Families and Community Services

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Member for Kurrajong

Mr Peter Cain

Chair

Standing Committee on Justice and Community Safety (Legislative Scrutiny Role)

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Dear Chair *Peter*

Thank you for providing the Scrutiny Report No. 16 of 19 May 2022 and the Standing Committee on Justice and Community Safety's comments on the Health Legislation Amendment Bill 2022 (the Bill). I thank the Committee for its thorough consideration of the Bill and offer the following comments in relation to the matters that the Committee has raised.

I note the Committee's request that the Bill's explanatory statement be revised to include recognition of the potential for the Bill to limit human rights by extending the application of the *Therapeutic Goods Administration Act 1989* (Cwlth) (TGA Act) in the Territory. The Committee has sought justification for why any such limits should be considered reasonable using the framework in section 28 of the *Human Rights Act 2004*.

The Committee has also requested information about why a broad extension (beyond nicotine containing products) of the application of the TGA Act is warranted, and that the explanatory statement be revised to include this information.

In light of these requests, a revised explanatory statement will be tabled in the Legislative Assembly during debate of the Bill, which is scheduled for the September 2022 sitting period. The revised explanatory statement is enclosed for the Committee's information.

Additionally, as required under Standing Order 182A, I write to provide the Committee with a Government Amendment to the Bill for consideration prior to debate in the Legislative Assembly. I enclose a final presentation copy of the proposed Government Amendment and supplementary explanatory statement for the Committee's consideration.

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Currently, the *Transplantation and Anatomy Act 1978* (the TA Act) does not clearly permit officers to release information about organ or tissue donors. At present, the Bill enables the lawful release of this information when a request is received from a bereaved family for acknowledgement of a person's donation for the purposes of the *Births, Deaths and Marriages Registration Act 1997*.

The amendments seek to ensure that, with appropriate consent, the stories of donors and donor families can also be shared to raise awareness of organ donation and commemorate donors' gifts without contravention of the TA Act. The Government Amendment clauses are explained below.

Government Amendment - new clause 11

The current section 49(4)(c) of the TA Act provides that identifying information about a person, or a deceased person, may be disclosed 'with the consent of the person to whom the information relates'. The proposed amendment expands the list of people eligible to provide consent to disclose such identifying information. The amendment will enable DonateLife ACT to provide best practice support and care for donor families. This amendment will also allow for donor stories to be shared by individuals and loved ones at occasions such as Organ Donor Remembrance Ceremonies.

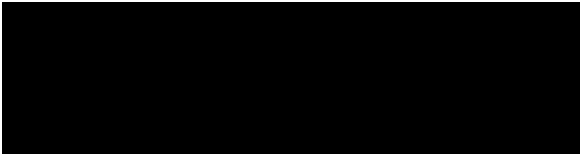
Government Amendment – new clause 12

To facilitate the new clause 11, the new clause 12 provides that the dictionary definition of 'next of kin' does not apply to the amendments to section 49(4)(c) of the TA Act. Clause 12 also provides additional definitions to enable the interpretation of amendments made by clause 11.

The Government intends to introduce the Government Amendment to the Bill during debate in the Legislative Assembly following the Committee's consideration.

I thank the Committee for its report and consideration of both the Bill and proposed Government Amendment.

Yours sincerely



Rachel Stephen-Smith MLA
6 September 2022

Encl. (3)