

DRAFT FOR CONSULTATION

Crimes (Virginity Testing Practices) Amendment Bill

Member's Bill

Explanatory note

General policy statement

Virginity testing refers to the inspection of female genitalia for the purpose of ascertaining history of vaginal intercourse. It is an unscientific, unreliable, and medically unnecessary practice that violates human rights and is associated with adverse outcomes for physical, psychological, and social wellbeing. Women and girls are often coerced or forced into this honour-based abuse against their will. This Bill seeks to protect vulnerable women and girls by amending the Crimes Act 1961 and introducing new offences that criminalise virginity testing and the related practice of hymenoplasty.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides that the Bill comes into force on the day after Royal assent.

Clause 3 provides that the Bill amends the Crimes Act 1961 (the **principal Act**).

Clause 4 inserts *new sections 204C to 204E* into the principal Act to provide for offences relating to virginity testing practices. *New section 204C* defines virginity testing practices, virginity testing, and hymenoplasty. *New section 204D* provides for a new offence related to virginity testing practices. Every one would be liable to a maximum of 5 years' imprisonment if they perform, or cause to be performed, on any person, any act involving virginity testing practices. *New section 204E* provides for offences relating to virginity testing practices outside of New Zealand, if the act is in relation to a person who is a New Zealand citizen or ordinarily resident in New Zealand.

Hon Priyanca Radhakrishnan

Crimes (Virginitv Testing Practices) Amendment Bill

Member's Bill

Contents

	Page
1 Title	1
2 Commencement	1
3 Principal Act	1
4 New sections 204C to 204E and cross-heading inserted	1
<i>Virginitv testing practices</i>	
204C Virginitv testing practices defined	2
204D Virginitv testing practices	2
204E Further offences relating to virginitv testing practices	2

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Crimes (Virginitv Testing Practices) Amendment Act **2023**.

2 Commencement

This Act comes into force on the day after Royal assent.

3 Principal Act

This Act amends the Crimes Act 1961.

4 New sections 204C to 204E and cross-heading inserted

After section 204B, insert:

*Virginity testing practices***204C Virginity testing practices defined**

In this section and **sections 204D and 204E**,—

hymenoplasty means the reconstruction of the hymen

virginity testing means the examination of female genitalia for the purpose (or purported purpose) of determining virginity

virginity testing practices means hymenoplasty and virginity testing.

204D Virginity testing practices

- (1) Every one is liable to imprisonment for a term not exceeding 5 years who performs, or causes to be performed, on any person, any act involving virginity testing practices.
- (2) It is not a defence to a charge under this section that—
 - (a) the individual on whom the virginity testing practice was performed, or a person on behalf of that individual, consented to the performance of that practice; or
 - (b) the person charged believed that such consent was given.
- (3) A person on whom a virginity testing practice is performed may not be charged as a party to an offence committed on her under this section.

204E Further offences relating to virginity testing practices

- (1) Every one is liable to imprisonment for a term not exceeding 5 years who, with intent that there be done, outside New Zealand, to or in relation to any child under the age of 18 years (being a child who is a New Zealand citizen or is ordinarily resident in New Zealand), any act which, if done in New Zealand, would be an offence against **section 204D**,—
 - (a) causes that child to be sent or taken out of New Zealand; or
 - (b) makes any arrangements for the purposes of causing that child to be sent or taken out of New Zealand.
- (2) Every one is liable to imprisonment for a term not exceeding 5 years who, in New Zealand, aids, incites, counsels, or procures the doing, outside New Zealand, in relation to any person who is a New Zealand citizen or is ordinarily resident in New Zealand, of any act which, if done in New Zealand, would be an offence against **section 204D**, whether or not the act is in fact done.
- (3) Every one is liable to imprisonment for a term not exceeding 5 years who, in New Zealand, incites, counsels, procures, or induces any person who is a New Zealand citizen or is ordinarily resident in New Zealand—
 - (a) to submit, outside New Zealand, to any act which, if done in New Zealand, would be an offence against **section 204D**; or

- (b) to acquiesce in the doing, outside New Zealand, on that person, of any such act; or
 - (c) to permit any such act to be done, outside New Zealand, on that person.
- (4) **Subsection (3)** applies whether or not, in any case, the act is in fact done.
- (5) It is not a defence to a charge under **subsection (2) or subsection (3)** that—
- (a) the individual on whom the practice was performed, or a person on behalf of that individual, consented to the performance of that practice; or
 - (b) the person charged believed that such consent was given.
- (6) A person on whom a virginity testing practice is performed may not be charged as a party to an offence committed on her under **subsection (2) or subsection (3)**.