

Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024

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Children by Choice Queensland

PARLIAMENTARY SUBMISSION

Decriminalising Sex Work and Other Legislation Amendment Bill 2024

7th March 2023

TO:

Committee Secretary Housing, Big Build and Manufacturing Committee
Parliament House
George Street
Brisbane Qld 4000

ABOUT CHILDREN BY CHOICE

Children by Choice is an independent Queensland-based non-profit organisation, committed to providing counselling, information, and education on all pregnancy options – abortion, adoption, kinship and alternative care and parenting. We are recognised nationally and internationally as a key advocacy group for reproductive and sexual health.

Our vision is that people can freely and safely make their own reproductive and sexual health choices without barriers.

Children by Choice provides Queensland-wide counselling, information, referral, and education services on all pregnancy options, including abortion, adoption, kinship and alternative care and parenting.

Our primary objective is to ensure that women and pregnant people who experience hardship or distress with a pregnancy receive high-quality decision-making counselling, evidence-based information, material aid, and referral. Children by Choice seeks to empower people and communities to exercise reproductive health choices, and to remove the discriminatory social, legal, clinical and policy barriers that women may face when seeking access to accurate information, support, and services for their reproductive choices.

As such, we are determined to work towards and leverage any capacity we have, that brings about reproductive justice for all Queenslanders.

Our Annual Reports and Strategic Plan are available on our website at www.childrenbychoice.org.au.

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As an organisation who has worked in Queensland for 50 years to advance the rights and access to sexual and reproductive health, Children By Choice is in support of decriminalising sex work in Queensland.

This submission calls for reproductive justice for all Queenslanders, and we see decriminalisation of sex work lined to reproductive choice for women – simply, my body my choice.

BODY, MY CHOICE: WHY THE DECRIMINALISATION OF SEX WORK IS ESSENTIAL FOR REPRODUCTIVE JUSTICE

For Children By Choice, to be able to ensure Queensland women and pregnant people continue to have the autonomy over their own reproductive choices and ultimately their own body, people's autonomy over their own body must extend to their choice to sex work must be understood as a central tenant to this.

As such our submission is Informed by the framework of reproductive justice and centring marginalised women within the broader movement for reproductive freedom, placing a particular emphasis on the needs of Indigenous women, women of colour, and transgender individuals. At its essence, reproductive justice safeguards a person's right to maintain bodily autonomy, recognising the imperative of uplifting those most marginalised, who have borne the greatest burden of harms stemming from the denial of bodily autonomy and reproductive oppression. Central to this ethos is the inclusion and protection of sex workers, who continually find their rights trampled upon through criminalisation, discrimination, and violence. Decriminalising sex work emerges as a pivotal step in safeguarding the choices and autonomy of sex workers, ensuring they are shielded rather than punished for their decisions.

Engaged in the sex trade, sex workers face a barrage of challenges including criminalisation, incarceration, deportation, and discrimination, with Black and brown women, transgender individuals, and immigrants disproportionately impacted. The relentless policing, prosecution, and imprisonment of sex workers represent a gross violation of their bodily autonomy, as their right to engage in consensual work is repeatedly infringed upon by state intervention. Consequently, sex workers have emerged as frontline advocates in the battle against state control over individual bodies, championing decriminalisation and destigmatisation of sex work to safeguard autonomy for all.

In light of escalating rates of criminalisation surrounding abortion and pregnancy, the encroachment of the criminal legal system upon bodily autonomy has never been more apparent. Since the reversal of Roe v. Wade, the criminalisation and regulation of reproductive decisions have surged across the United States, emboldening conservative states to enact restrictive legislation and resurrect pre-Roe statutes to prosecute pregnant

individuals. This erosion of reproductive rights has not only impeded access to essential healthcare but has also resulted in severe collateral consequences, including loss of employment and public benefits, disproportionately affecting marginalised communities.

The criminalisation of pregnancy and pregnancy loss has long targeted women and pregnant people, individuals from low socio-economic backgrounds, further exacerbating systemic inequities. This insidious policing of bodies is not isolated but rather intersects with the historical and ongoing criminalisation of sex work, both serving as instruments of state control over marginalised populations. Reproductive oppression, wielded by the state as a tool of control, perpetuating disempowerment among these communities.

True bodily autonomy remains elusive as long as sex work remains criminalised. Sex workers, with their intimate experiences of police surveillance and incarceration, stand as authorities in understanding the repercussions of body criminalisation and resisting state control. Their decades-long advocacy offers invaluable lessons for the broader movement against the criminalisation of reproductive choices, highlighting the urgent need to stand in solidarity with sex workers in the fight for decriminalisation.

OUR POSITION:

Reproductive justice hinges upon the decriminalisation of sex work, for until sex workers are liberated from state policing, true autonomy remains a distant goal. To advance protections for all, the movement must unite in supporting sex workers and advocating for the decriminalisation of sex work, recognising it as a crucial aspect of achieving reproductive justice.

Decriminalisation of sex work removes sex work-specific criminal and licensing laws and police powers for all sex workers, including sex workers from marginalised groups.

Full decriminalisation of sex work is the removal of all sex work-specific criminal and licensing laws that apply only to sex workers, our workplaces, clients and third parties. Criminal laws that apply to everyone are still enforced by police.

Civil laws are implemented by government agencies and regulators, not the police. Civil laws protect peoples' health, safety, privacy, autonomy, human and industrial rights, and are meant to apply to everyone. Full decriminalisation gives sex workers access to workplace health and safety protections and civil law protections and remedies.

As an organisation deeply rooted in Queensland, we have witnessed the necessity for reform in policies regarding sex work and acknowledge the profound implications such reforms would have on our clients and the broader community.

Children By Choices offers our insights on the following key aspects of the proposed Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024:

1. **Decriminalisation of Sex Work:** We advocate for the complete removal of sex work-specific criminal and licensing laws, ensuring equitable treatment for all sex workers, regardless of background. Full decriminalisation not only fosters the health, safety, and rights of sex workers but also aligns Queensland with progressive jurisdictions that have modernised their legislative frameworks.
2. **Commencement Date:** We recommend a commencement date of July 1, 2024, to swiftly mitigate the criminalisation of sex workers and enhance their safety measures without further delay.

Children By Choice Recommends: Part 1 Preliminary (Page 6) cl 2 Commencement (Page 6) This Act commences on a day to be fixed by proclamation. Commencement by 1 July.

A delayed commencement means sex worker criminalisation and reduced access to justice continues. Every day, sex workers are left to decide between working legally or safely. If sex workers choose safety we are at risk of criminal charges. In other jurisdictions an increase in police focus on the sex industry including raids and charges has occurred ahead of law reform. The two-stage implementation approach in Victoria created major confusion within industry and regulators and resulted in much extra work as aligning the two was a complex task.

3. **Amendments to Anti-Discrimination Act:** While we support amendments to the Anti-Discrimination Act, we urge for the removal of the term 'adult' from clause 6 to prevent inadvertent discrimination.

Children By Choice supports that: Part 2 Amendment of the Anti-Discrimination Act 1991 (Page 6) cl 4 Amendment of s 7 (Discrimination on the basis of certain attributes prohibited) (Page 6) Adds new attribute 'sex work activity' replacing current attribute 'lawful sexual activity'.

4. **Prevention of Council Bans:** We endorse legislation to prevent councils from outrightly banning sex work within their jurisdictions and advocate for the right of sex workers to collaborate in their profession.

Children By Choice supports: Part 3 & Part 7 The insertion of Part 3 & Part 7 in the City of Brisbane and Local Government Acts makes sure the implementation of decriminalisation is not undermined by councils. This approach was recommended by the QLRC review and brings Queensland into line with Victoria.

However, Children By Choice further recommends: sex workers should be able to work together. The QLRC review recommended against requirements that force sex workers to work alone (Recommendation 1). Sex worker safety in practice means the ability to work together without risking privacy, confidentiality, or penalty. Clients of independent sex workers are also seeking privacy. Requiring these home businesses to apply for a permit or a DA is contrary to the business model of independent sex workers. Queensland can avoid making the same errors.

5. **Repeal of Criminal Code Provisions:** We support the repeal of Chapter 22A of the Criminal Code, including laws that compromise the safety of sex workers.

Children By Choices supports - the entire chapter of sex work criminal offences in the Criminal Code including the sections that have criminalised sex worker safety strategies (letting another sex worker know where you are when you are on a booking, texting another sex worker to let them know you are okay at the end of a booking, driving another sex worker to a booking, hiring a receptionist to screen calls. Most sex workers who have been charged, have been charged with offences in Ch22A.

6. **Amendment of Liquor Act:** While we support amendments to the Liquor Act, we propose a thorough review of Adult Entertainment laws, advocating for the removal of any regulatory role from the police.
7. **Amendments to the Work health and Safety Act 2011:** We support Supports review of cl33

Children By Choice recommends: any review should be undertaken in consultation with Respect Inc and Scarlet Alliance.

8. **Review of Legislation:** We advocate for a comprehensive review of the Act every four to five years in consultation with sex worker organisations to ensure ongoing alignment with evolving needs and best practices.
9. **Repeal of Prostitution Act:** We support the repeal of the Prostitution Act, including the dismantling of the licensing system, licensing body, public health regulations, and advertising restrictions.

EXPUNGEMENT OF SEX WORK OFFENSES:

Children By Choice would like to emphasise the importance of including provisions for the expungement of sex work offenses in future legislation to mitigate ongoing repercussions on sex workers.

The expungement of sex work offenses holds profound significance for sex workers who have been previously charged with such offenses. By including provisions for expungement in future legislation, policymakers can address the enduring repercussions and injustices faced by these individuals, and the ostracism, shame, and damage it has unnecessarily caused workers.

First and foremost, expungement offers a pathway to rectify the disproportionate impact of past criminalisation on sex workers, many of whom have been unfairly targeted and penalised for engaging in consensual adult work. By clearing their records of these charges, sex workers can reclaim agency over their lives and move forward without the burden of past criminalisation looming over them. This not only alleviates the stigma associated with having a criminal record but also removes barriers to employment, housing, and other opportunities that may have been hindered by their prior involvement in the sex trade.

Moreover, expungement recognises the systemic injustices inherent in the criminalisation of sex work and acknowledges the need for restorative justice. It represents a step towards acknowledging and rectifying the harm inflicted upon sex workers by oppressive laws and policies. By expunging sex work offenses from their records, the legal system acknowledges the wrongful nature of past prosecutions and seeks to mitigate the ongoing consequences of such injustices.

Additionally, expungement fosters trust and legitimacy between sex workers and the criminal justice system. By demonstrating a commitment to addressing past injustices and providing a pathway to redemption, policymakers signal a willingness to listen to the concerns and experiences of sex workers. This can contribute to greater cooperation between sex workers and law enforcement agencies, leading to improved safety and well-being for all involved.

Overall, the expungement of sex work offenses represents a crucial step towards achieving justice and recognition for sex workers who have been unfairly targeted and stigmatised by past criminalisation. By acknowledging past injustices and providing a means for individuals to move forward with their lives, policymakers can support the rights and dignity of sex workers and work towards a more equitable and inclusive society.

RESOURCE RESPECT INC:

Children by Choice recommends: Respect Inc is resourced to undertake an awareness program to address sex work stigma and inform sex workers about decriminalisation.

In implementing Recommendation 38 from the Queensland Law Reform Commission (QLRC) holds significant importance in the process of changing and decriminalising sex work from the criminal code. This recommendation underscores the critical need for awareness campaigns and education initiatives aimed at combatting sex work stigma and informing sex workers about the decriminalisation process.

To begin with, combating sex work stigma is essential for fostering a more inclusive and respectful society. Stigma surrounding sex work not only perpetuates discrimination and marginalisation but also hinders access to essential services and support for sex workers. By implementing Recommendation 38, policymakers can allocate resources towards comprehensive awareness campaigns that challenge harmful stereotypes and misconceptions about sex work. These campaigns can utilise various mediums, including social media, public events, and educational materials, to disseminate accurate information and promote understanding and empathy towards sex workers.

Moreover, education plays a crucial role in ensuring that sex workers are informed about the decriminalisation process and their rights under the new legislation. Many sex workers may be unaware of changes to the law or may lack access to reliable information about their legal rights and protections. By implementing Recommendation 38, policymakers can support outreach efforts to engage with sex workers directly, providing them with the

knowledge and resources they need to navigate the legal landscape safely and effectively. This may involve organising workshops, distributing informational materials, and establishing support networks to empower sex workers to advocate for their rights and access appropriate services.

Furthermore, implementation of Recommendation 38 can help foster collaboration between government agencies, community organisations, and sex worker-led groups in the design and delivery of awareness campaigns and education initiatives. By leveraging the expertise and insights of sex workers themselves, policymakers can ensure that these efforts are culturally competent, responsive to the needs of the community, and inclusive of diverse perspectives. This collaborative approach not only enhances the effectiveness of awareness campaigns but also strengthens partnerships between stakeholders committed to advancing the rights and well-being of sex workers.

The implementation of Recommendation 38 is vital for addressing sex work stigma, informing sex workers about decriminalisation, and promoting their rights and dignity. By investing in comprehensive awareness campaigns and education initiatives, policymakers can challenge harmful stereotypes, empower sex workers with knowledge and resources, and foster meaningful collaboration between stakeholders. This proactive approach is essential for creating a more inclusive and supportive environment for sex workers and advancing the goals of decriminalisation and social justice.

CONCLUSION

In conclusion, **Children by Choice stands in full support of the Criminal Code (Decriminalising Sex Work) and Other Legislation Amendment Bill 2024**, viewing it as an essential step towards safeguarding the health, safety, and rights of sex workers in Queensland. We urge the committee to consider our recommendations and enact progressive reforms that uphold the principles of equity, autonomy, and justice for all.

Should you require further information or clarification, please do not hesitate to contact us via email ceo@childrenbychoice.org.au or by phone 3357 5377

Yours Sincerely



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