

## What Age Can I Get An Abortion?

The decision to terminate a pregnancy should not be made lightly and we would encourage you to discuss this with your parent or responsible adult, school counsellor, youth worker or adult friend before making a decision.

In Western Australia, abortion (or termination) can be carried out if performed before 20 weeks gestation if certain requirements are met.

### Aged 16 And Over

If you are aged 16 or over, then providing you are considered by the doctor to have sufficient maturity and understanding there would be nothing preventing you having the termination providing the medical practitioner is satisfied by the provisions set out in section 334(3) *Health Act 1911* (see below) and that you have given informed consent set out in section 334(5) *Health Act 1911* (see below). It is not a requirement that you inform your parent(s) once you have turned 16.

### Dependant Minor Under Age 16

If you are under 16 years of age and supported by your parent(s), you would need to have one parent informed, and be given the opportunity to participate in counselling before an abortion can be performed.

If you are under 16 and supported by your parent(s) and did not want to inform your parent(s), then you would have to apply to the Children's Court for an order to have the abortion before you could terminate the pregnancy (section 334(9) *Health Act 1911*).

An Order made by the Children's Court must be kept completely confidential from everyone, including your parents.

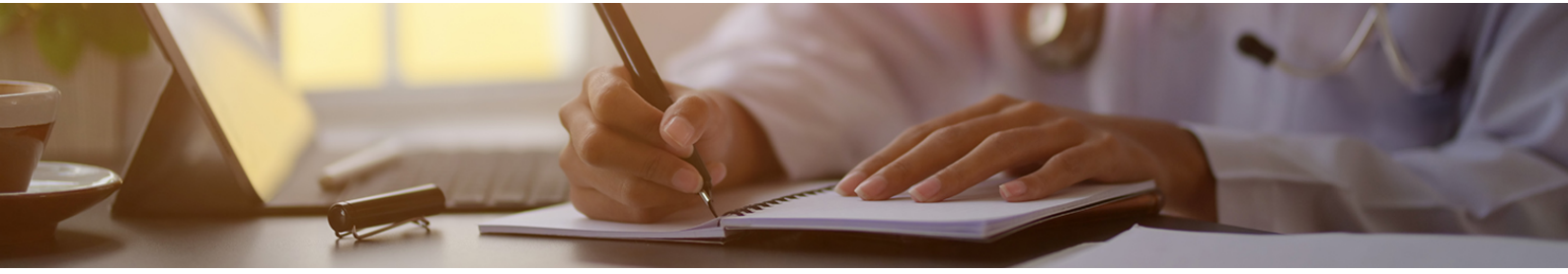
### Independent Minor Under Age 16

If you are under 16 years of age but independent of your parent(s) or responsible adult and not a child in care, then you can have a termination without notifying your parents or getting an order from the Children's Court (section 334(8)(b) *Health Act 1911*).

## The Law

Section 199 Criminal Code WA states:

- Abortion must be performed by a medical practitioner in good faith and with reasonable care and skill.
- Abortion must be justified under section 334 of the Health Act 1911.
- Where an abortion is unlawfully performed by a medical practitioner he or she is liable to a fine of \$50,000.
- Where an abortion is unlawfully performed by someone other than a medical practitioner, the penalty is a maximum of five years imprisonment.



The offence of 'unlawful' abortion may only be committed by the persons involved in performing the abortion. The patient herself is not subject to any criminal offence in Western Australia.

Section 334(2) Health Act 1911 states when an abortion can be carried out:

- (a) the woman concerned has given informed consent; or
- (b) the woman concerned will suffer serious personal, family or social consequences if the abortion is not performed; or
- (c) serious danger to the physical or mental health of the woman concerned will result if the abortion is not performed; or
- (d) the pregnancy of the woman concerned is causing serious danger to her physical or mental health.

Section 334(5) Health Act 1911 sets out what is 'informed consent':

**informed consent** means consent freely given by the woman where —

- (a) a medical practitioner has properly, appropriately and adequately provided her with counselling about the medical risk of termination of pregnancy and of carrying a pregnancy to term; and
- (b) a medical practitioner has offered her the opportunity of referral to appropriate and adequate counselling about matters relating to termination of pregnancy and carrying a pregnancy to term; and
- (c) a medical practitioner has informed her that appropriate and adequate counselling will be available to her should she wish it upon termination of pregnancy or after carrying the pregnancy to term.

After 20 weeks of pregnancy, two medical practitioners from a panel of six appointed by the Minister have to agree that the mother or unborn child has a severe medical condition. These abortions can only be performed at a facility approved by the Minister.

## More Information

Health Direct <https://www.healthdirect.gov.au/unplanned-pregnancy>

Kids Helpline <https://kidshelpline.com.au/> or call 1800 55 1800

Kids Helpline <https://kidshelpline.com.au/teens/issues/could-i-be-pregnant>

**Please note:** Laws are subject to change. Last updated July 2020.

**Important:** The information provided in this infosheet is for information only.

It should not be relied on as legal advice.

Please seek legal advice about your particular circumstances.